

As filed with the Securities and Exchange Commission on November 19, 2021

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

CARPARTS.COM, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

68-0623433

(I.R.S. Employer Identification No.)

**2050 W. 190th Street, Suite 400
Torrance, California 90504**

(Address of principal executive offices, including zip code)

CARPARTS.COM, INC. OFFICER AND DIRECTOR SHARE PURCHASE PLAN

(Full title of the plan)

**Alfredo Gomez
General Counsel
CarParts.com, Inc.**

**2050 W. 190th Street, Suite 400
Torrance, California 90504**

(Name and address of agent for service)

(424) 702-1455

(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered⁽¹⁾	Proposed Maximum Offering Price Per Share⁽²⁾	Proposed Maximum Aggregate Offering Price⁽²⁾	Amount of Registration Fee
Common Stock \$0.001 par value, reserved for issuance pursuant to the CarParts.com Officer and Director Share Purchase Plan	250,000 shares	\$ 13.61	\$ 3,402,500	\$ 315.41

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this Registration Statement on Form S-8 shall also cover any additional shares of CarParts.com, Inc.'s common stock that become issuable under the CarParts.com, Inc. Officer and Director Share Purchase Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the registrant's outstanding shares of common stock.
- (2) Estimated in accordance with Rules 457(c) and (h) of the Securities Act of 1933 solely for the purpose of calculating the registration fee on the basis of \$13.61 per share, which represents the average of the high and low prices of the common stock on November 19, 2021, as reported on the Nasdaq Global Select Market.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from the Registration Statement in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the CarParts.com, Inc. Officer and Director Share Purchase Plan as required by Rule 428(b)(1) under the Securities Act. Such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the "Commission") either as part of the Registration Statement or as a prospectus or prospectus supplement pursuant to Rule 424 under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents of CarParts.com, Inc. (the "Company" or the "Registrant") filed with the Securities and Exchange Commission (the "Commission") are incorporated herein by reference:

- (a) the Company's Annual Report on [Form 10-K](#) for the fiscal year ended January 2, 2021;
- (b) the Company's definitive proxy statement on [Schedule 14A](#) filed on April 27, 2021;
- (c) the Company's Quarterly Reports on Form 10-Q for the quarters ended [April 3, 2021](#), [July 3, 2021](#) and [October 2, 2021](#);
- (d) the Company's Current Reports on Form 8-K filed with the Commission on [April 6, 2021](#) (other than with respect to Item 7.01), [May 20, 2021](#), [August 3, 2021](#), [August 5, 2021](#) and [November 2, 2021](#) (other than with respect to Item 2.02); and
- (e) the description of the Company's Common Stock, par value \$0.001 per share, as contained in the Registration Statement on Form 8-A filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as updated by the description of our common stock contained in [Exhibit 4.2](#) to our Annual Report on Form 10-K for the fiscal year ended January 2, 2021, including any amendment or report filed under the Exchange Act for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished and not filed in accordance with Commission rules shall not be deemed incorporated by reference into this Registration Statement.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

The validity of the issuance of Common Stock registered hereby is passed on for the Company by Alfredo Gomez. Mr. Gomez is General Counsel of the Company and is compensated by the Company as an employee. Mr. Gomez owns 507,941 shares of Common Stock, 245,711 restricted stock units that are payable in an equivalent number of shares of Common Stock (with performance-based restricted stock unit awards included at the target level of performance), and Company stock options to acquire up to an additional 233,216 shares of Common Stock. Mr. Gomez is eligible to purchase Common Stock under the Plan.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law (the DGCL) generally allows a corporation to indemnify directors and officers for all expenses, judgments, fines and amounts in settlement actually paid and reasonably incurred in connection with any proceedings so long as such party acted in good faith and in a manner reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal proceedings, if such party had no reasonable cause to believe his or her conduct to be unlawful. Indemnification may only be made by the Registrant if the applicable standard of conduct set forth in Section 145 has been met by the indemnified party upon a determination made (i) by the Registrant's board of directors by a majority vote of the directors who are not parties to such proceedings, even though less than a quorum, (ii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (iii) by the Registrant's stockholders.

Section 102(b)(7) of the DGCL provides that a certificate of incorporation may include a provision which eliminates or limits the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the company or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, relating to prohibited dividends or distributions or the repurchase or redemption of stock or (iv) for any transaction from which the director derives an improper personal benefit. The Registrant's Second Amended and Restated Certificate of Incorporation includes a provision limiting the personal liability of directors in accordance with Section 102(b)(7). As a result of this provision, the Registrant and its stockholders may be unable to obtain monetary damages from a director for breach of his or her duty of care.

The Registrant's Second Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, as amended, provide for indemnification of its directors and officers to the fullest extent permitted by law. The Registrant has also entered into indemnification agreements with its officers and directors requiring the Registrant to indemnify such persons to the fullest extent permitted by the bylaws. The Registrant also maintains insurance coverage relating to certain liabilities of directors and officers.

Insofar as indemnification for liabilities under the Securities Act may be permitted to the Registrant's directors, officers or controlling persons pursuant to the foregoing provisions, the Registrant has been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Description
4.1	<u>Second Amended and Restated Certificate of Incorporation of CarParts.com, Inc. as filed with the Delaware Secretary of State on February 14, 2007 (incorporated by reference to Exhibit 3.1 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 2, 2007).</u>
4.2	<u>Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of CarParts.com, Inc., dated as of July 27, 2020 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 27, 2020).</u>
4.3	<u>Amended and Restated Bylaws of CarParts.com, Inc. (incorporated by reference to Exhibit 3.2 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 2, 2007).</u>
4.4	<u>Amendment to Amended and Restated Bylaws of CarParts.com, Inc. (incorporated by reference to Exhibit 3.4 to the Registrant's Annual Report on Form 10 K-filed with the Securities and Exchange Commission on March 11, 2016).</u>
4.5	<u>Amendment No. 2 to the Amended and Restated Bylaws of CarParts.com, Inc., dated as of July 23, 2020 (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 27, 2020).</u>
4.6	<u>Specimen common stock certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-1 filed with the Securities and Exchange Commission on November 2, 2006).</u>
5.1	<u>Opinion of Counsel (opinion re legality).</u>
23.1	<u>Consent of RSM US LLP (consent of independent registered public accounting firm).</u>
23.2	<u>Consent of Counsel (included in Exhibit 5.1 to this Registration Statement).</u>
24.1	<u>Power of Attorney (included in this Registration Statement under "Signatures").</u>
99.1	<u>CarParts.com, Inc. Officer and Director Share Purchase Plan</u>

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

Provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Torrance, State of California, on November 19, 2021.

CARPARTS.COM, INC.

By: /s/ Lev Peker
Lev Peker
Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Alfredo Gomez, Lev Peker and David Meniane, and each of them, acting individually and without the other, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments, exhibits thereto and other documents in connection therewith) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or either of them individually, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement on Form S-8 and the Power of Attorney has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Lev Peker</u> Lev Peker	Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	November 19, 2021
<u>/s/ David Meniane</u> David Meniane	Chief Financial Officer and Chief Operating Officer <i>(Principal Executive Officer)</i>	November 19, 2021
<u>/s/ Warren B. Phelps III</u> Warren B. Phelps III	Chairman of the Board	November 19, 2021
<u>/s/ Jim Barnes</u> Jim Barnes	Director	November 19, 2021
<u>/s/ Lisa Costa</u> Lisa Costa	Director	November 19, 2021
<u>/s/ Jay K. Greyson</u> Jay K. Greyson	Director	November 19, 2021
<u>/s/ Nanxi Liu</u> Nanxi Liu	Director	November 19, 2021
<u>/s/ Henry Maier</u> Henry Maier	Director	November 19, 2021

Opinion of Alfredo Gomez, Esq.

November 19, 2021

CarParts.com, Inc.
2050 W. 190th Street, Suite 400
Torrance, CA 90504

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

My opinion is furnished to you in connection with a Registration Statement on Form S-8 (the "Registration Statement") filed by CarParts.com, Inc., a Delaware corporation (the "Company"), with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), for the registration of 250,000 shares of Common Stock, par value \$0.001 per share, of the Company (the "Shares"). The Shares are issuable pursuant to the CarParts.com, Inc. 2021 Officer and Director Share Purchase Plan (the "Plan").

I am the General Counsel of the Company and have advised the Company in connection with the filing of the Registration Statement.

I have examined and relied upon a signed copy of the Registration Statement as filed with the Commission, including the exhibits thereto. I, or attorneys under my supervision, have also examined and relied upon the Second Amended and Restated Certificate of Incorporation of the Company, as amended and in effect at all relevant times, the Amended and Restated Bylaws of the Company, as amended and in effect at all relevant times, and minutes of meetings of the stockholders and the Board of Directors of the Company and such other documents, corporate records, certificates of public officials and other instruments as I have deemed necessary or advisable for the purpose of rendering this opinion. In addition, I have relied as to certain matters on information obtained from public officials and officers of the Company.

In my examination of the foregoing documents, I have assumed the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as copies, the authenticity of the originals of such latter documents and the legal capacity of all signatories to such documents.

I express no opinion herein as to the laws of any state or jurisdiction other than the state laws of the State of Delaware.

In rendering the opinion set forth below, I have assumed that each award agreement under which options, restricted stock, restricted stock units or other awards are granted pursuant to the Plan will be consistent with the Plan and will be duly authorized, executed and delivered by the parties thereto.

Based upon and subject to the foregoing, I am of the opinion that the Shares have been duly authorized and, when the Shares have been issued and sold, and the consideration therefor has been received by the Company, in accordance with the terms of the Plan, such Shares will be validly issued, fully paid and nonassessable.

Please note that I am opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and I disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

I hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act. In giving such consent, I do not hereby admit that I am in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

It is understood that this opinion is to be used only in connection with the offer and sale of Shares while the Registration Statement is in effect.

Very truly yours,

By: /s/ Alfredo Gomez
Alfredo Gomes
General Counsel

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 of CarParts.com, Inc. of our reports dated March 15, 2021, relating to the consolidated financial statements and the effectiveness of internal control over financial reporting of CarParts.com, Inc. and its subsidiaries, appearing in the Annual Report on Form 10-K of CarParts.com, Inc. for the year ended January 2, 2021.

/s/ RSM US LLP
Irvine, California
November 19, 2021

CARPARTS.COM, INC.

Officer and Director Share Purchase Plan

November 16, 2021

1. **Purpose.** The purpose of the Plan is to provide a convenient method by which Eligible Individuals of the Company may purchase fully vested Company common stock from the Company at fair market value. This Plan is effective as of November 16, 2021.
 2. **Definitions.**
 - 2.1. “1934 Act” means the Securities Exchange Act of 1934, as amended. Reference to a specific section of the 1934 Act or regulation thereunder shall include such section or regulation, any valid regulation promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.
 - 2.2. “Board” means the Board of Directors of the Company.
 - 2.3. “Committee” means the Compensation Committee of the Board.
 - 2.4. “Company” means CarParts.com, Inc.
 - 2.5. “Director” means a non-employee member of the Board.
 - 2.6. “Eligible Individual” means an Officer or Director who has been designated by the Committee as eligible to participate in the Plan.
 - 2.7. “Fair Market Value” means the consolidated closing bid price for Shares on the relevant date.
 - 2.8. “Fees” means the cash fees payable to a Director for any given fiscal quarter of the Company as a result of his or her service on the Board and its committees during the applicable period.
 - 2.9. “Officer” means a person who is an “Executive Officer” of the Company within the meaning of Nasdaq Listing Rule 5605(a) or its successor provision. As of the date of the adoption of this Plan, the term “Executive Officer” for purposes of Nasdaq Listing Rule 5605(a) means the Company’s president, principal financial officer, principal accounting officer (or, if there is no such accounting officer, the controller), any vice-president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company, including officers of the Company’s parent or subsidiaries if they perform such policy-making functions for the Company.
 - 2.10. “Participant” means an Eligible Individual who elects to participate in the Plan in accordance with Section 5.1.
 - 2.11. “Plan” means this Officer and Director Share Purchase Plan, as it may be amended from time to time.
 - 2.12. “Share” means a share of the Company’s common stock, \$0.001 par value per share.
 - 2.13. “Trading Day” means a day on which The Nasdaq Stock Market is open for trading. A Trading Day begins at the time trading begins on such day.
 - 2.14. “Trading Window” means the period commencing at the opening of market on the third Trading Day following the public disclosure of the financial results for a particular fiscal quarter or fiscal year of the Company and continuing until the close of market on the fifteenth calendar day of the third month of every fiscal quarter, provided that during this period no circumstances exist that otherwise closes the Trading Window.
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3. **Administration.**

- 3.1. The Plan will be interpreted and administered by the Committee, whose actions and interpretations will be final and binding.
- 3.2. The Committee, in its sole discretion, will have the power, subject to, and within the limitations of, the express provisions of the Plan:
 - 3.2.1. To interpret and determine the meaning, validity and parameters of the terms and provisions of the Plan and to determine any question arising under, or in connection with, the administration, operation or validity of the Plan;
 - 3.2.2. To determine the form and manner for Participants to make elections under the Plan and to approve forms of election to be used in conjunction with the Plan;
 - 3.2.3. To determine the time or times when Eligible Individuals may elect to participate in the Plan or otherwise change such elections;
 - 3.2.4. To select the Officers and Directors who will be eligible to participate in the Plan from time to time;
 - 3.2.5. To make any and all determinations as it may deem necessary or appropriate for the administration of the Plan, including the number of Shares to be issued in exchange for a Participant's aggregate deductions;
 - 3.2.6. To establish, amend and revoke rules and procedures relating to the Plan (for example, but not by way of limitation, with respect to Eligible Individual elections to participate in the Plan and the delivery of Shares) as it may deem necessary or appropriate for the administration of the Plan;
 - 3.2.7. To employ such brokers, counsel, agents and advisers, and to obtain such broker, legal, clerical and other services, as it may deem necessary or appropriate in carrying out the provisions of the Plan; and
 - 3.2.8. To delegate all or any part of its authority and powers under the Plan to one or more officers or employees of the Company, including with respect to the day-to-day administration of the Plan.

4. **Shares Subject to the Plan.**

- 4.1. Subject to adjustment as provided in Section 4.2, the total number of Shares available for issuance under the Plan shall equal two hundred and fifty thousand (250,000). Shares granted under the Plan may be either authorized but unissued Shares or treasury Shares.
- 4.2. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares, then the Committee shall, in such manner as it may deem equitable, adjust the number and class of Shares which may be delivered under the Plan. Notwithstanding the preceding, the number of Shares available for issuance under the Plan always shall be a whole number.

5. **Election to Purchase Shares.**

5.1. **Elections.**

5.1.1. Each Eligible Individual's decision to participate in the Plan shall be entirely voluntary. An Eligible Individual may become a Participant in the Plan by enrolling or re-enrolling in the Plan during a Trading Window, provided that the Participant does not otherwise possess material non-public information concerning the Company (within the meaning of the 1934 Act) at the time of his or her election. In order to enroll, an Eligible Individual must complete, sign and submit to the Company an election form, in such form as the Committee will determine in its sole discretion.

5.1.2. On his or her election form, each Eligible Individual must authorize payroll deductions or, in the case of Directors, deductions from Fees for the purposes of purchasing fully vested Shares. Any deductions for this Plan will occur after normal and appropriate withholding for all Federal and State taxes and after voluntary withholdings for participation in other Company benefit plans. With respect to Officers, the payroll deductions may not reduce the individual's compensation below an amount equal to two (2) times the federal or applicable state minimum wage, whichever is higher, required to be paid each pay period. Payroll deductions for a Participant who is an Officer will commence with the first full payroll period immediately following the date the Participant submits a properly completed election form to the Company. Deductions from Fees for a Participant who is a Director will commence on the first day on which the foregone Fees would have been paid to the Director and will apply only to Fees earned and paid after the date the Participant submits a properly completed election form to the Company.

5.2. **Duration of Elections.** An Eligible Individual's election form will remain in effect unless amended or terminated as provided in Section 5.3.

5.3. **Amendment or Termination of Elections**

5.3.1. A Participant may terminate his or her participation in the Plan at any time by providing notice of termination to the Company in a manner and pursuant to such procedures as the Committee may determine from time to time. A Participant's election to terminate participation shall be effective as soon as administratively practicable following the Company's receipt of the Participant's notice of termination.

5.3.2. A Participant may increase or decrease the rate of his or her payroll deductions or Fee deductions, as applicable, by submitting a new election form to the Company at any time during a Trading Window, provided that the Participant does not otherwise possess material non-public information concerning the Company (within the meaning of the 1934 Act) at the time of his or her new election. Notwithstanding the foregoing, a Participant may not decrease the rate of his or her deductions below 1% of his or her compensation or Fees, as applicable. Provided that a Participant has properly submitted a completed election form, the change in payroll or Fee deduction rate will be effective as soon as administratively practicable following the date the Company receives the Participant's new election form and will apply only to compensation or Fees earned after such date.

5.4. **Board or Committee Approval.** Prior to the purchase and delivery of Shares pursuant to Section 6, the Board or the Committee shall approve (i) the terms of each Participant's election and (ii) the purchase and delivery of the related Shares. The Board or the Committee, as applicable, may, in its sole discretion, determine not to approve such election or purchase and delivery of Shares. In such an event, any compensation or fees subject to the Participant's election will be paid in cash when they otherwise become due and owing.

6. **Purchase and Delivery of Shares.**

6.1. On, or as soon as administratively practicable following, each payroll date or, in the case of Directors, each date on which Fees would otherwise be paid, each Participant's aggregate deductions for the applicable period will be converted into fully vested Shares based on the Fair Market Value of a Share on such date. No fractional Shares will be purchased. Any payroll or Fee deductions which are not sufficient to purchase a full Share will be paid to the Participant in cash.

- 6.2. Shares paid out to a Participant under the Plan will be delivered electronically to the Participant's broker as indicated in the Participant's election form or, if not specified, to the Participant's broker(s) of record as listed in the Company's records at the time of delivery.
- 6.3. Notwithstanding the foregoing, no Shares will be delivered to a Participant until after the Participant's election and related purchase and delivery of Shares have been approved by the Board or the Committee in accordance with Section 5.4.
7. **Dividends.** Dividends declared and paid, if any, on Shares issued under the Plan will not be automatically invested in additional Shares without the prior approval of the Committee.
8. **Amendment or Termination of the Plan.** The Committee may, at any time and for any reason, amend or terminate the Plan without regard to whether the amendment or termination may adversely affect any Participant. Without limiting the generality of the foregoing, such amendment or termination may be effective immediately notwithstanding that (i) elections have been made and are then in effect and (ii) deductions have been withheld but not yet applied to the purchase of Shares, in which case such deductions will be paid to the Participant in cash as soon as administratively practicable. No amendment or modification will require the consent of any Participants.
9. **No Guarantee of Future Service.** Neither the establishment or maintenance of the Plan, the purchase of Shares, nor any action of the Company or the Committee, will be held or construed to confer upon any Officer any right to be continued as an employee of the Company nor, upon dismissal, any right or interest in any specific assets of the Company other than as provided in the Plan. The Company expressly reserves the right to discharge any Officer at any time, with or without cause.
10. **Tax Reporting.** The participant will be responsible for reporting and paying any and all federal, state, or any other tax liabilities that arise from selling or otherwise disposing of the Shares. At any time, the Company may, but will not be obligated to, withhold from the Participant's compensation the amount necessary for the Company to meet applicable withholding obligations, including any withholding required to make available to the Company any tax deductions or benefits attributable to the issuance, sale or disposition of Shares by the Participant.
11. **Choice of Law.** All questions concerning the construction, validity, and interpretation of the Plan will be governed by the law of the State of Delaware, exclusive of the conflict of laws provisions thereof.
12. **Severability.** In the event any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.
13. **Requirements of Law.** The Company shall not be required to issue any Shares hereunder prior to fulfillment of all the following conditions: (a) the admission of such Shares to listing on all stock exchanges on which such class of stock is then listed; (b) the completion of any registration or other qualification of such Shares under any U.S. state or federal law or under the rulings or regulations of the Securities and Exchange Commission or any other governmental regulatory body, which the Committee shall, in its absolute discretion, deem necessary or advisable; and (c) the obtaining of any approval or other clearance from any U.S. state or federal governmental agency, which the Committee shall, in its absolute discretion, determine to be necessary or advisable.
14. **Headings.** The headings in the Plan are for convenience only and will not be deemed to constitute a part hereof nor to affect the meaning hereof.