**NOTE: Before you use any of this, make sure you have a lawyer give it a close look! Detour is not liable for anything awful that happens to you or your company because you use this document - use it at your own risk!**

**Also for the purpose of this document, the number that your company decides equals financial independence will be referred to as [F].**

**[COMPANY NAME]  
 [YEAR] EQUITY INCENTIVE PLAN  
  
RESTRICTED STOCK UNIT AND PROGRESSIVE RESTRICTED STOCK UNIT AWARD NOTICE**

[COMPANY NAME] (the “***Company***”) has granted to you an award of Restricted Stock Units pursuant to Section 10 of the Company’s [YEAR] Equity Incentive Plan (the “***Plan***”) and Progressive Restricted Stock Units pursuant to Section 11 of the Plan (collectively the “***Award***”). The Award is subject to all the terms and conditions set forth in this Award Notice (the “***Award Notice***”), ***Appendix A*** attached hereto, the Restricted Stock Unit and Progressive Restricted Stock Unit Award Agreement attached hereto (the “***Award Agreement***”) and the Plan, which are incorporated into the Award Notice in their entirety. Capitalized terms not explicitly defined in this Award Notice or Appendix A but defined in the Plan shall have the same definitions as in the Plan.

|  |  |
| --- | --- |
| **Participant**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Grant Date**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Vesting Commencement Date**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **No. of Restricted Stock Units (**“**RSUs**”**)**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **No. of Progressive Restricted Stock Units (**“**Progressive RSUs**”**)**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Expiration Date**: | Tenth (10th) Anniversary of the Vesting Commencement Date |
| **Vesting Schedule for RSUs and Progressive RSUs**: Unless otherwise provided in the Award Agreement, the following will be determined in accordance with ***Appendix A*** hereto: (a) the number of RSUs and Progressive RSUs that will vest and the timing of the vesting of the RSUs and Progressive RSUs and (b) the number of shares of the Company’s Common Stock that will be issuable for the RSUs and for the Progressive RSUs when such vest and become payable. |  |

**Additional Terms/Acknowledgement**: You acknowledge receipt of, and understand and agree to, the Award Notice, Appendix A, the Award Agreement, and the Plan. You further acknowledge that the vesting of the RSUs and the Progressive RSUs pursuant to this Award Notice, Appendix A, and the Award Agreement is conditioned on the occurrence of an Initial Vesting Event, a Secondary Vesting Event or a Subsequent Vesting Event (as such terms are defined in Appendix A). You further acknowledge that as of the Grant Date, the Award Notice, Appendix A, the Award Agreement, and the Plan set forth the entire understanding between you and the Company regarding the Award and supersede all prior oral and written agreements on the subject.

|  |  |
| --- | --- |
| **[COMPANY NAME]**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **PARTICIPANT**  [Participant Name]  Taxpayer ID: |
| **Incorporated Documents**: 1. Appendix A 2. Award Agreement 3. 2013 Equity Incentive Plan | Address: |

**APPENDIX A**

**1. General**

Subject to certain adjustments provided under Section 14 of the Plan, the total number of shares of the Company’s Common Stock that will be issuable for RSUs and for the Progressive RSUs granted to all Participants under the Plan will be [X] shares of the Company’s Common Stock (“***Stock Incentive Pool***”). The RSUs and the Progressive RSUs are subject to two overlapping vesting requirements -- a service-based requirement and a liquidity event requirement. In addition, the Progressive RSUs are subject to a dollar limitation as provided in Section 5 below.

**2. Vesting Schedule**

**(a) Service-Based Vesting Schedule for RSUs and Progressive RSUs**

**(i) General**

RSUs and Progressive RSUs shall vest on the following dates, provided that you have not experienced a Termination of Service before each such date: (A) with respect to 1/4 of the RSUs and Progressive RSUs on the one-year anniversary of the Vesting Commencement Date, and (B) with respect to an additional 1/48 of the RSUs and the Progressive RSUs on each monthly anniversary of the Vesting Commencement Date thereafter. RSUs and Progressive RSUs that have vested according to this schedule are referred to as “***Time-Vested RSUs***” and “***Time-Vested Progressive RSUs***,” respectively.

**(ii) Termination of Service**

**(A) RSUs**

If you experience a Termination of Service prior to an Initial Vesting Event or a Secondary Vesting Event, as applicable,then (1) any Time-Vested RSUs will remain outstanding and, for purposes of Section 3 below, will be treated as Time-Vested RSUs in the event an Initial Vesting Event or Secondary Vesting Event occurs on or prior to the Expiration Date, unless your Termination of Service was for Cause (as defined by the Board from time to time by amendment to the Plan or otherwise) and (2) any unvested RSUs (and, in the case of a Termination of Service for Cause, Time-Vested RSUs will immediately terminate and be forfeited to the Company without the payment of any further consideration to you.

**(B) *Progressive RSUs***

If you experience a Termination of Service prior to an Initial Vesting Event, then (1) all unvested Progressive RSUs will immediately terminate and be forfeited to the Company without the payment of any further consideration to you and (2) you will only be entitled to receive an allocation of or payment with respect to your vested Progressive RSUs, at that time or thereafter, that equals the lesser of [F/2] million or an amount that equals the fair market value of the original number of underlying shares of the Company’s common stock attributable to such vested Progressive RSUs.

**(b) Event-Based Vesting Schedule**

No RSUs will vest until the earliest to occur of the following dates: (A) the effective date of the registration statement relating to the initial public offering of the Company’s common stock (provided that such initial public offering closes on or before the Expiration Date) (an “***IPO***”); (B) the date of a Change of Control that occurs on or before the Expiration Date; and (C) the effective date of a Qualifying Secondary Liquidity Event that occurs on or before the Expiration Date (either of the foregoing (A) and (B) being an “***Initial Vesting Event***” and the foregoing (C) being a “***Secondary Vesting Event***”). For this purpose, a “***Qualifying Secondary Liquidity Event***” means a secondary liquidity transaction in which a third party acquires at least $10,000,000 of the Company’s outstanding equity securities (provided that such transaction is not a Change of Control). No Progressive RSUs will vest until an Initial Vesting Event.

**(c) Settlement of Vested Progressive RSUs with RSUs**. Whenever any of your Progressive RSU’s are vested and settled (i.e., the shares of the Company’s common stock are issued under such Progressive RSUs), a comparable number of vested RSU’s will also be settled immediately and automatically.

**3. Determination of Number of Shares of Common Stock Issuable for RSUs**

**(a) Secondary Vesting Event Prior to Initial Vesting Event**

**(i)** Subject to Section 5 below, in the event that a Secondary Vesting Event occurs prior to an Initial Vesting Event, one share of the Company’s Common Stock will be issuable for that number of Time-Vested RSUs that equals (A) 10.0% multiplied by (B) the number of your Time-Vested RSUs that are outstanding immediately prior to the Secondary Vesting Event. If the Secondary Vesting Event occurs prior to one year from the Vesting Commencement Date, then the number of shares of the Company’s Common Stock issuable for your RSUs shall be zero. Notwithstanding the foregoing, under no circumstances will the aggregate vested RSUs exceed the number of outstanding RSUs held by you.

**(ii)** If a Secondary Vesting Event occurs prior to an Initial Vesting Event, RSUs that have not vested and become payable as of such Secondary Vesting Event shall continue to be subject to the vesting conditions set forth in Section 2 and shall not vest until the earliest to occur of an Initial Vesting Event or a subsequent Secondary Vesting Event.

**(b) Initial Vesting Event**

**(i)** Subject to Section 5 below, in the event that an Initial Vesting Event occurs, one share of the Company’s Common Stock will be issuable for each Time-Vested RSU that is outstanding immediately prior to the Initial Vesting Event. If the Initial Vesting Event occurs prior to one year from the Vesting Commencement Date, then the number of RSUs that shall vest on the Initial Vesting Event shall be zero.

**(ii)** If the Initial Vesting Event has occurred, RSUs that have not become Time-Vested RSUs as of such Initial Vesting Event shall vest on the following dates, provided that you have not experienced a Termination of Service before each such date: (A) with respect to 1/4 of the RSUs on the one-year anniversary of the Vesting Commencement Date and (B) with respect to an additional 1/48th of the RSUs on each monthly anniversary of the Vesting Commencement Date thereafter (any of the foregoing (A) and (B) being a “***Subsequent Vesting Event***”).

**4. Determination of Number of Shares of Common Stock Issuable for Progressive RSUs**

**(a) General**

Progressive RSUs are a unit of measure entitling you to receive an allocable share of the Progressive RSU Pool and each Additional Progressive RSU Pool (as such terms are defined below) determined by the Plan Administrator for an Initial Vesting Event, subject to the terms and conditions of the Award Notice, this Appendix A and the Award Agreement.

If an Initial Vesting Event occurs, the total number of shares of the Company’s Common Stock issuable for your Progressive RSUs will equal the total number of shares of the Company’s Common Stock allocable to your Progressive RSUs with respect to the Progressive RSU Pool and each Additional Progressive RSU Pool, as determined by the Plan Administrator for the Initial Vesting Event (“***Total Progressive RSUs***”).

Subject to Section 2(a)(ii)(B) above, you will be treated as an “***Eligible Progressive RSU*** ***Pool Participant***” to the extent that the aggregate fair market value of the shares of the Company’s Common Stock issuable for all RSUs and Progressive RSUs granted to you has not exceeded the [F/2] limitation, as determined in accordance with Section 5(a) below. In the event that such [F/2] limitation is exceeded, you will no longer be eligible to receive any allocations of Progressive RSUs or Additional Progressive RSUs.

**(b) Progressive RSU** **Pool**

For an Initial Vesting Event, a “***Progressive RSU Pool***” will be allocable to Eligible Progressive RSU Participants and will consist of the aggregate number of Excess Shares (as defined below) determined by the Plan Administrator for the applicable Initial Vesting Event. If there are no Excess Shares in an Initial Vesting Event, the number of shares of the Company’s Common Stock issuable with respect to your Progressive RSU shall be zero.

Subject to Section 5 below, in the event an Initial Vesting Event occurs and the Plan Administrator determines that there are any Excess Shares in connection with such Initial Vesting Event, the number of shares of the Company’s Common Stock allocable to your Progressive RSUs under the Progressive RSU Pool for that Initial Vesting Event will be calculated as follows: (i) the number of shares of the Company’s Common Stock in the Progressive RSU Pool, as determined by the Plan Administrator for the Initial Vesting Event, multiplied by (ii) a fraction, the numerator of which is the total number of your Progressive RSUs that are outstanding immediately prior to the Initial Vesting Event and the denominator of which is the total number of all Eligible Progressive RSU Pool Participants’ Progressive RSUs that are outstanding immediately prior to the Initial Vesting Event. The portion of the Progressive RSU Pool allocable to your Progressive RSUs that have not become Time-Vested Progressive RSUs as of such Initial Vesting Event shall vest on Subsequent Vesting Events, provided that you have not experienced a Termination of Service before each such date and, in any event, the aggregate allocation of or payment with respect to your vested Progressive RSUs does not exceed $[F/2] million.

**(c) Additional Progressive RSU Pool(s)**

For an Initial Vesting Event, one or more “***Additional Progressive RSU Pools***” will be allocable to Eligible Progressive RSU Pool Participants and will consist of the aggregate number of Progressive RSU Excess Shares (as defined below) determined by the Plan Administrator for the Initial Vesting Event. The Plan Administrator may create more than one Additional Progressive RSU Pool to carry out the intent of this Section 4 and each Additional Progressive RSU Pool will be allocated in a manner consistent with this Section 4(b). If there are no Progressive RSU Excess Shares in an Initial Vesting Event, the number of shares of the Company’s Common Stock available for allocation under Additional Progressive RSU Pools will be zero.

Subject to Section 5 below, in the event an Initial Vesting Event occurs and the Plan Administrator determines that there are Progressive RSU Excess Shares in connection with such Initial Vesting Event, the number of shares of the Company’s Common Stock allocable to your Progressive RSUs under the Additional Progressive RSU Pool for that Initial Vesting Event will be calculated as follows: (i) the number of shares of the Company’s Common Stock in the Additional Progressive RSU Pool, as determined by the Plan Administrator for the Initial Vesting Event, multiplied by (ii) a fraction, the numerator of which is the total number of your Progressive RSUs that are outstanding immediately prior to the Initial Vesting Event and the denominator of which is the total number of all Eligible Progressive RSU Pool Participants’ Progressive RSUs that are outstanding immediately prior to the Initial Vesting Event. The portion of the Additional Progressive RSU Pool allocable to your Progressive RSU that have not become Time-Vested Progressive RSU as of such Initial Vesting Event shall vest on Subsequent Vesting Events, provided that you have not experienced a Termination of Service before each such date.

**5. Dollar Limitations**

**(a) General**

The aggregate fair market value of the shares of the Company’s Common Stock issuable for all Progressive RSUs granted to you shall not exceed $[F/2] million. For purposes of determining whether the $[F/2] million limitation applies, the aggregate fair market value of the shares of the Company’s Common Stock shall be calculated based on the aggregate fair market value of the shares of the Company’s Common Stock (as determined by the Board) that have been issued and may become issuable to you (including on any Subsequent Vesting Dates), as determined immediately prior to the Initial Vesting Event.

**(b) Determination of Excess Shares**

Excess Shares will not be issued to you and will be added to the Progressive RSU Pool for reallocation among Eligible Progressive RSU Pool Participants in accordance with Section 4. For this purpose, “***Excess Shares***” means the number of shares of the Company’s Common Stock otherwise issuable for your RSUs calculated as follows: (i)the aggregate fair market value of the number of shares of the Company’s Common Stock that otherwise may become issuable to you in accordance with Section 3(b) (as determined in accordance with Section 5(a) and without regard to the $[F/2] million limitation), *minus* (ii) $[F/2] million *divided by* (iii) the fair market value of one share of the Company’s Common Stock, as determined immediately prior to the Initial Vesting Event.

**(c) Determination of Progressive RSU** **Excess Shares**

Progressive RSU Excess Shares will not be issued to you and will be added to an Additional Progressive RSU Pool for reallocation among Eligible Progressive RSU Pool Participants in accordance with Section 4. For this purpose, “***Excess Progressive RSU*** ***Shares***” means the number of shares of the Company’s Common Stock otherwise issuable for your Progressive RSUs that would cause the aggregate fair market value of the shares of the Company’s Common Stock issuable for all Progressive RSUs granted to you to exceed$[F/2] million.

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**[COMPANY NAME]  
 [YEAR] EQUITY INCENTIVE PLAN**

**RESTRICTED STOCK UNIT AND PROGRESSIVE RESTRICTED STOCK UNIT AWARD AGREEMENT**

Pursuant to your Restricted Stock Unit and Progressive Restricted Stock Unit Award Notice (the “***Award Notice***”) and this Restricted Stock Unit and Progressive Restricted Stock Unit Award Agreement (this “***Agreement***”), [Company Name] (the ”***Company***”) has granted you an award of Restricted Stock Units pursuant to Section 10 of the Company’s [YEAR] Incentive Plan (the “***Plan***”) and Progressive Restricted Stock Units pursuant to Section 11 of the Plan (collectively the “***Award***”) for the number of Restricted Stock Units (“***RSUs***”) and Progressive Restricted Stock Units (“***Progressive RSUs***”) indicated in your Award Notice (collectively, the “***Units***”). Capitalized terms not explicitly defined in this Agreement, the Award Notice or Appendix A but defined in the Plan shall have the same definitions as in the Plan.

The details of the Award are as follows:

## 1. Vesting and Settlement

**(a) Vesting**

The Award will vest and become payable according to the vesting schedule set forth in the Award Notice and Appendix A attached thereto (the “***Vesting Schedule***”).The number of shares of the Company’s Common Stock issuable for RSUs and Progressive RSUs that vest and become payable will be determined in accordance with Appendix A of the Award Notice. RSUs and the Progressive RSUs that have vested and are no longer subject to forfeiture according to the Vesting Schedule are referred to herein as “***Vested Units***.” RSUs and Progressive RSUs that have not vested and remain subject to forfeiture according to the Vesting Schedule are referred to herein as “***Unvested  Units***.” The Award will terminate and the Units will be subject to forfeiture upon your Termination of Service as set forth in Section 2.

**(b) Settlement**

**(i) Secondary Vesting Event; Change of Control**

The Vested Units and the number of shares of the Company’s Common Stock that become issuable for Vested Units as a result of a Secondary Vesting Event (in the case of Vested RSUs) or a Change of Control (in the case of Vested RSUs and Vested Progressive RSUs) shall be issued on or as soon as practicable after the date of the Secondary Vesting Event or Change of Control, as the case may be, but in any event within sixty (60) days thereafter.

**(ii) Initial Public Offering**

The Vested Units and the number of shares of the Company’s Common Stock that become issuable for Vested Units as a result of an IPO shall be issued on the earlier of (A) March 15 of the calendar year immediately following the calendar year in which the IPO occurs and (B) the date that is 180 days after the IPO.

**(iii) Subsequent Vesting Event**

The number of shares of the Company’s Common Stock that become issuable as a result of a Subsequent Vesting Event following an Initial Vesting Event shall be issued on or as soon as practicable after the date of the Subsequent Vesting Event (but in any event within sixty (60) days thereafter).

## 2. Termination of Award upon Termination of Service

Except as otherwise set forth in the Award Notice or Appendix A attached thereto, and unless the Plan Administrator determines otherwise prior to your Termination of Service, upon your Termination of Service any portion of the RSUs or Progressive RSUs that have not vested and are not eligible for vesting in the future as provided in Section 1 will immediately terminate and all Unvested Units will immediately be forfeited to the Company without the payment of any further consideration to you.

## 3. Securities Law Compliance

**(a)** You represent and warrant that you (a) have been furnished with a copy of the Plan and all information which you deem necessary to evaluate the merits and risks of receipt of the Award, (b) have had the opportunity to ask questions and receive answers concerning the information received about the Award and the Company, and (c) have been given the opportunity to obtain any additional information you deem necessary to verify the accuracy of any information obtained concerning the Award and the Company.

**(b)** You hereby agree that you will in no event sell or distribute all or any part of the shares of the Company’s Common Stock that you receive pursuant to settlement of this Award (the “***Shares***”) unless (a) there is an effective registration statement under the Securities Act and applicable state securities laws covering any such transaction involving the Shares or (b) the Company receives an opinion of your legal counsel (concurred in by legal counsel for the Company) stating that such transaction is exempt from registration or the Company otherwise satisfies itself that such transaction is exempt from registration. You understand that the Company has no obligation to you to maintain any registration of the Shares with the Securities and Exchange Commission and has not represented to you that it will so maintain registration of the Shares.

**(c)** You confirm that you have been advised, prior to your receipt of the Shares, that neither the offering of the Shares nor any offering materials have been reviewed by any administrator under the Securities Act or any other applicable securities act (the “***Acts***”) and that the Shares cannot be resold unless they are registered under the Acts or unless an exemption from such registration is available.

**(d)** You hereby agree to indemnify the Company and hold it harmless from and against any loss, claim or liability, including attorneys’ fees or legal expenses, incurred by the Company as a result of any breach by you of, or any inaccuracy in, any representation, warranty or statement made by you in this Agreement or the breach by you of any terms or conditions of this Agreement.

## 4. Transfer Restrictions

The Units shall not be sold, transferred, assigned, encumbered, pledged or otherwise disposed of, whether voluntarily or by operation of law.

## 5. No Rights as Stockholder

You shall not have voting or other rights as a stockholder of the Common Stock with respect to the Units.

## 6. Independent Tax Advice

You acknowledge that determining the actual tax consequences to you of receiving or disposing of the Units and Shares may be complicated. These tax consequences will depend, in part, on your specific situation and may also depend on the resolution of currently uncertain tax law and other variables not within the control of the Company. You are aware that you should consult a competent and independent tax advisor for a full understanding of the specific tax consequences to you of receiving the Units and receiving or disposing of the Shares. Prior to executing this Agreement, you either have consulted with a competent tax advisor independent of the Company to obtain tax advice concerning the receipt of the Units and the receipt or disposition of the Shares in light of your specific situation or you have had the opportunity to consult with such a tax advisor but chose not to do so.

## 7. Withholding

You are ultimately responsible for all taxes owed in connection with this Award (e.g., at vesting and/or upon receipt of the Shares), including any domestic or foreign tax withholding obligation required by law, whether national, federal, state or local, including FICA or any other social tax obligation (the “***Tax Withholding Obligation***”), regardless of any action the Company or any Related Company takes with respect to any such Tax Withholding Obligation that arises in connection with this Award. As a condition to the issuance of Shares pursuant to this Award, you agree to make arrangements satisfactory to the Company for the payment of the Tax Withholding Obligation that arises upon receipt of the Shares or otherwise. The Company may refuse to issue any Shares to you until you satisfy the Tax Withholding Obligation. In its sole discretion, the Company may withhold from the shares otherwise payable to you with respect to your RSUs or Progressive RSUs the number of whole shares of the Company’s common stock required to satisfy the minimum applicable Tax Withholding Obligation, the number to be determined by the Company based on the Fair Market Value of the Company’s Common Stock on the date the Company is required to withhold. In addition, if and so long as the Common Stock is registered under Section 12(b) or 12(g) of the Exchange Act, the Company in its sole discretion may require you to instruct a brokerage firm designated or approved by the Company for such purpose to sell on your behalf a whole number of Shares from those Shares issuable to you in payment of the RSUs or the Progressive RSUs as the Company determines to be appropriate to generate cash proceeds sufficient to satisfy the Tax Withholding Obligation. Notwithstanding the forgoing, to the maximum extent permitted by law, the Company has the right to retain without notice from salary or other amounts payable to you, an amount sufficient to satisfy the Tax Withholding Obligation.

## 8. General Provisions

**(a) Assignment and Amendment**. The Company may assign its forfeiture rights at any time, whether or not such rights are then exercisable, to any person or entity selected by the Company’s Board of Directors. The Board has the sole right and discretion to amend this Agreement, and any term or condition hereof or of the Units, at any time or from time to time in its sole discretion. Any such amendment will be effective upon provision of written notice thereof by the Company to the respective holder of Units.

**(b) No Waiver**. No waiver of any provision of this Agreement will be valid unless in writing and signed by the person against whom such waiver is sought to be enforced, nor will failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder.

**(c) Undertaking**. You hereby agree to take whatever additional action and execute whatever additional documents the Company may deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on either you or the Units pursuant to the express provisions of this Agreement.

**(d) Agreement Is Entire Contract**. This Agreement constitutes the entire contract between the parties hereto with regard to the subject matter hereof. This Agreement is made pursuant to the provisions of the Plan and will in all respects be construed in conformity with the express terms and provisions of the Plan.

**(e) Successors and Assigns**. The provisions of this Agreement will inure to the benefit of, and be binding on, the Company and its successors and assigns and you and your legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law, whether or not any such person will have become a party to this Agreement and agreed in writing to join herein and be bound by the terms and conditions hereof.

**(f) No Employment or Service Contract**. Nothing in this Agreement will affect in any manner whatsoever the right or power of the Company, or a Related Company, to terminate your employment or services on behalf of the Company, for any reason, with or without Cause.

**(g) Counterparts**. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but which, upon execution, will constitute one and the same instrument.

**(h) Governing Law**. This Agreement will be construed and administered in accordance with and governed by the laws of the State of California.

**(i) Section 409A Compliance.** Payments made pursuant to this Agreement are intended to qualify for an exemption from or comply with the requirements of Section 409A of the Code, including any applicable regulations and guidance issued thereunder, and including transition guidance, to the extent Section 409A of the Code is applicable thereto and this Agreement and the Plan shall be interpreted, operated and administered in a manner consistent with this intention to the extent the Company deems necessary to comply with Section 409A of the Code and any official guidance issued thereunder. Without limiting the generality of the foregoing, each payment made pursuant to this Agreement shall be treated as a separate payment for purposes of Section 409A of the Code. Notwithstanding any other provision in this Agreement or the Plan, the Company, to the extent it deems necessary or advisable in its sole discretion, reserves the right, but shall not be required, to unilaterally amend or modify this Agreement so that payments made pursuant to this Agreement qualifies for exemption from or complies with Section 409A of the Code; provided, however, that the Company makes no representations that payments made pursuant to this Agreement shall be exempt from or comply with Section 409A of the Code and makes no undertaking to preclude Section 409A of the Code from applying to payments made under this Agreement.