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January 20, 2025

Via Online Submission Form

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street N.E.
Washington, DC 20549

Re: United Airlines Holdings, Inc. – Shareholder Proposal submitted by the International Brotherhood of Teamsters

Ladies and Gentlemen:

This letter is submitted on behalf of United Airlines Holdings, Inc. (the "Company"), pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), to notify the Securities and Exchange Commission (the "Commission") of the Company's intention to exclude from its proxy materials for its 2025 Annual Meeting of Stockholders (the "2025 Annual Meeting" and such materials, the "Proxy Materials") a shareholder proposal and statement in support thereof (collectively, the "Proposal") submitted by International Brotherhood of Teamsters General Fund (the "Proponent").

The Company intends to omit the Proposal from its Proxy Materials pursuant to Rule 14a-8(i)(10) on the basis that the Company has substantially implemented the Proposal, and respectfully requests confirmation that the Staff of the Division of Corporation Finance (the "Staff") will not recommend to the Commission that enforcement action be taken if the Company excludes the Proposal from its Proxy Materials for the reasons set forth below.

Pursuant to Rule 14a-8(j) of the Exchange Act, the Company is submitting this letter, together with the Proposal and related attachments, to the Commission electronically, with copies of this letter and the attachments provided concurrently to the Proponent. This submission is occurring no later than 80 calendar days before the Company intends to file its definitive Proxy Materials with the Commission.

Rule 14a-8(k) and *Staff Legal Bulletin No. 14D* (Nov. 7, 2008) ("SLB 14D") provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional

correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by the Company's shareholders at the 2025 Annual Meeting:

> ***RESOLVED****: Company shareholders urge our Board of Directors to amend the Company's "Misconduct Clawback" recoupment policy as applied to senior executives, to specify that the clawback policy shall apply (a) if the executive's conduct resulted in a violation of law or Company policy and caused financial or reputational harm to the Company and (b) when the executive failed or was negligent in his or her responsibility to manage or monitor conduct or risks, and in either case the Company shall disclose to shareholders the circumstances of any recoupment or decision not to pursue recoupment.*

A full copy of the Proposal and statements in support thereof is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

The Company respectfully requests that the Staff concur in its view that the Proposal may be properly excluded from the Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal.

The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal.

A. Background of Rule 14a-8(i)(10)

Rule 14a-8(i)(10) permits a company to exclude a stockholder proposal from its proxy materials if the company has "substantially implemented" the proposal. The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." *Exchange Act Release No. 34-12598* (July 7, 1976). Originally, the Staff narrowly interpreted this predecessor rule and concurred with the exclusion of a proposal only when proposals were "'fully' effected" by the company. *See Exchange Act Release No. 34-19135* (Oct. 14, 1982). By 1983, however, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully avoiding exclusion by submitting proposals that differed from existing company policy in minor respects. *Exchange Act Release No. 34-20091*, at § II.E.6. (Aug. 16, 1983) (the "1983 Release"). Therefore, in the 1983 Release, the Commission adopted a revised interpretation of the rule to permit the omission of proposals that had been "substantially implemented," and the

Commission later codified this revised interpretation in *Exchange Act Release No. 34-40018*, at n.30 (May 21, 1998).

Accordingly, the actions requested by a proposal need not be "fully effected" by the company to be excluded; rather, to be excluded, they need only have been "substantially implemented" by the company. *See* 1983 Release. Thus, when a company can demonstrate that it has already taken actions to address the underlying concerns and essential objectives of a stockholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot.

The Company notes that in *Exchange Act Release No. 95267* (July 13, 2022), the Commission proposed to amend Rule 14a-8(i)(10) to provide that proposals would be excludable if a company has already implemented the "essential elements" of the proposal. While the Commission has not yet adopted that proposed amendment, and it is therefore not applicable to the Staff's review of this letter, it is notable the Commission stated that even under the proposed standard, "a proposal need not be rendered entirely moot, or be fully implemented in exactly the way a proponent desires, in order to be excluded. A company may be permitted to exclude a proposal it has not implemented precisely as requested if the differences between the proposal and the company's actions are not essential to the proposal." Pursuant to the arguments set forth below, even under the standard set forth in the proposed amendment to Rule 14a-8(i)(10), the Company believes it has substantially implemented the Proposal.

The Staff has consistently found that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices, and procedures compare favorably with the guidelines of the proposal." See *Texaco, Inc*. (Mar. 28, 1991). *See also, e.g*., *Best Buy Co., Inc*. (Apr. 22, 2022); *The Allstate Corp*. (Mar. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc*. (Apr. 13, 2018); *eBay Inc*. (Mar. 29, 2018); *Kewaunee Scientific Corp*. (May 31, 2017); and *Wal-Mart Stores, Inc*. (Mar. 16, 2017). The Staff has permitted exclusion of a proposal under Rule 14a-8(i)(10) when a company has substantially implemented and therefore satisfied the "essential objective" of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail, or exercised discretion in determining how to implement the proposal. *See, e.g*., *Salesforce.com, Inc*. (Apr. 20, 2021)*; *Apple Inc*. (Dec. 17, 2020)*; *Wal-Mart Stores, Inc.* (Mar. 25, 2015); and *Exelon Corp*. (Feb. 26, 2010).

Recently, the Staff allowed *Amgen Inc.* (Apr. 3, 2024) ("Amgen") and *Exxon Mobil Corporation* (Mar. 20, 2024) ("Exxon Mobil") to exclude proposals requesting amendments to their clawback policies. The proposals asked that the clawback policies apply to each named executive officers and be triggered by "conduct or negligence – not merely misconduct." The proposals also called for mandatory application of the clawback policies when triggered, rather than leaving it to the board's discretion. Additionally, they requested that the boards report to shareholders in each annual meeting proxy the results of any deliberations regarding the policy, including reasons for not applying the policy after specific deliberations about whether to cancel or seek recoupment of unearned compensation. Lastly, the proposals asked that the full web address of the complete clawback policy be included in each annual meeting proxy.

In both cases, Amgen and Exxon Mobil argued that their existing policies and practices already substantially implemented the proposals' objectives. Amgen had updated its clawback policy on October 2, 2023, while Exxon Mobil maintained multiple policies and provisions governing the recoupment and forfeiture of incentive-based compensation for executive officers. Both companies argued that their policies covered a broader range of executives, included triggers for both misconduct and no-fault scenarios, mandated recovery in certain circumstances, and provided for disclosure in compliance with SEC rules and listing standards. The Staff concluded that both companies had substantially implemented the proposals' requests, allowing for their exclusion under Rule 14a-8(i)(10).

B. The Company's Amended Clawback Policy Substantially Implements the Proposal

The Company's Compensation Clawback Policy, which was amended on May 25, 2023 (the "Amended Clawback Policy"), attached hereto as Exhibit B, is intended to comply with the requirements of Rule 5608 of the Nasdaq Stock Market Corporate Governance Requirements ("Rule 5608"). Rule 5608 was adopted by Nasdaq pursuant to Rule 10D-1 under the Exchange Act, which directed national securities exchanges to establish listing standards that require each listed company to adopt and comply with a written executive compensation recovery policy and to provide the disclosures required by Rule 10D–1 (the "Clawback Listing Standard"). Under the Clawback Listing Standard, listed companies must recover from current and former executive officers incentive-based compensation received during the three completed fiscal years preceding the date on which the company is required to prepare certain accounting restatements. *See Exchange Act Release No. 34-96159* (Nov. 28, 2022). This clawback (the "Financial Restatement Clawback Provision") is on a "no-fault" mandatory basis.

The Amended Clawback Policy goes beyond the Clawback Listing Standards in a way that already addresses the Proposal's essential objectives, and as such, the Company has already substantially implemented the Proposal. The Proposal can be broken down into four requests:

1. the Company amend its "Misconduct Clawback" recoupment policy as applied to senior executives;
2. be triggered if the executive's conduct resulted in a violation of law or Company policy and caused financial or reputational harm;
3. be triggered when the executive was negligent in his or her responsibility to manage or monitor conduct or risks; and
4. the Company disclose to shareholders the circumstances of any recoupment or decision not to pursue recoupment.

As detailed below, the Amended Clawback Policy addresses each of the four prongs of the Proposal. Therefore, the Company has substantially implemented the Proposal.

1. The Amended Clawback Policy's Misconduct Clawback Provision Applies to Senior Executives

* Citations marked with an asterisk indicate Staff decisions issued without a letter.

The Amended Clawback Policy empowers the Company to seek recovery of compensation (including any incentive-based compensation, which may be in the form of cash or equity, variable compensation, bonus, severance or sign-on compensation, including, without limitation, time-based and performance-based awards) over a three year look-back period awarded or paid to any current or former officer of United and/or United Airlines, Inc. at the level of Vice President or above if such covered executive committed a significant legal or compliance violation, irrespective of whether such violation occurred in connection with a restatement (the "Misconduct Clawback Provision").

The first prong of the Proposal sets forth that the Misconduct Clawback Provision apply to senior executives. The Proposal does not define the term "senior executives." The Misconduct Clawback Provision defines "Covered Persons" as "any current or former officer of the Company and/or United Airlines, Inc. at the level of Vice President or above." This definition effectively surpasses the definitions of "executive officer" and "officer" under Rule 3b-7 and Section 16 of the Exchange Act, respectively. Rule 3b-7 defines executive officers as including the president, vice president in charge of a principal business unit, division, or function, or any officer or person performing policy-making functions for the company, including those at subsidiaries. Similarly, Section 16 officers include the president, principal financial officer, principal accounting officer, vice presidents in charge of principal business units, divisions, or functions, and any other officer who performs a policy-making function. By including all officers at the level of Vice President or above in the definition of Covered Persons, the Misconduct Clawback Provision captures a more comprehensive group of senior executives beyond the typical regulatory thresholds for senior executive positions.

2. *The Misconduct Clawback Provision is Triggered by Violation of Law or Company Policy Regardless of Financial or Reputational Harm to the Company*

The second prong of the Proposal sets forth a trigger for the policy to apply if the "executive's conduct resulted in a violation of law or Company policy and caused financial or reputational harm to the Company." The Misconduct Clawback Provision enables clawbacks for a "significant federal or state law violation, . . . significant Company policy violation, including a significant violation of the Company's Code of Ethics and Business Conduct (as in effect from time to time), or . . . violation of the terms of any restrictive covenants set forth in any sign-on or other agreement with the Company or in any award granted by the Company to the Covered Person."

Not only does the Misconduct Clawback Provision substantially implement this first trigger, it goes even further by eliminating the requirement for demonstrated harm, giving the Company a more robust and proactive stance in addressing misconduct.

The Proponent's supporting statement for the Proposal takes issue with the term "significant" in the Misconduct Clawback Provision, stating that "[r]equiring a 'significant' violation of certain standards is unclear." The Merriam-Webster dictionary defines "significant" has ". . .having meaning; . . . having or likely to have influence or effect; . . . of a noticeably or measurable large amount, . . . probably caused by something other than mere chance."

The term "significant" in the Misconduct Clawback Provision gives the Company the discretion to determine when a clawback is appropriate given the specific facts and circumstances of any individual situation, while clearly communicating to shareholders that any "significant" violation will be seriously considered by the Company in applying a clawback. Further, the Proponent's suggested language for the policy to apply "if the executive's conduct resulted in a violation of law or Company policy and caused financial or reputational harm to the Company" certainly suggests situations which are "significant" violations under the plain meaning of the term. The Company is confident that the plain meaning of the term "significant" gives sufficient guidance to the Board and shareholders to indicate what kinds of violations are likely to result in clawbacks for Covered Persons and is also consistent with the general intent of the Proposal, satisfying the standard for substantial implementation under Rule 14a-8(i)(10).

3. The Misconduct Clawback Provision Addresses Supervisory Oversight

The second trigger for clawback requested in the Proposal is "when the executive failed or was negligent in his or her responsibility to manage or monitor conduct or risks." The Company's approach to supervisory responsibility in its clawback policy compares favorably with the guidelines of the Proposal, satisfying the standard for substantial implementation under Rule 14a-8(i)(10).

The Misconduct Clawback Provision allows the Company to require a clawback when a Covered Person "had supervisory authority over a person engaging in the misconduct described above and knew of, or was willfully blind to, the misconduct." While the Misconduct Clawback Provision does not reference a negligence standard for supervisory liability, it fulfills the Proposal's intent regarding accountability for risk management and oversight by supervisors. The Company views this supervisory accountability as the essential element of this prong of the Proposal, rather than the specific reference to a negligence standard of conduct. As a practical matter, the Company does not believe that a negligence standard would meaningfully add to the type of supervisory conduct that is already in the scope of the Misconduct Clawback Provision.

4. The Company Is Required Under Applicable Securities Law to Disclose Certain Information in the Annual Proxy Statement Indicating Its Application of its Amended Clawback Policy.

The final prong of the Proposal requests that the Company "shall disclose to shareholders the circumstances of any recoupment or decision not to pursue recoupment." The Amended Clawback Policy requires the Company to disclose any recovery of compensation as required under SEC rules and Nasdaq Listing Standards, as well as in additional circumstances as deemed appropriate by the Company.

In addition, the Clawback Listing Standard requires the Company to comply with certain disclosure requirements. The required disclosures include information about when the policy was triggered, the amount of erroneously awarded compensation subject to recoupment, and details regarding any reliance on the impracticability exceptions, including the amount of recovery

forgone and a brief description of the reason the Company decided in each case not to pursue recovery. In addition, if the Company was required to prepare an accounting restatement and yet concluded that recovery of erroneously awarded compensation was not required pursuant to the Updated Clawback Policy, the Company is required to briefly explain why application of the Updated Clawback Policy resulted in this conclusion.

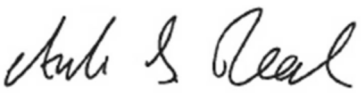
Further, when a clawback impacts years disclosed in the Summary Compensation Table of the annual proxy statement, then it is already required to be reflected in such table and footnote disclosure (under Instruction 5 to Item 402(c) of Regulation S-K). The Company intends and expects to provide these disclosures, if and when applicable, in its proxy statement. Thus, like in the case of Amgen and Exxon Mobil, which both cited SEC rules and listing standards that mandated the disclosure of clawback actions described above, the Company has substantially implemented the Proposals' request.

CONCLUSION

The Amended Clawback Policy already addresses the Proposal's essential objectives, despite the minor differences addressed above, and as such, the Company has already substantially implemented the Proposal. Based on the foregoing analysis, the Company intends to exclude the Proposal from its Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(10).

We would be happy to provide you with any additional information and answer any questions that you have regarding this subject. If you have any questions regarding this request or desire additional information, please contact the undersigned by phone at (312) 853-7881 or by email at andrea.reed@sidley.com.

Very truly yours,



Andrea L. Reed

Attachments

cc: E. Anna Ha, Deputy General Counsel and Corporate Secretary
United Airlines Holdings, Inc.
Fred Zuckerman, General Secretary-Treasurer, International Brotherhood of Teamsters General Fund

Exhibit A

Copy of the Proposal

RESOLVED: Company shareholders urge our Board of Directors to amend the Company's "Misconduct Clawback" recoupment policy as applied to senior executives, to specify that the clawback policy shall apply (a) if the executive's conduct resulted in a violation of law or Company policy and caused financial or reputational harm to the Company and (b) when the executive failed or was negligent in his or her responsibility to manage or monitor conduct or risks, and in either case the Company shall disclose to shareholders the circumstances of any recoupment or decision not to pursue recoupment.

SUPPORTING STATEMENT:

We believe that the Company's clawback policy for recouping executive pay needs to be strengthened in key respects.

We believe that a strong clawback policy is an essential element of a "pay for performance" executive compensation philosophy and that the board should have discretion to fit any recoupment to the specific circumstances. We also view an effective clawback policy as an essential element in safeguarding against material risk management, operational, safety or reputational failures.

The current policy focuses on "misconduct," which is defined as "a significant federal or state law violation," "a significant Company policy violation," including a significant violation of the Company's Code of Ethics and Business Conduct or "a violation of the terms of any restrictive covenants set forth in any sign-on or other agreement with the Company or in any award granted by the Company." The policy also applies if a covered person "had supervisory authority over a person engaging in the misconduct described above and knew of, or was willfully blind to, the misconduct."

United's current policy falls short of a strong clawback policy.

- An executive's "conduct" – not simply "misconduct" – can be harmful to the company.
- Requiring a "significant" violation of certain standards is unclear. For example, would the requirement of a "federal or state law violation" ("significant" or otherwise) apply only if a court or government agency has definitively ruled that a violation occurred? A deferred prosecution agreement can harm a company, but it does not establish a "violation" of the law.
- The current policy requires that executives be "willfully blind" to an employee's misconduct. Supervising the execution of company policies is the fundamental task of senior executives, and we see no reason to excuse failures that may have resulted from an executive's negligence or otherwise failing to do one's job.
- There is no requirement that the Company disclose whether and how it has exercised that discretion, including situations where no clawback occurs.

As a public company, United faces financial and reputational risks on a number of fronts. For example, air safety concerns can receive considerable media attention and thus can have a negative effect on the Company's financial and reputational health. The benefits to investors, customers and employees from a stronger policy are evident. Granting the board the discretion to assess executive conduct and not just misconduct ensures clear executive accountability for harmful corporate failures.

Exhibit B

Copy of Amended Clawback Policy

ADOPTED MAY 25, 2023

UNITED AIRLINES HOLDINGS, INC.
COMPENSATION CLAWBACK POLICY

A. Statement of Policy

The Compensation Committee (the "Committee") of the Board of Directors (the "Board") of United Airlines Holdings, Inc. (the "Company") has determined that it is in the best interests of the Company and its stockholders to adopt this Compensation Clawback Policy ("Policy") effective as of May 25, 2023. This Policy applies to Covered Persons (as defined below) and is intended to be fair in terms of balancing both the need to provide certainty regarding compensation and the need to provide accountability when circumstances arise that make the award or payment of such compensation unjustified.

B. Clawback Triggering Events and Covered Persons

1. Financial Restatement.

(a) The Company shall, except as otherwise provided by Section G, require, to the extent legally permitted, the reasonably prompt return, repayment or forfeiture of any erroneously-awarded incentive-based compensation, which may be in the form of cash or equity, that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure (i.e., any measure that is determined and presented in accordance with the accounting principles used in the Company's financial statements, and any measure that is derived wholly or in part from such measures, as well as the Company's stock price and total stockholder return, but excluding equity awards that vest exclusively upon completion of a specified employment period, without any performance condition, and bonus awards that are discretionary or based on subjective goals or goals unrelated to financial reporting measures) (such compensation, "Incentive-Based Compensation") received by any Covered Person (as defined below) if the Company is required to prepare an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period, regardless of if or when restated financial statements are filed by the Company (a "Financial Restatement Clawback").

(b) For purposes of a Financial Restatement Clawback, "Covered Person" shall mean any current or former "executive officer" of the Company. The term "executive officer" has the meaning set forth in the Nasdaq Stock Market ("Nasdaq") listing standards (the "Nasdaq Listing Standards") adopted to implement the requirements of the clawback rules adopted by the Securities and Exchange Commission ("SEC") in Rule 5608(d).

(c) The Financial Restatement Clawback shall apply to Incentive-Based Compensation received by a Covered Person (i) after beginning service as an executive officer, (ii) who served as an executive officer at any time during the performance period for that Incentive-Based Compensation, (iii) while the Company has a class of securities listed on a national securities exchange or a national securities association; and (iv) during the three completed fiscal years immediately preceding the date the Company is required to prepare an accounting restatement described in Section 1(a) (which date shall

be the earlier of (A) the date the Board, a committee of the Board, or the officer or officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement as described in Section 1(a), and (B) the date a court, regulator or other legally authorized body directs the Company to prepare an accounting restatement as described in Section 1(a)). In addition, the Financial Restatement Clawback shall apply to any transition periods that result from a change in the Company's fiscal year as determined in accordance with the Nasdaq Listing Standards. Incentive-Based Compensation shall be deemed received in the Company's fiscal period during which the financial reporting measure specified in the Incentive-Based Compensation award is attained, even if payment or grant of the Incentive-Based Compensation occurs after the end of that period. Notwithstanding the lookback period described above, the Company shall only be required, except as otherwise provided by Section G, to effect a Financial Statement Clawback for Incentive-Based Compensation received on or after the effective date of Nasdaq Listing Standard Rule 5608.

(d) A Financial Statement Clawback shall be required, except as otherwise provided by Section G, regardless of whether the Covered Person or any other person was at fault or responsible for accounting errors that contributed to the need for the accounting restatement or engaged in any misconduct.

2. Misconduct.

(a) The Company has the discretion to require, to the extent legally permitted, the return, repayment or forfeiture of any compensation (including any incentive-based compensation, which may be in the form of cash or equity, variable compensation, bonus, severance, or sign-on compensation) awarded or paid to any Covered Person (as defined below) if the Company determines that such Covered Person committed a significant federal or state law violation, committed a significant Company policy violation, including a significant violation of the Company's Code of Ethics and Business Conduct (as in effect from time to time), or committed a violation of the terms of any restrictive covenants set forth in any sign-on or other agreement with the Company or in any award granted by the Company to the Covered Person (a "Misconduct Clawback"). The Company also has the discretion to require a Misconduct Clawback in circumstances in which a Covered Person had supervisory authority over a person engaging in the misconduct described above and knew of, or was willfully blind to, the misconduct.

(b) For purposes of a Misconduct Clawback, "Covered Person" shall mean any current or former officer of the Company and/or United Airlines, Inc. at the level of Vice President or above.

(c) If the Company concludes that a Covered Person has engaged in conduct giving rise to a Misconduct Clawback within the thirty-six (36) months following the award or payment (including vesting) of any compensation (including any incentive-based compensation, which may be in the form of cash or equity, other variable compensation, bonus, severance, or sign-on compensation) (the "Misconduct Lookback Period"), subject to the enforcement provisions of the Policy, the Administrator (as defined below) may, in its sole discretion and to the extent legally permitted, direct the Company to seek recovery of any amount of such compensation awarded or paid (including vesting) for the performance or vesting period in which such misconduct occurred. In addition, subject to the enforcement provisions of the Policy, the Company shall, if directed by the Administrator and to the extent legally permitted, provide for the forfeiture of any such compensation awarded within the Misconduct Conduct Lookback Period that has not been settled, paid, or become vested, as applicable. In each such

instance, the amount required to be returned, repaid or forfeited by the Covered Person shall be determined by the Administrator in its sole discretion.

C. Calculation of Recoverable Amount

(a) The amount required to be returned, repaid or forfeited in a Financial Restatement Clawback shall be the amount of Incentive-Based Compensation that was received by the Covered Person in excess of the amount that otherwise would have been received had it been determined based on the restated amounts, as determined in accordance with the Nasdaq Listing Standards and without regard to any taxes paid or withheld. For Incentive-Based Compensation based on stock price or total stockholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement, the Administrator shall determine the amount to be recovered based on a reasonable estimate of the accounting restatement impact on the stock price or total stockholder return upon which the Incentive-Based Compensation was received, and the Company shall document the determination of that reasonable estimate and provide it to Nasdaq.

(b) The amount required to be returned, repaid or forfeited in a Misconduct Clawback shall be such amount of compensation (including any incentive-based compensation, which may be in the form of cash or equity, other variable compensation, bonus, severance, or sign-on compensation) as determined at the discretion of the Company, which may be 100% of such compensation amount awarded or otherwise received by the Covered Person. For the avoidance of doubt, the Company may require a Misconduct Clawback even if the misconduct did not result in the award or payment of an amount greater than what the Covered Person would have received absent such misconduct. In evaluating whether to require a Misconduct Clawback and the recoverable amount, the Company may consider such factors as it deems relevant and appropriate, which factors may include but are not limited to the seriousness of the violation, whether the Covered Person benefitted from the violation, and whether asserting the Misconduct Clawback would prejudice the Company's interests in any way.

D. Administration

The Committee shall be responsible for making all determinations under this Policy with respect to any Covered Person who is subject to Section 16 of the Securities Exchange Act of 1934, as amended, and, except as otherwise provided by this Policy, the Chief Executive Officer ("CEO") of the Company, or any other officer or employee of the Company (or of any wholly-owned subsidiary of the Company) designated by the CEO, shall be responsible for making determinations with respect to any Covered Person who is not subject to Section 16 (in such role, the Committee or the CEO (or his or her designee) is the "Administrator").

The Administrator shall make all determinations regarding the application and operation of this Policy in its sole discretion, and all such determinations shall be final and binding. Further, the exercise by the Administrator of any rights pursuant to this Policy shall be without prejudice to any other rights that the Company may have with respect to any Covered Person, including disciplinary action and termination of employment. Decisions made pursuant to this Policy may be made in conjunction with, or separate and apart from, other compensation recoupment programs of the Company. The Administrator may seek recovery pursuant to this Policy in any manner that it chooses, including direct reimbursement by the Covered Person of cash or shares of Company common stock, withholding unpaid compensation, or canceling unvested awards.

This Policy shall be filed as an exhibit with the Company's annual report on Form 10-K to the extent required by and in accordance with the SEC's requirements. The Company will disclose any recovery of compensation pursuant to this Policy as required by the rules of the SEC, as required by the Nasdaq Listing Standards, and in such additional circumstances as deemed appropriate by the Company.

This Policy supersedes and replaces the Company's prior "Policy on Recoupment of Incentive Compensation" previously adopted by the Committee and effective as of February 22, 2018. The Committee may amend or change the terms of this Policy at any time for any reason, including as required to comply with the rules of the SEC and the Nasdaq Listing Standards.

E. Successors

The Policy shall be binding and enforceable against all Covered Persons and their beneficiaries, executors, administrators, and other legal representatives.

F. No Indemnification or Reimbursement

The Company shall not indemnify any Covered Person against the loss of any compensation effected pursuant to this Policy, and any purported indemnification shall be null and void *ab initio*. The Company shall not pay or reimburse the premium for any insurance policy to cover any losses incurred by any Covered Person under this Policy.

G. Exceptions

The Committee (or a majority of independent directors serving on the Board in the Committee's absence) may determine not to seek recovery from a Covered Person in connection with a Financial Restatement Clawback in whole or part to the extent it determines in its sole discretion that such recovery would be impracticable because (1) the direct expense paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered (after the Company has made a reasonable and documented attempt to recover the erroneously awarded Incentive-Based Compensation and provided corresponding documentation of such attempt to Nasdaq), (2) recovery would violate the home country law that was in effect prior to November 28, 2022, as determined by an opinion of home country counsel, acceptable to Nasdaq, that is provided to Nasdaq, or (3) recovery would likely cause the Company's 401(k) plan or any other tax-qualified retirement plan to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.