

TITAN PHARMACEUTICALS INC  
Form SC 13G/A  
February 11, 2011

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

Schedule 13G/A  
(RULE 13d-102)

Under the Securities Exchange Act of 1934  
(Amendment No. 1)\*

Information to be included in statements filed  
pursuant to Rule 13d-1 (b) (c) and (d) and Amendments thereto  
filed pursuant to Rule 13d-2 (b).

Titan Pharmaceuticals, Inc.  
(Name of Issuer)

Common Stock  
(Title of Class of Securities)

888314101  
(CUSIP Number)

December 31, 2010  
(Date of Event which Requires Filing of this Statement)

Check the appropriate box to designate the rule pursuant  
to which this Schedule is filed:

Rule 13d-1 (b)  
 Rule 13d-1 (c)  
 Rule 13d-1 (d)

\*The remainder of this cover page shall be filled out for a  
reporting person's initial filing on this form with respect to the  
subject class of securities, and for any subsequent amendment  
containing information which would alter the disclosures provided  
in a prior cover page.

The information required in the remainder of this cover page shall  
not be deemed to be "filed" for the purpose of Section 18 of the Securities  
Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of  
that section of the Act but shall be subject to all other provisions of  
the Act (however, see the Notes).

SCHEDULE 13G/A

Issuer: Titan Pharmaceuticals, Inc. CUSIP No.: 888314101

1 NAMES OF REPORTING PERSONS I.R.S.  
IDENTIFICATION NOS. OF ABOVE PERSONS

First Eagle Investment Management, LLC  
Tax ID # 57-1156902

2 CHECK THE APPROPRIATE BOX IF A MEMBER

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OF A GROUP

(a)

(b)

3 SEC USE ONLY

4 CITIZENSHIP OR PLACE OF ORGANIZATION  
State of Delaware

NUMBER OF SHARES	5	SOLE VOTING POWER - 7,860,369
BENEFICIALLY	6	SHARED VOTING POWER - 0
OWNED BY EACH	7	SOLE DISPOSITIVE POWER - 7,860,369
REPORTING PERSON	8	SHARED DISPOSITIVE POWER - 0

WITH:

9 AGGREGATE AMOUNT BENEFICIALLY OWNED  
BY EACH REPORTING PERSON

7,860,369

10 CHECK IF THE AGGREGATE AMOUNT IN  
ROW (11) EXCLUDES CERTAIN SHARES

N/A

11 PERCENT OF CLASS REPRESENTED BY AMOUNT  
IN ROW 9:

12.93%

12 TYPE OF REPORTING PERSON

IA

SCHEDULE 13G/A

Issuer: Titan Pharmaceuticals, Inc.

CUSIP No.: 888314101

ITEM 1

(a) Name of Issuer:  
Titan Pharmaceuticals, Inc.

(b) Address of Issuer's Principal Executive Offices:

400 Oyster Point Blvd., Suite 505  
South San Francisco, CA 94080

ITEM 2

(a) Name of Person Filing: First Eagle Investment Management, LLC

(b) Address of Principal Business Office:

1345 Avenue of the Americas  
New York, NY 10105

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- (c) Citizenship: Delaware, USA (Place of Incorporation)
- (d) Title of Class of Securities: Common Stock
- (e) CUSIP Number: 888314101

SCHEDULE 13G/A

Issuer: Titan Pharmaceuticals, Inc.

CUSIP No.: 888314101

ITEM 3

If this statement is filed pursuant to Sections 240.13d-1(b), or 240.13d-2(b) or (c), check whether the person filing is a:

- (a)  [ ] Broker or dealer registered under Section 15 of the Act (15 U.S.C. 78o);
- (b)  [ ] Bank as defined in section 3(a)(6) of the Act (15 U.S.C. 78c);
- (c)  [ ] Insurance Company as defined in section 3(a)(19) of the Act (15 U.S.C. 78C);
- (d)  [ ] Investment company registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8);
- (e)  [X] An investment adviser in accordance with Section 240.13d-1(b)(1)(ii)(E);
- (f)  [ ] An employee benefit plan or endowment fund in accordance with Section 240.13d-1(b)(1)(ii)(F);
- (g)  [ ] A parent holding company or control person in accordance with Section 240.13d-1(b)(1)(ii)(G);
- (h)  [ ] A savings associations as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (i)  [ ] A church plan that is excluded from the definition of an insurance company under Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3);
- (j)  [ ] Group, in accordance with section 240.13d-1(b)(1)(ii)(J).

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SCHEDULE 13G/A

Issuer: Titan Pharmaceuticals, Inc.

CUSIP No.: 888314101

ITEM 4. Ownership.

(a) Amount beneficially owned: 7,860,369

(b) Percent of class: 12.93%

(c) Number of shares as to which the person has:

(i) Sole power to vote or to direct the vote 7,860,369

(ii) Shared power to vote or to direct the vote 0

(iii) Sole power to dispose or to direct the disposition of 7,860,369

(iv) Shared power to dispose or to direct the disposition of 0

ITEM 5. Ownership of Five Percent or Less of a Class.

N/A

ITEM 6. OWNERSHIP OF MORE THAN FIVE PERCENT ON BEHALF OF ANOTHER PERSON

First Eagle Investment Management, LLC (FEIM), an investment adviser registered under Section 203 of the Investment Advisers Act of 1940, may be deemed currently to be the beneficial owner of 7,860,369 common shares (assuming exercise of warrants to acquire 1,562,500 shares of the Issuer's common stock), or 12.93% of the Issuer's common stock currently outstanding (assuming exercise of the 1,562,500 warrants noted above), as a result of acting as investment adviser to various clients. Clients of FEIM have the right to receive and the ultimate power to direct the receipt of dividends from, or the proceeds of the sale of, such securities.

ITEM 7. IDENTIFICATION AND CLASSIFICATION OF THE SUBSIDIARY WHICH ACQUIRED THE SECURITY BEING REPORTED ON BY THE PARENT HOLDING COMPANY OR CONTROL PERSON.

N/A

ITEM 8. Identification and Classification of Members of the Group.

N/A

ITEM 9. Notice of Dissolution of Group

N/A

SCHEDULE 13G/A

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Issuer: Titan Pharmaceuticals, Inc. CUSIP No.: 888314101

ITEM 10. Certification

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired and held in the ordinary course of business and were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of such securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose of effect.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: February 11, 2011

Signature: /s/ Mark Goldstein

Name/Title: Mark Goldstein, Senior Vice President

-family:Arial;font-weight:normal;font-style:normal;text-transform:none;font-variant: normal;">1,057

187,248

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2/13/2014

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217

38,442

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2/28/2014

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10,638

(6)

1,884,522

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2/12/2015

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692

122,588

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2/26/2015

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8,732

1,546,874

2/11/2016

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—

2,174

385,124

11,416

2,022,344

Mr. Birenbaum

2/13/2013

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6,283

1,113,033

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3/13/2013

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395

69,974

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2/13/2014

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308

54,562

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2/28/2014

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15,020

(6)

2,660,793

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2/12/2015

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1,136

201,242

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2/26/2015

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10,748

1,904,008

2/11/2016

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3,111

551,114

12,686

2,247,325

Mr. Breslin

2/16/2012

752

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132.95

2/16/2012



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2/13/2013

7,644

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130.23

2/13/2023

6,145

1,088,587

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3/13/2013

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139,771

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2/13/2014

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318

56,334

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2/28/2014

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12,239

(6)

2,168,139

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2/12/2015

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1,543

273,342

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2/26/2015

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10,748

1,904,008

2/11/2016

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3,826

677,776

11,980

2,122,257

Mr. Wilson

2/13/2013

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3,733

661,301

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2/13/2014

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390

69,089

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2/28/2014

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8,389

(6)

1,486,111

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2/12/2015

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3,661

648,546

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2/26/2015

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6,718

1,190,094

2/11/2016

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5,483

971,313

7,048

1,248,553

- (1) Stock options granted under the Company's 1994 Stock Incentive Plan and 2009 Stock Option and Incentive Plan become exercisable in three equal installments on the first, second and third anniversaries of the date of grant. All unvested options will automatically vest upon a termination without cause, or termination by death, disability or retirement, in which case the vested options have a remaining term of 12 months or, if earlier, the expiration of the original ten year term of the option to be exercised.
- (2) Stock awards granted under the Company's 1994 Stock Incentive Plan and 2009 Stock Option and Incentive Plan prior to 2014 have been made in the form of Restricted Stock which vests 20% on the first day of the month following the grant, and the remaining 80% which vests over the next four years, with 20% vesting on March 1 of each year, subject to accelerated vesting in the case of termination of employment without cause, upon death, disability or retirement or forfeiture of unvested shares in the case of termination of employment for any other reason. In 2014, Annual Stock awards earned as a result of the annual and multiyear bonus plans were made in the form of restricted stock with a vesting schedule of 15% on March 1, 2014 and 42.5% on March 1 each year thereafter. Stock awards made in 2014 related to the integration of Archstone and stock awards made in 2015 and 2016 vest in thirds starting on March 1, one year after the date of the grant. Dividends are payable on the shares at the same rate as dividends paid on all outstanding shares of our Common Stock. However, dividends are not payable on outstanding performance units.

(3) The table below shows the vesting schedule for all unvested shares of restricted stock as of December 31, 2016:

#### Vesting Schedule for Unvested Restricted Stock

Name	Grant Date	Vesting Schedule		
		2017	2018	2019
Mr. Naughton	2/13/2013	2,520	—	—
	2/13/2013 (7)	6,052	6,052	—
	2/13/2013 (7)	8,927	8,927	8,927
	3/13/2013	2,114	—	—
	2/13/2014	1,698	—	—
	2/28/2014	3,603	3,604	—
	2/28/2014	3,353	3,353	3,354
Mr. O'Shea	2/13/2013	203	—	—
	2/13/2013 (7)	814	814	—
	2/13/2013 (7)	1,200	1,200	1,200
	3/13/2013	1,057	—	—
	2/13/2014	217	—	—
	2/28/2014	841	841	—
	2/28/2014	782	783	783
	2/12/2015	346	346	—
Mr. Birenbaum	2/11/2016	724	725	725
	2/13/2013 (7)	978	978	—
	2/13/2013 (7)	1,442	1,442	1,443
	3/13/2013	395	—	—
	2/13/2014	308	—	—
	2/28/2014	1,263	1,263	—
	2/28/2014	1,175	1,175	1,176
	2/12/2015	568	568	—
Mr. Breslin	2/11/2016	1,037	1,037	1,037
	2/13/2013	675	—	—
	2/13/2013 (7)	851	852	—
	2/13/2013 (7)	1,255	1,256	1,256
	3/13/2013	789	—	—
	2/13/2014	318	—	—
	2/28/2014	1,057	1,057	—
	2/28/2014	983	984	984
Mr. Wilson	2/12/2015	771	772	—
	2/11/2016	1,275	1,275	1,276
	2/13/2013	639	—	—
	2/13/2013 (7)	481	482	—
	2/13/2013 (7)	710	710	711
	2/13/2014	390	—	—
	2/28/2014	779	779	—
	2/28/2014	725	725	725
	2/12/2015	288	289	—
	2/12/2015	1,542	1,542	—
	2/11/2016	1,827	1,828	1,828

- (4) Based on the closing price of the Common Stock as reported on the NYSE on December 30, 2016 of \$177.15 per share.
- (5) The amounts in column (i) include performance unit awards at maximum maturing at the end of 2017 and 2018, which are subject to time based vesting thereafter.
- (6) This amount includes shares of restricted stock from the annual bonus plan and earned units from the performance period 2014-2016 which converted to shares of restricted stock on February 16, 2017. The restricted shares granted February 16, 2017 will vest ratably over 3 years starting March 1, 2018. For Mr. Naughton, it also includes earned units granted April 6, 2015 for the 2014-2016 performance period.

## Option Exercises and Stock Vested Table

The following table identifies the number of shares underlying options exercised during 2016 for each of the named executive officers, the value realized on such exercises, the number of shares of restricted stock that vested during 2016 for each such officer and the value of such shares on the

date of vesting. The value realized upon exercise of the options is the product of (1) the stock price of our Common Stock on the date of exercise minus the exercise price multiplied by (2) the number of shares of Common Stock underlying the exercised options.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$) <sup>(1)</sup>
(a)	(b)	(c)	(d)	(e)
Mr. Naughton	61,550	5,475,366	19,652	3,490,785
Mr. O'Shea	5,203	277,710	4,323	767,894
Mr. Birenbaum	6,984	389,565	5,089	903,959
Mr. Breslin	5,122	266,412	6,742	1,197,581
Mr. Wilson	3,165	172,262	6,632	1,178,042

(1) These shares of restricted stock vested on March 1, 2016. The closing price of our Common Stock, as reported on the NYSE for March 1, 2016 was \$177.63 per share.

## Nonqualified Deferred Compensation

Pursuant to our Deferred Compensation Plan, certain employees of the Company, including the named executive officers, may defer up to 25% of base annual salary and up to 50% of annual cash bonus on a pre-tax basis and receive a tax-deferred return on those deferrals. Deferral elections are made by eligible employees during an open enrollment



period each year for amounts to be earned in the following year. Participating employees direct the deemed investment of their

deferral accounts by selecting among certain available investment funds. The table below shows the investment funds available under the Deferred Compensation Plan and their annual rate of return for the calendar year ended December 31, 2016. Since the investment funds are all publicly available, we do not consider any of the earnings credited under the Deferred Compensation Plan to be “above market.”

Name of Fund	2016 Rate of Return (%)
American Funds Europacific Growth R4 (REREX)	0.69
American Funds Fundamental Invs R4 (RFNEX)	12.47
Cohen & Steers Realty Shares (CSRSX)	5.61
Columbia Dividend Opportunity Z (CDOZX)	13.73
Fidelity MMT Retirement Govt Mny Mkt II (FRTXX)	0.05
Fidelity Small Cap Index Premium (FSSVX)	21.58
Fidelity Spartan 500 Index Advtg® (FUSVX)	11.92
Fidelity Mid Cap Index Premium (FSCCKX)	13.82
Janus Triton A (JGMAX)	10.16
JHancock Disciplined Value Mid Cap I (JVMIX)	15.25
JPMorgan Large Cap Growth Select (SEEGX)	-2.04
MFS Value R3 (MEIHX)	13.85
PIMCO Total Return Instl (PTTRX)	2.60
T. Rowe Price Emerging Markets Stock (PRMSX)	11.94
T. Rowe Price Mid-Cap Growth Adv (PAMCX)	6.03
T. Rowe Price Retirement 2005 (TRRFX)	6.72
T. Rowe Price Retirement 2010 (TRRAX)	7.11
T. Rowe Price Retirement 2015 (TRRGX)	7.31
T. Rowe Price Retirement 2020 (TRRBX)	7.41
T. Rowe Price Retirement 2025 (TRRHX)	7.55
T. Rowe Price Retirement 2030 (TRRCX)	7.69
T. Rowe Price Retirement 2035 (TRRJX)	7.64
T. Rowe Price Retirement 2040 (TRRDY)	7.63
T. Rowe Price Retirement 2045 (TRRKX)	7.69
T. Rowe Price Retirement 2050 (TRRMX)	7.71
T. Rowe Price Retirement 2055 (TRRNX)	7.73
T. Rowe Price Retirement Balanced (TRRIX)	6.48
Vanguard Total Bond Market Index Adm (VBTLX)	2.60
Wells Fargo Growth Admin (SGRKX)	-0.74

Benefits under our Deferred Compensation Plan will be paid out on the earlier of (i) the employee's death or (ii) at the election of the employee (a) in the seventh, 67<sup>th</sup> or 127<sup>th</sup> month following termination of employment (depending upon the employee's properly made election), (b) in ten annual installments beginning in the seventh month following departure from the Company, or (c) in one lump sum (or four annual installments) on a specified date that is at least five years after

the deferral year while the employee is still employed with the Company. Benefits may be paid out earlier in the event of an "Unforeseeable Financial Emergency" as determined by our Retirement Planning Committee (a committee of management designated by the Compensation Committee of the Board of Directors) in its sole discretion and in accordance with tax law requirements.

Name	Executive	Registrant	Aggregate	Aggregate	
	Contributions	Contributions	Earnings	Withdrawals/	Aggregate
(a)	in Last Fiscal	in Last Fiscal	in	Distributions	Balance at
	Year	Year	Last	in Last Fiscal	Last Fiscal
	Year	Year	Fiscal	Year	Year End
	(\$) <sup>(1)</sup>	(\$)	(\$)	(\$)	(\$)
	(b)	(c)	(d)	(e)	(f)
Mr. Naughton	1,173,369	—	414,745	—	6,917,345
Mr. O'Shea	—	—	—	—	—
Mr. Breslin	—	—	—	—	—
Mr. Birenbaum	—	—	—	—	—
Mr. Wilson	—	—	—	—	—

(1) All contributions in column (b) are also included as compensation to the named executive officers in the Salary column of the Summary Compensation Table.

#### Potential Payments Upon Termination or Sale Event

The summaries below are qualified in their entirety by reference to the complete plans and agreements described which have been included as exhibits to the Company's SEC filings.

Effective January 1, 2016, the Company is no longer party to employment agreements with any individual executive officers.

#### Officer Severance Plan for Sale Events

We have adopted an Officer Severance Plan for Sale Events. Under this program, in the event an officer is terminated (other than for cause) in connection with or within 24 months of a sale of the Company (as defined), such officer will generally receive a multiple of his Covered Compensation (defined as the sum of his annual base salary plus the average of his last two annual cash bonuses as of the termination date) depending on the officer's title: for the Chief Executive Officer, the multiple is three times, for

the Chief Financial Officer or an Executive Vice President, the multiple is two times, and for other officers the multiple is one times. The terminated officer would also receive (i) a cash payment representing the pro rata value of his annual bonus (cash and stock) for the portion of the year worked, valued at target, (ii) accelerated vesting of the officer's unvested restricted stock and options, and (iii) payment of COBRA insurance premiums for up to 18 months.

#### Other Severance Arrangements

Our agreements with our directors and officers governing compensatory stock option and restricted stock awards provide for vesting (and, in the case of stock options, exercisability for one year) if a "sale event" with respect to the Company occurs and the participant's employment or other business relationship with the Company terminates for good reason or without cause in connection with or within 24 months of the sale event.

In addition, upon death, disability, termination without cause, or the retirement of an employee (as defined in the award agreements under the Equity Incentive Plans), (a) all of such employee's options shall automatically become fully exercisable and (absent a specific agreement providing otherwise) shall be exercisable for one year thereafter and (b) all of such employee's restricted shares of stock shall automatically vest 30 days following the triggering event and provided, at the Company's option, that a separation agreement is executed and effective during such 30 day period. Retirement of an employee as defined in the award agreements under the Plan generally means the termination of employment, other than for cause, when the sum of the following equals or exceeds 70 years: (i) the number of full months (converted to years) of employment and other business relationships with the Company and any predecessor company (must be at least 120 months) and (ii) the employee's age on the date of termination (must be at least 50 years

old).

To qualify for retirement, the employee must also give six months' prior written notice to the Company of his intention to retire and enter into a one year non solicitation and non competition agreement with us.

Under this formula, Messrs. Naughton and Wilson are currently eligible for retirement, and Messrs. O'Shea, Birenbaum, and Breslin will become eligible for retirement in October 2019, June 2020, and December 2019, respectively.

Our multiyear performance awards under which restricted stock units are awarded and may be earned at the end of a performance period are not subject to the terms described above, but any restricted stock or options that are granted in settlement of units once a performance period is complete are subject to these terms. For performance awards with performance periods beginning before January 1, 2015, in the event a participant's employment terminates for any reason prior to the completion of a performance period, whether with or without cause, or by reason of death or disability or voluntary departure or retirement, the participant forfeits all units with respect to that performance period. For performance awards with performance periods beginning on or after January 1, 2015, following one full year of employment during the Performance Period, a pro rata portion of the award will be paid at the end of the performance period based on actual achievement if there is a separation of employment due to death, disability,

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retirement, or a termination without cause at a time when the age and service requirements for retirement eligibility are met. If a sale of the Company occurs during a performance period, then, (A) for performance awards with performance periods beginning before January 1, 2016, (i) if there is more than 12 months remaining in the performance period, all units with respect to that performance period are forfeited (unless the successor makes other arrangements for their continuation), and (ii) if there is less than 12 months remaining in the performance period, the performance period is deemed complete on

the date of sale and achievement against the performance metrics is measured through the date of sale, with no proration on account of the shortened performance period and with vested stock (or options) issued in settlement of any units earned, and (B) for performance awards with performance periods beginning on or after January 1, 2016, all outstanding performance awards vest at their target number of units and restricted stock (and options) are issued for such number of units but subject to the three year time based vesting described above for compensatory restricted stock and stock option awards.

#### Endorsement Split Dollar Agreements

The Company owns a whole life insurance policy with respect to Mr. Naughton in the amount of \$1,500,000. The Company has endorsed this Company owned policy such that in the event of the death of the insured, the Company will be paid insurance proceeds equal to the cumulative premiums paid on the policy by the Company, with excess insurance proceeds, if any, being paid to the insured's estate or named beneficiary. The

Company has agreed to (i) pay the premiums due on the policy through 2017 (provided that the insured pays a portion of the premium equal to the current term rate for the insured's age multiplied by the insured's current interest in the policy), (ii) after the last Company payment, withdraw cash from the policy equal to the cumulative premiums paid and (iii) thereafter assign the policy to the insured.

#### Severance Benefits

The tables below, together with the footnotes thereto and the additional information below, reflect the payments and benefits that the named executive officers would receive in the event of their termination of employment with the Company on December 31, 2016, under the indicated circumstances. With the exception of Mr. Naughton's split dollar life insurance policy, these payments and benefits apply generally to all similarly situated employees. Where applicable,

values are based on the Company's closing stock price on December 30, 2016 of \$177.15. As disclosed previously, Messrs. O'Shea, Birenbaum, and Breslin will become eligible for retirement in October 2019, June 2020, and December 2019, respectively. Therefore, no acceleration of vesting of restricted stock and performance awards would have occurred for them for a retirement as of December 31, 2016.

**Timothy J. Naughton, Chairman, Chief Executive Officer and President**

Executive Benefits and Payments Upon Termination	For Cause or Voluntary	Termination Without Cause			Termination Without Cause	
		(Unrelated to a Sale Event)	Death or Disability	Qualified Retirement (1)	(Related to a Sale Event)	
	(\$)	(\$)	(\$)	(\$)	(\$)	
A Severance (Cash)	—	—	—	—	7,828,061	(2)
B Life Insurance	49,452	(3)49,452	(3)(4)	—	49,452	(3)
C Vesting of Restricted Stock	—	11,069,041	11,069,041	11,069,041	11,069,041	
D Vesting of Performance Awards	—	12,606,466	(5)12,606,466	(5)12,606,466	(5)17,798,969	(6)

## Kevin P. O'Shea, Chief Financial Officer

Executive Benefits and	Termination				Termination	
	Without Cause				Without Cause	
	For Cause or	(Unrelated to a	Death or	Qualified	(Related to a	
Voluntary	Sale Event)	Disability	Retirement	Sale Event)		
Payments Upon Termination	(\$)	(\$)	(\$)	(\$)	(\$)	
A Severance (Cash)	—	—	—	—	2,162,320	(7)
B Life Insurance	—	—	—	—	0	
C Vesting of Restricted Stock	—	2,409,417	2,409,417	—	2,409,417	
D Vesting of Performance Awards	—	1,170,607	(5)2,023,289	(5)—	2,955,216	(6)

## Matthew H. Birenbaum, Chief Investment Officer

Executive Benefits and	Termination				Termination	
	Without Cause				Without Cause	
	For Cause or	(Unrelated to a	Death or	Qualified	(Related to a	
Voluntary	Sale Event)	Disability	Retirement	Sale Event)		
Payments Upon Termination	(\$)	(\$)	(\$)	(\$)	(\$)	
A Severance (Cash)	—	—	—	—	2,251,940	(7)
B Life Insurance	—	—	—	—	0	
C Vesting of Restricted Stock	—	3,062,038	3,062,038	—	3,062,038	
D Vesting of Performance Awards	—	1,588,681	(5)2,597,908	(5)—	3,664,348	(6)

## Sean J. Breslin, Chief Operating Officer

Executive Benefits and	Termination			Termination	
	Without Cause			Without Cause	
	For Cause or	(Unrelated to a	Death or	Qualified	(Related to a
Voluntary	Sale Event)	Disability	Retirement	Sale Event)	
Payments Upon Termination	(\$)	(\$)	(\$)	(\$)	



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		(\$)			(\$)	
A Severance (Cash)	—	—	—	—	2,254,500	(7)
B Life Insurance	—	—	—	—	—	
C Vesting of Restricted Stock	—	3,133,075	3,133,075	—	3,133,075	
D Vesting of Performance Awards	—	1,270,874	(5)2,259,253	(5)—	3,284,007	(6)

**Stephen Wilson, Executive Vice President**

		Termination			Termination	
		Without Cause			Without Cause	
Executive Benefits and Payments Upon Termination	For Cause or Voluntary	(Unrelated to a Sale Event)	Death or Disability	Qualified Retirement (1)	(Related to a Sale Event)	
	(\$)	(\$)	(\$)	(\$)	(\$)	
A Severance (Cash)	—	—	—	—	2,207,150	(7)
B Life Insurance	—	—	—	—	—	
C Vesting of Restricted Stock	—	3,011,550	3,011,550	3,011,550	3,011,550	
D Vesting of Performance Awards	—	1,429,601	(5)1,429,601	(5)1,429,601	(5)2,044,134	(6)

Footnotes for all tables above:

(1) Upon termination of any employee's employment due to a qualified retirement as described above, in addition to the accelerated vesting of restricted stock and performance awards, the employee will receive their prorated annual bonus (cash and stock) paid in cash, six months of Company-paid COBRA premiums, and choice of retirement gift from an online catalog. To receive retirement benefits, the employee must give six months' prior written notice to the Company of his intention to retire and enter into a one year non solicitation and non-competition agreement. Based on age and tenure with the Company, Messrs. Naughton and Wilson were eligible for a Qualified Retirement as of December 31, 2016. Messrs. O'Shea, Birenbaum and Breslin will become eligible for Qualified Retirement in October 2019, June 2020, and December 2019, respectively.

- (2) In accordance with the terms of the Company's Officer Severance Plan, represents three times Covered Compensation (base salary and the average of the prior two year's cash bonuses) for Mr. Naughton.
- (3) Represents the cash surrender value of the policy less the total aggregate premiums paid by the Company. The Company will recover its premiums in the future.
- (4) Upon death, (i) the officer's estate will receive a death benefit under a life insurance policy owned by the Company in the amount of \$1.5 million with respect to Mr. Naughton and (ii) the Company will receive repayment of all premiums paid by the Company.
- (5) For a "qualifying termination" after the first year of a performance period, a pro-rata portion of the performance awards will vest based on actual time worked at the Company, and the award shall be earned and paid at the end of the period based on actual achievement. A qualifying termination is termination due to death, disability or termination without cause at a time when the participant meets the age and service requirements for a Qualified Retirement. For events of death and disability for all Named Executive Officers and for Named Executive Officers who are retirement eligible, assumptions for the performance awards are as follows: 2014-2016 awards - value based on actual achievement, 2015-2017 and 2016-2018 awards - value assumes prorated vesting based on portion of the performance period completed and achievement assumed at target. For Named Executive Officers who are not retirement eligible, only 2014-2016 awards based on actual achievement are included for termination without cause scenario; 2015-2017 and 2016-2018 awards are excluded.
- (6) For performance awards with performance periods beginning on or after January 1, 2015, if a sale of the Company occurs during a performance period, then, (A) for performance awards with performance periods beginning before January 1, 2016, (i) if there is more than 12 months remaining in the performance period, all units with respect to that performance period are forfeited (unless the successor makes other arrangements for their continuation), and (ii) if there is less than 12 months remaining in the performance period, the performance period is deemed complete on the date of sale and achievement against the performance metrics is measured through the date of sale, with no proration on account of the shortened performance period and with vested stock issued in settlement of any units earned, and (B) for performance awards with performance periods beginning on or after January 1, 2016, all outstanding performance awards vest at their target number of units and restricted stock is issued for such number of units subject to the three year time based vesting described above for compensatory restricted stock awards. For 2014-2016 awards, value based on actual achievement. For 2015-2017 awards, value assumes achievement at target without proration. For 2016-2018 awards, value based on full vesting at target.
- (7) In accordance with the terms of the Company's Officer Severance Plan, represents two times Covered Compensation (base salary and the average of the prior two year's cash bonuses) for Messrs. O'Shea, Birenbaum, Breslin and Wilson.

## Director Compensation and Director Stock Ownership Guidelines

A director of the Company who is also an employee receives no additional compensation for his services as a director. Our Board and Nominating and Governance Committee periodically assess the total compensation for non-employee directors relative to the compensation provided by similarly sized real estate investment trusts, by our multi-family peer group, and by a group of cross-industry similarly sized companies.

On the fifth business day following the 2016 annual meeting of stockholders, each of our non-employee directors automatically received a grant of a number of shares of restricted stock (or a deferred stock award in lieu thereof) equal to \$130,000 divided by the closing price of Common Stock as reported by the NYSE on the date of grant. Based on this formula, following the 2016 Annual Meeting, each non-employee director received a restricted stock or deferred stock grant of 722 shares of Common Stock. Mr. Lieb and Ms. Swanezy each received a prorated award on October 12, 2016 of 527 shares for service as a non-employee director from September 13, 2016 through the 2017 Annual Meeting. Following the 2017 Annual Meeting, the value of the annual equity award to non-employee directors will increase to \$135,000. All of such shares of restricted stock (or deferred stock awards) granted to non-employee directors vest in four quarterly installments over a one year period, subject to accelerated vesting upon departure from the Board except in the case of a voluntary departure by the director during the director's elected term that is not due to death or disability, or the director's removal for cause. If a director elected to receive a deferred stock award in lieu of restricted stock, then the director will receive shares of stock in respect of the vested portion of the deferred stock award within 30 days following termination of service as a director of the Company.

In addition, during 2016 non-employee directors received \$65,000 as an annual retainer paid in two

installments of \$15,000 and two installments in \$17,500. Following the 2017 Annual Meeting, the annual cash retainer for non-employee directors will increase to \$80,000 per year, paid in quarterly installments. Non-employee directors who serve as the chairperson of the Audit, Compensation, Investment & Finance or Nominating and Governance Committees received additional cash compensation of \$10,000 per year, payable in four installments of \$2,500 each (or a deferred stock award in lieu of cash). Following the 2017 Annual Meeting, non-employee directors who serve as the chairperson of the Audit or Compensation Committees will receive additional cash compensation of \$20,000 per year, while non-employee directors who serve as the chairperson of the Nominating and Corporate Governance and Investment and Finance Committees will receive additional cash compensation of \$15,000 per year, in each case payable in four equal installments.

In consideration for serving as Lead Independent Director for 2016, Mr. Sarles received, in addition to the compensation described above, an annual fee of \$25,000 payable in equal installments of \$6,250. Following the 2017 Annual Meeting the annual fee payable to the Lead Independent Director will increase to \$30,000, payable in equal installments of \$7,500.

Under the Company's Corporate Governance Guidelines, non-employee directors are generally required to hold shares (or deferred stock units) having a value that equals or exceeds five times the annual cash retainer paid to non-employee directors. Directors have five years from the commencement of their service as a director to comply with such requirement.

The following table sets forth the compensation for service as a director of the Company received by each non-employee director in 2016, as recognized for financial reporting purposes.



## Director Compensation Table

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
					Change in Pension		
					Value and		
	Fees				Nonqualified		
	Earned			Non-Equity	Deferred		
	or Paid in Stock	Option	Incentive	Plan	Compensation	All Other	
	Cash	Awards	Awards	Compensation	Earnings	Compensation	Total
Name	(\$)(1)	\$(2)	(\$)	(\$)	(\$)	(\$)	(\$)
Glyn F. Aeppel	75,000	129,917	—	—	—	—	204,917
Terry S. Brown	—	194,826	—	—	—	—	194,826
Alan B. Buckelew	75,000	129,917	—	—	—	—	204,917
Ronald L. Havner, Jr.	—	194,826	—	—	—	—	194,826
John J. Healy, Jr (3)	—	29,833	—	—	—	—	29,833
Richard J. Lieb (4)	15,192	88,357	—	—	—	—	103,549
Lance R. Primis	70,000	129,917	—	—	—	—	199,917
Peter S. Rummell	65,000	129,917	—	—	—	—	194,917
H. Jay Sarles	95,000	129,917	—	—	—	—	224,917
Susan Swanezy (4)	—	103,562	—	—	—	—	103,562
W. Edward Walter	75,000	129,917	—	—	—	—	204,917

(1) For Mr. Sarles, this includes \$25,000 paid in 2016 for his service as Lead Independent Director during 2016. For Ms. Aeppel and Messrs. Buckelew, and Walter, this includes \$10,000 for service as Committee Chairperson during 2016. For Messrs. Primis and Sarles, this includes \$5,000 each for service as Committee Chairperson during 2016. Mr. Primis served as Nominating and Corporate Governance Committee Chairperson prior to the Annual Meeting in 2016 and Mr. Sarles served as Nominating and Corporate Governance Chairperson following the Annual Meeting in 2016.

(2) The amounts in column (c) reflect the grant date fair value of the shares of restricted stock or deferred stock granted to each Director on May 26, 2016 equal to \$130,000 divided by \$179.94, the closing price of Common Stock as reported by the NYSE on the date of grant. For Mr. Lieb and Ms. Swanezy, the amount also includes the grant date fair value of the prorated grant of restricted stock and deferred stock, respectively, granted on October 12, 2016 equal to \$88,328 divided by \$167.66, the closing price on the date of grant. Stock award amounts also include elections by Mr. Brown, Mr. Havner, Mr. Healy, and Ms. Swanezy to receive deferred units in lieu of cash payments totaling \$64,909, \$64,909, \$29,833 and \$15,206, respectively.

(3) Mr. Healy retired from the Board of Directors on May 19, 2016.

(4) Mr. Lieb and Ms. Swanezy began serving on the Board of Directors on September 13, 2016.

V. Officers, Stock Ownership And Other Information

Executive and Senior Officers

The following biographical descriptions set forth information with respect to each officer who is at the executive vice president level or above or who is subject to reporting under Section 16 of the Exchange Act, based on information furnished to the Company by each officer. There is no family relationship between any Nominee, director or executive officer of the Company. Officers of the Company are elected annually at the first meeting of the Board of Directors following each annual meeting of stockholders. Each officer holds office until the first meeting of the Board of Directors following the next annual meeting of stockholders and until his or her successor is duly elected and qualifies or until his or her earlier death, resignation or removal in the manner provided in the Company's Bylaws.

The Board of Directors has determined that Messrs. Naughton, O'Shea, Birenbaum, Breslin, Horey, McLaughlin, Schulman, and Wilson, and Ms. Shea are executive officers of the Company within the meaning of Rules 3b-7 and 16a-1(f) of the Exchange Act.

Timothy J. Naughton, 55, is the Company's Chairman of the Board, Chief Executive Officer and President and has been a director of the Company since September 2005. He has served as Chairman of the Board since May 2013, as Chief Executive Officer since January 2012, and as President since February 2005. Mr. Naughton's prior roles included serving as the Company's Chief Operating Officer, Chief Investment Officer, and Regional Vice President—Development and Acquisitions. Mr. Naughton has been with the Company and its predecessors since 1989. Mr. Naughton is a director of Welltower Inc., a publicly traded investor in healthcare real estate, and Park Hotels & Resorts, Inc., a publicly traded hotel real estate investment trust. Mr. Naughton serves as Chairman of NAREIT, is a member of The Real Estate Round Table, is a past chairman of the Multifamily Council of the ULI, and is a member of the Real Estate Forum. Mr. Naughton received his Masters of Business Administration from Harvard Business School in 1987 and earned his undergraduate degree in Economics with High Distinction from the University of Virginia, where he was elected to Phi Beta Kappa.

Kevin P. O'Shea, 51, has been the Company's Chief Financial Officer since June 2014. Prior to that he was Executive Vice President—Capital Markets, from January 2013 to May 2014 and Senior Vice President—Investment Management after joining the Company in July 2003 until January 2013. Prior to joining the Company, Mr. O'Shea was an Executive Director at UBS Investment Bank, where his experience included real estate investment banking. Earlier in his career, Mr. O'Shea practiced commercial real estate and banking law as an attorney. Mr. O'Shea received his Masters Degree in Business Administration from Harvard Business School, his J.D. from Southern Methodist University and his undergraduate degree from Boston College. Mr. O'Shea is a Trustee of Urban Edge Properties, a publicly traded REIT, where he serves as the Chair of the Audit Committee.

Matthew H. Birenbaum, 51, became the Company's Chief Investment Officer in January 2015. He is responsible for the Company's investment strategy and oversees the Investments, Design, Sustainability/Corporate Responsibility and Market Research functions. Before assuming his current position, he was the Company's Executive Vice President—Corporate Strategy, a position he held from October 2011 until January 2015. Prior to joining the Company in October 2011, Mr. Birenbaum was the founding principal of Abbey Road Property Group, LLC, a multi-family development and investment firm based in Arlington, Virginia since 2006 and before that a Senior Vice President at EYA (formerly Eakin/Youngentob Associates). Prior to joining EYA in 2003, Mr. Birenbaum was a Regional Vice President of Development with the Company. Mr. Birenbaum received his Bachelor of Arts from Brown University, where he graduated Phi Beta Kappa, and his Masters Degree from The Kellogg Graduate School of Management at

Northwestern University, where he graduated with honors. He is an active member of ULI and is certified LEED AP, and serves on the Board of the Arlington Partnership for Affordable Housing (APAH).

Sean J. Breslin, 50, is the Company's Chief Operating Officer, a position he has held since January 2015, with responsibility for the Company's operating platform, including Property Operations, Asset Management, Engineering, Redevelopment, and Marketing and Brand Strategy. He was previously the Company's Executive Vice President—Investments and Asset Management since April 2012 with overall responsibility for the Company's investment and operating platforms, including property operations, asset management and redevelopment, and investment activity, including acquisitions, dispositions and investment strategy. Mr. Breslin's other roles with the Company included Senior Vice President—Redevelopment and Asset Management and Senior Vice President—Investments. Prior to joining the Company in 2002, Mr. Breslin was the Chief Operating Officer of CWS Capital Partners. He received his Bachelors Degree from California State University, Long Beach and his Masters of Business Administration from the University of Texas. Mr. Breslin is a member of the Executive Committee of NMHC and is past Chair of ULI's Multifamily Council. He is also a member of the Executive Committee of the Real Estate Finance & Investment Center at the University of Texas at Austin and a member of the Board of Directors of the American Red Cross.

Michael M. Feigin, 56, is the Company's Chief Construction Officer. Prior to joining the Company in June 2014, he was Corporate Vice President Global Procurement and Travel for AECOM, an engineering and construction services company, from May 2012 to May 2014. Before that he was SVP Corporate Operations at AECOM from January 2012 to May 2012, SVP General Counsel at Weeks Marine from May to August 2011 and Managing Director for Navigant Consulting from September 2010 to May 2011, working with clients to manage risk in their organizations. Prior to that, from September 2006 to December 2009 he was Global Construction Industry Practice Leader for Marsh, an insurance broker and risk advisor. From October 2005 to September 2006, Mr. Feigin served as Executive Vice President and Chief Administrative Officer of Bovis Lend Lease Holdings, Inc. (now Lend Lease Americas) where he was responsible for commercial risk management and deal approval, legal, insurance and bonding, human resources, information technology and corporate affairs. Mr. Feigin earned his BA from Yale University and his JD from Brooklyn Law School.

Leo S. Horey, 54, is the Company's Chief Administrative Officer. He has held this title since April 2012 and was Executive Vice President—Property Operations prior to that from January 2004. Mr. Horey joined a predecessor of the Company in 1990. Mr. Horey received his Masters of Business Administration from the Kenan Flagler Business School at the University of North Carolina at Chapel Hill, where he was a Richard H. Jenrette Fellow, and currently serves on the Board of Visitors and the Advisory Board for the Wood Center for Real Estate Studies. He also holds a Bachelor of Science degree in Computer Science and Economics from Duke University. Mr. Horey is a member of the Executive Committee of NMHC.

William M. McLaughlin, 52, has served as the Company's Executive Vice President—Development, with responsibility for all of the Company's development activity in the Northeast, including New England, New York and New Jersey since 2014. He was Executive Vice President—Development and Construction from February 2010 until 2014 and prior to that was Senior Vice President—Development & Construction since 2009. He has been with the Company or its predecessors since 1994.

Edward M. Schulman, 54, has served as the Company's Executive Vice President—General Counsel and Secretary since 2012. Mr. Schulman joined the Company in February 1999 and has served as General Counsel since that time. Prior to joining the Company he was a corporate and securities law partner at Goodwin Procter LLP. Mr. Schulman is a magna cum laude graduate of Harvard Law School and received his undergraduate degree in economics from Princeton University, where he graduated with high honors and was elected to Phi Beta Kappa.

Stephen W. Wilson, 60, has served as the Company's Executive Vice President—Development, with responsibility for all development activities for the West Coast, including Northern California, Southern California and the Pacific Northwest, as well as the Mid Atlantic region, since 2014. He was Executive Vice President—Development and



Construction from February 2010 until 2014, and prior to that was Senior Vice President—Development & Construction for the West Coast and Mid Atlantic. Prior to joining the Company in 1998, Mr. Wilson was a Senior Vice President and Chief Operating Officer for SU Development, Inc. of Bellevue, Washington and Senior Vice President of Continental Pacific, Inc. of Bellevue, Washington. Mr. Wilson received his B.A. in Business

Administration (Accounting) from Washington State University. He is a member of ULI, former chair of the ULI Transit Oriented Development Council, a member of The American Institute of Certified Public Accountants, and on the Board of Directors of the Housing Industry Foundation.

Keri A. Shea, 47, has been the Company's Senior Vice President—Finance & Treasurer since 2013, and since 2009 has also been designated as the

Company's principal accounting officer. Ms. Shea joined the Company in 2002 as Assistant Corporate Controller and was promoted to Corporate Controller in 2005 and Vice President in 2006. Prior to joining the Company, she served as the Corporate Controller for two start up technology companies in the Washington, D.C. area. Prior to that, Ms. Shea was with Arthur Andersen LLP for eight years. She is a certified public accountant and has a B.B.A. in Accounting from the College of William & Mary.

#### Security Ownership of Certain Beneficial Owners and Management

The following table sets forth the beneficial ownership of Common Stock, as of March 10, 2017, as to (i) each person or entity who is known by the Company to have beneficially owned more than 5% of the Common Stock; (ii) each of the Company's directors and Nominees; (iii) each of the Named Executive Officers; and (iv) all directors and executive officers as a group, based on representations of officers and directors of the Company and filings through March received by the Company on Schedule 13G under the Exchange Act. All such information was provided by the stockholders listed and reflects their beneficial ownership known by the Company. All percentages have been calculated as of March 10, 2017 and are based upon 137,480,659 shares of Common Stock outstanding at the close of business on such date (unless otherwise indicated).

Name and Business Address of Beneficial Owner <sup>(1)</sup>	Number of Shares	Percent
	of Common Stock	of Class
	Beneficially Owned <sup>(2)</sup>	(%)
Glyn F. Aeppel	3,578	(3) *
Matthew H. Birenbaum	41,149	*
Sean J. Breslin	44,628	(4) *
Terry Brown	2,668	(5) *
Alan B. Buckelew	4,876	*
Ronald L. Havner, Jr.	3,092	(6) *
Richard Lieb	527	*
Timothy J. Naughton	271,821	(7) *
Kevin O'Shea	17,452	*
Lance R. Primis	16,815	*
Peter S. Rummell	10,843	(8) *
H. Jay Sarles	19,406	*

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Susan Swanezy	720	(9)
W. Edward Walter	9,795	(10)*
Stephen Wilson	30,392	*
All current directors and executive officers as a group (19 persons)	632,603	(11) 0.46
The Vanguard Group, Inc.100 Vanguard Blvd., Malvern, PA 19355 (includes 7.58% held by Vanguard Specialized Funds Vanguard REIT Index Fund)	21,451,279	(12) 15.62
BlackRock, Inc.40 East 52nd Street, New York, NY 10022	14,144,883	(13) 10.30
State Street Corporation, State Street Financial Center, One Lincoln Street, Boston MA 02111	8,219,823	(14)5.99

\*Less than one percent

(1)The address for all directors and executive officers is AvalonBay Communities, Inc., Ballston Tower, 671 N. Glebe Road, Suite 800, Arlington, VA 22203.

(2)Except as otherwise noted, each individual in the table above has the sole voting and investment power over the shares listed.

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- (3) Includes 3,578 shares issuable in the future under deferred stock awards granted to Ms. Aeppel in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (4) Includes 8,396 shares issuable upon the exercise of stock options within 60 days after March 10, 2017.
- (5) Includes 2,668 shares issuable in the future under deferred stock awards granted to Mr. Brown in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (6) Includes 3,092 shares issuable in the future under deferred stock awards granted to Mr. Havner in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (7) Includes 89,598 shares issuable upon the exercise of stock options within 60 days after March 10, 2017.
- (8) Includes 1,710 shares issuable in the future under deferred stock awards granted to Mr. Rummell in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (9) Includes 720 shares issuable in the future under deferred stock awards granted to Ms. Swanezy in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (10) Includes 4,177 shares issuable in the future under deferred stock awards granted to Mr. Walter in lieu of restricted stock awards pursuant to elections under the Stock Incentive Plan.
- (11) Includes (i) 129,919 shares issuable upon the exercise of stock options within 60 days after March 10, 2017 and (ii) 15,945 shares issuable in the future under deferred stock awards.
- (12) The number of shares reported is based on a Schedule 13G/A filed on February 9, 2017, reporting beneficial ownership as of December 31, 2016. The schedule 13G/A indicates that the reporting entity holds sole voting power with respect to 391,196 shares, shared voting power with respect to 181,570 shares, sole dispositive power with respect to 21,056,393 shares, and shared dispositive power with respect to 394,886 shares. The number of shares included reported held by Vanguard Specialized Funds Vanguard REIT Fund (8,219,823) is based on Schedule 13G/A filed with the SEC on February 13, 2017, reporting beneficial ownership as of December 31, 2016. The Schedule 13G/A also reports that the reporting entity holds sole voting power with respect to all such reported shares.
- (13) The number of shares reported is based on a Schedule 13G filed on January 12, 2017, reporting beneficial ownership as of December 31, 2016. The Schedule 13G indicates that the reporting person has sole voting power with respect to 12,754,070 shares and sole dispositive power with respect to all reported shares.
- (14) The number of shares reported is based on a Schedule 13G/A filed February 9, 2017, reporting beneficial ownership as of December 31, 2016. The schedule 13G/A indicates that the reporting entity holds shared voting power and shared dispositive power with respect to all reported shares.

#### Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires persons who are officers of the Company as defined by Section 16, directors of the Company and persons who own more than 10% of a registered class of the Company's equity securities (collectively, "Insiders") to file reports of ownership and changes in ownership with the SEC and one national securities exchange on which such securities are registered. In accordance with Rule 16a-3(c) under the Exchange Act, the Company has designated the NYSE as the

national securities exchange with which reports pursuant to Section 16(a) of the Exchange Act need to be filed. Insiders are required by SEC regulations to furnish the Company with copies of all Section 16(a) forms they file. To the Company's knowledge, based solely on a review of copies of such reports and written representations that no other reports were required during the fiscal year ended December 31, 2016, all filing requirements applicable to the Insiders were timely satisfied.



## VI. Other Matters

### Solicitation of Proxies

The cost of solicitation of proxies for the Annual Meeting will be paid by the Company. In addition to the solicitation of proxies by mail, the directors, officers and employees of the Company may also solicit proxies personally or by telephone without additional compensation for such activities. The Company will also request persons, firms, and corporations holding shares in their names or in the names of their nominees, which are beneficially owned by others, to send proxy materials to and obtain proxies from such beneficial owners. The Company will reimburse such holders for their reasonable expenses.

### Stockholder Nominations for Directors and Proposals for Annual Meetings

Stockholder Proposals for our Proxy Statement. Stockholder proposals submitted pursuant to Exchange Act Rule 14a-8 for inclusion in the Company's proxy statement and form of proxy for the 2018 Annual Meeting of Stockholders must be received by the Company by December 8, 2017. Such a proposal must also comply with the requirements as to form and substance established by the SEC for such a proposal to be included in the proxy statement and form of proxy. Any such proposal and the supporting documentation should be mailed to: AvalonBay Communities, Inc., Ballston Tower, 671 N. Glebe Road, Suite 800, Arlington, VA 22203, Attention: Secretary.

Proxy Access Director Nominations. In order for an eligible stockholder or group of stockholders to nominate a director nominee for election at the Company's 2018 annual meeting pursuant to the proxy access provision of our Bylaws, notice of such nomination and all other supporting documentation required by the Company's Bylaws must be received by the Company within the time periods described below. In addition, our Bylaws require an eligible stockholder or group of stockholders to update and supplement such information (or provide notice stating that there are no updates or supplements) as of specified dates.

Matters to be Considered at Annual Meetings. In accordance with our Bylaws, as currently in effect, for a stockholder to nominate a director or for a proposal of a stockholder to be presented at the Company's 2018 Annual Meeting of Stockholders, other than a stockholder proposal intended to be included in our proxy statement and submitted pursuant to Rule 14a-8 of the Exchange Act or pursuant to the proxy access provision of our Bylaws, a stockholder's notice must be received by the Company within the time periods described below.

Time Periods and Address for Proxy Access and Other Stockholder Nominations and Proposals. In order to be eligible under the provisions of our Bylaws governing (A) proxy access director nominations and (B) other director nominations and proposed matters to be presented at an annual meeting, our Bylaws require that proper notice of such nomination(s) or business matters, together with all supporting documentation required by our Bylaws, must be

delivered to, or mailed and received at our principal executive office, which is currently AvalonBay Communities, Inc., Ballston Tower, 671 N. Glebe Road, Suite 800, Arlington, VA 22203, Attention: Secretary, (A) not prior to November 8, 2017 nor later than 5:00 p.m., Eastern Time, on December 8, 2017 or (B) in the event that the date of the 2018 Annual Meeting of Stockholders is advanced or delayed by more than 30 days from May 18, 2018, (i) not earlier than the 150<sup>th</sup> day prior to the date of that meeting, and (ii) not later than 5:00 p.m., Eastern Time, on the later of (x) the 120<sup>th</sup> day prior to the date of that meeting or (y) the 10<sup>th</sup> day following the day on which public announcement of such annual meeting is first made. You may contact the Company's Secretary at the address mentioned above for a copy of the relevant Bylaw provisions regarding the requirements for making stockholder proposals and nominating director candidates.

Exhibit A

AVALONBAY COMMUNITIES, INC.

SECOND AMENDED AND RESTATED  
2009 ~~STOCK OPTION AND~~ EQUITY INCENTIVE PLAN

[Terms amended by the Second Amendment are illustrated as follows:

additions are double underlined; deletions are struck through]

#### SECTION 1. GENERAL PURPOSE OF THE PLAN; DEFINITIONS

The name of the plan is the AvalonBay Communities, Inc. Second Amended and Restated 2009 ~~Stock Option and~~ Equity Incentive Plan (the “Plan”). The purpose of the Plan is to encourage and enable the officers, employees, Non-Employee Directors and other key persons (including consultants and prospective employees) of AvalonBay Communities, Inc. (the “Company”) and its Subsidiaries upon whose judgment, initiative and efforts the Company largely depends for the successful conduct of its business to acquire a proprietary interest in the Company. It is anticipated that providing such persons with a direct stake in the Company’s welfare will assure a closer identification of their interests with those of the Company and its stockholders, thereby stimulating their efforts on the Company’s behalf and strengthening their desire to remain with the Company.

The following terms shall be defined as set forth below:

“Act” means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

“Administrator” means either the Board or the compensation committee of the Board or a similar committee performing the functions of the compensation committee and which is comprised of not less than two Non Employee Directors who are independent.

“Award” or “Awards,” except where referring to a particular category of grant under the Plan, shall include Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock Units, Restricted Stock Awards, Unrestricted Stock Awards, Cash-Based Awards, Performance Share Awards and Dividend Equivalent Rights.

“Award Certificate” means a written or electronic document setting forth the terms and provisions applicable to an Award granted under the Plan. Each Award Certificate is subject to the terms and conditions of the Plan.

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

“Cash-Based Award” means an Award entitling the recipient to receive a cash-denominated payment.

“Cause” means (i) any material breach by the grantee of any agreement to which the grantee and the Company are parties or of any published policy of the Company, (ii) any act (other than retirement or other termination of employment) or omission to act by the grantee which may have a material and adverse effect on the business of the Company or any Subsidiary or on the grantee’s ability to perform services for the Company or any Subsidiary, including, without limitation, the commission of any crime (other than ordinary traffic violations), or (iii) any material



misconduct or neglect of duties by the grantee in connection with the business or affairs of the Company or any Subsidiary; provided, that the following shall apply in connection with and for twenty-four months following a Sale Event: (i) if any act or omission is capable of cure, the grantee first shall have received written notice of the act or omission alleged to constitute Cause and shall have failed to cure after 15 days following such notice from the Company which notice shall specifically identify the act or omission which the Company believes constitutes Cause; and (ii) in the case of an officer, a dismissal of such officer for Cause must be made pursuant to a vote of the Board (after the expiration of any applicable 15 day cure period).

“Code” means the Internal Revenue Code of 1986, as amended, and any successor Code, and related rules, regulations and interpretations.

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“Covered Employee” means an employee who is a “Covered Employee” within the meaning of Section 162(m) of the Code.

“Dividend Equivalent Right” means an Award entitling the grantee to receive credits based on cash dividends that would have been paid on the shares of Stock specified in the Dividend Equivalent Right (or other award to which it relates) if such shares had been issued to and held by the grantee.

“Effective Date” means the date in 2017 on which the Second Amended and Restated 2009 Equity Incentive Plan is approved by stockholders as set forth in Section 21.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

“Fair Market Value” of the Stock on any given date means the last reported sale price at which Stock is traded on such date or, if no Stock is traded on such date, the most recent date on which Stock was traded, as reflected on the New York Stock Exchange or, if applicable, any other national exchange on which the Stock is traded.

“Good Reason” means the occurrence of any of the following events: (i) a material adverse change in the functions, duties or responsibilities of a grantee’s position (other than a termination of employment for Cause) which would meaningfully reduce the level, importance or scope of such position (provided that a change in the person, position and/or department to whom the grantee is required to report shall not by itself constitute a material adverse change in such grantee’s position); or (ii) the relocation of the office at which a grantee is principally located immediately prior to a Sale Event (the “Original Office”) to a new location outside of the metropolitan area of the Original Office or the failure to locate a grantee’s own office at the Original Office (or at the office to which such office is relocated which is within the metropolitan area of the Original Office); or (iii) a material reduction in the grantee’s base salary and incentive compensation opportunity as in effect immediately prior to the event to which a right to terminate employment for Good Reason relates.

“Incentive Stock Option” means any Stock Option designated and qualified as an “incentive stock option” as defined in Section 422 of the Code.

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

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

“Option” or “Stock Option” means any option to purchase shares of Stock granted pursuant to Section 5.

“Performance-Based Award” means any Restricted Stock Award, Restricted Stock Units, Performance Share Award or Cash-Based Award granted to a Covered Employee that is intended to qualify as “performance-based compensation” under Section 162(m) of the Code and the regulations promulgated thereunder.

“Performance Criteria” means the criteria that the Administrator selects for purposes of establishing the Performance Goal or Performance Goals for an individual for a Performance Cycle. The Performance Criteria (which shall be applicable to the organizational level specified by the Administrator, including, but not limited to, the Company or a unit, division, group, or Subsidiary of the Company) that will be used to establish Performance Goals are limited to the following: (i) earnings before interest, taxes, depreciation and amortization; (ii) net income (loss) (either before or after interest, taxes, depreciation and/or amortization); (iii) changes in the market price of the Stock; (iv) cash flow; (including, but not limited to, operating cash flow and free cash flow); (v) funds from operations or similar measure; (vi) sales or revenue; (vii) acquisitions or strategic transactions; (viii) operating income (loss); (ix) return on capital,

assets, equity, or investment; (x) total stockholder returns or total returns to stockholders; (xi) gross or net profit levels; (xii) productivity; (xiii) expense; (xiv) margins; (xv) operating efficiency; (xvi) customer satisfaction; (xvii) working capital; (xviii) earnings per share of Stock; (xix) lease up performance, net operating income performance or yield on development or redevelopment communities; ~~and/or~~ (xx) leverage (measured as a ratio based on debt, debt net of cash balances, or interest expense to earnings before interest, taxes, depreciation and amortization (EBITDA) or to total market capitalization, or similar measures~~);~~); and/or (xxi) economic value-added, any of which under the preceding clauses (i) through ~~(xxxi)~~ may

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be measured either in absolute terms or as compared to any incremental increase or as compared to results of a peer group. The Committee may appropriately adjust any evaluation of the Company's or a peer's performance under a Performance Criterion to exclude or minimize the effect of any of the following events that occurs during a Performance Cycle: (I) asset write-downs or impairments, (II) litigation or claim judgments or settlements, (III) the effect of changes in tax law, accounting principles or other such laws or provisions affecting reporting results, (IV) accruals for reorganizations and restructuring programs, (V) any item of an unusual nature or of a type that indicates infrequency of occurrence, or both, including those described in the Financial Accounting Standards Board's authoritative guidance and/or in management's discussion and analysis of financial condition of operations appearing in the Company's annual report to stockholders for the applicable year, (VI) special or non-routine dividends, including those that result from large asset sales, and (VII) other items that are typically adjusted, including in earnings releases, third party publications or metrics that are focused on core or recurring operating results and that are based on the above criterion.

"Performance Cycle" means one or more periods of time, which may be of varying and overlapping durations, as the Administrator may select, over which the attainment of one or more Performance Criteria will be measured for the purpose of determining a grantee's right to and the payment of a Restricted Stock Award, Restricted Stock Units, Performance Share Award or Cash-Based Award, the vesting and/or payment of which is subject to the attainment of one or more Performance Goals. Each such period shall not be less than 12 months, except to the extent shortened due to the occurrence of certain defined events (e.g., a Sale Event) as set forth in the Plan or in the relevant Award agreement.

"Performance Goals" means, for a Performance Cycle, the specific goals established in writing by the Administrator for a Performance Cycle based upon the Performance Criteria.

"Performance Share Award" means an Award entitling the recipient to acquire shares of Stock upon the attainment of specified Performance Goals.

"Restricted Stock Award" means an Award entitling the recipient to acquire, at such purchase price (which may be zero) as determined by the Administrator, shares of Stock subject to such restrictions and conditions as the Administrator may determine at the time of grant.

"Restricted Stock Units" means an Award of phantom stock units to a grantee subject to such restrictions and conditions as the Administrator may determine at the time of grant.

"Sale Event" shall mean (i) the sale of all or substantially all of the assets of the Company on a consolidated basis to one or more unrelated persons or entities, or (ii) the sale or other transfer of all or substantially all of the Stock of the Company to one or more unrelated persons or entities (including by way of a merger, reorganization or consolidation in which the outstanding shares of Stock are converted into or exchanged for securities of the successor entity) where the stockholders of the Company, immediately prior to such sale or other transfer, would not, immediately after such sale or transfer, beneficially own shares representing in the aggregate more than 50 percent of the voting shares of the acquirer or surviving entity (or its ultimate parent corporation, if any). For this purpose, only voting shares of the acquirer or surviving entity (or its ultimate parent, if any) received by stockholders of the Company in exchange for Stock shall be counted, and any voting shares of the acquirer or surviving entity (or its ultimate parent, if any) already owned by stockholders of the Company prior to the transaction shall be disregarded.

"Sale Price" means the value as determined by the Administrator of the consideration payable, or otherwise to be received by stockholders, per share of Stock pursuant to a Sale Event.

“Section 16 Officer” means an employee who is subject to the reporting and other provisions of Section 16 of the Exchange Act.

“Section 409A” means Section 409A of the Code and the regulations and other guidance promulgated thereunder.

“Stock” means the Common Stock, par value \$.01 per share, of the Company, subject to adjustments pursuant to Section 3.

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“Stock Appreciation Right” means an Award entitling the recipient to receive shares of Stock having a value equal to the excess of the Fair Market Value of the Stock on the date of exercise over the exercise price of the Stock Appreciation Right multiplied by the number of shares of Stock with respect to which the Stock Appreciation Right shall have been exercised.

“Subsidiary” means any corporation or other entity (other than the Company) in which the Company has at least a 50 percent interest, either directly or indirectly.

“Ten Percent Owner” means an employee who owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10 percent of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation.

“Unrestricted Stock Award” means an Award of shares of Stock free of any restrictions.

## SECTION 2. ADMINISTRATION OF PLAN; ADMINISTRATOR AUTHORITY TO SELECT GRANTEES AND DETERMINE AWARDS

(a)Administration of Plan. The Plan shall be administered by the Administrator, provided that the amount, timing and terms of the grants of Awards to Non-Employee Directors shall be determined by the compensation committee, the nominating and corporate governance committee or similar committee comprised solely of Non Employee Directors. (which determination may, in the discretion of such committee, be conditioned on the subsequent approval of a majority vote or unanimous written consent of either the Non-Employee Directors on the Board or the independent directors on the Board who qualify for service on the compensation committee).

(b)Powers of Administrator. The Administrator shall have the power and authority to grant Awards consistent with the terms of the Plan, including the power and authority:

(i)to select the individuals to whom Awards may from time to time be granted;

(ii)to determine the time or times of grant, and the extent, if any, of Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock Awards, Restricted Stock Units, Unrestricted Stock Awards, Cash-Based Awards, Performance Share Awards and Dividend Equivalent Rights, or any combination of the foregoing, granted to any one or more grantees;

(iii)to determine the number of shares of Stock to be covered by any Award;

(iv)to determine and modify from time to time the terms and conditions, including restrictions, not inconsistent with the terms of the Plan, of any Award, which terms and conditions may differ among individual Awards and grantees, and to approve the forms of Award Certificates;

(v)subject to the provisions of Section 2(g), to accelerate at any time the exercisability or vesting of all or any portion of any Award ~~provided that the Administrator generally shall not exercise such discretion to accelerate Awards subject to Sections 7 and 8 except in the event of the grantee’s death, disability, retirement or termination of employment without cause, or a Sale Event;~~

(vi)subject to the provisions of Section 5(c), to extend at any time the period in which Stock Options may be exercised; and

(vii) at any time to adopt, alter and repeal such rules, guidelines and practices for administration of the Plan and for its own acts and proceedings as it shall deem advisable; to interpret the terms and provisions of the Plan and any Award (including related written instruments); to make all determinations it deems advisable for the administration of the Plan; to decide all disputes arising in connection with the Plan; and to otherwise supervise the administration of the Plan.

(c) All decisions and interpretations of the Administrator shall be binding on all persons, including the Company and Plan grantees. The Administrator may, in its discretion, condition any approval or determination on the subsequent approval of a majority vote or unanimous written consent of either the Non-Employee Directors on the Board or the independent directors on the Board who qualify for service on the compensation committee.

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(d) Delegation of Authority to Grant Awards. Subject to applicable law, the Administrator, in its discretion, may delegate to the Chief Executive Officer of the Company (or other executive officers of the Company to the extent permitted under applicable law) all or part of the Administrator's authority and duties with respect to the granting of Awards to individuals who are (i) not Section 16 Officers and (ii) not Covered Employees. Any such delegation by the Administrator shall include a limitation as to the amount or value of Awards that may be granted during the period of the delegation and shall contain guidelines as to the determination of the exercise price and the vesting criteria. The Administrator may revoke or amend the terms of a delegation at any time but such action shall not invalidate any prior actions of the Administrator's delegate or delegates that were consistent with the terms of the Plan.

(e) Award Certificate. Awards under the Plan shall be evidenced by Award Certificates that set forth the terms, conditions and limitations for each Award which may include, without limitation, the term of an Award and the provisions applicable in the event employment or service terminates.

(f) Indemnification. Neither the Board nor the Administrator, nor any member of either or any delegate thereof, shall be liable for any act, omission, interpretation, construction or determination made in good faith in connection with the Plan, and the members of the Board and the Administrator (and any delegate thereof) shall be entitled in all cases to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including, without limitation, reasonable attorneys' fees) arising or resulting therefrom to the fullest extent permitted by law and/or under the Company's articles or bylaws or any directors' and officers' liability insurance coverage which may be in effect from time to time and/or any indemnification agreement between such individual and the Company.

(g) Minimum Vesting Requirements. Notwithstanding any other provision in the Plan to the contrary, the minimum restriction or vesting period with respect to any Award granted to an employee shall be no less than one year; provided, however, that an Award with a time based restriction or vesting period may become unrestricted and vested incrementally over such period; provided further that, notwithstanding the foregoing, in the case of a grantee's death, disability, retirement or termination of employment without cause, or a Sale Event, or as contemplated by Section 8(b) in the case of Restricted Stock Units that are elected to be received in lieu of cash compensation, or in the case of credits of Awards under Dividend Equivalent Rights associated with Restricted Stock Units, such grantee's Awards may vest notwithstanding such minimum vesting provisions; and provided further that, notwithstanding the foregoing and in addition to the above exceptions, Awards made after the Effective Date and granted to employees that result in the issuance of up to 5% of the shares of Stock reserved and available for issuance under the Plan as of the Effective Date pursuant to Section 3(a) may be granted in the aggregate to employees without regard to such minimum vesting provisions.

### SECTION 3. STOCK ISSUABLE UNDER THE PLAN; MERGERS; SUBSTITUTION

(a) Stock Issuable. ~~The~~As of the Effective Date, the maximum number of shares of Stock reserved and available for issuance pursuant to Awards granted under the Plan on or after the Effective Date shall be ~~the sum of (i) 2,930,000~~ 8,000,000 shares, ~~plus (ii) a number~~ (an increase of 7,563,450 shares ~~equal~~ as compared to the number of shares reserved and available for issuance under the ~~Company's 1994 Stock Incentive Plan as of the Effective Date~~) February 16, 2017), subject to adjustment as provided in Section 3. For purposes of this limitation, the shares of Stock underlying any Awards under this Plan or ~~awards under~~ the Company's 1994 Stock Incentive Plan that are forfeited, canceled or otherwise terminated (other than by exercise) shall be added back to the shares of Stock available for issuance under the Plan. Notwithstanding the foregoing, the following shares of Stock shall not be added to the shares authorized for grant under the Plan: (1) shares tendered or held back upon exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, and (2) shares subject to a Stock Appreciation Right that are not issued in connection with the stock settlement of the Stock Appreciation Right upon exercise thereof. In the event the Company repurchases shares of Stock on the open market, such shares shall not be added to the shares of Stock available for issuance under the Plan. Subject to such overall limitations, shares of Stock may be



issued up to such maximum number pursuant to any type or types of Award; provided, however, that Stock Options or Stock Appreciation Rights with respect to no more than 600,000 shares of Stock may be granted to any one individual grantee during any one calendar year period, and no more than ~~2,930,000~~ 8,000,000 shares of Awards made on or after the ~~Stock~~ Effective Date may be issued made in the form of Incentive Stock Options. The shares available for issuance under the Plan may be authorized but unissued shares of Stock or shares of Stock reacquired by the Company.

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(b) Awards to Non-Employee Directors. By their approval of this Plan, the Board and the Stockholders approve Awards awarded under this Plan and all other cash compensation paid by the Company to any Non-Employee Director in any calendar year that shall together have a value up to \$500,000. For the purpose of this limitation, the value of any Award shall be its grant date fair value, as determined in accordance with ASC 718 or successor provision but excluding the impact of estimated forfeitures related to service-based vesting provisions.

(c) Effect of Awards. The grant of any full value Award (i.e., an Award other than an Option or a Stock Appreciation Right) shall be deemed, for purposes of determining the number of shares of Stock available for issuance under Section 3(a), as an Award of 2.17 shares of Stock for each such share of Stock actually subject to the Award. The grant of an Option or a Stock Appreciation Right shall be deemed, for purposes of determining the number of shares of Stock available for issuance under Section 3(a), as an Award for one share of Stock for each such share of Stock actually subject to the Award. Any forfeitures, cancellation or other termination (other than by exercise) of such Awards shall be returned to the reserved pool of shares of Stock under the Plan in the same manner.

(d) Changes in Stock. Subject to Section 3(~~de~~) hereof, if, as a result of any reorganization, recapitalization, reclassification, stock dividend, stock split, reverse stock split or other similar change in the Company's capital stock, the outstanding shares of Stock are increased or decreased or are exchanged for a different number or kind of shares or other securities of the Company, or additional shares or new or different shares or other securities of the Company or other non-cash assets are distributed with respect to such shares of Stock or other securities or paid in satisfaction of a dividend declaration, or, if, as a result of any merger or consolidation, sale of all or substantially all of the assets of the Company, the outstanding shares of Stock are converted into or exchanged for securities of the Company or any successor entity (or a parent or subsidiary thereof), the Administrator shall make an appropriate or proportionate adjustment in (i) the maximum number of shares reserved for issuance under the Plan, including the maximum number of shares that may be issued in the form of Incentive Stock Options, (ii) the number of Stock Options or Stock Appreciation Rights that can be granted to any one individual grantee and the maximum number of shares that may be granted under a Performance-Based Award, (iii) the number and kind of shares or other securities subject to any then outstanding Awards under the Plan, (iv) the repurchase price, if any, per share subject to each outstanding Restricted Stock Award, and (v) the price for each share subject to any then outstanding Stock Options and Stock Appreciation Rights under the Plan, without changing the aggregate exercise price (i.e., the exercise price multiplied by the number of Stock Options and Stock Appreciation Rights) as to which such Stock Options and Stock Appreciation Rights remain exercisable. The Administrator shall also make equitable or proportionate adjustments in the number of shares subject to outstanding Awards and the exercise price and/or the terms of outstanding Awards to take into consideration cash dividends declared and paid other than in the ordinary course or any other extraordinary corporate event, other than those contemplated by Section 3(~~de~~) hereof, to the extent determined to be necessary by the Administrator to avoid distortion in the value of the Awards. The adjustment by the Administrator shall be final, binding and conclusive. No fractional shares of Stock shall be issued under the Plan resulting from any such adjustment, but the Administrator in its discretion may make a cash payment in lieu of fractional shares.

(e) Sale Event. Except as the Administrator may otherwise specify with respect to particular Awards in the relevant Award Certificate, Awards granted on or after January 1, 2016 that are assumed, continued or substituted in connection with a Sale Event shall become fully vested and nonforfeitable on the date of termination in the event that a grantee's employment or other service relationship with the Company (or its successor) is terminated by the Company (or its successor) without Cause or by the grantee for Good Reason, in either case in connection with or within 24 months following a Sale Event.

Except as the Administrator may otherwise specify with respect to particular Awards in the relevant Award Certificate, in the case of and subject to the consummation of a Sale Event, the Plan and all outstanding Awards granted hereunder shall terminate, unless provision is made in connection with the Sale Event in the sole discretion of the parties to the Sale Event for either (x) the assumption or continuation of such Awards by the successor entity, or

(y) the substitution of such Awards with new Awards of the successor entity or parent thereof, with appropriate adjustment in either case as to the number and kind of shares and, if appropriate, the per share exercise prices, as such parties to the Sale Event shall agree (after taking into account any acceleration hereunder). In the event that outstanding Awards granted hereunder are terminated because they have not been so assumed, continued or substituted, then, except as may be otherwise provided in the relevant Award Certificate, all Options and Stock Appreciation Rights that are not exercisable immediately prior to the effective

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time of the Sale Event shall become fully exercisable as of the effective time of the Sale Event, all other Awards with time-based vesting, conditions or restrictions shall become fully vested and nonforfeitable as of the effective time of the Sale Event and all Awards with conditions and restrictions relating to the attainment of performance goals may become vested and nonforfeitable in connection with a Sale Event, in each case in the Administrator's discretion or to the extent specified in the relevant Award Certificate. Further, in the event outstanding Awards granted hereunder are terminated because they have not been so assumed, continued or substituted, then (i) the Company shall have the option (in its sole discretion) to make or provide for a cash payment to the grantees holding Options and Stock Appreciation Rights, in exchange for the cancellation thereof, in an amount equal to the difference between (A) the Sale Price multiplied by the number of shares of Stock subject to outstanding Options and Stock Appreciation Rights (to the extent then exercisable (after taking into account any acceleration hereunder) at prices not in excess of the Sale Price) and (B) the aggregate exercise price of all such outstanding Options and Stock Appreciation Rights; or (ii) each grantee shall be permitted, within a specified period of time prior to the consummation of the Sale Event as determined by the Administrator, to exercise all outstanding Options and Stock Appreciation Rights held by such grantee. The Company shall also have the option (in its sole discretion) to make or provide for a cash payment for all other Awards that are terminated because they have not been so assumed, continued or substituted.

(f)Substitute Awards. The Administrator may grant Awards under the Plan in substitution for stock and stock based awards held by employees, directors or other key persons of another corporation in connection with the merger or consolidation of the employing corporation with the Company or a Subsidiary or the acquisition by the Company or a Subsidiary of property or stock of the employing corporation. The Administrator may direct that the substitute awards be granted on such terms and conditions as the Administrator considers appropriate in the circumstances. Any substitute Awards granted under the Plan shall not count against the share limitation set forth in Section 3(a).

#### SECTION 4. ELIGIBILITY

Grantees under the Plan will be such full or part-time officers and other employees, Non-Employee Directors and key persons (including consultants and prospective employees) of the Company and its Subsidiaries as are selected from time to time by the Administrator in its sole discretion.

#### SECTION 5. STOCK OPTIONS

(a)Grants of Stock Options. Any Stock Option granted under the Plan shall be in such form as the Administrator may from time to time approve.

Stock Options granted under the Plan may be either Incentive Stock Options or Non-Qualified Stock Options. Incentive Stock Options may be granted only to employees of the Company or any Subsidiary that is a "subsidiary corporation" within the meaning of Section 424(f) of the Code. To the extent that any Option does not qualify as an Incentive Stock Option, it shall be deemed a Non-Qualified Stock Option.

The Administrator in its discretion may grant Stock Options to eligible employees and key persons of the Company or any Subsidiary. Stock Options granted pursuant to this Section 5(a) shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Administrator shall deem desirable. If the Administrator so determines, Stock Options may be granted in lieu of cash compensation or other Awards at the optionee's election, subject to such terms and conditions as the Administrator may establish.

(b)Exercise Price. The exercise price per share for the Stock covered by a Stock Option granted pursuant to this Section 5(b) shall be determined by the Administrator at the time of grant but shall not be less than 100 percent of the Fair Market Value on the date of grant. In the case of an Incentive Stock Option that is granted to a Ten Percent

Owner, the option price of such Incentive Stock Option shall be not less than 110 percent of the Fair Market Value on the grant date.

(c)Option Term. The term of each Stock Option shall be fixed by the Administrator, but no Stock Option shall be exercisable more than ten years after the date the Stock Option is granted. In the case of an Incentive Stock Option that is granted to a Ten Percent Owner, the term of such Stock Option shall be no more than five years from the date of grant.

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(d) **Exercisability; Rights of a Stockholder.** Stock Options shall become exercisable at such time or times, whether or not in installments, as shall be determined by the Administrator at or after the grant date. The Administrator may at any time accelerate the exercisability of all or any portion of any Stock Option. An optionee shall have the rights of a stockholder only as to shares acquired upon the exercise of a Stock Option and not as to unexercised Stock Options.

(e) **Method of Exercise.** Stock Options may be exercised in whole or in part, by giving written or electronic notice of exercise to the Company, specifying the number of shares to be purchased. Payment of the purchase price may be made by one or more of the following methods except to the extent otherwise provided in the Option Award Certificate:

(i) In cash, by certified or bank check or other instrument acceptable to the Administrator;

(ii) Through the delivery (or attestation to the ownership following such procedures as the Administrator may prescribe) of shares of Stock beneficially owned by the optionee and that are not then subject to restrictions under any Company plan. Such surrendered shares shall be valued at Fair Market Value on the exercise date;

(iii) By the optionee delivering to the Company a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company cash or a check payable and acceptable to the Company for the purchase price; provided that in the event the optionee chooses to pay the purchase price as so provided, the optionee and the broker shall comply with such procedures and enter into such agreements of indemnity and other agreements as the Administrator shall prescribe as a condition of such payment procedure; or

(iv) With respect to Stock Options that are not Incentive Stock Options, by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Stock issuable upon exercise by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price.

Payment instruments will be received subject to collection. The transfer to the optionee on the records of the Company or of the transfer agent of the shares of Stock to be purchased pursuant to the exercise of a Stock Option will be contingent upon receipt from the optionee (or a purchaser acting in his stead in accordance with the provisions of the Stock Option) by the Company of the full purchase price for such shares and the fulfillment of any other requirements contained in the Option Award Certificate or applicable provisions of laws (including the satisfaction of any withholding taxes that the Company is obligated to withhold with respect to the optionee). In the event an optionee chooses to pay the purchase price by previously-owned shares of Stock through the attestation method, the number of shares of Stock transferred to the optionee upon the exercise of the Stock Option shall be net of the number of attested shares. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the exercise of Stock Options, such as a system using an internet website or interactive voice response, then the paperless exercise of Stock Options may be permitted through the use of such an automated system.

(f) **Annual Limit on Incentive Stock Options.** To the extent required for “incentive stock option” treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the shares of Stock with respect to which Incentive Stock Options granted under this Plan and any other plan of the Company or its parent and subsidiary corporations become exercisable for the first time by an optionee during any calendar year shall not exceed \$100,000. To the extent that any Stock Option exceeds this limit, it shall constitute a Non-Qualified Stock Option.

## SECTION 6. STOCK APPRECIATION RIGHTS

(a) **Exercise Price of Stock Appreciation Rights.** The exercise price of a Stock Appreciation Right shall not be less than 100 percent of the Fair Market Value of the Stock on the date of grant.

(b)Grant and Exercise of Stock Appreciation Rights. Stock Appreciation Rights may be granted by the Administrator independently of any Stock Option granted pursuant to Section 5 of the Plan.

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(c)Terms and Conditions of Stock Appreciation Rights. Stock Appreciation Rights shall be subject to such terms and conditions as shall be determined from time to time by the Administrator. The term of a Stock Appreciation Right may not exceed ten years.

## SECTION 7. RESTRICTED STOCK AWARDS

(a)Nature of Restricted Stock Awards. The Administrator shall determine the restrictions and conditions applicable to each Restricted Stock Award at the time of grant. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The terms and conditions of each such Award Certificate shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees.

(b)Rights as a Stockholder. Upon the grant of the Restricted Stock Award and payment of any applicable purchase price, a grantee shall have the rights of a stockholder with respect to the voting and dividends of the Restricted Stock, subject to such conditions contained in the Restricted Stock Award Certificate. Unless the Administrator shall otherwise determine, (i) uncertificated Restricted Stock shall be accompanied by a notation on the records of the Company or the transfer agent to the effect that they are subject to forfeiture until such Restricted Stock are vested as provided in Section 7(d) below, and (ii) certificated Restricted Stock shall remain in the possession of the Company until such Restricted Stock is vested as provided in Section 7(d) below, and the grantee shall be required, as a condition of the grant, to deliver to the Company such instruments of transfer as the Administrator may prescribe.

(c)Restrictions. Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided herein or in the Restricted Stock Award Certificate. Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, if a grantee's employment (or other service relationship) with the Company and its Subsidiaries terminates for any reason, any Restricted Stock that has not vested at the time of termination shall automatically and without any requirement of notice to such grantee from or other action by or on behalf of, the Company be deemed to have been reacquired by the Company at its original purchase price (if any) from such grantee or such grantee's legal representative simultaneously with such termination of employment (or other service relationship), and thereafter shall cease to represent any ownership of the Company by the grantee or rights of the grantee as a stockholder. Following such deemed reacquisition of unvested Restricted Stock that are represented by physical certificates, a grantee shall surrender such certificates to the Company upon request without consideration.

(d)Vesting of Restricted Stock. The Administrator at the time of grant shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which the non-transferability of the Restricted Stock and the Company's right of repurchase or forfeiture shall lapse. ~~Notwithstanding the foregoing, in the event that any such Restricted Stock granted to employees shall have a performance-based goal, the restriction period with respect to such shares shall not be less than one year, and in the event any such Restricted Stock granted to employees shall have a time-based restriction only (without any prior performance condition to the grant or vesting thereof), the total restriction period with respect to such shares shall not be less than three years; provided, however, that Restricted Stock with a time-based restriction may become vested incrementally over such three-year period.~~ Subsequent to such date or dates and/or the attainment of such pre-established performance goals, objectives and other conditions, the shares on which all restrictions have lapsed shall no longer be Restricted Stock and shall be deemed "vested." Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in any shares of Restricted Stock that have not vested shall automatically terminate upon the grantee's termination of employment (or other service relationship) with the Company and its Subsidiaries and such shares shall be subject to the provisions of Section 7(c) above.

## SECTION 8. RESTRICTED STOCK UNITS



(a) Nature of Restricted Stock Units. The Administrator shall determine the restrictions and conditions applicable to each Restricted Stock Unit at the time of grant. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The terms and conditions of each such Award Certificate shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees. ~~Notwithstanding the foregoing,~~

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~~in the event that any such Restricted Stock Units granted to employees shall have a performance based goal, the restriction period with respect to such Award shall not be less than one year, and in the event any such Restricted Stock Units granted to employees shall have a time based restriction only (without any prior performance condition to the grant or vesting thereof), the total restriction period with respect to such Award shall not be less than three years; provided, however, that any Restricted Stock Units with a time based restriction may become vested incrementally over such three year period. At the end of the deferral~~ Except in the case of Restricted Stock Units with a deferred settlement date that complies with Section 409A, at the end of the vesting period, the Restricted Stock Units, to the extent vested, shall be settled in the form of shares of Stock. To the extent that an award of Restricted Stock Units is subject to Section 409A, it may contain such additional terms and conditions as the Administrator shall determine in its sole discretion in order for such Award to comply with the requirements of Section 409A.

(b) Election to Receive Restricted Stock Units in Lieu of Compensation. The Administrator may, in its sole discretion, permit a grantee to elect to receive a portion of future cash compensation or other Award otherwise due to such grantee in the form of an award of Restricted Stock Units. Any such election shall be made in writing and shall be delivered to the Company no later than the date specified by the Administrator and in accordance with Section 409A and such other rules and procedures established by the Administrator. Any such future cash compensation that the grantee elects to defer shall be converted to a fixed number of Restricted Stock Units based on the Fair Market Value of Stock on the date the compensation would otherwise have been paid to the grantee if such payment had not been deferred as provided herein. The Administrator shall have the sole right to determine whether and under what circumstances to permit such elections and to impose such limitations and other terms and conditions thereon as the Administrator deems appropriate. Any Restricted Stock Units that are elected to be received in lieu of cash compensation shall be fully vested, unless otherwise provided in the Award Certificate.

(c) Rights as a Stockholder. A grantee shall have the rights as a stockholder only as to shares of Stock acquired by the grantee upon settlement of Restricted Stock Units; provided, however, that the grantee may be credited with Dividend Equivalent Rights with respect to the phantom stock units underlying his Restricted Stock Units, subject to such terms and conditions as the Administrator may determine.

(d) Termination. Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's right in all Restricted Stock Units that have not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

## SECTION 9. UNRESTRICTED STOCK AWARDS

Grant or Sale of Unrestricted Stock. ~~The~~ Subject to the limitation set forth in Section 2(g), the Administrator may, in its sole discretion, grant (or sell at par value or such higher purchase price determined by the Administrator) an Unrestricted Stock Award under the Plan. Unrestricted Stock Awards may be granted in respect of past services or other valid consideration, or in lieu of cash compensation due to such grantee.

## SECTION 10. CASH-BASED AWARDS

Grant of Cash-Based Awards. The Administrator may, in its sole discretion, grant Cash-Based Awards to any grantee in such number or amount and upon such terms, and subject to such conditions, as the Administrator shall determine at the time of grant. The Administrator shall determine the maximum duration of the Cash-Based Award, the amount of cash to which the Cash-Based Award pertains, the conditions upon which the Cash-Based Award shall become vested or payable, and such other provisions as the Administrator shall determine. Each Cash-Based Award shall specify a cash-denominated payment amount, formula or payment ranges as determined by the Administrator. Payment, if any, with respect to a Cash-Based Award shall be made in accordance with the terms of

the Award and may be made in cash or in shares of Stock, as the Administrator determines.

SECTION 11. PERFORMANCE SHARE AWARDS

(a) Nature of Performance Share Awards. The Administrator may, in its sole discretion, grant Performance Share Awards independent of, or in connection with, the granting of any other Award under the

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Plan. The Administrator shall determine whether and to whom Performance Share Awards shall be granted, the Performance Goals, the periods during which performance is to be measured, which may not be less than one year except in the case of a Sale Event, and such other limitations and conditions as the Administrator shall determine.

(b)Rights as a Stockholder. A grantee receiving a Performance Share Award shall have the rights of a stockholder only as to shares of Stock actually received by the grantee under the Plan and not with respect to shares subject to the Award but not actually received by the grantee. A grantee shall be entitled to receive shares of Stock under a Performance Share Award only upon satisfaction of all conditions specified in the Performance Share Award Certificate (or in a performance plan adopted by the Administrator).

(c)Termination. Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in all Performance Share Awards shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

## SECTION 12. PERFORMANCE-BASED AWARDS TO COVERED EMPLOYEES

(a)Performance-Based Awards. Any employee or other key person providing services to the Company and who is selected by the Administrator may be granted one or more Performance-Based Awards in the form of a Restricted Stock Award, Restricted Stock Units, Performance Share Awards or Cash-Based Award payable upon the attainment of Performance Goals that are established by the Administrator and related to one or more of the Performance Criteria, in each case on a specified date or dates or over any period or periods determined by the Administrator. The Administrator shall define in an objective fashion the manner of calculating the Performance Criteria it selects to use for any Performance Cycle. Depending on the Performance Criteria used to establish such Performance Goals, the Performance Goals may be expressed in terms of overall Company performance or the performance of a division, business unit, or an individual. The Administrator, in its discretion, may adjust or modify the calculation of Performance Goals for such Performance Cycle in order to prevent the dilution or enlargement of the rights of an individual (i) in the event of, or in anticipation of, any unusual or extraordinary corporate item, transaction, event or development, (ii) in recognition of, or in anticipation of, any other unusual or nonrecurring events affecting the Company or a peer, or the financial statements of the Company or a peer, or (iii) in response to, or in anticipation of, changes in applicable laws, regulations, accounting principles, or business conditions provided however, that the Administrator may not exercise such discretion in a manner that would increase the Performance-Based Award granted to a Covered Employee. Each Performance-Based Award shall comply with the provisions set forth below.

(b)Grant of Performance-Based Awards. With respect to each Performance-Based Award granted to a Covered Employee, the Administrator shall select, within the first 90 days of a Performance Cycle (or, if shorter, within the maximum period allowed under Section 162(m) of the Code) the Performance Criteria for such grant, and the Performance Goals with respect to each Performance Criterion (including a threshold level of performance below which no amount will become payable with respect to such Award). Each Performance-Based Award will specify the amount payable, or the formula for determining the amount payable, upon achievement of the various applicable performance targets. The Performance Criteria established by the Administrator may be (but need not be) different for each Performance Cycle and different Performance Goals may be applicable to Performance-Based Awards to different Covered Employees.

(c)Payment of Performance-Based Awards. Following the completion of a Performance Cycle, the Administrator shall meet to review and certify in writing whether, and to what extent, the Performance Goals for the Performance Cycle have been achieved and, if so, to also calculate and certify in writing the amount (or the percentage of target achievement) of the Performance-Based Awards earned for the Performance Cycle. The Administrator shall then determine the actual size (or percentage of target achievement) of each Covered Employee's Performance-Based

Award, and, in doing so, may reduce or eliminate the amount of the Performance-Based Award for a Covered Employee if, in its sole judgment, such reduction or elimination is appropriate.

(d)Maximum Award Payable. The maximum Performance-Based Award payable to any one Covered Employee under the Plan for a Performance Cycle is 300,000 shares of Stock (subject to adjustment as provided in Section 3(c) hereof) or \$4 million in the case of a Performance-Based Award that is a Cash-Based Award.

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### SECTION 13. DIVIDEND EQUIVALENT RIGHTS

(a)Dividend Equivalent Rights. A Dividend Equivalent Right may be granted hereunder to any grantee as a component of an award of Restricted Stock Units, Restricted Stock Award, Performance Share Award or as a freestanding award. The terms and conditions of Dividend Equivalent Rights shall be specified in the Award Certificate. Dividend equivalents credited to the holder of a Dividend Equivalent Right may be paid currently or may be deemed to be reinvested in additional shares of Stock or additional Restricted Stock Units, which may thereafter accrue additional equivalents. Any such reinvestment shall be at Fair Market Value on the date of reinvestment or such other price as may then apply under a dividend reinvestment plan sponsored by the Company, if any. Dividend Equivalent Rights may be settled in cash or shares of Stock or a combination thereof, in a single installment or installments. A Dividend Equivalent Right granted as a component of an Award with performance vesting may provide that such Dividend Equivalent Right shall be settled upon settlement or payment of, or lapse of restrictions on, such other Award, and that such Dividend Equivalent Right shall expire or be forfeited or annulled under the same conditions as such other Award. A Dividend Equivalent Right granted as a component of an Award may also contain terms and conditions different from such other Award.

(b)Interest Equivalents. Any Award under this Plan that is settled in whole or in part in cash on a deferred basis may provide in the grant for interest equivalents to be credited with respect to such cash payment. Interest equivalents may be compounded and shall be paid upon such terms and conditions as may be specified by the grant.

(c)Termination. Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in all Dividend Equivalent Rights or interest equivalents granted as a component of an award of Restricted Stock Units or Restricted Stock Award that has not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

### SECTION 14. Transferability of Awards

(a)Transferability. Except as provided in Section 14(b) below, during a grantee's lifetime, his or her Awards shall be exercisable only by the grantee, or by the grantee's legal representative or guardian in the event of the grantee's incapacity. No Awards shall be sold, assigned, transferred or otherwise encumbered or disposed of by a grantee other than by will or by the laws of descent and distribution or pursuant to a domestic relations order. No Awards shall be subject, in whole or in part, to attachment, execution, or levy of any kind, and any purported transfer in violation hereof shall be null and void.

(b)Administrator Action. Notwithstanding Section 14(a), the Administrator, in its discretion, may provide either in the Award Certificate regarding a given Award or by subsequent written approval that the grantee (who is an employee or director) may transfer his or her Awards (other than any Incentive Stock Options or Restricted Stock Units) to his or her immediate family members, to trusts for the benefit of such family members, or to partnerships in which such family members are the only partners, provided that the transferee agrees in writing with the Company to be bound by all of the terms and conditions of this Plan and the applicable Award. In no event may an Award be transferred by a grantee for value.

(c)Family Member. For purposes of Section 14(b), "family member" shall mean a grantee's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the grantee's household (other than a tenant of the grantee), a trust in which these persons (or the grantee) have more than 50 percent of the beneficial interest, a foundation in which these persons (or the grantee) control the management of assets, and any other entity in which these persons (or the grantee) own more than 50 percent of the voting interests.

(d) Designation of Beneficiary. ~~Each~~ To the extent permitted by the Administrator, each grantee to whom an Award has been made under the Plan may designate a beneficiary or beneficiaries to exercise any Award or receive any payment under any Award payable on or after the grantee's death. Any such designation shall be on a form provided for that purpose by the Administrator and shall not be effective until received by the Administrator. If no beneficiary has been designated by a deceased grantee, or if the designated beneficiaries have predeceased the grantee, the beneficiary shall be the grantee's estate.

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## SECTION 15. TAX WITHHOLDING

(a)Payment by Grantee. Each grantee shall, no later than the date as of which the value of an Award or of any Stock or other amounts received thereunder first becomes includable in the gross income of the grantee for Federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Administrator regarding payment of, any Federal, state, or local taxes of any kind required by law to be withheld by the Company with respect to such income. The Company and its Subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the grantee. The Company's obligation to deliver evidence of book entry (or stock certificates) to any grantee is subject to and conditioned on tax withholding obligations being satisfied by the grantee.

(b)Payment in Stock. Subject to approval by the Administrator, a grantee may elect to have the Company's ~~minimum required~~ tax withholding obligation satisfied, in whole or in part, by authorizing the Company to withhold from shares of Stock to be issued pursuant to any Award a number of shares with an aggregate Fair Market Value (as of the date the withholding is effected) that would satisfy the withholding amount due; provided, however, that to the extent necessary to avoid adverse accounting treatment such share withholding shall not exceed the minimum required tax withholding obligation. The Administrator may also require Awards to be subject to mandatory share withholding up to the required withholding amount. For purposes of share withholding, the Fair Market Value of withheld shares shall be determined in the same manner as the value of Stock includible in income of the Participants.

## SECTION 16. Section 409A awards

To the extent that any Award is determined to constitute "nonqualified deferred compensation" within the meaning of Section 409A (a "409A Award"), the Award shall be subject to such additional rules and requirements as specified by the Administrator from time to time in order to comply with Section 409A. In this regard, if any amount under a 409A Award is payable upon a "separation from service" (within the meaning of Section 409A) to a grantee who is then considered a "specified employee" (within the meaning of Section 409A), then no such payment shall be made prior to the date that is the earlier of (i) six months and one day after the grantee's separation from service, or (ii) the grantee's death, but only to the extent such delay is necessary to prevent such payment from being subject to interest, penalties and/or additional tax imposed pursuant to Section 409A. Further, the settlement of any such Award may not be accelerated or postponed except to the extent permitted by Section 409A.

## SECTION 17. TRANSFER, LEAVE OF ABSENCE, ETC.

(a)Termination of Employment. If the grantee's employer ceases to be a Subsidiary, the grantee shall be deemed to have terminated employment for purposes of the Plan.

(b)Transfers; Leaves. For purposes of the Plan, the following events shall not be deemed a termination of employment:

(i)a transfer to the employment of the Company from a Subsidiary or from the Company to a Subsidiary, or from one Subsidiary to another; or

(ii)an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the employee's right to re-employment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Administrator otherwise so provides in writing.

## SECTION 18. AMENDMENTS AND TERMINATION



The Board may, at any time, amend or discontinue the Plan and the Administrator may, at any time, amend or cancel any outstanding Award for the purpose of satisfying changes in law or for any other lawful purpose, but no such action shall adversely affect rights under any outstanding Award without the holder's consent. Except as provided in Section 3(ed) or 3(~~de~~), without prior stockholder approval, in no event may the Administrator exercise its discretion to reduce the exercise price of outstanding Stock Options or Stock Appreciation Rights or effect repricing through cancellation and re-grants or cancellation of Stock Options or

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Stock Appreciation Rights in exchange for cash or other Awards. To the extent required under the rules of any securities exchange or market system on which the Stock is listed, to the extent determined by the Administrator to be required by the Code to ensure that Incentive Stock Options granted under the Plan are qualified under Section 422 of the Code, or to ensure that compensation earned under Awards qualifies as performance-based compensation under Section 162(m) of the Code, Plan amendments shall be subject to approval by the Company stockholders entitled to vote at a meeting of stockholders. Nothing in this Section 18 shall limit the Administrator's authority to take any action permitted pursuant to Section 3(ed) or 3(de).

#### SECTION 19. STATUS OF PLAN

With respect to the portion of any Award that has not been exercised and any payments in cash, Stock or other consideration not received by a grantee, a grantee shall have no rights greater than those of a general creditor of the Company unless the Administrator shall otherwise expressly determine in connection with any Award or Awards. In its sole discretion, the Administrator may authorize the creation of trusts or other arrangements to meet the Company's obligations to deliver Stock or make payments with respect to Awards hereunder, provided that the existence of such trusts or other arrangements is consistent with the foregoing sentence.

#### SECTION 20. GENERAL PROVISIONS

(a)No Distribution. The Administrator may require each person acquiring Stock pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the shares without a view to distribution thereof.

(b)Delivery of Stock Certificates. Stock certificates to grantees under this Plan shall be deemed delivered for all purposes when the Company or a stock transfer agent of the Company shall have mailed such certificates in the United States mail, addressed to the grantee, at the grantee's last known address on file with the Company. Uncertificated Stock shall be deemed delivered for all purposes when the Company or a Stock transfer agent of the Company shall have given to the grantee by electronic mail (with proof of receipt) or by United States mail, addressed to the grantee, at the grantee's last known address on file with the Company, notice of issuance and recorded the issuance in its records (which may include electronic "book entry" records). Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates evidencing shares of Stock pursuant to the exercise of any Award, unless and until the Administrator has determined, with advice of counsel (to the extent the Administrator deems such advice necessary or advisable), that the issuance and delivery of such certificates is in compliance with all applicable laws, regulations of governmental authorities and, if applicable, the requirements of any exchange on which the shares of Stock are listed, quoted or traded. All Stock certificates delivered pursuant to the Plan shall be subject to any stop-transfer orders and other restrictions as the Administrator deems necessary or advisable to comply with federal, state or foreign jurisdiction, securities or other laws, rules and quotation system on which the Stock is listed, quoted or traded. The Administrator may place legends on any Stock certificate to reference restrictions applicable to the Stock. In addition to the terms and conditions provided herein, the Administrator may require that an individual make such reasonable covenants, agreements, and representations as the Administrator, in its discretion, deems necessary or advisable in order to comply with any such laws, regulations, or requirements. The Administrator shall have the right to require any individual to comply with any timing or other restrictions with respect to the settlement or exercise of any Award, including a window-period limitation, as may be imposed in the discretion of the Administrator.

(c)Stockholder Rights. Until Stock is deemed delivered in accordance with Section 20(b), no right to vote or receive dividends or any other rights of a stockholder will exist with respect to shares of Stock to be issued in connection with an Award, notwithstanding the exercise of a Stock Option or any other action by the grantee with respect to an Award.

(d)Other Compensation Arrangements; No Employment Rights. Nothing contained in this Plan shall prevent the Board (or an authorized committee of the Board) from adopting other or additional compensation arrangements, including trusts, and such arrangements may be either generally applicable or applicable only in specific cases-, and nothing contained in this Plan shall prevent the Board (or an authorized committee of the Board) from approving other compensation arrangements outside of this Plan for employees and Non-employee

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Directors. The adoption of this Plan and the grant of Awards do not confer upon any employee any right to continued employment with the Company or any Subsidiary.

(e)Trading Policy Restrictions. Option exercises and other Awards under the Plan shall be subject to the Company's insider trading policies and procedures, as in effect from time to time.

(f)Forfeiture of Awards under Sarbanes-Oxley Act. If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, then, to the extent required by law, any grantee who is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002 shall reimburse the Company for the amount of any Award received by such individual under the Plan during the 12-month period following the first public issuance or filing with the United States Securities and Exchange Commission, as the case may be, of the financial document embodying such financial reporting requirement.

(g)Clawback Policy. Awards under the Plan shall be subject to the Company's clawback policy, as in effect from time to time.

SECTION 21. EFFECTIVE DATE OF PLAN; EXPIRATION ON MAY 15, 2027 OF RIGHT TO ISSUE NEW AWARDS UNDER PLAN; EXPIRATION ON FEBRUARY 16, 2027 OF RIGHT TO ISSUE NEW ISO'S UNDER PLAN.

This second amendment and restatement of the Plan became effective upon approval by the stockholders in accordance with applicable state law, the Company's bylaws and articles of incorporation and the applicable rules of the New York Stock Exchange. No grants of Stock Options and other Awards may be made hereunder after ~~the tenth anniversary of the Effective Date~~ May 15, 2027 and no grants of Incentive Stock Options may be made hereunder after ~~the tenth anniversary of the date the Plan is approved by the Board~~ February 16, 2027.

SECTION 22. GOVERNING LAW

This Plan and all Awards and actions taken thereunder shall be governed by, and construed in accordance with, the laws of the State of Maryland, applied without regard to conflict of law principles.

DATE APPROVED BY BOARD OF DIRECTORS: April 1, 2009

DATE APPROVED BY STOCKHOLDERS: May 21, 2009

PERFORMANCE GOALS APPROVED BY BOARD OF DIRECTORS AND STOCKHOLDERS: May 21, 2014

AMENDMENT AND RESTATEMENT APPROVED BY BOARD OF DIRECTORS: February 11, 2016

SECOND AMENDMENT AND RESTATEMENT APPROVED BY BOARD OF DIRECTORS: February 16, 2017

SECOND AMENDMENT AND RESTATEMENT APPROVED BY STOCKHOLDERS:

AVALONBAY COMMUNITIES, INC. BALLSTON TOWER 671 N. GLEBE ROAD, SUITE 800 ARLINGTON, VA 22203 Please take a moment now to authorize a proxy to vote these shares of AvalonBay Communities, Inc. common stock at the 2017 Annual Meeting of Stockholders. **YOU CAN AUTHORIZE A PROXY TO VOTE THESE SHARES TODAY IN ONE OF THREE WAYS: BY INTERNET—www.proxyvote.com** Use the Internet to authorize your proxy and transmit your voting instructions and for electronic delivery of information up until 11:59 P.M. Eastern Time the day before the meeting date. Have your proxy card in hand when you access the web site and follow the instructions to obtain your records and to create an electronic voting instruction form. **ELECTRONIC DELIVERY OF FUTURE STOCKHOLDER COMMUNICATIONS** If you would like to reduce the costs incurred by AvalonBay Communities, Inc. in mailing proxy materials, you can consent to receiving all future proxy statements, proxy cards and annual reports electronically via e-mail or the Internet. To sign up for electronic delivery, please follow the instructions above to authorize your proxy using the Internet and, when prompted, indicate that you agree to receive or access stockholder communications electronically in future years. **BY PHONE - 1-800-690-6903** Use any touch-tone telephone to authorize your proxy and transmit your voting instructions up until 11:59 P.M. Eastern Time the day before the meeting date. Have your proxy card in hand when you call and then follow the instructions. **BY MAIL** Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to AvalonBay Communities, Inc., c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717. If you authorize a proxy to vote these shares by Internet or telephone you do NOT need to mail this proxy card. **TO AUTHORIZE YOUR PROXY, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS: E19578-P88864 KEEP THIS PORTION FOR YOUR RECORDS THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED. DETACH AND RETURN THIS PORTION ONLY AVALONBAY COMMUNITIES, INC. THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" PROPOSALS 1, 2, 3 AND 4.** 1. To elect the following ten individuals to serve until the 2018 Annual Meeting of Stockholders and until their respective successors are elected and qualify: For Against Abstain 1a. Glyn F. Aeppel 1b. Terry S. Brown 1c. Alan B. Buckelew 1d. Ronald L. Havner, Jr. 1e. Richard J. Lieb 1f. Timothy J. Naughton 1g. Peter S. Rummell 1h. H. Jay Sarles 1i. Susan Swanezy 1j. W. Edward Walter 2. To ratify the selection of Ernst & Young LLP as the Company's independent auditors for the year ending December 31, 2017. Please indicate if you plan to attend this meeting. Yes No 3. To approve the Company's Second Amended and Restated 2009 Equity Incentive Plan. For Against Abstain 4. To adopt a resolution approving, on a non-binding advisory basis, the compensation paid to the Company's Named Executive Officers, as disclosed pursuant to Item 402 of Regulation S-K, including the Compensation Discussion and Analysis, compensation tables and narrative discussion set forth in the proxy statement. **THE BOARD RECOMMENDS A VOTE FOR "EVERY YEAR" FOR PROPOSAL 5.** Every Year Every 2 Years Every 3 Years Abstain 5. To cast a non-binding advisory vote as to frequency of future non-binding advisory Stockholder votes on the Company's named executive officer compensation. In addition, the proxies are authorized to vote and otherwise represent the undersigned on any other matter that may properly come before the Annual Meeting or any adjournment or postponement thereof in the discretion of the proxy holder. If you authorize a proxy by mail, you must date, sign and return this card in order for these shares to be voted. **HOUSEHOLDING ELECTION** — Please indicate if you consent to receive certain future investor communications in a single package per household. Yes No Please sign exactly as your name appears on this card and date. When signing as attorney, executor, administrator, trustee, guardian, officer of a corporation or other entity or in another representative capacity, please give your full title. If shares are held jointly, each holder should sign. Signature [PLEASE SIGN WITHIN BOX] Date Signature (Joint Owners) Date V.1.1

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Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting: The Notice, Proxy Statement and Annual Report to Stockholders are available at [www.proxyvote.com](http://www.proxyvote.com). E19579-P88864 AVALONBAY COMMUNITIES, INC. 2017 ANNUAL MEETING OF STOCKHOLDERS, MAY 18, 2017, 8:00 A.M. LOCAL TIME THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS PROXY The undersigned stockholder of AvalonBay Communities, Inc., a Maryland corporation (the "Company"), hereby appoints Timothy J. Naughton and Kevin P. O'Shea, and each of them, as proxies for the undersigned, each with full power of substitution, to attend the Annual Meeting of Stockholders of the Company (the "Annual Meeting"), to be held at the offices of the Company, Ballston Tower, 671 N. Glebe Road, Suite 800, Arlington, VA 22203 on May 18, 2017, 8:00 a.m. local time, and any adjournments or postponements thereof, to cast on behalf of the undersigned all votes that the undersigned is entitled to cast at the Annual Meeting and otherwise to represent the undersigned with all of the powers the undersigned would possess if personally present at the Annual Meeting. The undersigned hereby acknowledges receipt of the Notice of the Annual Meeting of Stockholders and of the Proxy Statement, the terms of each of which are incorporated herein by reference, and revokes any proxy heretofore given with respect to the Annual Meeting. IF THIS PROXY IS PROPERLY EXECUTED, THE VOTES ENTITLED TO BE CAST BY THE UNDERSIGNED WILL BE CAST AS DIRECTED HEREIN, BUT IF THIS PROXY IS EXECUTED AND NO INSTRUCTIONS ARE SPECIFIED, THE VOTES ENTITLED TO BE CAST BY THE UNDERSIGNED WILL BE CAST "FOR" EACH OF THE NOMINEES FOR DIRECTOR IN PROPOSAL 1, "FOR" PROPOSALS 2, 3 AND 4, AND FOR "EVERY YEAR" ON PROPOSAL 5. IF ANY OTHER BUSINESS IS PRESENTED AT THE ANNUAL MEETING OR ANY ADJOURNMENT OR POSTPONEMENT THEREOF, INCLUDING WHETHER OR NOT TO ADJOURN THE ANNUAL MEETING, THE VOTES ENTITLED TO BE CAST BY THE UNDERSIGNED WILL BE CAST BY THE PROXIES IN THEIR DISCRETION. AT THE PRESENT TIME, THE BOARD OF DIRECTORS IS NOT AWARE OF ANY OTHER BUSINESS TO BE PRESENTED AT THE ANNUAL MEETING. THIS PROXY ALSO CONFERS DISCRETIONARY AUTHORITY ON THE PROXIES TO VOTE WITH RESPECT TO THE ELECTION OF ANY INDIVIDUAL AS DIRECTOR WHERE ONE OR MORE NOMINEES ARE UNABLE TO SERVE, OR FOR GOOD CAUSE WILL NOT SERVE, AND WITH RESPECT TO MATTERS INCIDENTAL TO THE CONDUCT OF THE ANNUAL MEETING. STOCKHOLDERS WHO PLAN TO ATTEND THE ANNUAL MEETING MAY REVOKE THEIR PROXY BY CASTING THEIR VOTE AT THE ANNUAL MEETING IN PERSON. SEE REVERSE SIDE PLEASE COMPLETE, DATE, SIGN AND PROMPTLY MAIL THIS PROXY IN THE ENCLOSED POSTAGE-PAID ENVELOPE SEE REVERSE SIDE V

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