

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **June 20, 2023**

Safehold Inc.

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of
incorporation)

001-15371

(Commission File Number)

95-6881527

(IRS Employer Identification Number)

**1114 Avenue of the Americas,
39th Floor**

New York, New York

(Address of principal executive offices)

10036

(Zip Code)

Registrant's telephone number, including area code: **(212) 930-9400**

N/A

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Trading Symbol(s)

Name of each exchange on which registered

Common Stock

SAFE

NYSE

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

The Board of Directors of Safehold Inc. (“SAFE” or the “Company”) previously adopted, subject to shareholder approval, amendments (the “Amendments”) to the Safehold Inc. Amended and Restated 2009 Long-Term Incentive Plan (the “2009 LTIP”), which was approved by the Company’s shareholders on June 20, 2023 at the 2023 Annual Meeting of Stockholders (the “Annual Meeting”). The Amendments (i) increased the aggregate number of shares of common stock available for issuance by 192,000, from 267,094 (which was the number remaining available for grants under the 2009 LTIP on April 20, 2023, the record date for the Annual Meeting) to 459,094, subject to adjustment as provided in the 2009 LTIP, with an equivalent increase to the number of shares of common stock available for grant pursuant to incentive stock options, and (ii) extended the expiration date of the 2009 LTIP from May 13, 2031 to June 20, 2033.

The foregoing description of the Amendments is qualified in its entirety by reference to the text of the 2009 LTIP, as amended, which is filed as Exhibit 10.1 hereto, and incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

On June 20, 2023, the Company held its Annual Meeting virtually, for the purpose of (i) electing seven directors to hold office until the 2024 Annual Meeting of Stockholders, (ii) ratifying the appointment of Deloitte & Touche LLP as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2023, (iii) approving the Amendments to the 2009 LTIP, (iv) approving, on a non-binding, advisory basis, the compensation of the Company’s named executive officers (the “Say-on-Pay Vote”) and (v) approving, on a non-binding, advisory basis, the frequency of future Say on Pay votes. The final voting results for each of the proposals submitted to a vote of shareholders at the annual meeting are set forth below.

Proposal 1. Election of Directors: At the Annual Meeting, seven directors were elected for terms continuing until the 2024 Annual Meeting of Stockholders. For each nominee, the numbers of votes cast for, votes withheld and broker non-votes were as follows:

Name of Nominees	For	Withheld	Broker Non-Votes
Jay Sugarman	50,551,973	1,203,625	2,932,872
Marcos Alvarado	51,635,569	120,029	2,932,872
Jesse Hom	48,448,723	3,306,875	2,932,872
Robin Josephs	50,551,745	1,203,853	2,932,872
Jay S. Nydick	51,578,671	176,927	2,932,872
Barry Ridings	51,574,057	181,541	2,932,872
Stefan M. Selig	51,612,622	142,976	2,932,872

Proposal 2. Ratification of the Appointment of Deloitte & Touche LLP as the Company's Independent Registered Public Accounting Firm for the Fiscal Year Ending December 31, 2023: At the Annual Meeting, the votes on a proposal to ratify the selection of Deloitte & Touche LLP as SAFE's independent registered public accounting firm for the fiscal year ended December 31, 2023 were as set out below. The proposal was approved.

For	Against	Abstentions	Broker Non-Votes
54,438,657	241,008	8,805	0

Proposal 3. Approval of Amendments to the Safehold Inc. Amended and Restated 2009 Long-Term Incentive Plan: At the Annual Meeting, the votes on a proposal to approve amendments to the Safehold Inc. Amended and Restated 2009 Long-Term Incentive Plan were as set out below. The proposal was approved.

For	Against	Abstentions	Broker Non-Votes
48,915,445	2,783,337	56,816	2,932,872

Proposal 4. Non-Binding, Advisory Vote to Approve Executive Compensation ("Say-on-Pay"): At the Annual Meeting, the votes on a proposal to approve, on a non-binding, advisory basis, the compensation of SAFE's named executive officers were as set out below. The proposal was approved.

For	Against	Abstentions	Broker Non-Votes
50,620,296	1,102,470	32,832	2,932,872

Proposal 5. Non-Binding, Advisory Vote to Approve the Frequency of Future Say-on-Pay Votes: At the Annual Meeting, the votes on a proposal to approve, on a non-binding, advisory basis, the frequency of future Say-on-Pay votes were as set out below. The frequency of every year for future Say-on-Pay votes received the affirmative vote of the majority of votes cast by the Company's shareholders.

Every Year	Every Two Years	Every Three Years	Abstentions	Broker Non-Votes
50,617,026	23,200	1,092,165	23,207	2,932,872

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

[Exhibit 10.1 Amended and Restated 2009 Long-Term Incentive Plan](#)

Exhibit 104 Inline XBRL for the cover page of this Current Report on Form 8-K.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

Safehold Inc.

By: /s/ Geoffrey M. Dugan

Name: Geoffrey M. Dugan

Title: General Counsel, Corporate and Secretary

Date: June 22, 2023

SAFEHOLD INC.

2009 LONG-TERM INCENTIVE PLAN

Safehold Inc. (formerly known as iStar Inc.), a Maryland corporation, wishes to attract officers, key employees, Directors, consultants and advisers to the Company and its Subsidiaries and induce officers, key employees, Directors, consultants and advisers to remain with the Company and its Subsidiaries, and encourage them to increase their efforts to make the Company's business more successful whether directly or through its Subsidiaries and its Affiliates. In furtherance thereof, the Safehold Inc. 2009 Long-Term Incentive Plan is designed to provide equity-based and cash-based incentives to officers, key employees, Directors, consultants and advisers of the Company and its Subsidiaries and certain of its affiliates. Awards under the Plan may be made to selected officers, key employees, Directors, consultants and advisers of the Company and its Subsidiaries in the form of Options, Restricted Stock, Phantom Shares, Dividend Equivalent Rights, other forms of equity-based compensation, or cash-based compensation. The Plan was originally adopted effective May 27, 2009. The Plan is further amended and restated as of June 20, 2023 to incorporate intervening amendments previously adopted and to make additional changes that the Company deems appropriate. The Plan reads as follows:

1. DEFINITIONS.

Whenever used herein, the following terms shall have the meanings set forth below:

“Affiliate” means any Person that directly or indirectly controls, is controlled by or is under common control with the Company. The term “control” (including, with correlative meaning, the terms “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting or other securities, by contract or otherwise.

“Award,” except where referring to a particular category of grant under the Plan, shall include Incentive Stock Options, Non-Qualified Stock Options, Restricted Stock, Phantom Shares, Dividend Equivalent Rights and other Awards as contemplated herein.

“Award Agreement” means a written agreement in a form approved by the Committee to be entered into between the Company and the Participant as provided in Section 3. An Award Agreement may be, without limitation, an employment or other similar agreement containing provisions governing grants hereunder, if approved by the Committee for use under the Plan.

“Board” means the Board of Directors of the Company.

“Cause” means, unless otherwise provided in the Participant's Award Agreement: (i) a Participant engaging in (A) willful or gross misconduct or (B) willful or gross neglect; (ii) a Participant repeatedly failing to adhere to the directions of superiors or the Board or the written policies and practices of the Company or its Subsidiaries or its Affiliates; (iii) a Participant's commission of a felony or a crime of moral turpitude, dishonesty, breach of trust or unethical business conduct, or any crime involving the Company or its Subsidiaries, or any Affiliate thereof; (iv) a Participant engaging in fraud, misappropriation or embezzlement of the Company's funds or other assets or other acts deemed by the Committee in the good faith exercise of its sole discretion to be an act of dishonesty in respect to the Company; (v) a Participant's material violation of any statutory or common law duty of loyalty to the Company; (vi) a Participant's material breach of such Participant's employment agreement (if any) with the Company or its Subsidiaries or its Affiliates (subject to any cure period therein provided); (vii) a Participant willfully and repeatedly refusing to perform or substantially disregarding the duties properly assigned to such Participant by the Company (other than as a result of Disability); (viii) a Participant engaging in any activities materially harmful to the reputation of the Company or its Subsidiaries or its Affiliates; or (ix) a Participant's repeated failure to devote substantially all of such Participant's business time and efforts to the Company, or as otherwise required by Participant's employment agreement; provided, however, that, if at any particular time the Participant is subject to an effective employment agreement with the Company, then, in lieu of the foregoing definition, “Cause” shall at that time have such meaning as may be specified in such employment agreement.

“Change in Control” means the happening of any of the following events:

- (i) the acquisition by any Person of beneficial ownership within the meaning of the Rule 13d-3 promulgated under the Exchange Act, of more than 50.0% of either (A) the then outstanding Shares, (collectively, the “Outstanding Shares”) or (B) the combined voting power of the then outstanding securities of the Company entitled to vote generally in the election of Directors (the “Outstanding Voting Securities”); provided however that, the following events shall not constitute a Change in Control under this subsection (i): (1) any acquisition by the Company; (2) any acquisition by an employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation or trust controlled by the Company; or (3) any acquisition by any corporation or trust pursuant to a transaction which complies with clause (A), (B) or (C) of subsection (iii) of this definition;
- (ii) individuals who, as of the Restatement Effective Date, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of such Board; provided that any individual who becomes a Director of the Company subsequent to the Restatement Effective Date whose election or nomination for election by the Company’s shareholders was approved (other than in connection with a material transaction relating to the Company or its assets or the Shares or the Class B Shares of the Company) by the vote of at least a majority of the Directors then comprising the Incumbent Board shall be deemed a member of the Incumbent Board; and provided further, that any individual who was initially elected as a Director of the Company as a result of an actual or threatened election contest, as such terms are used in Rule 14a-11 of Regulation 14A promulgated under the Exchange Act, or any other actual or threatened solicitation of proxies or consent by or on behalf of any Person other than the Board shall not be deemed a member of the Incumbent Board;
- (iii) consummation by the Company of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company (a “Corporate Transaction”); provided, however, that, a Change in Control shall not result from a Corporate Transaction pursuant to which (A) all or substantially all of the individuals or entities who are the beneficial owners, respectively, of the Outstanding Shares and the Outstanding Voting Securities immediately prior to such Corporate Transaction will beneficially own, directly or indirectly, more than 66 2/3% of, respectively, the outstanding shares of beneficial interest or common stock, and the combined voting power of the outstanding securities of such trust or corporation entitled to vote generally in the election of Directors or directors, as the case may be, of the trust or corporation resulting from such Corporate Transaction (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or indirectly in substantially the same proportions relative to each other as their ownership, immediately prior to such Corporate Transaction, of the Outstanding Shares and the Outstanding Voting Securities as the case may be); (B) no Person (other than: the Company; any employee benefit plan (or related trust) sponsored or maintained by the Company or any trust or corporation controlled by the Company, the trust or corporation resulting from such Corporate Transaction, and any Person which beneficially owned, immediately prior to such Corporate Transaction, directly or indirectly, 33¹/₃ % or more of the Outstanding Shares or the Outstanding Voting Securities, as the case may be) will beneficially own, directly or indirectly, 33¹/₃ % or more of, respectively, the outstanding shares of beneficial interest or common stock of the trust or corporation resulting from such Corporate Transaction or the combined voting power of the outstanding securities of such trust or corporation entitled to vote generally in the election of Directors or directors; or (C) individuals who were members of the Incumbent Board will constitute at least a majority of the members of the board of Directors or directors of the trust or corporation resulting from such Corporate Transaction; or
- (iv) approval by the shareholders of the Company of a plan of complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, no event or condition shall constitute a Change in Control to the extent that, if it were, a 20% tax would be imposed upon or with respect to any Award under Section 409A of the Code; provided that, in such a case, the event or condition shall continue to constitute a Change in Control to the maximum extent possible (e.g., if applicable, in respect of vesting without an acceleration of distribution) without causing the imposition of such 20% tax.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Committee” means the committee appointed by the Board under Section 3.

“Common Stock” means the Company’s common stock, par value \$.01 per share, either currently existing or authorized hereafter.

“Company” means Safehold Inc. (formerly known as iStar Inc.), a Maryland corporation.

“Director” means a member of the Board who is not an employee of the Company or any Subsidiary.

“Disability” means, unless otherwise provided by the Committee in the Participant’s Award Agreement, a disability which renders the Participant incapable of performing all of his or her material duties for a period of at least 180 consecutive or non-consecutive days during any consecutive twelve-month period. Notwithstanding the foregoing, no circumstances or condition shall constitute a Disability to the extent that, if it were, a 20% tax would be imposed upon or with respect to any Award under Section 409A of the Code; provided that, in such a case, the event or condition shall continue to constitute a Disability to the maximum extent possible (e.g., if applicable, in respect of vesting without an acceleration of distribution) without causing the imposition of such 20% tax.

“Dividend Equivalent Right” means a right awarded under Section 8 of the Plan to receive (or have credited) the equivalent value of dividends paid on Common Stock.

“Eligible Person” means an (i) officer, (ii) Director, (iii) key employee of the Company or its Subsidiaries, (iv) consultant or adviser to any of the Company or its Subsidiaries, (v) or other person expected to provide significant services (of a type expressly approved by the Committee as covered services for these purposes) to the Company, its Subsidiaries or certain of its Affiliates, who in the case of each of clauses (i) through (v) above may be offered securities registrable pursuant to a registration statement on Form S-8 under the Securities Act and in each case has entered into an Award Agreement or who has received written notification from the Committee or its designee that they have been selected to participate in the Plan.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Fair Market Value” per Share as of a particular date means the closing transaction price of a Share as reported in the New York Stock Exchange on the first business day immediately preceding the date as of which such value is being determined, or, if there shall be no reported transaction on such day, on the next preceding business day for which a transaction was reported; provided that if the Fair Market Value of a Share for any date cannot be determined as above provided, Fair Market Value of a Share shall be determined by the Committee by whatever means or method as to which the Committee, in the good faith exercise of its discretion, shall at such time deem appropriate. Notwithstanding the foregoing, with respect to any “exempt stock right” within the meaning of Section 409A of the Code, Fair Market Value shall not be less than the “fair market value” of the Shares determined in accordance with Treasury Regulation 1.409A-1(b)(iv).

“Grantee” means an Eligible Person granted Restricted Stock, Phantom Shares, Dividend Equivalent Rights or other Awards (other than an Option) as may be granted pursuant to Section 9.

“Incentive Stock Option” means an Option which is designated by the Committee as an “incentive stock option” within the meaning of Section 422(b) of the Code.

“Non-Qualified Stock Option” means an Option which is not an Incentive Stock Option.

“Option” means the right to purchase, at a price and for the term fixed by the Committee in accordance with the Plan, and subject to such other limitations and restrictions in the Plan and the applicable Award Agreement, a number of Shares determined by the Committee.

“Optionee” means an Eligible Person to whom an Option is granted, or any Successor of the Optionee, as the context so requires.

“Option Price” means the price per share of Common Stock, determined by the Board or the Committee, at which an Option may be exercised.

“Participant” means a Grantee or Optionee.

“Performance Goals” have the meaning set forth in Section 10.

“Performance Period” means any period designated by the Committee for which the Performance Criteria (as defined in Exhibit A) shall be calculated.

“Permanent and Total Disability” means the “permanent and total disability” within the meaning of Section 22(e)(3) of the Code.

“Person” means any individual, entity or group within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act.

“Phantom Share” means a right, pursuant to the Plan, of the Grantee to a Share or payment of the Phantom Share Value, as provided in Section 7.4.

“Phantom Share Value,” per Phantom Share, means the Fair Market Value of a Share or, if so provided by the Committee, such Fair Market Value to the extent in excess of a base value established by the Committee at the time of grant.

“Plan” means the Company’s 2009 Long-Term Incentive Plan, as set forth herein and as the same may from time to time be amended.

“Prior 2009 Plan” means the Company’s 2009 Long-Term Incentive Plan, as in effect before the Restatement Effective Date.

“Prior 1996 Plan” means the Company’s 1996 Long-Term Incentive Plan, as amended and restated as of April 7, 2005.

“Prior Plans” means the Prior 2009 Plan and the Prior 1996 Plan.

“REIT Requirements” means the requirements to qualify as a real estate investment trust under the Code and the rules and regulations promulgated thereunder.

“Restatement Effective Date” means the date in 2023 on which this amendment and restatement has been approved by the shareholders of the Company and has become effective.

“Restricted Stock” means an award of Shares that are subject to restrictions hereunder.

“Securities Act” means the Securities Act of 1933, as amended.

“Settlement Date” means the date determined under Section 7.4(c).

“Shares” means shares of Common Stock of the Company.

“Subsidiary” means any corporation (other than the Company) that is a “subsidiary corporation” with respect to the Company under Section 424(f) of the Code. In the event the Company becomes a subsidiary of another company, the provisions hereof applicable to subsidiaries shall, unless otherwise determined by the Committee, also be applicable to any company that is a “parent corporation” with respect to the Company under Section 424(e) of the Code, any corporation, partnership or other entity at least 50% of the economic interest in the equity of which is owned by the Company or by another subsidiary.

“Successor of the Optionee” means the legal representative of the estate of a deceased Optionee or the person or persons who shall acquire the right to exercise an Option by bequest or inheritance or by reason of the death of such deceased Optionee.

“Termination of Service” means a Participant’s termination of employment or other service, as applicable, with the Company and its Subsidiaries. Unless otherwise provided in the Award Agreement, cessation of service as an officer, employee, Director or consultant, or other covered positions shall not be treated as a Termination of Service if the Participant continues without interruption to serve thereafter in another one (or more) of such other capacities, and Termination of Service shall be deemed to have occurred when service in the final covered capacity ceases. Notwithstanding the foregoing, with respect to any Award that is subject to Section 409A of the Code, Termination of Service shall be interpreted within the meaning of Section 409A of the Code and Treasury Regulation 1.409A-1(h).

2. EFFECTIVE DATE AND TERMINATION OF PLAN.

The Restatement Effective Date is June 20 , 2023. The Plan shall not become effective unless and until it is approved by the requisite percentage of the holders of the Common Stock of the Company. Subject to the approval of the Company’s shareholders at the 2023 annual meeting, the Plan shall terminate on, and no Award shall be granted hereunder on or after, the 10-year anniversary of June 20, 2033, provided, however, that the Board may at any time prior to that date terminate the Plan.

3. ADMINISTRATION OF PLAN.

- (a) The Plan shall be administered by the Committee appointed by the Board. The Committee shall consist of at least two individuals each of whom shall be a “nonemployee director” as defined in Rule 16b-3 as promulgated by the Securities and Exchange Commission (“Rule 16b-3”) under the Exchange Act and shall, at such times as an outstanding grandfathered Award remains eligible for relief from the deduction limitation of Section 162(m) of the Code under the so-called performance-based exception in effect before November 2, 2017), qualify as “outside directors” for purposes of Section 162(m) of the Code. The acts of a majority of the members present at any meeting of the Committee at which a quorum is present, or acts approved in writing by a majority of the entire Committee, shall be the acts of the Committee for purposes of the Plan. If and to the extent applicable, no member of the Committee may act as to matters under the Plan specifically relating to such member. Notwithstanding the other foregoing provisions of this Section 3(a), any Award under the Plan to a person who is a member of the Committee shall be made and administered by the Board. If no Committee is designated by the Board to act for these purposes, the Board shall have the rights and responsibilities of the Committee hereunder and under the Award Agreements. In furtherance of the foregoing, the Board may, in its sole discretion, at any time and from time to time, grant Awards and administer the Plan with respect to any Awards. Any such actions by the Board shall be subject to the applicable rules of the securities exchange on which the Shares are listed or quoted. In any such case, the Board shall have all the authority granted to the Committee under the Plan.
- (b) Subject to the provisions of the Plan, the Committee shall have the discretion and authority to (i) authorize the granting of Awards to Eligible Persons; and (ii) determine the eligibility of Eligible Persons to receive an Award; (iii) designate Participants; (iv) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of Shares to be covered by, or with respect to which payments, rights, or other matters are to be calculated in connection with, Awards; (v) determine the terms and conditions of any Award; (vi) determine whether, to what extent, and under what circumstances Awards may be settled in, or exercised for, cash, Shares, other securities, other Awards or other property, or canceled, forfeited, or suspended and the method or methods by which Awards may be settled, exercised, canceled, forfeited, or suspended; (vii) determine whether, to what extent, and under what circumstances the delivery of cash, Shares, other securities, other Awards or other property and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the Participant or of the Committee; (viii) interpret, administer, reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan and any instrument or agreement relating to, or Award granted under, the Plan; (ix) establish, amend, suspend, or waive any rules and regulations and appoint such agents as the Committee shall deem appropriate for the proper administration of the Plan; and (x) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan. Notwithstanding the foregoing, to the extent permitted by applicable law, except with respect to grants of Awards to individuals covered by Section 16 of the Exchange Act, grants to Directors and Awards issued to the Chief Executive Officer of the Company, the Committee may delegate all or part of its authority and duties with respect to Awards issued under the Plan to the Chief Executive Officer, including without limitation the authority to make grants of Awards.

- (c) The Award Agreement shall contain such other terms, provisions and conditions not inconsistent herewith as shall be determined by the Committee. In the event that any Award Agreement or other agreement hereunder provides (without regard to this sentence) for the obligation of the Company or any Affiliate thereof to purchase or repurchase Shares from a Participant or any other person, then, notwithstanding the provisions of the Award Agreement or such other agreement, such obligation shall not apply to the extent that the purchase or repurchase would not be permitted under New York law. The Participant shall take whatever additional actions and execute whatever additional documents the Committee may in its reasonable judgment deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on the Participant pursuant to the express provisions of the Plan and the Award Agreement.

4. SHARES AND UNITS SUBJECT TO THE PLAN.

4.1 In General.

- (a) Subject to adjustments as provided in Section 14, the total number of Shares available for Awards under the Plan on and after the Restatement Effective Date shall be 459,094 (the “**Absolute Share Limit**”), and which shall include all Shares that remain available for grants under the Prior 2009 Plan immediately before the Restatement Effective Date. Subject to Section 14 of the Plan, no more than the number of Shares equal to /the Absolute Share Limit may be issued in the aggregate pursuant to the exercise of Incentive Stock Options granted under the Plan and the maximum number of Shares subject to Awards granted during a single fiscal year to any Director, taken together with any cash fees paid to such Director during the fiscal year, shall not exceed \$500,000 in total value (calculating the value of any such Awards based on the grant date fair value of such Awards for financial reporting purposes). Shares used under the Plan in settlement of Awards may be treasury Shares or authorized but unissued Shares, Shares purchased on the open market or by private purchase or a combination of the foregoing. Any Shares that have been granted as Restricted Stock or that have been reserved for distribution in payment for Options, Phantom Shares or other equity-based Awards but are later forfeited or for any other reason are not payable or otherwise not made available for payment under the Plan may again be made the subject of Awards under the Plan. Any Shares covered by an Award (or portion of an Award) granted under the Plan, which is forfeited or cancelled, expires or is settled in cash, including the settlement of tax-withholding obligations using Shares, shall be deemed not to have been issued for purposes of determining the maximum number of Shares available for delivery under the Plan. Notwithstanding the preceding sentence, in no event shall shares tendered on the exercise of an Option in respect of the payment of the applicable Option Price or withheld in satisfaction of withholding taxes due on the exercise of an Option become available, and such Shares shall be deemed to have been issued for purposes of determining the maximum number of Shares available for delivery under the Plan. This Section 4.1(a) shall apply to the Share limit imposed to conform to Section 422(b)(1) of the Code (and the regulations issued thereunder) only to the extent consistent with applicable regulations relating to Incentive Stock Options.
- (b) Shares subject to Dividend Equivalent Rights, other than Dividend Equivalent Rights based directly on the dividends payable with respect to Shares subject to Options or the dividends payable on a number of Shares corresponding to the number of Phantom Shares awarded, shall be subject to the limitation of Section 4.1(a). Notwithstanding Section 4.1(a), there shall be no limit on the number of Phantom Shares or Dividend Equivalent Rights that may be granted under the Plan to the extent they are paid out in cash. If any Phantom Shares, Dividend Equivalent Rights or other equity-based Awards under Section 9 are paid out in cash, then, notwithstanding the first sentence of Section 4.1(a) above (but subject to the second sentence thereof) the underlying Shares may again be made the subject of Awards under the Plan.
- (c) Notwithstanding any provision hereunder, no Award hereunder shall be exercisable or eligible for settlement if, as a result of either the ability to exercise or settle, or the exercise or settlement of such Award, the Company would not satisfy the REIT Requirements in any respect.

5. PROVISIONS APPLICABLE TO STOCK OPTIONS.

5.1 Grant of Option.

Subject to the other terms of the Plan, the Committee shall, in its discretion as reflected by the terms of the applicable Award Agreement:

(i) determine and designate from time to time those Eligible Persons to whom Options are to be granted and the number of Shares to be optioned to each Eligible Person; (ii) determine whether to grant Options intended to be Incentive Stock Options, or to grant Non-Qualified Stock Options, or both (to the extent that any Option does not qualify as an Incentive Stock Option, it shall constitute a separate Non-Qualified Stock Option); provided that Incentive Stock Options may only be granted to employees; (iii) determine the time or times when and the manner and condition in which each Option shall be exercisable and the duration of the exercise period; (iv) designate each Option as one intended to be an Incentive Stock Option or as a Non-Qualified Stock Option; and (v) determine or impose other conditions to the grant or exercise of Options under the Plan as it may deem appropriate.

5.2 Option Price.

The Option Price with respect to an Option shall be determined by the Committee on the date such Option is granted and reflected in an Award Agreement, as the same may be amended from time to time. Any particular Award Agreement may provide for different Option Prices for specified amounts of Shares subject to an Option. Unless otherwise permitted by the Committee, the Option Price with respect to each Option shall not be less than 100% of the Fair Market Value of a Share on the day such Option is granted.

5.3 Period of Option and Vesting.

- (a) Unless earlier expired, forfeited or otherwise terminated, each Option shall expire in its entirety upon the 10th anniversary of the date of grant or shall have such other term (which may be shorter, but not longer, in the case of Incentive Stock Options) as is set forth in the applicable Award Agreement (except that, in the case of an individual described in Section 422(b)(6) of the Code (relating to certain 10% owners) who is granted an Incentive Stock Option, the term of such Option shall be no more than five years from the date of grant). An Option shall also expire, be forfeited and terminate at such times and in such circumstances as otherwise provided hereunder or under an applicable Award Agreement.
- (b) An Option, to the extent that the applicable Optionee has not had a Termination of Service and such Option has not otherwise lapsed, expired, terminated or been forfeited, shall first become exercisable according to the terms and conditions set forth in an applicable Award Agreement, as determined by the Committee at the time of grant. Unless otherwise provided in an Award Agreement or herein, no Option (or portion thereof) shall ever be exercisable if the applicable Optionee has a Termination of Service before the time at which such Option (or portion thereof) would otherwise have become exercisable, and any Option that would otherwise become exercisable after such Termination of Service shall not become exercisable and shall be forfeited upon such termination. Notwithstanding the foregoing provisions of this Section 5.3(b), Options exercisable pursuant to the schedule set forth by the Committee at the time of grant may be fully or more rapidly exercisable or otherwise vested at any time in the discretion of the Committee. Upon and after the death of an Optionee, such Optionee's Options, if and to the extent otherwise exercisable hereunder or under an applicable Award Agreement after the Optionee's death, may be exercised by the Successors of the Optionee.

5.4 Exercisability Upon and After Termination of Optionee.

- (a) Subject to the terms and provisions of an applicable Award Agreement, if an Optionee has a Termination of Service other than by the Company or its Subsidiaries for Cause and other than by reason of death, or Disability, then no exercise of such Optionee's Options may occur after the expiration of the three-month period to follow such termination, or if earlier, the expiration of the term of such Options as provided under Section 5.3(a). If an Optionee should die during the three-month period after a Termination of Service for any reason other than Disability or Cause, such Optionee's Options (if and to the extent otherwise exercisable by such Optionee at the time of death) may be exercised until the earlier of (i) the date which is three months from the date of death of such Optionee, or (ii) the date on which the term of such Options expire in accordance with Section 5.3(a).

- (b) Subject to provisions of an applicable Award Agreement, in the event an Optionee has a Termination of Service on account of death or Disability, such Optionee's Options (whether or not otherwise exercisable) may be exercised until the earlier of (i) one year from the date of the Termination of Service of such Optionee, or (ii) the date on which the term of such Options expire in accordance with Section 5.3(a). If an Optionee should die during the one-year period following a Termination of Service due to Disability, but while such Optionee's Options are still in effect, such Options (if and to the extent otherwise exercisable by such Optionee at the time of death) may be exercised until the earlier of (i) the date which is one year from the date of death of such Optionee, or (ii) the date on which the term of such Options expire in accordance with Section 5.3(a).
- (c) Notwithstanding any other provision hereof, unless otherwise provided in an applicable Award Agreement, if an Optionee has a Termination of Service by the Company for Cause, then such Optionee's Options, to the extent then unexercised, shall thereupon cease to be exercisable and shall be forfeited forthwith.

5.5 Exercise of Options.

- (a) Subject to vesting, restrictions on exercisability and other restrictions provided for hereunder or otherwise imposed in accordance herewith, an Option may be exercised by, and payment in full of the aggregate Option Price with respect to such Option may be made by, an Optionee only by written notice (in the form prescribed by the Committee) to the Company specifying the number of Shares to be purchased.
- (b) Without limiting the scope of the Committee's discretion hereunder, the Committee may impose such other restrictions on the exercise of Incentive Stock Options (whether or not in the nature of the foregoing restrictions) as it may deem necessary or appropriate.
- (c) Notwithstanding any other provision of this Section 5, in the event of a Change in Control, each Option shall become immediately exercisable for the full amount of Shares subject thereto and shall be exercisable until expiration of the term of such Option.

5.6 Payment.

- (a) The aggregate Option Price with respect to an Option shall be paid in full upon the exercise of such Option. Payment by an Optionee must be made by one of the following methods:
 - (i) cash or a certified or bank cashier's check;
 - (ii) shares of previously owned Common Stock, which have been previously owned for more than six months or which were purchased on the open market and for which the Optionee has good title, free and clear of all liens and encumbrances, having an aggregate Fair Market Value on the date of exercise equal to the aggregate Option Price;
 - (iii) cash by a broker-dealer acceptable to the Company to whom the Optionee has submitted an irrevocable notice of exercise;
 - (iv) a combination of (i) and (ii);
 - (v) subject to Section 12(e), the proceeds of a Company loan program or third-party sale program or a notice acceptable to the Committee given as consideration under such a program, in each case if permitted by the Committee in its discretion, if such a program has been established and the Optionee is eligible to participate therein;

- (vi) if approved by the Committee in its discretion, through the written election of the Optionee to have Shares withheld by the Company from the Shares otherwise to be received, with such withheld Shares having an aggregate Fair Market Value on the date of exercise equal to the aggregate Option Price; or
 - (vii) by any combination of such methods of payment or any other method acceptable to the Committee in its discretion.
- (b) Except in the case of Options exercised by certified or bank cashier's check, the Committee may impose limitations and prohibitions on the exercise of Options as it deems appropriate, including, without limitation, any limitation or prohibition designed to avoid accounting consequences which may result from the use of Common Stock as payment upon exercise of an Option.
- (c) No Option may be exercised with respect to any fractional Share. Any fractional Shares resulting from an Optionee's exercise that is accepted by the Company shall be paid in cash.

5.7 Stock Appreciation Rights.

The Committee, in its discretion, may also permit (taking into account, without limitation, the application of Section 409A of the Code, as the Committee may deem appropriate) an Optionee to elect to exercise an Option by receiving a combination of Shares and cash, or, in the discretion of the Committee, either solely Shares or solely cash, with an aggregate Fair Market Value (or, to the extent of payment in cash, in an amount) equal to the excess of the Fair Market Value of the Shares with respect to which such Option is being exercised over the aggregate Option Price of such Option, as determined as of the day such Option is exercised.

5.8 Exercise by Successors.

An Option may be exercised by, and payment in full of the aggregate Option Price of such Option may be made by, Successors of the Optionee only by written notice (in the form prescribed by the Committee) to the Company specifying the number of Shares to be purchased. Such notice shall state that the aggregate Option Price will be paid in full, or that, subject to the consent of the Company or the Committee, such Option will be exercised through such other method as otherwise provided hereunder.

5.9 Nontransferability of Option.

Each Option granted under the Plan shall be nontransferable by the applicable Optionee except by will or the laws of descent and distribution of the state wherein such Optionee is domiciled at the time of his or her death.

5.10 Certain Incentive Stock Option Provisions.

- (a) The aggregate Fair Market Value, determined as of the date an Option is granted, of the Common Stock for which any Optionee may be awarded Incentive Stock Options which are first exercisable by such Optionee during any calendar year under the Plan (or any other stock option plan required to be taken into account under Section 422(d) of the Code) shall not exceed \$100,000.
- (b) If Shares acquired upon exercise of an Incentive Stock Option are disposed of in a disqualifying disposition within the meaning of Section 422 of the Code by an Optionee prior to the expiration of either two years from the date of grant of such Option or one year from the transfer of Shares to the Optionee pursuant to the exercise of such Option, or in any other disqualifying disposition within the meaning of Section 422 of the Code, such Optionee shall notify the Company in writing as soon as practicable thereafter of the date and terms of such disposition and, if the Company (or any Affiliate thereof) thereupon has a tax-withholding obligation, shall pay to the Company (or such Affiliate) an amount equal to any withholding tax the Company (or Affiliate) is required to pay as a result of the disqualifying disposition.

- (c) The Option Price with respect to an Incentive Stock Option shall not be less than 100%, or 110% in the case of an individual described in Section 422(b)(6) of the Code (relating to certain 10% owners), of the Fair Market Value of a Share on the day such Incentive Stock Option is granted. In the case of an Incentive Stock Option granted to an individual described in Section 422(b)(6) of the Code, the term of such Incentive Stock Option shall be no more than five years from the date of grant.
- (d) Subject to provisions of an applicable Award Agreement, if an Optionee has a Termination of Service other than by the Company or its Subsidiaries for Cause and other than by reason of death or Permanent and Total Disability, then no exercise of an Incentive Stock Option held by such Optionee may occur after the expiration of the three-month period to follow such termination, or if earlier, the expiration of the term of such Incentive Stock Option as provided under Section 5.3(a); provided that, if such Optionee should die during the one-year period following a Termination of Service due to Permanent and Total Disability or if such Optionee should die during the three-month period following a Termination of Service for any reason other than Permanent and Total Disability or Cause, but while such Incentive Stock Option is still in effect, such Incentive Stock Option (if and to the extent otherwise exercisable by such Optionee at the time of death) may be exercised until the earlier of (i) the date which is three months from the date of death of such Optionee, or (ii) the date on which the term of such Incentive Stock Option expires in accordance with Section 5.3(a).
- (e) Subject to provisions of an applicable Award Agreement, in the event an Optionee has a Termination of Service on account of death or Permanent and Total Disability, an Incentive Stock Option held by such Optionee (whether or not otherwise exercisable) may be exercised until the earlier of (i) one year from the date of the Termination of Service of such Optionee, or (ii) the date on which the term of such Incentive Stock Option expires in accordance with Section 5.3(a).
- (f) Notwithstanding any other provision hereof, unless otherwise provided in the Award Agreement, if an Optionee has a Termination of Service by the Company for Cause, then any Incentive Stock Options held by such Optionee, to the extent then unexercised, shall thereupon cease to be exercisable and shall be forfeited forthwith.

6. PROVISIONS APPLICABLE TO RESTRICTED STOCK.

6.1 Grant of Restricted Stock.

- (a) In connection with the grant of Restricted Stock, whether or not any Performance Goals (as provided for under Section 10) apply thereto, the Committee shall establish one or more vesting periods with respect to the shares of Restricted Stock granted, the length of which shall be determined in the discretion of the Committee. A grant of Restricted Stock shall vest in accordance with the terms and conditions set forth in an applicable Award Agreement and be subject to the provisions of this Section 6 and the other provisions of the Plan.
- (b) Subject to the other terms of the Plan, the Committee may, in its discretion as reflected by the terms of an applicable Award Agreement:
 - (i) authorize the granting of Restricted Stock to Eligible Persons; (ii) provide a specified purchase price for the Restricted Stock (whether or not the payment of a purchase price is required by any state law applicable to the Company); (iii) determine the restrictions applicable to Restricted Stock and (iv) determine or impose other conditions, including any applicable Performance Goals, to any grant of Restricted Stock under the Plan as it may deem appropriate.

6.2 Certificates.

- (a) Upon the grant of Restricted Stock, the Committee shall cause a stock certificate registered in the name of the Participant to be issued as discussed in detail below or shall cause Share(s) to be registered in the name of the Participant and held in book-entry form subject to the Company's directions. Notwithstanding the foregoing, in the discretion of the Committee, each Grantee of Restricted Stock awarded under the Plan may be issued a stock certificate in respect of Shares subject to such Grantee's Restricted Stock. Each such certificate shall be registered in the name of the Grantee. Such stock certificates for Shares of Restricted Stock issued hereunder may include any legend which the Committee deems appropriate to reflect any restrictions on transfer hereunder or under the Award Agreement, or as the Committee may otherwise deem appropriate, and, without limiting the generality of the foregoing, shall bear a legend referring to the terms, conditions, and restrictions applicable to such Award, substantially in the following form:

THE TRANSFERABILITY OF THIS CERTIFICATE AND THE SHARES OF STOCK REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS (INCLUDING FORFEITURE) OF THE SAFEHOLD INC. 2009 LONG-TERM INCENTIVE PLAN AND AN AWARD AGREEMENT ENTERED INTO BETWEEN THE REGISTERED OWNER AND SAFEHOLD INC. COPIES OF SUCH PLAN AND AWARD AGREEMENT ARE ON FILE IN THE OFFICES OF SAFEHOLD INC. AT 1114 AVENUE OF THE AMERICAS, 27TH FLOOR, NEW YORK, NEW YORK 10036.

- (b) The Committee may require that any stock certificates evidencing such Shares be held in custody by the Company until the restrictions hereunder shall have lapsed, and that, as a condition of any Award of Restricted Stock, a Grantee have delivered to the Company a stock power, endorsed in blank, relating to the stock covered by such Award. If and when such restrictions so lapse, the stock certificates shall be delivered by the Company to the Grantee or his or her designee as provided in Section 6.3.

6.3 Restrictions and Conditions.

Unless otherwise provided by the Committee, each Award of Restricted Stock shall be subject to the following restrictions and conditions:

- (i) Subject to the provisions of the Plan and the applicable Award Agreement, during a period commencing with the date of such Award and ending on the date the period of forfeiture with respect to such Restricted Stock lapses, the applicable Grantee shall not be permitted voluntarily or involuntarily to sell, transfer, pledge, anticipate, alienate, encumber or assign Shares of Restricted Stock awarded under the Plan (or have such Shares attached or garnished). Subject to clauses (iii) and (iv) below, the period of forfeiture with respect to an Award of Restricted Stock granted hereunder shall lapse as provided in an applicable Award Agreement. Notwithstanding the foregoing, unless otherwise expressly provided by the Committee, the period of forfeiture with respect to such Restricted Stock shall only lapse as to whole Shares.
- (ii) Except as provided in the foregoing clause (i), below in this clause (ii) or in Section 14, or as otherwise provided in an applicable Award Agreement, a Grantee shall have, in respect of the Shares subject to such Grantee's Award of Restricted Stock, all of the rights of a shareholder of the Company, including the right to vote such Shares and the right to receive any cash dividends; provided, however that cash dividends on such Shares shall, unless otherwise provided by the Committee, be held by the Company (unsegregated as a part of its general assets) until the period of forfeiture with respect to such Grantee's Award of Restricted Stock lapses, and paid over to the Grantee (without interest) as soon as practicable after such period lapses (if not forfeited) (and such cash dividends shall be forfeited if the underlying Shares subject to such Award of Restricted Stock are forfeited). Certificates for Shares (not subject to restrictions) shall be delivered to a Grantee or his or her designee promptly after, and only after, the period of forfeiture with respect to such Grantee's Award of Restricted Stock shall lapse without forfeiture.
- (iii) Except as otherwise provided in an applicable Award Agreement, and subject to clause (iv) below, if a Grantee has a Termination of Service for any reason other than death or Disability during the applicable period of forfeiture with respect to such Grantee's Award of Restricted Stock, then (A) the portion of such Award of Restricted Stock still subject to restriction shall thereupon, and with no further action, be forfeited by the Grantee, and (B) the Company shall pay to the Grantee as soon as practicable (and in no event more than 30 days) after such termination an amount equal to the lesser of (x) the amount paid by the Grantee for such forfeited Restricted Stock as contemplated by Section 6.1, and (y) the Fair Market Value on the date of termination of the forfeited Restricted Stock.

- (iv) Subject to the provisions of an applicable Award Agreement, in the event a Grantee has a Termination of Service on account of death or Disability, or in the event of a Change in Control (regardless of whether a termination follows thereafter), during the applicable period of forfeiture with respect to a Grantee's Award of Restricted Stock, then restrictions on such Grantee's Award of Restricted Stock under the Plan will immediately lapse.

7. PROVISIONS APPLICABLE TO PHANTOM SHARES.

7.1 Grant of Phantom Shares.

Subject to the other terms of the Plan, the Committee shall, in its discretion and as reflected by the terms of the applicable Award Agreement:

- (i) authorize the granting of Phantom Shares to Eligible Persons and (ii) impose such conditions to the grant of Phantom Shares under the Plan as it may deem appropriate.

7.2 Term.

The Committee may provide in an Award Agreement that any particular Phantom Share shall expire at the end of a specified term.

7.3 Vesting.

- (a) Subject to the provisions of the applicable Award Agreements and Section 7.3(b), Phantom Shares shall vest as provided in the applicable Award Agreement.
- (b) Unless otherwise determined by the Committee at the time of grant, Phantom Shares granted pursuant to the Plan shall be subject to the following vesting conditions:
 - (i) Subject to the provisions of an applicable Award Agreement and clause (ii) below, if a Grantee has a Termination of Service by the Company and its Subsidiaries for Cause, all of such Grantee's Phantom Shares (whether or not such Phantom Shares are otherwise vested) shall thereupon, and with no further action, be forfeited and cease to be outstanding, and no payments shall be made with respect to such forfeited Phantom Shares.
 - (ii) Subject to the provisions of an applicable Award Agreement, in the event a Grantee has a Termination of Service on account of death or Disability, or a Grantee has a Termination of Service by the Company and its Subsidiaries for any reason other than Cause, or in the event of a Change in Control (regardless of whether a termination follows thereafter), all outstanding Phantom Shares granted to such Grantee shall become immediately vested.
 - (iii) Other than as provided in this Section 7.3, in the event that a Grantee has a Termination of Service, any and all of such Grantee's Phantom Shares which have not vested prior to or as of such termination shall thereupon, and with no further action, be forfeited and cease to be outstanding and such Grantee's vested Phantom Shares shall be settled as set forth in Section 7.4.

7.4 Settlement of Phantom Shares.

- (a) Each vested and outstanding Phantom Share held by a Grantee shall be settled by the Company by transferring, in exchange for each such vested and outstanding Phantom Share, one Share to such Grantee; provided that, the Committee at the time of grant (or, in the appropriate case, as determined by the Committee, thereafter) may provide that a Phantom Share may be settled (i) in cash at the applicable Phantom Share Value, (ii) in cash or by transfer of Shares as elected by the Grantee in accordance with procedures established by the Committee, or (iii) in cash or by transfer of Shares as elected by the Company.
- (b) Payment (whether of cash or Shares) in respect of Phantom Shares shall be made in a single sum; provided that, with respect to Phantom Shares of a Grantee which have a common Settlement Date, the Committee may permit the Grantee to elect in accordance with procedures established by the Committee (taking into account, without limitation, Section 409A of the Code, as the Committee may deem appropriate) to receive installment payments over a period not to exceed 10 years. If payment with respect to a Grantee's Phantom Shares is paid out in installment payments, such installment payments shall be treated as a series of separate payments for purposes of Section 409A of the Code.

- (c) (i) Unless otherwise provided in an applicable Award Agreement, the “Settlement Date” with respect to a Phantom Share is the first day of the month that follows the month during which the Phantom Share vests; provided that a Grantee may elect, in accordance with procedures to be established by the Committee, that such Settlement Date will be deferred as elected by such Grantee to the first day of the month that follows the month during which such Grantee’s Termination of Service occurs, or such other time as may be permitted by the Committee. Notwithstanding the prior sentence, all initial elections to defer the Settlement Date shall be made in accordance with the requirements of Section 409A of the Code. In addition, unless otherwise determined by the Committee, any subsequent elections under this Section 7.4(c)(i) must, except as may otherwise be permitted under the rules applicable under Section 409A of the Code, (A) not be effective for at least one year after they are made, or, in the case of payments to commence at a specific time, be made at least one year before the first scheduled payment and (B) defer the commencement of distributions (and each affected distribution) for at least five years.
- (ii) Notwithstanding Section 7.4(c)(i), the Committee may provide that distributions of Phantom Shares can be elected at any time in those cases in which the Phantom Share Value is determined by reference to Fair Market Value to the extent in excess of a base value, rather than by reference to unreduced Fair Market Value.
- (iii) Notwithstanding the foregoing, the Settlement Date with respect to a Phantom Share, if not earlier pursuant to this Section 7.4(c), shall be the date of the death of the Grantee who holds such Phantom Share.
- (d) Notwithstanding the other provisions of this Section 7, in the event of a Change in Control, the Settlement Date shall be the date of such Change in Control and all amounts due with respect to Phantom Shares to a Grantee hereunder shall be paid as soon as practicable (but in no event more than 30 days) after such Change in Control, unless such Grantee elects otherwise in accordance with procedures established by the Committee.
- (e) Notwithstanding any other provision of the Plan, a Grantee may receive any amounts to be paid in installments as provided in Section 7.4(b) or deferred by such Grantee as provided in Section 7.4(c) in the event of an “Unforeseeable Emergency.” For these purposes, an “Unforeseeable Emergency,” as determined by the Committee in its sole discretion, is (i) a severe financial hardship to a Grantee resulting from a sudden and unexpected illness or accident of such Grantee or such Grantee’s “dependent,” as defined in Section 152(a) of the Code, (ii) the loss of a Grantee’s property due to casualty, or (iii) such other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of a Grantee. The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:
- (i) through reimbursement or compensation by insurance or otherwise,
- (ii) by liquidation of a Grantee’s assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or
- (iii) by future cessation of the making of additional deferrals under Section 7.4 (b) and (c).

Without limitation, the need to send a Grantee’s child to college or the desire to purchase a home shall not constitute an Unforeseeable Emergency. Distributions of amounts because of an Unforeseeable Emergency shall be permitted to the extent reasonably needed to satisfy the emergency need.

7.5 Other Phantom Share Provisions.

- (a) Rights to payments with respect to Phantom Shares granted under the Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, levy, execution, or other legal or equitable process, either voluntary or involuntary; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, attach or garnish, or levy or execute on any right to payments or other benefits payable hereunder, shall be void.
- (b) A Grantee may designate in writing, on forms to be prescribed by the Committee, a beneficiary or beneficiaries to receive any payments payable after his or her death and may amend or revoke such designation at any time. If no beneficiary designation is in effect at the time of a Grantee's death, payments hereunder shall be made to such Grantee's estate. If a Grantee with a vested Phantom Share dies, such Grantee's Phantom Share shall be settled and the Phantom Share Value in respect of such Phantom Shares paid, and any payments deferred pursuant to an election under Section 7.4(c) shall be accelerated and paid to such Grantee's beneficiary or estate, as applicable as soon as practicable (but no later than 60 days) after the date of such Grantee's death.
- (c) The Committee may establish a program (taking into account, without limitation, the application of Section 409A of the Code, as the Committee may deem appropriate) under which distributions with respect to Phantom Shares may be deferred for periods in addition to those otherwise contemplated by the foregoing provisions of this Section 7. Such program may include, without limitation, provisions for the crediting of earnings and losses on unpaid amounts, and, if permitted by the Committee, provisions under which Participants may select from among hypothetical investment alternatives for such deferred amounts in accordance with procedures established by the Committee.
- (d) Notwithstanding any other provision of this Section 7, any fractional vested Phantom Share will be paid out in cash at the applicable Phantom Share Value as of the Settlement Date.
- (e) No Phantom Share shall be construed to give any Grantee any rights with respect to Shares or any ownership interest in the Company. Except as may be provided in accordance with Section 8, no provision of the Plan shall be interpreted to confer upon any Grantee any voting, dividend or derivative or other similar rights with respect to any Phantom Share.

7.6 Claims Procedures.

- (a) To the extent that the Plan is determined by the Committee to be subject to the Employee Retirement Income Security Act of 1974, as amended, the Grantee, or his or her beneficiary hereunder or authorized representative, may file a claim for payments with respect to Phantom Shares under the Plan by written communication to the Committee or its designee. A claim is not considered filed until such communication is actually received. Within 90 days (or, if special circumstances require an extension of time for processing, 180 days, in which case notice of such special circumstances should be provided within the initial 90-day period) after the filing of the claim, the Committee will either:
 - (i) approve the claim and take appropriate steps for satisfaction of the claim; or
 - (ii) if the claim is wholly or partially denied, advise the claimant of such denial by furnishing to him or her a written notice of such denial setting forth (A) the specific reason or reasons for the denial; (B) specific reference to pertinent provisions of the Plan on which the denial is based and, if the denial is based in whole or in part on any rule of construction or interpretation adopted by the Committee, a reference to such rule, a copy of which shall be provided to the claimant; (C) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of the reasons why such material or information is necessary; and (D) a reference to this Section 7.6 as the provision setting forth the claims procedure under the Plan.

- (b) The claimant may request a review of any denial of his or her claim by written application to the Committee within 60 days after receipt of the notice of denial of such claim. Within 60 days (or, if special circumstances require an extension of time for processing, 120 days, in which case notice of such special circumstances should be provided within the initial 60-day period) after receipt of written application for review, the Committee will provide the claimant with its decision in writing, including, if the claimant's claim is not approved, specific reasons for the decision and specific references to the Plan provisions on which the decision is based.

8. PROVISIONS APPLICABLE TO DIVIDEND EQUIVALENT RIGHTS.

8.1 Grant of Dividend Equivalent Rights.

Subject to the other terms of the Plan, the Committee shall, in its discretion as reflected by the terms of the Award Agreements, authorize the granting of Dividend Equivalent Rights to Eligible Persons based on the regular cash dividends declared on Common Stock, to be credited as of the dividend payment dates, during the period between the date an Award is granted, and the date such Award is exercised, vests or expires, as determined by the Committee. Such Dividend Equivalent Rights shall be converted to cash or additional Shares by such formula and at such time and subject to such limitation as may be determined by the Committee. With respect to Dividend Equivalent Rights granted with respect to Options intended to be qualified performance-based compensation for purposes of Section 162(m) of the Code, such Dividend Equivalent Rights shall be payable regardless of whether such Option is exercised. If a Dividend Equivalent Right is granted in respect of another Award hereunder, then, unless otherwise stated in the Award Agreement, in no event shall the Dividend Equivalent Right be in effect for a period beyond the time during which the applicable portion of the underlying Award is in effect.

8.2 Certain Terms.

- (a) The term of a Dividend Equivalent Right shall be set by the Committee in its discretion.
- (b) Unless otherwise determined by the Committee, except as contemplated by Section 8.4, a Dividend Equivalent Right is exercisable or payable only while the Participant is an Eligible Person.
- (c) Payment of the amount determined in accordance with Section 8.1 shall be in cash, in Common Stock or a combination of the both, as determined by the Committee.
- (d) The Committee may impose such employment-related conditions on the grant of a Dividend Equivalent Right as it deems appropriate in its discretion.

8.3 Other Types of Dividend Equivalent Rights.

The Committee may establish a program under which Dividend Equivalent Rights of a type whether or not described in the foregoing provisions of this Section 8 may be granted to Participants. For example, and without limitation, the Committee may grant a Dividend Equivalent Right in respect of each Share subject to an Option or with respect to a Phantom Share, which right would consist of the right (subject to Section 8.4) to receive a cash payment in an amount equal to the dividend distributions paid on a Share from time to time. Notwithstanding anything in the Plan to the contrary, no dividend equivalents or Dividend Equivalent Rights shall be payable in respect of outstanding Options or unvested awards (provided that dividend equivalents may be accumulated in respect of unvested Awards and paid within 30 days after such Awards are earned and become payable or distributable).

8.4 Deferral.

The Committee may establish a program (taking into account, without limitation, the possible application of Section 409A of the Code, as the Committee may deem appropriate) under which Participants (i) will have Phantom Shares credited, subject to the terms of Sections 7.4 and 7.5 as though directly applicable with respect thereto, upon the granting of Dividend Equivalent Rights, or (ii) will have payments with respect to Dividend Equivalent Rights deferred. In the case of the foregoing clause (ii), such program may include, without limitation, provisions for the crediting of earnings and losses on unpaid amounts, and, if permitted by the Committee, provisions under which Participants may select from among hypothetical investment alternatives for such deferred amounts in accordance with procedures established by the Committee.

9. OTHER AWARDS.

The Committee shall have the right to grant other Awards based upon the Common Stock having such terms and conditions as the Committee may determine, including, without limitation, the grant of Shares based upon certain conditions, the grant of securities convertible into Common Stock and the grant of stock appreciation rights. Other Awards shall also include cash payments (including the cash payment of Dividend Equivalent Rights) under the Plan having such terms and conditions as the Committee may determine. Such cash payments may be based on one or more criteria determined by the Committee which are unrelated to the value of Shares and which may be granted in tandem with, or independent of, other Awards under the Plan.

10. PERFORMANCE GOALS.

The Committee, in its discretion, may, in the case of Awards (“Performance-Based Awards”), (i) establish one or more performance goals (“Performance Goals”) as a precondition to the issuance or vesting of Awards, and (ii) provide, in connection with the establishment of the Performance Goals, for predetermined Awards to those Participants (who continue to meet all applicable eligibility requirements) with respect to whom the applicable Performance Goals are satisfied. The Performance Goals shall be based upon the criteria set forth in Exhibit A hereto which is hereby incorporated herein by reference as though set forth in full.

11. TAX WITHHOLDING.

11.1 In General.

The Company shall be entitled to withhold from any payments or deemed payments any amount of tax withholding determined by the Committee to be required by law. Without limiting the generality of the foregoing, the Committee may, in its discretion, require the Participant to pay to the Company at such time as the Committee determines the amount that the Committee deems necessary to satisfy the Company’s obligation to withhold federal, state or local income or other taxes incurred by reason of (i) the exercise of any Option, (ii) the lapsing of any restrictions applicable to any Restricted Stock, (iii) the receipt of a distribution in respect of Phantom Shares or Dividend Equivalent Rights or (iv) any other applicable income-recognition event (for example, an election under Section 83(b) of the Code).

11.2 Share Withholding.

- (a) Upon exercise of an Option, an Optionee may, if approved by the Committee in its discretion, make a written election to have Shares then issued withheld by the Company from the Shares otherwise to be received, or to deliver previously owned whole Shares (which such holder has held for at least six months prior to the delivery of such Shares or which such holder purchased on the open market and for which such holder has good title, free and clear of all liens and encumbrances), in order to satisfy the liability for such withholding taxes. In the event that an Optionee makes, and the Committee permits, such an election, the number of Shares so withheld or delivered shall have an aggregate Fair Market Value on the date of exercise sufficient to satisfy the applicable withholding taxes. Where the exercise of an Option does not give rise to an obligation by the Company to withhold federal, state or local income or other taxes on the date of exercise, but may give rise to such an obligation in the future, the Committee may, in its discretion, make such arrangements and impose such requirements as it deems necessary or appropriate.
- (b) Upon lapsing of restrictions on Restricted Stock (or other income-recognition event), a Grantee may, if approved by the Committee in its discretion, make a written election to have Shares withheld by the Company from the Shares otherwise to be released from restriction, or to deliver previously owned whole Shares (not subject to restrictions hereunder) (which such holder has held for at least six months prior to the delivery of such Shares or which such holder purchased on the open market and for which such holder has good title, free and clear of all liens and encumbrances), in order to satisfy the liability for such withholding taxes. In the event that a Grantee makes, and the Committee permits, such an election, the number of Shares so withheld or delivered shall have an aggregate Fair Market Value on the date of exercise sufficient to satisfy the applicable withholding taxes.

- (c) Upon the making of a distribution in respect of Phantom Shares or Dividend Equivalent Rights, a Grantee may, if approved by the Committee in its discretion, make a written election to have amounts (which may include Shares) withheld by the Company from the distribution otherwise to be made, or to deliver previously owned whole Shares (not subject to restrictions hereunder) (which such holder has held for at least six months prior to the delivery of such Shares or which such holder purchased on the open market and for which such holder has good title, free and clear of all liens and encumbrances), in order to satisfy the liability for such withholding taxes. In the event that a Grantee makes, and the Committee permits, such an election, any Shares so withheld or delivered shall have an aggregate Fair Market Value on the date of exercise sufficient to satisfy the applicable withholding taxes.

11.3 Withholding Required.

Notwithstanding anything contained in the Plan or the Award Agreement to the contrary, a Participant's satisfaction of any tax-withholding requirements imposed by the Committee shall be a condition precedent to the Company's obligation as may otherwise be provided hereunder to provide Shares to such Participant and to the release of any restrictions as may otherwise be provided hereunder, as applicable; and all applicable Options, Restricted Stock, Phantom Shares and Dividend Equivalent Rights shall be forfeited upon the failure of a Participant to satisfy such requirements with respect to, as applicable, (i) the exercise of any Options, (ii) the lapsing of restrictions on the Restricted Stock (or other income-recognition event) or (iii) distributions in respect of any Phantom Shares or Dividend Equivalent Rights.

An Award Agreement may provide that a Participant may satisfy any such obligation by any of the following means: (A) a cash payment to the Company, (B) delivery to the Company of previously owned whole Shares (which such Participant has held for at least six months prior to the delivery of such Shares or which such Participant purchased on the open market and for which such Participant has good title, free and clear of all liens and encumbrances) having an aggregate Fair Market Value, determined as of the date the obligation to withhold or pay taxes arises in connection with an Award (the "Tax Date"), equal to the amount necessary to satisfy any such obligation, (C) in the case of the exercise of an Option, a cash payment by a broker-dealer acceptable to the Company to whom a Participant has submitted an irrevocable notice of exercise, or (D) any combination of (A) and (B), in each case to the extent set forth in an applicable Award Agreement; provided however, that the Committee shall have the sole discretion to disapprove of an election pursuant to any of the foregoing clauses (B) through (D). An Award Agreement may provide for Shares to be delivered having a Fair Market Value in excess of the minimum amount required to be withheld, but not in excess of the amount determined by applying a Participant's maximum marginal tax rate. Any fraction of a Share which would be required to satisfy such an obligation shall be disregarded and the remaining amount due shall be paid in cash by such Participant.

12. REGULATIONS AND APPROVALS.

- (a) The obligation of the Company to sell Shares with respect to an Award granted under the Plan shall be subject to all applicable laws, rules and regulations, including all applicable federal and state securities laws, and the obtaining of all such approvals by governmental agencies as may be deemed necessary or appropriate by the Committee.
- (b) The Committee may make such changes to the Plan as may be necessary or appropriate to comply with the rules and regulations of any government authority or to obtain tax benefits applicable to an Award.

- (c) Each grant of Options, Restricted Stock, Phantom Shares (or issuance of Shares in respect thereof) or Dividend Equivalent Rights (or issuance of Shares in respect thereof), or other Award under Section 9 (or issuance of Shares in respect thereof), is subject to the requirement that, if at any time the Committee determines, in its discretion, that the listing, registration or qualification of Shares issuable pursuant to the Plan is required by any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the issuance of Options, Shares of Restricted Stock, Phantom Shares, Dividend Equivalent Rights, other Awards or other Shares, no payment shall be made, or Phantom Shares or Shares issued or grant of Restricted Stock or other Award made, in whole or in part, unless listing, registration, qualification, consent or approval has been effected or obtained free of any conditions in a manner acceptable to the Committee.
- (d) In the event that the disposition of stock acquired pursuant to the Plan is not covered by a then current registration statement under the Securities Act, and is not otherwise exempt from such registration, such Shares shall be restricted against transfer to the extent required under the Securities Act, and the Committee may require any individual receiving Shares pursuant to the Plan, as a condition precedent to receipt of such Shares, to represent to the Company in writing that such Shares are acquired for investment only and not with a view to distribution and that such Shares will be disposed of only if registered for sale under the Securities Act or if there is an available exemption for such disposition.
- (e) Notwithstanding any other provision of the Plan, the Company shall not be required to take or permit any action under the Plan or any Award Agreement which, in the good-faith determination of the Company, would result in a material risk of a violation by the Company of Section 13(k) of the Exchange Act.

13. INTERPRETATION AND AMENDMENTS; OTHER RULES.

The Committee may make such rules and regulations and establish such procedures for the administration of the Plan as it deems appropriate. Without limiting the generality of the foregoing, the Committee may (i) determine the extent, if any, to which Options, Phantom Shares or Shares (whether or not Shares of Restricted Stock), Dividend Equivalent Rights, or other Awards shall be forfeited (whether or not such forfeiture is expressly contemplated hereunder); (ii) interpret the Plan and any Award Agreement entered into hereunder, with such interpretations to be conclusive and binding on all persons and otherwise accorded the maximum deference permitted by law, provided that the Committee's interpretation shall not be entitled to deference on and after a Change in Control except to the extent that such interpretations are made exclusively by members of the Committee who are individuals who served as Committee members before the Change in Control; and (iii) take any other actions and make any other determinations or decisions that it deems necessary or appropriate in connection with the Plan or the administration or interpretation thereof. In the event of any dispute or disagreement as to the interpretation of the Plan or of any rule, regulation or procedure, or as to any question, right or obligation arising from or related to the Plan, the decision of the Committee, except as provided in clause (ii) of the foregoing sentence, shall be final and binding upon all persons. Unless otherwise expressly provided hereunder, the Committee, with respect to any grant of an Award, may exercise its discretion hereunder at the time of such grant of such Award or thereafter. Notwithstanding any provision in the Plan to the contrary, no Option or stock appreciation right (granted pursuant to Section 5.7) issued under the Plan may be amended to reduce the Option Price or the exercise price of such stock appreciation right below the Option Price or exercise price as of the date the Option or stock appreciation right was granted. In addition, no Option or stock appreciation right may be granted in exchange for, or in connection with, the cancellation or surrender of an Option, stock appreciation right or other Award having a lower exercise price. The Board may amend the Plan as it shall deem advisable, except that no amendment may adversely affect a Participant with respect to an Award previously granted unless such amendments are required in order to comply with applicable laws; provided, however, that the Plan may not be amended without shareholder approval in any case in which amendment in the absence of shareholder approval would cause the Plan to fail to comply with any applicable legal requirement or applicable exchange or similar rule.

14. CHANGES IN CAPITAL STRUCTURE.

- (a) If (i) the Company or its Subsidiaries shall at any time be involved in a merger, consolidation, dissolution, liquidation, reorganization, exchange of shares, sale of all or substantially all of the assets or stock of the Company or its Subsidiaries or a transaction similar thereto, (ii) any stock dividend, stock split, reverse stock split, stock combination, reclassification, recapitalization or other similar change in the capital structure of the Company or its Subsidiaries, or any distribution to holders of Shares other than cash dividends, shall occur or (iii) any other event shall occur which in the judgment of the Committee necessitates action by way of adjusting the terms of the outstanding Awards, then:
 - (x) the maximum aggregate number and kind of Shares which may be made subject to Options and Dividend Equivalent Rights under the Plan, the maximum aggregate number and kind of Shares of Restricted Stock that may be granted under the Plan, the maximum aggregate number of Phantom Shares and other Awards which may be granted under the Plan may be appropriately adjusted by the Committee in its discretion; and

- (y) the Committee shall take any such action as in its discretion shall be necessary to maintain each Participant's rights hereunder (including under their Award Agreements) so that each such Participant's rights with respect to his or her respective Options, Phantom Shares and Dividend Equivalent Rights are substantially proportionate to the rights existing in such Options, Phantom Shares and Dividend Equivalent Rights prior to such event, including, without limitation, adjustments in (A) the number of Options, Phantom Shares and Dividend Equivalent Rights (and other Awards under Section 9) granted, (B) the number and kind of shares or other property to be distributed in respect of Options, Phantom Shares and Dividend Equivalent Rights (and other Awards under Section 9 as applicable), (C) the Option Price and Phantom Share Value, and (D) any performance-based criteria established in connection with Awards; provided that, in the discretion of the Committee, the foregoing clause (D) may also be applied in the case of any event relating to a Subsidiary if the event would have been covered under this Section 14(a) had the event related to the Company.

Notwithstanding the foregoing, in the case of any "equity restructuring" (within the meaning of the Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor pronouncement thereto)), the Committee shall make an equitable or proportionate adjustment to outstanding Awards to reflect such equity restructuring.

To the extent that such action shall include an increase or decrease in the number of Shares (or units of other property then available) subject to all outstanding Awards, the number of Shares (or units) available under Section 4 shall be increased or decreased, as the case may be, proportionately, as may be determined by the Committee in its discretion.

- (b) Any Shares or other securities distributed to a Grantee with respect to Restricted Stock or otherwise issued in substitution of Restricted Stock shall be subject to the restrictions and requirements imposed by Section 6, including depositing the certificates therefor with the Company together with a stock power and bearing a legend as provided in Section 6.2(a).
- (c) If the Company shall be consolidated or merged with another corporation or other entity, each Grantee who has received Restricted Stock that is then subject to restrictions imposed by Section 6.3(a) may be required to deposit with the successor corporation the certificates, if any, for the stock or securities or the other property that such Grantee is entitled to receive by reason of ownership of Restricted Stock in a manner consistent with Section 6.2(b), and such stock, securities or other property shall become subject to the restrictions and requirements imposed by Section 6.3(a), and the certificates therefor or other evidence thereof shall bear a legend similar in form and substance to the legend set forth in Section 6.2(a).
- (d) If a Change in Control shall occur, then the Committee, as constituted immediately before such Change in Control, may in its sole discretion, provide for any one or more of the following, subject to treatment of Awards as set forth in Sections 5.5(c), 6.3(iv) and 7.3(b)(ii) hereto:
- A. Substitution or assumption of Awards, or to the extent that the surviving entity (or Affiliate thereof) of such Change in Control does not substitute or assume the Awards, full acceleration of vesting of, exercisability of, or lapse of restrictions on, as applicable, any Awards; and
- B. Cancellation of any one or more outstanding Awards and payment to the holders of such Awards that are vested as of such cancellation (including, without limitation, any Awards that would vest as a result of the occurrence of such event but for such cancellation or for which vesting is accelerated by the Committee in connection with such event pursuant to clause (i) above), the value of such Awards, if any, as determined by the Committee (which value, if applicable, may be based upon the price per share of Common Stock received or to be received by other shareholders of the Company in such event), including, without limitation, in the case of an outstanding Option, a cash payment in an amount equal to the excess, if any, of the Fair Market Value (as of a date specified by the Committee) of the Shares subject to such Option over the aggregate Option Price of such Option (*it being understood that, in such event, any Option having a per share Option Price equal to, or in excess of, the Fair Market Value of a Share subject thereto may be canceled and terminated without any payment or consideration therefor*).

- (e) make such adjustments as it, in its discretion, determines are necessary or appropriate in light of such Change in Control, provided that the Committee determines that such adjustments do not have an adverse economic impact on any Participant as determined at the time of the adjustments.
- (f) The judgment of the Committee with respect to any matter referred to in this Section 14 shall be conclusive and binding upon each Participant without the need for any amendment to the Plan.

15. MISCELLANEOUS.

15.1 No Rights to Employment or Other Service.

Nothing in the Plan or in any grant made pursuant to the Plan shall confer on any individual any right to continue in the employ or other service of the Company or its Subsidiaries or interfere in any way with the right of the Company or its Subsidiaries and its shareholders to terminate the individual's employment or other service at any time.

15.2 No Fiduciary Relationship.

Nothing contained in the Plan (including without limitation Sections 7.5(c) and 8.4), and no action taken pursuant to the provisions of the Plan, shall create or shall be construed to create a trust of any kind, or a fiduciary relationship between the Company or its Subsidiaries, or their officers or the Committee, on the one hand, and the Participant, the Company, its Subsidiaries or any other person or entity, on the other.

15.3 Compliance With Section 409A Of The Code.

- (a) Any Award Agreement issued under the Plan that is subject to Section 409A of the Code shall include such additional terms and conditions as may be required to satisfy the requirements thereof.
- (b) With respect to any Award issued under the Plan that is subject to Section 409A of the Code, and with respect to which a payment or distribution is to be made upon a Termination of Service, if a Grantee who holds such an Award is determined by the Company to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i) of the Code and any of the Company's stock is publicly traded on an established securities market or otherwise, such payment or distribution may not be made before the date which is six months after the date of Termination of Service of such Grantee (to the extent required under Section 409A of the Code). Any payments or distributions delayed in accordance with the prior sentence shall be paid to such Grantee on the first day of the seventh month following such Grantee's Termination of Service.
- (c) Notwithstanding any other provision of the Plan, the Board and the Committee shall administer the Plan, and exercise authority and discretion under the Plan, to satisfy the requirements of Section 409A of the Code or any exemption thereto.

15.4 No Fund Created.

Any and all payments hereunder to any Grantee under the Plan shall be made from the general funds of the Company (or, if applicable, a Participating Company). No special or separate fund shall be established or other segregation of assets made to assure such payments. Phantom Shares (including for purposes of this Section 15.4 any accounts established to facilitate the implementation of Section 7.4(c)) and any other similar devices issued hereunder to account for Plan obligations do not constitute Common Stock and shall not be treated as (or as giving rise to) property or as a trust fund of any kind; provided, however, that the Company may establish a mere bookkeeping reserve to meet its obligations hereunder or a trust or other funding vehicle that would not cause the Plan to be deemed to be funded for tax purposes or for purposes of Title I of the Employee Retirement Income Security Act of 1974, as amended. The obligations of the Company under the Plan are unsecured and constitute a mere promise by the Company to make benefit payments in the future and, to the extent that any person acquires a right to receive payments under the Plan from the Company, such right shall be no greater than the right of a general unsecured creditor of the Company. If any Affiliate of the Company is or is made responsible with respect to any Awards, the foregoing sentence shall apply with respect to such Affiliate. Without limiting the foregoing, Phantom Shares and any other similar devices issued hereunder to account for Plan obligations are solely a device for the measurement and determination of the amounts to be paid to a Grantee under the Plan, and any Grantee's rights with respect to any Phantom Shares and any such other devices is limited to the right to receive payment, if any, as may herein be provided.

15.5 Notices.

All notices under the Plan shall be in writing, and if to the Company, shall be delivered to the Board or mailed to its principal office, addressed to the attention of the Board; and if to a Participant, shall be delivered personally, sent by facsimile transmission or mailed to such Participant at the address appearing in the records of the Company. Such addresses may be changed at any time by written notice to the other party given in accordance with this Section 15.5.

15.6 Exculpation and Indemnification.

The Company shall indemnify and hold harmless the members of the Board and the members of the Committee from and against any and all liabilities, costs and expenses incurred by such persons as a result of any act or omission to act in connection with the performance of such person's duties, responsibilities and obligations under the Plan, except in circumstances involving bad faith.

15.7 Captions.

The use of captions in this Plan is for convenience. The captions are not intended to provide substantive rights.

15.8 Governing Law.

THIS PLAN SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY PRINCIPLES OF CONFLICTS OF LAW WHICH COULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK.

EXHIBIT A
PERFORMANCE CRITERIA

Performance-Based Awards may be payable upon the attainment of objective performance goals that are established by the Committee and relate to one or more Performance Criteria, in each case on specified date or over any period, as determined by the Committee. Performance Criteria may (but need not) be based on the achievement of the specified levels of performance under one or more of the measures set out below relative to the performance of one or more other corporations or indices.

“Performance Criteria” means the following business criteria (or any combination thereof) with respect to one or more of the Company, any Participating Company or any division or operating unit thereof:

- (i) pre-tax income,
- (ii) after-tax income,
- (iii) net income (meaning net income as reflected in the Company’s financial reports for the applicable period, on an aggregate, diluted and/or per share basis),
- (iv) operating income,
- (v) cash flow,
- (vi) earnings per share,
- (vii) return on equity,
- (viii) return on invested capital or assets,
- (ix) cash and/or funds available for distribution,
- (x) appreciation in the fair market value of the Common Stock,
- (xi) return on investment,
- (xii) shareholder return (meaning the per annum compounded rate of increase in the Fair Market Value of an investment in Shares on the first day of the Performance Period (assuming purchase of Shares at their Fair Market Value on such day) through the last day of the Performance Period, plus all dividends or distributions paid with respect to such Shares during the Performance Period, and assuming reinvestment in Shares of all such dividends and distributions, adjusted to give effect to Section 14 of the Plan).
- (xiii) net earnings growth,
- (xiv) stock appreciation (meaning an increase in the price or value of the Common Stock after the date of grant of an award and during the applicable period),
- (xv) related return ratios,
- (xvi) increase in revenues,
- (xvii) net earnings,
- (xviii) changes (or the absence of changes) in the per share or aggregate market price of the Company’s Common Stock,
- (xix) number of securities sold,

- (xx) earnings before any one or more of the following items: interest, taxes, depreciation or amortization for the applicable period, as reflected in the Company's financial reports for the applicable period,
- (xxi) total revenue growth (meaning the increase in total revenues after the date of grant of an award and during the applicable period, as reflected in the Company's financial reports for the applicable period),
- (xxii) the Company's published ranking against its peer group of real estate investment trusts based on total shareholder return,
- (xxiii) adjusted income or earnings,
- (xxiv) adjusted book value,
- (xxv) core general and administrative expenses, and
- (xxvi) funds from operations.

Performance Goals may be absolute amounts or percentages of amounts, may be used on an adjusted basis, may be relative to the performance of other companies or of indexes or may be based upon absolute values or values determined on a per-share basis.

Except for non-GAAP metrics, all financial terms are used as defined under Generally Accepted Accounting Principles ("GAAP") and all determinations shall be made in accordance with GAAP, as applied by the Company in the preparation of its periodic reports to shareholders.

Unless the Committee provides otherwise at the time of establishing the Performance Goals, for each fiscal year of the Company, there shall be objectively determinable adjustments, as determined in accordance with GAAP, to any of the Performance Criteria described above for one or more of the items of gain, loss, profit or expense: (A) determined to be extraordinary or unusual in nature or infrequent in occurrence, (B) related to the disposal of a segment of a business, (C) related to a change in accounting principle under GAAP, (D) related to discontinued operations that do not qualify as a segment of a business under GAAP, and (E) attributable to the business operations of any entity acquired by the Company during the fiscal year; and the Committee may make objectively determinable adjustments, as determined in accordance with GAAP, to any of the Performance Criteria described above, to reflect any of the following events not otherwise described in clauses (A) through (E) above: (i) asset write-downs; (ii) litigation or claim judgments or settlements; (iii) the effect of changes in tax laws, accounting principles, or other laws or regulatory rules affecting reported results; (iv) any reorganization and restructuring programs; (v) extraordinary nonrecurring items as described in Accounting Standards Codification Topic 225-20 (or any successor pronouncement thereto) and/or in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to shareholders for the applicable year; (vi) acquisitions or divestitures; (vii) any other specific unusual or nonrecurring events, or objectively determinable category thereof; (viii) foreign exchange gains and losses; (ix) discontinued operations and nonrecurring charges; and (x) a change in the Company's fiscal year.