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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

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

Date of Report (Date of earliest event reported): **January 31, 2019**

**GREENSKY, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-38506**  
(Commission File Number)

**82-2135346**  
(I.R.S. Employer Identification No.)

**5565 Glenridge Connector, Suite 700**  
**Atlanta, Georgia**  
(Address of principal executive offices)

**30342**  
(Zip Code)

Registrant's telephone number, including area code: **(678) 264-6105**

**N/A**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

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

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

On January 31, 2019, the Compensation Committee (the “Compensation Committee”) of the Board of Directors (the “Board”) of GreenSky, Inc. (the “Company”) adopted the GreenSky, Inc. Annual Incentive Plan (the “Incentive Plan”), effective as of January 1, 2019. The Incentive Plan is designed to reward Company employees, including executive officers, if specified performance goals are achieved, so as to encourage the creation of stockholder value by establishing a direct link between achievement of specified performance goals and the incentive compensation of eligible Company employees.

Designated employees of the Company and its Affiliates (as defined in the Incentive Plan) are eligible to earn annual bonuses based on the attainment of previously-established performance goals during the applicable performance period. The Compensation Committee, as the administrator of the Incentive Plan, has the discretion to select the employees who are eligible to participate in the Incentive Plan, establish the performance goals upon which bonuses may be based and the target and other amounts that may become payable if the applicable performance goals are achieved. Performance goals may be based upon business criteria relating to the Company and its Affiliates, the individual participants, teams or other business units, or a combination thereof. A participant’s potential bonus award will be determined by a formula, by multiplying the participant’s target bonus (as a percentage of the participant’s annual base salary) by the relevant bonus multipliers (determined based upon the performance goals achieved for the performance period). At the end of each performance period, the Compensation Committee will determine the extent to which the applicable performance goals were achieved or exceeded and the actual award payments to be made, although the Compensation Committee retains the discretion to determine amounts to be paid to individual participants that may be greater or less than the formula result.

The Compensation Committee will administer the Incentive Plan generally, although the Compensation Committee has delegated to certain officers of the Company the authority to administer the Incentive Plan for eligible employees of the Company and its Affiliates other than members of the Company’s senior executive group. Bonus awards will be payable no later than the 15<sup>th</sup> day of the third month immediately following the end of the applicable performance period, and generally the participant must be employed on the date of payment to receive the bonus award. Payments under the Incentive Plan are subject generally to the Company’s compensation recoupment policies and any restrictive covenants that apply to the participant.

The Compensation Committee may terminate or amend the Incentive Plan; provided, however, that, on or after a change in control, no amendment or termination may change any eligibility for participation, or any Eligible Executives’ other rights, under the Incentive Plan in any way that would adversely affect any annual bonus amount for any performance period in which the amendment or termination is to be effective or any prior performance period.

The foregoing description of the Incentive Plan is qualified in its entirety by reference to the full text of the GreenSky, Inc. Annual Incentive Plan, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated by reference herein.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On January 31, 2019, the Board adopted an amendment and restatement of the Company’s Bylaws (the “Amended and Restated Bylaws”), which became effective immediately upon adoption. The amendment and restatement added language to expressly allow for a virtual meeting of stockholders by means of remote communication and made corresponding procedural updates.

The foregoing description of the amendment and restatement is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws, a copy of which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated by reference herein.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit No.</b>	<b>Description</b>
3.1	<a href="#">Amended and Restated Bylaws of GreenSky, Inc. (Effective as of January 31, 2019)</a>
10.1	<a href="#">GreenSky, Inc. Annual Incentive Plan (Effective as of January 1, 2019)</a>

**SIGNATURES**

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

**GREENSKY, INC.**

Date: February 6, 2019

By: /s/ Robert Partlow

Name: Robert Partlow

Title: Executive Vice President and Chief Financial Officer

**AMENDED AND RESTATED BYLAWS OF  
GREENSKY, INC.**

Effective as of January 31, 2019

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## TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I	OFFICES	1
1.01	Registered Office	1
1.02	Other Offices	1
ARTICLE II	MEETINGS OF STOCKHOLDERS	1
2.01	Place of Meeting	1
2.02	Annual Meetings	1
2.03	Special Meetings	1
2.04	Notice of Meetings	1
2.05	Quorum	2
2.06	Adjournments	2
2.07	Order of Business; Stockholder Proposals	2
2.08	List of Stockholders	4
2.09	Voting	5
2.10	Inspectors	5
2.11	Remote Communication	5
ARTICLE III	BOARD OF DIRECTORS	6
3.01	General Powers	6
3.02	Number, Qualification and Election	6
3.03	Notification of Nominations	7
3.04	Quorum and Manner of Acting	9
3.05	Place of Meeting	9
3.06	Regular Meetings	9
3.07	Special Meetings	9
3.08	Notice of Meetings	9
3.09	Rules and Regulations	9
3.10	Participation in Meeting by Means of Communications Equipment	9
3.11	Action Without Meeting	9
3.12	Removals; Resignations	10
3.13	Compensation	10
ARTICLE IV	COMMITTEES OF THE BOARD OF DIRECTORS	10
4.01	Committees of the Board	10
4.02	Conduct of Business	10
ARTICLE V	OFFICERS	10
5.01	Number; Term of Office	10
5.02	Removal	11
5.03	Resignation	11
5.04	Chairman of the Board	11
5.05	Chief Executive Officer	11
5.06	President	11
5.07	Chief Operating Officer	11
5.08	Chief Financial Officer	11
5.09	Vice Presidents	11
5.10	Treasurer	11
5.11	Controller	12
5.12	Secretary	12
5.13	Assistant Treasurers, Assistant Controllers and Assistant Secretaries	12
5.14	Additional Matters	12

**TABLE OF CONTENTS**  
**(Continued)**

	<u>Page</u>	
ARTICLE VI	INDEMNIFICATION AND ADVANCEMENT OF EXPENSES	12
6.01	Right to Indemnification	12
6.02	Advancement of Expenses	13
6.03	Claims	13
6.04	Non-exclusivity of Rights	13
6.05	Other Sources	13
6.06	Amendment or Repeal	13
6.07	Other Indemnification and Advancement of Expenses	13
ARTICLE VII	CAPITAL STOCK	13
7.01	Certificates	13
7.02	Transfer of Shares	14
7.03	Registered Stockholders and Addresses of Stockholders	14
7.04	Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates	14
7.05	Regulations	14
7.06	Fixing Date for Determination of Stockholders of Record	15
7.07	Transfer Agents and Registrars	15
ARTICLE VIII	SEAL	15
8.01	Seal	15
ARTICLE IX	FISCAL YEAR	15
9.01	Fiscal Year	15
ARTICLE X	WAIVER OF NOTICE	15
10.01	Waiver of Notice	15
ARTICLE XI	AMENDMENTS	15
11.01	Amendments	15
ARTICLE XII	MISCELLANEOUS	16
12.01	Execution of Documents	16
12.02	Deposits	16
12.03	Checks	16
12.04	Proxies in Respect of Stock or Other Securities of Other Corporations	16
12.05	Subject to Law and Certificate of Incorporation	16
12.06	Manner of Notice	16
ARTICLE XIII	SEVERABILITY	17
13.01	Severability	17
ARTICLE XIV	DEFINITIONS	17
14.01	Definitions	17

**AMENDED AND RESTATED BYLAWS OF  
GREENSKY, INC.  
Effective as of January 31, 2019**

ARTICLE I  
Offices

1.01 Registered Office. The registered office of GREENSKY, INC. (hereinafter called the “Corporation”) in the State of Delaware shall be at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, County of New Castle, and the registered agent shall be The Corporation Trust Company, or such other office or agent as the board of directors of the Corporation (the “Board”) shall from time to time select.

1.02 Other Offices. The Corporation may also have an office or offices, and keep the books and records of the Corporation, except as may otherwise be required by law, at such other place or places, either within or without the State of Delaware, as the Board may from time to time determine or the business of the Corporation may require.

ARTICLE II  
Meetings of Stockholders

2.01 Place of Meeting. All meetings of the stockholders of the Corporation (the “stockholders”) shall be at a place to be determined by the Board. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but instead may be held solely by means of remote communication as described in Section 2.11 of these Bylaws in accordance with Section 211(a)(2) of the General Corporation Law of the State of Delaware (the “DGCL”).

2.02 Annual Meetings. The annual meeting of the stockholders for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held on such date and at such hour as shall from time to time be fixed by the Board. Any previously scheduled annual meeting of the stockholders may be postponed by action of the Board taken prior to the time previously scheduled for such annual meeting of the stockholders.

2.03 Special Meetings. Special meetings of the stockholders may be called only in the manner set forth in the Certificate. Notice of every special meeting of the stockholders shall state the purpose or purposes of such meeting. Except as otherwise required by law, the business conducted at a special meeting of stockholders shall be limited exclusively to the business set forth in the Corporation’s notice of meeting, and the individual or group calling such meeting shall have exclusive authority to determine the business included in such notice.

2.04 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of the stockholders, whether annual or special, shall be given by the Corporation not less than 10 days nor more than 60 days before the date of the meeting to each stockholder of record entitled to notice of the meeting and shall be called by the Corporation. If mailed, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder’s address as it appears on the records of the Corporation. Each such notice shall state the place (if any), date and hour of the meeting, the means of remote communication (if any), and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Notice of any meeting of the stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy without protesting, prior to or at the commencement of the meeting, the lack of proper notice to such stockholder, or who shall waive notice thereof as provided in Article X of these Bylaws. Notice of adjournment of a meeting of the

stockholders need not be given if the time, place (if any), and the means of remote communication (if any) for such adjourned meeting are announced at such meeting, unless the adjournment is for more than 30 days or, after adjournment, a new record date is fixed for the adjourned meeting.

2.05 Quorum. Except as otherwise provided by law or by the Certificate, the holders of a majority of the votes entitled to be cast by the stockholders entitled to vote generally, present in person or by proxy, shall constitute a quorum at any meeting of the stockholders; provided, however, that in the case of any vote to be taken by classes or series, the holders of a majority of the votes entitled to be cast by the stockholders of a particular class or series, present in person or by proxy, shall constitute a quorum of such class or series.

2.06 Adjournments. The chairman of the meeting or the holders of a majority of the votes entitled to be cast by the stockholders who are present in person or by proxy may adjourn the meeting from time to time whether or not a quorum is present. In the event that a quorum does not exist with respect to any vote to be taken by a particular class or series, the chairman of the meeting or the holders of a majority of the votes entitled to be cast by the stockholders of such class or series who are present in person or by proxy may adjourn the meeting with respect to the vote(s) to be taken by such class or series. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting as originally called.

2.07 Order of Business: Stockholder Proposals. (a) At each meeting of the stockholders, the Chairman, or, in the absence of the Chairman, the Chief Executive Officer (if the position is held by an individual other than the Chairman) or, in the absence of the Chairman and the Chief Executive Officer, such person as shall be selected by the Board shall act as chairman of the meeting. The order of business at each such meeting shall be as determined by the chairman of the meeting. Except to the extent inconsistent with the rules and procedures as adopted by the Board or these Bylaws, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls.

(b) At any annual meeting of the stockholders, only such business shall be conducted as shall have been brought before the annual meeting (i) by or at the direction of the chairman of the meeting or (ii) by any stockholder who is a holder of record at the time of the giving of the notice provided for in this Section 2.07, who is entitled to vote at the meeting and who complies with the procedures set forth in this Section 2.07.

(c) For business properly to be brought before an annual meeting of stockholders by a stockholder, the stockholder must have given timely notice thereof in proper written form to the Secretary. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than 120 days nor more than 150 days prior to the first anniversary of the date of the immediately preceding annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days earlier or more than 30 days later than such anniversary date or if no annual meeting was held in the preceding year, notice by the stockholder to be timely must be so delivered or received not later than the close of business on the 10th day following the day on which Public Announcement of the date of such meeting is first made. In no event shall an adjournment or postponement of an annual meeting commence a new time period for the giving of a stockholder's notice as described in this Section 2.07.

(d) To be in proper written form, a stockholder's notice to the Secretary shall set forth in writing as to each matter the stockholder proposes to bring before the annual meeting:

- (1) the name and record address of each stockholder proposing such business, as they appear on the Corporation's books;
- (2) as to each stockholder proposing such business, the name and address of (i) any other beneficial owner of stock of the Corporation that are owned by such stockholder and (ii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the stockholder or such beneficial owner (each, a "Stockholder Associated Person");
- (3) as to each stockholder proposing such business and any Stockholder Associated Person, (i) the class or series and number of shares of stock directly or indirectly held of record and beneficially by the stockholder proposing such business or Stockholder Associated Person, (ii) the date such shares of stock were acquired, (iii) a description of any agreement, arrangement or understanding, direct or indirect, with respect to such business between or among the stockholder proposing such business, any Stockholder Associated Person or any others (including their names) acting in concert with any of the foregoing, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, hedging transactions and borrowed or loaned shares) that has been entered into, directly or indirectly, as of the date of such stockholder's notice by, or on behalf of, the stockholder proposing such business or any Stockholder Associated Person, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of the stockholder proposing such business or any Stockholder Associated Person with respect to shares of stock of the Corporation (a "Derivative"), (v) a description in reasonable detail of any proxy (including revocable proxies), contract, arrangement, understanding or other relationship pursuant to which the stockholder proposing such business or Stockholder Associated Person has a right to vote any shares of stock of the Corporation, (vi) any rights to dividends on the stock of the Corporation owned beneficially by the stockholder proposing such business or Stockholder Associated Person that are separated or separable from the underlying stock of the Corporation, (vii) any proportionate interest in stock of the Corporation or Derivatives held, directly or indirectly, by a general or limited partnership in which the stockholder proposing such business or Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (viii) any performance-related fees (other than an asset-based fee) that the stockholder proposing such business or Stockholder Associated Person is entitled to based on any increase or decrease in the value of stock of the Corporation or Derivatives thereof, if any, as of the date of such notice. The information specified in Section 2.07(d)(1) to (3) is referred to herein as "Stockholder Information";
- (4) a representation that each such stockholder is a holder of record of stock of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose such business;
- (5) a brief description of the business desired to be brought before the annual meeting, the text of the proposal (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend these Bylaws, the text of the proposed amendment) and the reasons for conducting such business at the meeting;
- (6) any material interest of the stockholder and any Stockholder Associated Person in such business;

(7) a representation as to whether such stockholder intends (i) to deliver a proxy statement and form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt such business or (ii) otherwise to solicit proxies from the stockholders in support of such business;

(8) all other information that would be required to be filed with the SEC if the stockholder or any Stockholder Associated Person were participants in a solicitation subject to Section 14 of the Exchange Act; and

(9) a representation that the stockholder shall provide any other information reasonably requested by the Corporation.

(e) Such stockholders shall also provide any other information reasonably requested by the Corporation within five business days after such request.

(f) In addition, such stockholder shall further update and supplement the information provided to the Corporation in the notice or upon the Corporation's request pursuant to Section 2.07(e) as needed, so that such information shall be true and correct as of the record date for the meeting and as of the date that is the later of 10 business days before the meeting or any adjournment or postponement thereof. Such update and supplement must be delivered personally or mailed to, and received at the office of the Corporation, addressed to the Secretary, by no later than five business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than seven business days before the date for the meeting (in the case of the update and supplement required to be made as of 10 business days before the meeting or any adjournment or postponement thereof).

(g) The foregoing notice requirements shall be deemed satisfied by a stockholder if the stockholder has notified the Corporation of his or her intention to present a proposal at an annual meeting and such stockholder's proposal has been included in a proxy statement that has been prepared by management of the Corporation to solicit proxies for such annual meeting; provided, however, that if such stockholder does not appear or send a Qualified Representative to present such proposal at such annual meeting, the Corporation need not present such proposal for a vote at such meeting, notwithstanding that proxies in respect of such vote may have been received by the Corporation; and provided further, that the foregoing shall not imply any obligation beyond that required by applicable law to include a stockholder's proposal in a proxy statement prepared by management of the Corporation. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in this Section 2.07.

(h) The chairman of an annual meeting may refuse to permit any business to be brought before an annual meeting that fails to comply with this Section 2.07 or, in the case of a stockholder proposal, if the stockholder solicits proxies in support of such stockholder's proposal without having made the representation required by Section 2.07(d)(7).

(i) The provisions of this Section 2.07 shall govern all business related to stockholder proposals at the annual meeting of stockholders; provided that business related to the election or nomination of directors shall be governed by the provisions of Section 3.03 and not by this Section 2.07.

2.08 List of Stockholders. It shall be the duty of the Secretary or other officer who has charge of the stock ledger to prepare and make, at least 10 days before each meeting of the stockholders, a complete list of the stockholders entitled to vote thereat, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in such stockholder's name. Such list shall be produced and kept available at the times and places required by law. If the meeting is to be held solely by

means of remote communication, then the list also shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

2.09 Voting.

(a) Except as otherwise provided by law or by the Certificate, each stockholder of record of any series of Preferred Stock shall be entitled at each meeting of the stockholders to such number of votes, if any, for each share of such stock as may be fixed in the Certificate or in the resolution or resolutions adopted by the Board providing for the issuance of such stock, each stockholder of record of Class B Common Stock shall be entitled at each meeting of the stockholders to 10 votes for each share of such stock (provided, however, that from and after the Trigger Event, each stockholder of record of Class B Common Stock shall be entitled at each meeting of the stockholders to one vote for each share of such stock), and each stockholder of record of Class A Common Stock shall be entitled at each meeting of the stockholders to one vote for each share of such stock, in each case, registered in such stockholder's name on the books of the Corporation:

(1) on the date fixed pursuant to Section 7.06 of these Bylaws as the record date for the determination of stockholders entitled to notice of and to vote at such meeting; or

(2) if no such record date shall have been so fixed, then at the close of business on the day next preceding the day on which notice of such meeting is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) Each stockholder entitled to vote at any meeting of the stockholders may authorize not in excess of three persons to act for such stockholder by proxy. Any such proxy shall be delivered to the secretary of such meeting at or prior to the time designated for holding such meeting, but in any event not later than the time designated in the order of business for so delivering such proxies. No such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

(c) Except as otherwise required by law and except as otherwise provided in the Certificate or these Bylaws, at each meeting of the stockholders, all corporate actions to be taken by vote of the stockholders shall be authorized by a majority of the votes cast by the stockholders entitled to vote thereon who are present in person or represented by proxy, and where a separate vote by class or series is required, a majority of the votes cast by the stockholders of such class or series who are present in person or represented by proxy shall be the act of such class or series.

(d) Unless required by law or determined by the chairman of the meeting to be advisable, the vote on any matter, including the election of directors, need not be by written ballot.

2.10 Inspectors. The chairman of the meeting shall appoint one or more inspectors to act at any meeting of the stockholders. Such inspectors shall perform such duties as shall be required by law or specified by the chairman of the meeting. Inspectors need not be stockholders. No director or nominee for the office of director shall be appointed such inspector.

2.11 Remote Communication. If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

(a) participate in a meeting of stockholders; and

(b) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that

(1) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder;

(2) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and

(3) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

ARTICLE III  
Board of Directors

3.01 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law or by the Certificate directed or required to be exercised or done by the stockholders.

3.02 Number, Qualification and Election.

(a) Except as otherwise fixed by or pursuant to the provisions of Article IV of the Certificate relating to the rights of the holders of any series of Preferred Stock or any class or series of stock having preference over the Common Stock as to dividends or upon dissolution, liquidation or winding up, the number of directors that shall constitute the Board shall be fixed from time to time exclusively by resolution of the Board. The election and terms of office of directors shall be governed by the Certificate. Each director shall hold office until a successor is duly elected and qualified or until the director's earlier death, resignation, disqualification or removal.

(b) Unless the Board determines otherwise, to be eligible to be a nominee for election or reelection as a director, a person must deliver (in accordance with the time periods prescribed for delivery of notice by the Board) to the Secretary at the office of the Corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person (A) is not and will not become a party to (i) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person will act or vote as a director on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (ii) any Voting Commitment that could limit or interfere with such person's ability to comply with such person's fiduciary duties as a director under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein and (C) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, and will comply with all applicable publicly disclosed corporate

governance, conflict of interest, confidentiality and stock ownership and trading and other policies and guidelines of the Corporation that are applicable to directors.

3.03 Notification of Nominations. (a) Subject to the rights of the holders of any series of Preferred Stock or any class or series of stock having a preference over the Common Stock as to dividends or upon dissolution, liquidation or winding up, nominations for the election of directors may be made only by (1) the Board (or a designated committee thereof) or (2) by any stockholder who is a stockholder of record at the time of giving of the notice of nomination provided for in this Section 3.03 and who is entitled to vote for the election of directors.

(b) Subject to the rights of the holders of any series of Preferred Stock or any class or series of stock having a preference over the Common Stock as to dividends or upon dissolution, liquidation or winding up, any stockholder of record entitled to vote for the election of directors at a meeting may nominate persons for election as directors only if timely written notice of such stockholder's intent to make such nomination is given, either by personal delivery or by United States mail, postage prepaid, to the Secretary. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation (i) with respect to an election to be held at an annual meeting of the stockholders, not less than 120 days nor more than 150 days prior to the first anniversary of the date of the immediately preceding annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days earlier or more than 30 days later than such anniversary date or if no annual meeting was held in the preceding year, notice by the stockholder to be timely must be so delivered or received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the 10th day following the day on which Public Announcement of the date of such meeting is first made and (ii) with respect to an election to be held at a special meeting of the stockholders for the election of directors, not earlier than the 60th day prior to such special meeting and not later than the close of business on the 40th day prior to such special meeting; provided, however, that if less than 50 days' notice or prior Public Announcement of the date of the special meeting of the stockholders is given or made to the stockholders, then to be timely such notice must be received by the Corporation no later than the close of business on the 10th day following the day on which a notice of the date of the special meeting was mailed to the stockholders or the Public Announcement of the date of the meeting was made. In no event shall an adjournment or postponement, or Public Announcement of an adjournment or postponement of an annual or special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 3.03.

(c) Each such notice shall set forth:

- (1) the Stockholder Information with respect to such stockholder and any Stockholder Associated Persons;
- (2) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote in the meeting and intends to appear in person or by proxy at the meeting to propose such nomination;
- (3) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder;
- (4) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among the stockholder and any Stockholder Associated Person or any of their respective affiliates or associates or other parties with whom they are acting in

concert, including all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K if the stockholder, Stockholder Associated Person or any person acting in concert therewith, were the “registrant” for purposes of such rule and each nominee were a director or executive of such registrant;

(5) such other information regarding each nominee proposed by such stockholder and Stockholder Associated Person as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the SEC had each nominee been nominated, or intended to be nominated, by the Board and a completed signed questionnaire, representation and agreement required by Section 3.02(b);

(6) a representation as to whether such stockholder intends (a) to deliver a proxy statement and form of proxy to holders of at least the percentage of the Corporation’s outstanding capital stock required to approve the nomination or (b) otherwise to solicit proxies from stockholders in support of such nomination; and

(7) a representation that the stockholders shall provide any other information reasonably requested by the Corporation.

(d) Such stockholders shall also provide any other information reasonably requested by the Corporation within five business days after such request.

(e) In addition, such stockholders shall further update and supplement the information provided to the Corporation in the notice of nomination or upon the Corporation’s request pursuant to Section 3.03(d) as needed, so that such information shall be true and correct as of the record date for the meeting and as of the date that is 10 business days before the meeting or any adjournment or postponement thereof. Such update and supplement must be delivered personally or mailed to, and received at the office of, the Corporation, addressed to the Secretary, by no later than five business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than seven business days before the date for the meeting (in the case of the update and supplement required to be made as of 10 business days before the meeting or any adjournment or postponement thereof).

(f) The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure or if the stockholder solicits proxies in favor of such stockholder’s nominee(s) without having made the representations required by Section 3.03(c) (7).

(g) If such stockholder does not appear or send a Qualified Representative to present such proposal at such meeting, the Corporation need not present such proposal for a vote at such meeting, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(h) Subject to the rights of the holders of any series of Preferred Stock or any class or series of stock having a preference over the Common Stock of the Corporation as to dividends or upon dissolution, liquidation or winding up, only such persons who are nominated in accordance with the procedures set forth in this Section 3.03 shall be eligible to serve as directors of the Corporation.

(i) Notwithstanding anything in Section 3.03 to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting of the stockholders is increased and there is no Public Announcement naming all of the nominees for directors or specifying the size of the increased Board made by the Corporation at least 120 days prior to the first anniversary of the date of the immediately preceding annual meeting, a stockholder’s notice required by this Section 3.03 shall also be

considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to or mailed to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such Public Announcement is first made by the Corporation.

3.04 Quorum and Manner of Acting. Except as otherwise provided by law, the Certificate or these Bylaws, a majority of the Whole Board shall constitute a quorum for the transaction of business at any meeting of the Board, and, except as so provided, the vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board. The chairman of the meeting or a majority of the directors present may adjourn the meeting to another time and place whether or not a quorum is present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

3.05 Place of Meeting. Subject to Sections 3.06 and 3.07, the Board may hold its meetings at such place or places within or without the State of Delaware as the Board may from time to time determine, or as shall be specified or fixed in the respective notices or waivers of notice thereof.

3.06 Regular Meetings. Regular meetings of the Board shall be held at such times as the Board shall from time to time determine, at such locations as the Board may determine. If any day fixed for a regular meeting shall be a legal holiday under the laws of the place where the meeting is to be held, the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding business day. No fewer than four meetings of the Board shall be held per year.

3.07 Special Meetings. Special meetings of the Board shall be held whenever called (a) by the Chairman of the Board, (b) by the Chief Executive Officer or (c) by two or more directors, and shall be held at such place, on such date and at such time as he or they, as applicable, shall fix.

3.08 Notice of Meetings. Notice of regular meetings of the Board or of any adjourned meeting thereof need not be given. Notice of each special meeting of the Board shall be given by overnight delivery service or mailed to each director, in either case addressed to such director at such director's residence or usual place of business, at least two days before the day on which the meeting is to be held or shall be sent to such director at such place by telecopy or by electronic transmission or shall be given personally or by telephone, not later than the day before the meeting is to be held, but notice need not be given to any director who shall, either before or after the meeting, submit a waiver of such notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of notice to such director. Unless otherwise required by these Bylaws, every such notice shall state the time and place but need not state the purpose of the meeting.

3.09 Rules and Regulations. The Board may adopt such rules and regulations not inconsistent with the provisions of law, the Certificate or these Bylaws for the conduct of its meetings and management of the affairs of the Corporation as the Board may deem proper.

3.10 Participation in Meeting by Means of Communications Equipment. Any one or more members of the Board or any committee thereof may participate in any meeting of the Board or of any such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other or as otherwise permitted by law, and such participation in a meeting shall constitute presence in person at such meeting.

3.11 Action Without Meeting. Unless otherwise restricted by these Bylaws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all of the members of the Board or of any such committee, as the case may be, consent thereto in

writing, by electronic transmission or as otherwise permitted by law and, if required by law, the writings or electronic transmissions are filed with the minutes or proceedings of the Board or of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.12 Removals; Resignations. The directors of the Corporation may be removed in accordance with the Certificate and the DGCL. Any director of the Corporation may at any time resign by notice in writing or by electronic transmission to the Board, the Chairman of the Board, the Chief Executive Officer or the Secretary. Such resignation shall take effect at the time specified therein or, if the time be not specified therein, upon receipt thereof; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

3.13 Compensation. Each director that is not otherwise an employee of the Corporation, in consideration of such person serving as a director, shall be entitled to receive from the Corporation such amount per annum and such fees (payable in cash or stock-based compensation) for attendance at meetings of the Board or of committees of the Board, or both, as the Board or a committee thereof shall from time to time determine. In addition, each such director shall be entitled to receive from the Corporation reimbursement for the reasonable expenses incurred by such person in connection with the performance of such person's duties as a director. Nothing contained in this Section 3.13 shall preclude any such director from serving the Corporation or any of its subsidiaries in any other capacity and receiving compensation therefor.

#### ARTICLE IV Committees of the Board of Directors

4.01 Committees of the Board. The Board shall designate such committees as may be required by the rules of The NASDAQ Stock Market LLC (or any other principal United States exchange upon which the shares of the Corporation may be listed) and may from time to time designate other committees of the Board (including an executive committee), with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee.

4.02 Conduct of Business. Any committee, to the extent allowed by law and provided in the resolution establishing such committee or the charter of such committee, shall have and may exercise all the duly delegated powers and authority of the Board in the management of the business and affairs of the Corporation. The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, any such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or such committee shall otherwise provide, regular and special meetings and other actions of any such committee shall be governed by the provisions of Article III applicable to meetings and actions of the Board. Each committee shall keep regular minutes and report on its actions to the Board.

#### ARTICLE V Officers

5.01 Number; Term of Office. The officers of the Corporation shall be elected by the Board and shall consist of: a Chairman of the Board, a Chief Executive Officer, a Secretary and a Treasurer. In addition, the Board may elect a President, a Chief Operating Officer, a Chief Financial Officer, one or more Vice Presidents (including, without limitation, Assistant, Executive, Senior and Group Vice Presidents), a

Controller and such other officers and agents with such titles and such duties as the Board may from time to time determine, each to have such authority, functions or duties as provided in these Bylaws or as the Board may from time to time determine, and each to hold office for such term as may be prescribed by the Board and until such person's successor shall have been chosen and shall qualify, or until such person's death or resignation, or until such person's removal in the manner hereinafter provided. One person may hold the offices and perform the duties of any two or more of said officers; provided, however, that no officer shall execute, acknowledge or verify any instrument in more than one capacity if such instrument is required by law, the Certificate or these Bylaws to be executed, acknowledged or verified by two or more officers. The Board may require any officer or agent to give security for the faithful performance of such person's duties. Any vacancy occurring in any office of the Corporation may be filled by the Board.

5.02 Removal. Subject to Section 5.14, any officer may be removed, either with or without cause, by the Board at any meeting thereof called for the purpose, by the Chief Executive Officer, or by any other superior officer upon whom such power may be conferred by the Board.

5.03 Resignation. Any officer may resign at any time by giving notice to the Board, the Chief Executive Officer or the Secretary. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.04 Chairman of the Board. The Chairman of the Board may be an officer of the Corporation, subject to the control of the Board, and shall report directly to the Board.

5.05 Chief Executive Officer. The Chief Executive Officer shall have general supervision and direction of the business and affairs of the Corporation, subject to the control of the Board, and shall report directly to the Board.

5.06 President. The President shall perform such senior duties as he may agree with the Chief Executive Officer (if the position is held by an individual other than the Chief Executive Officer) or as the Board shall from time to time determine.

5.07 Chief Operating Officer. The Chief Operating Officer shall perform such senior duties in connection with the operations of the Corporation as he may agree with the Chief Executive Officer or as the Board shall from time to time determine.

5.08 Chief Financial Officer. The Chief Financial Officer shall perform all the powers and duties of the office of the chief financial officer and in general have overall supervision of the financial operations of the Corporation. The Chief Financial Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he may agree with the Chief Executive Officer or as the Board may from time to time determine. The Chief Financial Officer shall report directly to the Chief Executive Officer.

5.09 Vice Presidents. Any Vice President shall have such powers and duties as shall be prescribed by his superior officer or the Board. A Vice President shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he may agree with the Chief Executive Officer or as the Board may from time to time determine. A Vice President need not be an officer of the Corporation and shall not be deemed an officer of the Corporation unless elected by the Board.

5.10 Treasurer. The Treasurer shall supervise and be responsible for all the funds and securities of the Corporation; the deposit of all moneys and other valuables to the credit of the Corporation in

depositories of the Corporation; borrowings and compliance with the provisions of all indentures, agreements and instruments governing such borrowings to which the Corporation is a party; the disbursement of funds of the Corporation and the investment of its funds; and in general shall perform all of the duties incident to the office of the Treasurer. The Treasurer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he or she may agree with the Chief Executive Officer or the Chief Financial Officer or as the Board may from time to time determine.

5.11 Controller. The Controller shall be the chief accounting officer of the Corporation. The Controller shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he may agree with the Chief Executive Officer or the Chief Financial Officer or as the Board may from time to time determine.

5.12 Secretary. It shall be the duty of the Secretary to act as secretary at all meetings of the Board, of the committees of the Board and of the stockholders and to record the proceedings of such meetings in a book or books to be kept for that purpose; the Secretary shall see that all notices required to be given by the Corporation are duly given and served; the Secretary shall be custodian of the seal of the Corporation and when deemed necessary shall affix the seal or cause it to be affixed to all certificates of stock, if any, of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws; the Secretary shall have charge of the books, records and papers of the Corporation and shall see that the reports, statements and other documents required by law to be kept and filed are properly kept and filed; and in general shall perform all of the duties incident to the office of Secretary. The Secretary shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he or she may agree with the Chief Executive Officer or as the Board may from time to time determine.

5.13 Assistant Treasurers, Assistant Controllers and Assistant Secretaries. Any Assistant Treasurers, Assistant Controllers and Assistant Secretaries shall perform such duties as shall be assigned to them by the Board or by the Treasurer, Controller or Secretary, respectively, or by the Chief Executive Officer. An Assistant Treasurer, Assistant Controller or Assistant Secretary need not be an officer of the Corporation and shall not be deemed an officer of the Corporation unless elected by the Board.

5.14 Additional Matters. The Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer and the Chief Financial Officer of the Corporation shall have the authority to designate employees of the Corporation to have the title of Vice President, Assistant Vice President, Assistant Treasurer, Assistant Controller or Assistant Secretary. Any employee so designated shall have the powers and duties determined by the officer making such designation. The persons upon whom such titles are conferred shall not be deemed officers of the Corporation unless elected by the Board.

## ARTICLE VI

### Indemnification and Advancement of Expenses

6.01 Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law (including as it presently exists or may hereafter be amended), any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (any such action, suit or proceeding, a "proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, limited liability company, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss

suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 6.03 of these Bylaws, the Corporation shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board.

6.02 Advancement of Expenses. The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article VI or otherwise.

6.03 Claims. If a claim for indemnification under this Article VI (following the final disposition of such proceeding) is not paid in full within 60 days after the Corporation has received a claim therefor by the Covered Person, or if a claim for any advancement of expenses under this Article VI is not paid in full within 30 days after the Corporation has received a statement or statements requesting such amounts to be advanced, the Covered Person shall thereupon (but not before) be entitled to file suit to recover the unpaid amount of such claim. If successful in whole or in part, the Covered Person shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action, the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

6.04 Non-exclusivity of Rights. The rights conferred on any Covered Person by this Article VI shall not be exclusive of any other rights which such Covered Person may have or hereafter acquires under any statute, provision of the Certificate, these Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

6.05 Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, limited liability company, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, limited liability company, joint venture, trust, enterprise or non-profit enterprise.

6.06 Amendment or Repeal. Any right to indemnification or to advancement of expenses of any Covered Person arising hereunder shall not be eliminated or impaired by an amendment to or repeal of these Bylaws after the occurrence of the act or omission that is the subject of the proceeding for which indemnification or advancement of expenses is sought.

6.07 Other Indemnification and Advancement of Expenses. This Article VI shall not limit the right of the Corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

## ARTICLE VII Capital Stock

7.01 Certificates. The shares of capital stock of the Corporation shall be represented by certificates, provided that the Board may provide by resolution or resolutions that some or all of any or all classes or series of capital stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of capital

stock of the Corporation represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by (a) any one officer of the Corporation who is the Chairperson, a Vice Chairperson, the Chief Executive Officer or a Vice President, and (b) by any one officer of the Corporation who is the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Assistant Secretary, with such signatories certifying the number of shares of the applicable class or series of capital stock owned by such holder in the Corporation. Any of or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

7.02 Transfer of Shares. Stock of the Corporation shall be transferable in the manner prescribed by applicable law and in these Bylaws. Transfers of stock shall be made on the books of the Corporation, and in the case of certificated shares of stock, only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, properly endorsed for transfer and payment of all necessary transfer taxes; or, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney lawfully constituted in writing, and upon payment of all necessary transfer taxes and compliance with appropriate procedures for transferring shares in uncertificated form; provided, however, that such surrender and endorsement, compliance or payment of taxes shall not be required in any case in which the officers of the Corporation shall determine to waive such requirement. With respect to certificated shares of stock, every certificate exchanged, returned or surrendered to the Corporation shall be marked "Cancelled," with the date of cancellation, by the Secretary or Assistant Secretary of the Corporation or the transfer agent thereof. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

7.03 Registered Stockholders and Addresses of Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments a person registered on its records as the owner of shares of stock, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

Each stockholder shall designate to the Secretary or transfer agent of the Corporation an address at which notices of meetings and all other corporate notices may be given to such person, and, if any stockholder shall fail to designate such address, corporate notices may be given to such person by mail directed to such person at such person's post office address, if any, as the same appears on the stock record books of the Corporation or at such person's last known post office address.

7.04 Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The Corporation may issue a new certificate for shares of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

7.05 Regulations. The Board may make such additional rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificated or uncertificated shares of stock of each class and series of the Corporation and may make such rules and take such action as it may deem

expedient concerning the issue of certificates in lieu of certificates claimed to have been lost, destroyed, stolen or mutilated.

7.06 Fixing Date for Determination of Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of the stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not be more than 60 days nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. A determination of stockholders entitled to notice of or to vote at a meeting of the stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

7.07 Transfer Agents and Registrars. The Board may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

#### ARTICLE VIII

##### Seal

8.01 Seal. The corporate seal shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board.

#### ARTICLE IX

##### Fiscal Year

9.01 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board.

#### ARTICLE X

##### Waiver of Notice

10.01 Waiver of Notice. Whenever any notice whatsoever is required to be given by these Bylaws, by the Certificate or by law, the person entitled thereto may, either before or after the meeting or other matter in respect of which such notice is to be given, waive such notice in writing or as otherwise permitted by law, which shall be filed with or entered upon the records of the meeting or the records kept with respect to such other matter, as the case may be, and in such event such notice need not be given to such person and such waiver shall be deemed equivalent to such notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

#### ARTICLE XI

##### Amendments

11.01 Amendments. These Bylaws may be altered, amended or repealed, in whole or in part, or new Bylaws may be adopted by the stockholders or by the Board at any meeting thereof in accordance with the Certificate and the DGCL; provided, however, that notice of such alteration, amendment, repeal or adoption of new Bylaws is contained in the notice of such meeting of the stockholders or in the notice of such meeting of the Board and, in the latter case, such notice is given not less than 24 hours prior to the meeting.

ARTICLE XII  
Miscellaneous

12.01 Execution of Documents. The Board or any committee thereof shall designate the officers, employees and agents of the Corporation who shall have power to execute and deliver deeds, contracts, mortgages, bonds, debentures, notes, checks, drafts and other orders for the payment of money and other documents for and in the name of the Corporation and may authorize (including authority to redelegate) by written instrument to other officers, employees or agents of the Corporation. Such delegation may be by resolution or otherwise and the authority granted shall be general or confined to specific matters, all as the Board or any such committee may determine. In the absence of such designation referred to in the first sentence of this Section, the officers of the Corporation shall have such power so referred to, to the extent incident to the normal performance of their duties.

12.02 Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation or otherwise as the Board or any committee thereof or any officer of the Corporation to whom power in respect of financial operations shall have been delegated by the Board or any such committee or in these Bylaws shall select.

12.03 Checks. All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board or any committee thereof or by any officer of the Corporation to whom power in respect of financial operations shall have been delegated by the Board or any such committee thereof or as set forth in these Bylaws.

12.04 Proxies in Respect of Stock or Other Securities of Other Corporations. The Board or any committee thereof shall designate the officers of the Corporation who shall have authority from time to time to appoint an agent or agents of the Corporation to exercise in the name and on behalf of the Corporation the powers and rights which the Corporation may have as the holder of stock or other securities in any other corporation or other entity, and to vote or consent in respect of such stock or securities; such designated officers may instruct the person or persons so appointed as to the manner of exercising such powers and rights; and such designated officers may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, such written proxies, powers of attorney or other instruments as they may deem necessary or proper in order that the Corporation may exercise its said powers and rights.

12.05 Subject to Law and Certificate of Incorporation. All powers, duties and responsibilities provided for in these Bylaws, whether or not explicitly so qualified, are qualified by the provisions of the Certificate and applicable laws. Whenever these Bylaws may conflict with any applicable law or the Certificate, such conflict shall be resolved in favor of such law or the Certificate.

12.06 Manner of Notice. Without limiting the manner by which notice otherwise may be given effectively to stockholders, and except as prohibited by applicable law, any notice to stockholders given by the Corporation under any provision of applicable law, the Certificate, or these Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any stockholder who fails to object in writing to the Corporation, within 60 days of having been given written notice by the Corporation of its intention to send the single notice permitted under this Section 12.06, shall be deemed to have consented to receiving such single written notice.

ARTICLE XIII  
Severability

13.01 Severability. If any provision or provisions of these Bylaws shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of these Bylaws (including, without limitation, each portion of any paragraph of these Bylaws containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (ii) to the fullest extent possible, the provisions of these Bylaws (including, without limitation, each such portion of any paragraph of these Bylaws containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

ARTICLE XIV  
Definitions

14.01 Definitions

As used in these Bylaws, unless the context otherwise requires, the term:

“Assistant Controller” means an Assistant Controller of the Corporation.

“Assistant Secretary” means an Assistant Secretary of the Corporation.

“Assistant Treasurer” means an Assistant Treasurer of the Corporation.

“Board” is defined in Section 1.01.

“Bylaws” means the bylaws of the Corporation, as such bylaws may be amended from time to time.

“Certificate” means the Amended and Restated Certificate of Incorporation of the Corporation.

“Chairman” means the Chairman of the Board.

“Chief Executive Officer” means the Chief Executive Officer of the Corporation.

“Chief Financial Officer” means the Chief Financial Officer of the Corporation.

“Chief Operating Officer” means the Chief Operating Officer of the Corporation.

“Class A Common Stock” is defined in the Certificate.

“Class B Common Stock” is defined in the Certificate.

“Common Stock” is defined in the Certificate.

“Common Unit” means a membership interest in the LLC, authorized and issued under the LLC Agreement, and constituting a “Common Unit” as defined in the LLC Agreement as in effect as of the effective time of the Certificate.

“Continuing LLC Members” means the holders of Common Units (other than the Corporation) that are parties to the Exchange Agreement from time to time.

“Controller” means the Controller of the Corporation.

“Corporation” is defined in Section 1.01.

“Covered Person” is defined in Section 6.01.

“Derivative” is defined in Section 2.07(d).

“DGCL” is defined in Section 2.01.

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

“Exchange Agreement” means the Exchange Agreement, dated as of May 23, 2018, among the Corporation, the LLC and the other parties thereto, as such may be amended from time to time.

“LLC” means GreenSky Holdings, LLC, a Georgia limited liability company, or any successor entity thereto.

“LLC Agreement” means the Amended and Restated Operating Agreement of the LLC, dated as of May 23, 2018, as such agreement may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Preferred Stock” is defined in the Certificate.

“President” means the President of the Corporation.

“proceeding” is defined in Section 6.01.

“Public Announcement” means disclosure (i) in a press release reported by the Dow Jones News Service, Reuters Information Service or any similar or successor news wire service or (ii) in a communication distributed generally to stockholders and in a document publicly filed by the Corporation with the SEC pursuant to Sections 13, 14 or 15(d) of the Exchange Act or any successor provisions thereto.

“Qualified Representative” means that a person must be a duly authorized officer, manager or partner of a stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

“SEC” means the United States Securities and Exchange Commission.

“Secretary” means the Secretary of the Corporation.

“Stockholder Associated Person” is defined in Section 2.07(d).

“Stockholder Information” is defined in Section 2.07(d).

“stockholders” is defined in Section 2.01.

“Treasurer” means the Treasurer of the Corporation.

“Trigger Event” means the first date on which the Continuing LLC Members cease collectively to beneficially own (directly or indirectly) 15% or more of the outstanding shares of Class A Common Stock (determined assuming that each Common Unit held by holders other than the Corporation was exchanged for Class A Common Stock in accordance with the terms and conditions of the Exchange Agreement).

“Vice President” means a Vice President of the Corporation.

“Voting Commitment” is defined in Section 3.02(b).

“Whole Board” means the total number of authorized directors, whether or not there exist any vacancies or unfilled previously authorized directorships.

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**GREENSKY, INC.  
ANNUAL INCENTIVE PLAN**

Effective as of January 1, 2019

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**GREENSKY, INC.**

**ANNUAL INCENTIVE PLAN**

**THIS ANNUAL INCENTIVE PLAN** (this “Plan”) of GreenSky, Inc., a Delaware corporation (“GreenSky”), is adopted for the benefit of the eligible employees described herein, effective as of January 1, 2019.

**WITNESSETH:**

**WHEREAS**, the Compensation Committee of the Board of Directors of GreenSky desires to adopt an annual incentive bonus plan pursuant to which GreenSky may award bonuses to eligible employees; and

**WHEREAS**, the Compensation Committee of the Board of Directors of GreenSky accordingly has approved this Plan as set forth herein.

**NOW, THEREFORE**, GreenSky hereby establishes the Plan as set forth below.

**1. STATEMENT OF PURPOSE**

1.1 **Statement of Purpose.** The purpose of the Plan is to encourage the creation of stockholder value by establishing a direct link between the achievement of designated Corporate Performance Objectives (as defined below) and the incentive compensation of Participants in the Plan. Participants contribute to the success of GreenSky and its Affiliates (as defined below) through the application of their skills and experience in fulfilling the responsibilities associated with their positions. GreenSky and its Affiliates desire to benefit from the contributions of the Participants and to provide an incentive bonus plan that encourages the sustained creation of stockholder value.

**2. DEFINITIONS**

2.1 **Definitions.** Capitalized terms used in the Plan shall have the following meanings:

“**Affiliate**” means any corporation, trade or business or other entity, including but not limited to partnerships, limited liability companies and joint ventures, directly or indirectly controlling, controlled by or under common control with GreenSky, within the meaning of Section 405 of the Securities Act. Affiliate includes any corporation, trade or business or any other entity that becomes such on or after the date hereof.

“**Aggregate Corporate Performance Bonus Multiplier**” means the percentage(s) from zero percent (0%) to two hundred percent (200%) that applies to determine the Participant’s Preliminary Bonus Award for the Bonus Period and corresponds to the Corporate Performance Objective(s) and/or level(s) of Corporate Performance Objective(s) and/or Individual Performance Factor(s) and/or level(s) of Individual Performance Factors that must be achieved during the Bonus Period to calculate the Participant’s Preliminary Bonus Award. The Committee shall establish how the Aggregate Corporate Performance Bonus Multiplier shall be determined for purposes of determining the Participant’s Preliminary Bonus Award. If the Aggregate Corporate Performance Bonus Multiplier is to be determined based on the achievement of a single level of a Corporate Performance Objective, the Aggregate Corporate Performance Bonus Multiplier shall be the same as the Corporate Performance Bonus Multiplier assigned to that single level of Corporate Performance Objective for the Bonus Period. If the Aggregate Corporate Performance Bonus Multiplier is to be determined based on the achievement of more than one Corporate Performance Objective and/or Individual Performance Factor and/or more than one level of Corporate Performance

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Objective and/or Individual Performance Factor, the Aggregate Corporate Performance Bonus Multiplier shall equal the sum of those percentages determined by multiplying (i) the Corporate Performance Bonus Multiplier assigned to each separate Corporate Performance Objective or level of Corporate Performance Objective and/or separate Individual Performance Factor or level of Individual Performance Factor for the Bonus Period by (ii) the Weighting Percentage assigned to that separate Corporate Performance Objective or level of Corporate Performance Objective or separate Individual Performance Factor or level of Individual Performance Factor.

“Beneficiary” means the person or persons designated in writing by the Participant to be the Participant’s Beneficiary for purposes of the Plan. Such designation shall be made in writing by the Participant in the manner prescribed by the Committee. The Participant may change or revoke such designation at any time, only if such change or revocation is made in writing in the manner prescribed by the Committee. If, at the time of the Participant’s death, no Beneficiary has been designated or the designated Beneficiary predeceases the Participant, the Participant’s Beneficiary for purposes of the Plan will be (i) the Participant’s spouse, (ii) if there is no spouse, the Participant’s children, including legally adopted children, in equal shares per stirpes, and (iii) if there is no spouse nor children, the Participant’s estate.

“Board” means the Board of Directors of GreenSky.

“Bonus Award” means the bonus amount to be paid to the Participant for the Bonus Period, which shall equal the lesser of (i) the Participant’s Maximum Bonus Award for the Bonus Period and (ii) the Participant’s Preliminary Bonus Award for the Bonus Period, as such Preliminary Bonus Award may be increased or decreased as the Committee in its sole discretion shall determine based on individual performance or such other factors as the Committee determines to be appropriate.

“Bonus Period” means the period beginning January 1 and ending December 31 of the calendar year, in respect of which the Corporate Performance Objectives are measured and the Participants’ Bonus Awards, if any, are to be determined.

“Cause” shall have the same definition as under any offer letter or employment agreement between the Company or any Affiliate and the Participant or, if no such offer letter or employment agreement exists or if such offer letter or employment agreement does not contain any such definition or words of similar import, “Cause” means (i) the Participant’s act or failure to act amounting to gross negligence or willful misconduct to the detriment of GreenSky or any Affiliate; (ii) the Participant’s dishonesty, fraud, theft or embezzlement of funds or properties in the course of Participant’s employment; (iii) the Participant’s commission of or pleading guilty to or confessing to any felony; or (iv) the Participant’s breach of any restrictive covenant agreement with GreenSky or any Affiliate, including but not limited to, confidentiality covenants, covenants not to compete, non-solicitation covenants and non-disclosure covenants. For purposes of the Plan, the Participant’s resignation without GreenSky’s or an Affiliate’s written consent in anticipation of termination of employment for Cause shall constitute a termination of employment for Cause.

“CEO” means the Chief Executive Officer of GreenSky.

“Change in Control” shall be deemed to have occurred upon the first occurrence of an event set forth in any one of the following paragraphs:

(i) The accumulation in any number of related or unrelated transactions (other than an offering of Shares to the general public through a registration statement filed with the Securities and Exchange Commission) by any Person of beneficial ownership (as such term is used in Sections 13(d) and 14(d)(2) of

the Exchange Act) of more than fifty percent (50%) of the combined voting power of GreenSky's voting stock; provided that for purposes of this subsection (i), a Change in Control will not be deemed to have occurred if the accumulation of more than fifty percent (50%) of the voting power of GreenSky's voting stock results from any acquisition of voting stock (i) by GreenSky or any Affiliate, (ii) by any employee benefit plan (or related trust) sponsored or maintained by GreenSky or any Affiliate, (iii) by any Significant Stockholder, (iv) by any Person that, prior to the transaction, directly or indirectly, controls, is controlled by, or is under common control with, GreenSky, or (v) by any Person pursuant to a merger, consolidation or reorganization (a "Business Combination") that would not cause a Change in Control under subsection (ii) below; or

(ii) Consummation of a Business Combination, unless, immediately following that Business Combination, (i) all or substantially all of the Persons who were the beneficial owners of voting stock of GreenSky immediately prior to that Business Combination beneficially own, directly or indirectly, more than fifty percent (50%) of the combined voting power of GreenSky's voting stock resulting from that Business Combination (including, without limitation, an entity that as a result of that transaction owns GreenSky or all or substantially all of GreenSky's assets either directly or through one or more subsidiaries) in substantially the same proportions relative to each other as their ownership, immediately prior to that Business Combination, of the voting stock of GreenSky and (ii) no Person other than a Significant Stockholder has beneficial ownership of fifty percent (50%) or more of the combined voting power of GreenSky's voting stock (including any entity that as the result of that transaction owns GreenSky or all or substantially all of, GreenSky's assets either directly or through one or more subsidiaries); or

(iii) During any twelve (12)-month period, Incumbent Board Members cease to constitute a majority of the Board; or

(iv) A sale or other disposition of all or substantially all of the assets of GreenSky, except pursuant to a Business Combination that would not cause a Change in Control under subsection (ii) above; or

(v) A complete liquidation or dissolution of GreenSky, except pursuant to a Business Combination that would not cause a Change in Control under subsection (ii) above.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" means the Compensation Committee of the Board or a sub-committee of the Compensation Committee of the Board, if so appointed by the Compensation Committee of the Board. The Committee shall administer the Plan.

"Compensation" means the Participant's actual base salary or wages earned during the Bonus Period, excluding incentive payments, salary continuation, bonuses, income from equity awards, stock options, restricted stock, restricted stock units, other equity awards or holdings, deferred compensation, commissions, and any other forms of compensation over and above the Participant's actual base salary or wages earned during the Bonus Period.

"Corporate Performance Bonus Multiplier" means the percentage(s) from zero percent (0%) to two hundred percent (200%) that applies to each separate Corporate Performance Objective or separate level of Corporate Performance Objective and/or each separate Individual Performance Factor or separate level of Individual Performance Factor used to determine the Participant's Preliminary Bonus Award for the Bonus Period. The Committee shall establish the Corporate Performance Bonus Multiplier that corresponds to each Corporate Performance Objective or different level of Corporate Performance Objective and each

Individual Performance Factor or different level of Individual Performance Factor that must be achieved during the Bonus Period to calculate the Participant's Preliminary Bonus Award.

“Corporate Performance Objectives” means any business criteria relating to GreenSky and/or its Affiliates or their business with respect to which Bonus Awards may be based, as determined by the Committee. The relevant measure of performance shall be determined in accordance with the requirements the Committee may designate. The Committee may appropriately adjust the Corporate Performance Objectives as the Committee in its sole discretion may determine is appropriate.

“Disability” means any injury, illness or sickness that qualifies as a long-term disability within the meaning of the Company's long-term disability plan or program and on account of which such Participant is entitled to receive long-term disability benefits.

“Distribution” means the payment of the Bonus Award under the Plan.

“Distribution Date” means the date on which the Distribution occurs.

“Effective Date” means January 1, 2019.

“Employee” means a common law employee of an Employer who is classified as “exempt” on the Employer's payroll, personnel or tax records. A common law employee of an Employer only includes an individual who renders personal services to the Employer and who, in accordance with the established payroll, accounting and personnel policies of the Employer, is characterized by the Employer as an “exempt” common law employee. An Employee does not include (i) any person whom the Employer has identified on its payroll, personnel or tax records as an independent contractor or (ii) any person who has acknowledged in writing to the Employer that such person is an independent contractor, whether or not in case of both (i) and (ii) a court, the Internal Revenue Service or any other authority ultimately determines such classification to be correct or incorrect as a matter of law or (iii) any person who is classified other than as “exempt” on the Employer's payroll, personnel or tax records.

“Employer” means GreenSky and any Affiliate of GreenSky who employs one or more Employees.

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

“Holdings” means GreenSky Holdings, LLC, a Georgia limited liability company, and any successor thereto by operation of law or otherwise.

“Incumbent Board Member” means an individual who either is (a) a member of the Board as of the effective date of the adoption of this Plan or (b) a member who becomes a member of the Board subsequent to the date of the adoption of this Plan whose election, or nomination for election by GreenSky's stockholders, was approved by a vote of at least sixty percent (60%) of the then Incumbent Board Members (either by a specific vote or by approval of the proxy statement of GreenSky in which that person is named as a nominee for director, without objection to that nomination), but excluding, for that purpose, any individual whose initial assumption of office occurs as a result of an actual or threatened election contest (within the meaning of Rule 14a-11 of the Exchange Act) with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board.

“Individual Performance Factors” means such individual/personal performance objectives and such other individual/personal factors as the Committee determines to be appropriate for purposes of determining the Participant’s Bonus Award for the Bonus Period.

“IPO” means the underwritten initial public offering of Shares that closed in May 2018.

“Maximum Bonus Award” means the maximum Bonus Award which can be earned and paid for the Bonus Period to a Participant as determined by the Committee. The Committee may establish the Maximum Bonus Award for a Bonus Period as a set dollar amount or in such other manner as the Committee may designate, including using the same methodology for determining the Participant’s Preliminary Bonus Award but using different Corporate Performance Objective(s) and/or level(s) of Corporate Performance Objective(s) and/or different Individual Performance Factor(s) and/or levels of Individual Performance Factors than those used to determine the Aggregate Corporate Performance Bonus Multiplier for determining the Participant’s Preliminary Bonus Award. Unless the Committee specifically determines otherwise, in no event may the amount of any Participant’s Maximum Bonus Award exceed \$3,000,000 for any Bonus Period.

“Participant” means a member of the Senior Executive Group and any other Employee of an Employer who is selected to participate in the Plan.

“Person” means any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, entity or government instrumentality, division, agency, body or department.

“Plan” means this GreenSky, Inc. Annual Incentive Plan, in its current form and as it may be hereafter amended.

“Preliminary Bonus Award” means the preliminary Bonus Award which can be earned and paid for the Bonus Period to a Participant, which results from multiplying the Participant’s Compensation for the Bonus Period by the product of (i) the Participant’s Target Bonus Percentage and (ii) the Participant’s relevant Aggregate Corporate Performance Bonus Multiplier. Notwithstanding the foregoing, the Committee in its discretion may establish a different methodology from the foregoing to determine the Participant’s Preliminary Bonus Award for the Bonus Period. The Participant’s Preliminary Bonus Award may be increased or decreased as the Committee in its sole discretion shall determine based on the Participant’s Individual Performance Factors or such other factors as the Committee determines to be appropriate.

“Reorganization Agreement” means the Reorganization Agreement, dated May 23, 2018, among GreenSky, Holdings and the holders of equity interests in Holdings prior to the transactions contemplated thereby.

“Retirement” means the Participant’s termination of employment on or after attaining such age and/or completing such years of service as the Committee may determine for purposes of the Plan.

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

“Senior Executive Group” shall mean GreenSky’s CEO, Chief Financial Officer, Chief Administrative Officer, Chief Operating Officer, Chief Legal Officer, Chief Marketing Officer, Chief Human Resources Officer, or any other Employee otherwise designated by the Committee as a member of the Senior Executive Group, or any individual serving in any such capacity or in a role with commensurate

duties, who the Committee determines collectively constitute the primary decision-making body for GreenSky, currently referred to as the Senior Executive Group.

“Share” means the Class A common stock, \$0.01 par value per share, of GreenSky, and, unless the context otherwise requires, such other securities of GreenSky, as may be substituted or resubstituted for Shares.

“Significant Stockholder” shall mean any “person” or related “group” of “persons” (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) that, immediately following the actions described in Section 4(a), (b), (c) and (d) of the Reorganization Agreement and prior to the completion of the IPO, holds ten percent (10%) or more of the total combined voting power of all classes of common stock of GreenSky and/or would hold ten percent (10%) or more of the total combined voting power of all classes of common stock of GreenSky if their units in Holdings were exchanged for common stock of GreenSky (ignoring for purposes of such calculation any common stock issued in connection with GreenSky’s IPO to persons or entities other than the holders of equity interests in Holdings).

“Target Bonus Percentage” means, if applicable, the percentage of the Participant’s Compensation that will be earned as a Bonus Award where the Corporate Performance Objectives that are achieved for the Bonus Period result in an Aggregate Corporate Performance Bonus Multiplier of one hundred percent (100%). The Target Bonus Percentage for each Participant shall be established consistent with the Participant’s position in the Employer’s compensation structure.

“Weighting Percentage” means the percentage from one percent (1%) to one hundred percent (100%) assigned by the Committee to each separate Corporate Performance Objective and/or Individual Performance Factor or separate level of Corporate Performance Objective and/or Individual Performance Factor to be achieved to determine the Participant’s Preliminary Bonus Award for the Bonus Period. In no event may the sum of the Weighting Percentages assigned to the Corporate Performance Objectives and Individual Performance Factors and levels of Corporate Performance Objectives and Individual Performance Factors to be achieved for the Bonus Period to calculate the Participant’s Preliminary Bonus Award exceed one hundred percent (100%).

### **3. ADMINISTRATION OF THE PLAN**

3.1 Administration of the Plan. The Committee shall be the administrator of the Plan and shall have full authority to formulate adjustments and make interpretations under the Plan as it deems appropriate, taking into account such input from the Board, the CEO and such other members of the Senior Executive Group as the Committee determines appropriate. The Committee in its sole discretion may appoint one or more individuals who are not members of the Board or the Committee to administer the Plan on its behalf, except that the Committee remains responsible to approve all aspects of the Plan that the Committee reserves to itself or that pertain to the CEO and the other members of the Senior Executive Group. The Committee shall also be empowered to make any and all determinations not herein specifically authorized which may be necessary or desirable for the effective administration of the Plan. Any decision or interpretation of any provision of this Plan adopted by the Committee or its appointees shall be final, binding and conclusive on all parties. Benefits under this Plan shall be paid only if the Committee or its appointee determines, in its sole discretion, that the Participant or Beneficiary is entitled to them. None of the members of the Committee or its appointees shall be liable for any act done or not done in good faith with respect to this Plan. GreenSky shall bear all expenses of administering this Plan.

#### 4. ELIGIBILITY

4.1 Establishing Participation. Each member of the Senior Executive Group and each other Employee whose position in the Employer's compensation structure entitles him or her to participate in the Plan shall participate in the Plan for the applicable Bonus Period. The Committee shall retain the discretion to name as a Participant any member of the Senior Executive Group or otherwise-eligible Employee hired after the commencement of the Bonus Period and prior to October 1<sup>st</sup> of the Bonus Period. Members of the Senior Executive Group and other Employees hired on or after October 1<sup>st</sup> of the Bonus Period shall not be eligible to participate in the Plan for that Bonus Period. Any member of the Senior Executive Group or other Employee promoted during the Bonus Period may participate in the Plan in accordance with such Employee's status for the relevant portion of the Bonus Period.

#### 5. AMOUNT OF BONUS AWARDS

##### 5.1 Establishment of Bonuses.

(a) Establishment of Maximum Bonus Awards. The Committee shall establish, for each Participant, the Participant's Maximum Bonus Award (in dollars) for the Bonus Period or the methodology for establishing such Maximum Bonus Award (in dollars).

(b) Establishment of Preliminary Bonus Awards. The Committee then shall establish, for each Participant, the Participant's (i) Target Bonus Percentage, (ii) the Corporate Performance Objective(s) and level(s) of Corporate Performance Objectives that must be achieved to determine the Participant's Preliminary Bonus Award, (iii) the Individual Performance Factor(s) and level(s) of Individual Performance Factor(s) that must be achieved to determine the Participant's Preliminary Bonus Award, (iv) the Corporate Performance Bonus Multiplier that will apply to each Corporate Performance Objective and Individual Performance Factor or level of Corporate Performance Objective or Individual Performance Factor that will apply to determine the Participant's Preliminary Bonus Award and (v) the Aggregate Corporate Performance Bonus Multiplier that will apply to determine the Participant's Preliminary Bonus Award for the Bonus Period.

(c) Time and Manner of Establishment. The Corporate Performance Objectives, the levels of Corporate Performance Objectives and, if applicable, the Individual Performance Factors and levels of Individual Performance Factors to be achieved must take into account and be calculated with respect to the full accrual and payment of the Bonus Awards to be paid under the Plan. Each Participant's (i) Target Bonus Percentage, (ii) Corporate Performance Objective(s) and level(s) of Corporate Performance Objective to be achieved, (iii) Individual Performance Factor(s) and level(s) of Individual Performance Factors to be achieved, (iv) Corporate Performance Bonus Multiplier that corresponds to each Corporate Performance Objective or Individual Performance Factor or level of Corporate Performance Objective or Individual Performance Factor to be achieved, and (v) Aggregate Corporate Performance Bonus Multiplier must be established by the Committee in writing; they must be uncertain of achievement at the time they are established; and the achievement of the Corporate Performance Objectives or levels of Corporate Bonus Objectives must be determinable by a third party with knowledge of the relevant facts. The achievement of the Individual Performance Factors or levels of Individual Performance Factors may be subjective and determinable in the sole discretion of the Committee. The Corporate Performance Objectives and Individual Performance Factors the Committee may designate shall be any Corporate Performance Objectives or Individual Performance Factors the Committee may determine. There may be separate levels of Corporate Performance Objectives and Individual Performance Factors whenever the Corporate Performance Objectives are based upon different organizational levels of GreenSky and its Affiliates and/or the Individual Performance Factors are based upon different levels of achievement by the Participant. The

Corporate Performance Objectives and levels of Corporate Performance Objectives, however, may not include solely the mere continued employment of the Participant, although Bonus Awards may become payable contingent on the Participant's continued employment in addition to Corporate Performance Objective(s) or level(s) of Corporate Performance Objective(s). If there are separate Corporate Performance Objectives and/or Individual Performance Factors and/or separate levels of Corporate Performance Objectives and/or Individual Performance Factors that will apply to determine any aspect of a Participant's Bonus Award, the Committee shall assign the Corporate Performance Bonus Multiplier and Weighting Percentage to be used for each separate Corporate Performance Objective and/or Individual Performance Factor and/or each separate level of Corporate Performance Objective and/or Individual Performance Factor, and the Participant's Aggregate Corporate Performance Bonus Multiplier shall be the sum of the products of (A) each Corporate Performance Bonus Multiplier assigned to the separate Corporate Performance Objective and/or Individual Performance Factor or separate level of Corporate Performance Objective and/or Individual Performance Factor that must be achieved for the Bonus Period multiplied by (B) the Weighting Percentage the Committee assigned to that separate Corporate Performance Objective or Individual Performance Factor or separate level of Corporate Performance Objective or Individual Performance Factor. To the extent actual performance falls between two Corporate Performance Bonus Multipliers assigned to the separate Corporate Performance Objectives and/or Individual Performance Factors or separate levels of Corporate Performance Objectives and/or Individual Performance Factors that must be achieved for the Bonus Period, the Corporate Performance Bonus Multiplier for that Corporate Performance Objective or Individual Performance Factor or level of Corporate Performance Objective or Individual Performance Factor shall be determined by straight line interpolation between the two Corporate Performance Bonus Multipliers.

## 5.2 Calculation of Bonus Awards.

(a) Timing of the Calculation. The calculations necessary to determine the Bonus Awards for the Bonus Period shall be made no later than the fifteenth day of the third month following the end of the Bonus Period for which the Bonus Awards are to be calculated. Such calculation shall be carried out in accordance with this Section 5.2.

(b) Calculations. Following the end of the Bonus Period, the Maximum Bonus Award for each Participant shall be determined. Following the end of the Bonus Period, each Participant's Preliminary Bonus, if any, also shall be calculated based on the performance achieved for the Bonus Period. The Participant's Bonus Award for the Bonus Period then shall be equal to the lesser of (i) the Participant's Maximum Bonus Award for the Bonus Period and (ii) the Participant's Preliminary Bonus Award for the Bonus Period, as such Preliminary Bonus Award may be increased or decreased as the Committee in its sole discretion shall determine based on the Participant's individual performance or such other factors as the Committee determines to be appropriate.

(c) Written Determination. For purposes of the Bonus Awards, the Committee shall certify in writing whether the Corporate Performance Objectives and/or Individual Performance Factors or levels of Corporate Performance Objectives and/or Individual Performance Factors have been achieved.

## 6. **PAYMENT OF AWARDS**

6.1 Eligibility for Payment. Except as otherwise set forth in Sections 7.1, 8.1 or 9.11 of this Plan or as the Committee may otherwise determine, Bonus Awards shall not be paid to any Participant who is not employed by an Employer on the last day of the Bonus Period with respect which the Bonus Award has been determined, and a Participant who terminates employment with GreenSky and its Affiliates prior to the last day of the applicable Bonus Period shall not be eligible to receive any Distribution for (i) the

Bonus Period that includes the date of such termination of employment or (ii) any future Bonus Periods. Additionally, notwithstanding any other provision of the Plan, no Bonus Awards shall be paid to any Participant on and after the time the Participant is notified by the Employer that the Participant's employment is to be terminated involuntarily for Cause, whether the Bonus Award is payable with respect to any completed Bonus Period, the Bonus Period in which the Participant's employment is terminated or any future Bonus Period.

6.2 Timing of Payment. Any Distribution to be paid for a Bonus Period shall be paid no later than the fifteenth day of the third month following the end of the Bonus Period.

6.3 Payment of Award. The amount of the Bonus Award to be paid pursuant to this Section 6 to a Participant shall be paid in one lump sum cash payment by the Employer. If the Participant dies before payment of the Bonus Award, the Bonus Award, to the extent still payable, shall be paid to the Participant's Beneficiary.

6.4 Taxes; Withholding. To the extent required by law, the Employer shall withhold from all Distributions made hereunder any amount required to be withheld by Federal and state or local government or other applicable laws. Each Participant shall be responsible for satisfying in cash or cash equivalent acceptable to the Committee any income and employment tax withholdings applicable to any Distribution to the Participant under the Plan.

## **7. CHANGE IN CONTROL**

7.1 Effect of Change in Control. If a Change in Control occurs, subject to Section 9.11 of the Plan, (i) Bonus Awards with respect to any Bonus Period that ended prior to the Change in Control shall be determined based on actual business results achieved for the Bonus Period and (ii) Bonus Awards with respect to the Bonus Period in which the Change in Control occurs shall be determined assuming the achievement of each applicable Corporate Performance Objective or level of Corporate Performance Objective at the target level of achievement for the Bonus Period, and each Individual Performance Factor or level of Individual Performance Factor at the target level of achievement for the Bonus Period with respect to objective Individual Performance Factors and at 100% of the related Corporate Performance Bonus Multiplier with respect to subjective Individual Performance Factors, except that (i) the Bonus Award for the Bonus Period that includes the Change in Control shall be based solely upon the Participant's Compensation for that Bonus Period through the date of the Change in Control and (ii) in case of Bonus Awards for any completed Bonus Period and the Bonus Period in which the Change in Control occurs, (A) the Committee shall not exercise any discretion to decrease the Participant's Preliminary Bonus Award and (B) the Participant need no longer remain employed with GreenSky and its Affiliates on or after the Change in Control. After a Change in Control, Bonus Awards for any completed Bonus Period shall be paid at the normal time of the bonus payout but in no event later than the fifteenth day of the third month following the end of the Bonus Period. Bonus Awards for the Bonus Period that includes the Change in Control shall be paid no later than the fifteenth day of the third month following the date of the Change in Control.

## **8. TERMINATION OF EMPLOYMENT**

8.1 Payment after Death, Disability and Retirement. If before a Change in Control occurs the Participant's employment with GreenSky and its Affiliates is terminated during the Bonus Period on account of the Participant's death, Disability or Retirement, subject to Section 9.11 of the Plan, the Participant shall be entitled to receive for the Bonus Period that includes the date of the Participant's death, Disability or Retirement, the Bonus Award that would result based on actual business results for the entire

Bonus Period, taking into account the Corporate Performance Objectives and levels of Corporate Performance Objectives achieved during the Bonus Period, calculated on the same basis as other similarly-situated Participants, and the Individual Performance Factors or levels of Individual Performance Factors at the actual results level of achievement for the Bonus Period with respect to objective Individual Performance Factors and at 100% of the related Corporate Performance Bonus Multiplier with respect to subjective Individual Performance Factors, except that the Participant's Bonus Award for that Bonus Period shall be based solely upon the Participant's Compensation for that Bonus Period through the time of Participant's death, Disability or Retirement. Each Participant described herein also shall be entitled to receive any Bonus Award payable for any Bonus Period that ended before the Participant's death, Disability or Retirement, on the same basis as the Bonus Award for the Bonus Period that includes the date of the Participant's death, Disability or Retirement. Such Bonus Awards shall be paid at the normal time of the bonus payout as if the Participant had remained employed but in no event later than the fifteenth day of the third month following the end of the Bonus Period.

8.2 Payment after Termination of Employment Other Than on Account of Death, Disability or Retirement. If before a Change in Control occurs the Participant's employment with GreenSky and its Affiliates is terminated during the Bonus Period other than on account of the Participant's death, Disability or Retirement, subject to Section 9.11 of the Plan, the Participant shall not be entitled to receive a Bonus Award for the Bonus Period that includes the termination of the Participant's employment other than on account of the Participant's death, Disability or Retirement, unless the Committee specifically approves otherwise. The Committee has the discretion to pay the Participant's Bonus Award that would result based on actual business results for the entire Bonus Period (based solely upon the Participant's Compensation for that Bonus Period through the time of Participant's termination of employment), or any portion thereof, notwithstanding the termination of the Participant's employment during the Bonus Period other than on account of the Participant's death, Disability or Retirement.

## 9. MISCELLANEOUS

9.1 Unsecured General Creditor. Participants and their beneficiaries, heirs, successors and assigns shall have no legal or equitable rights, interests, or other claim in any property or assets of the Employer. Any and all assets shall remain general, unpledged, unrestricted assets of the Employer. The Employer's obligation under the Plan shall be that of an unfunded and unsecured promise to pay cash in the future, and there shall be no obligation to establish any fund, any security or any other restricted asset in order to provide for the payment of amounts under the Plan.

9.2 Obligations to the Employer. If a Participant becomes entitled to a Distribution under the Plan, and, if, at the time of the Distribution, such Participant has outstanding any debt, obligation or other liability representing an amount owed to any Employer, then the Employer may offset such amounts owing to it or any other Employer against the amount of any Distribution. Such determination shall be made by the Committee. Any election by the Committee not to reduce any Distribution payable to a Participant shall not constitute a waiver of any claim for any outstanding debt, obligation, or other liability representing an amount owed to the Employer.

9.3 Nonassignability. Neither a Participant nor any other person shall have any right to commute, sell, assign, transfer, pledge, anticipate, mortgage or otherwise encumber, transfer, hypothecate or convey in advance of actual receipt the amounts, if any, payable hereunder, or any part thereof, which are, and all rights to which are, expressly declared to be unassignable and nontransferable. No part of a Distribution, prior to actual Distribution, shall be subject to seizure or sequestration for the payment of any debts, judgments, alimony or separate maintenance owed by a Participant or any other person, nor shall it be

transferable by operation of law in the event of the Participant's or any other persons bankruptcy or insolvency, except as set forth in Section 9.2 above or pursuant to a legal domestic relations order.

9.4 Employment or Future Pay or Compensation Not Guaranteed. Nothing contained in this Plan nor any action taken hereunder shall be construed as a contract of employment or as giving any Participant or any former Participant any right to be retained in the employ of an Employer or receive or continue to receive any rate of pay or other compensation, nor shall it interfere in any way with the right of an Employer to terminate the Participant's employment at any time without assigning a reason therefor.

9.5 Gender, Singular and Plural. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, or neuter, as the identity of the person or persons may require. As the context may require, the singular may be read as the plural and the plural as the singular.

9.6 Captions. The captions to the articles, sections, and paragraphs of this Plan are for convenience only and shall not control or affect the meaning or construction of any of its provisions.

9.7 Applicable Law. This Plan shall be governed and construed in accordance with the laws of the State of Delaware.

9.8 Validity. In the event any provision of the Plan is held invalid, void, or unenforceable, the same shall not affect, in any respect whatsoever, the validity of any other provision of the Plan.

9.9 Notice. Any notice or filing required or permitted to be given to the Committee shall be sufficient if in writing and hand delivered, or sent by registered or certified mail, to the principal office of GreenSky, directed to the attention of the Committee. Such notice shall be deemed given as of the date of delivery or, if delivery is made by mail, as of the date shown on the postmark on the receipt for registration or certification.

9.10 Compliance. No Distribution shall be made hereunder except in compliance with all applicable laws and regulations (including, without limitation, withholding tax requirements), any listing agreement with any stock exchange to which GreenSky is a party, and the rules of all domestic stock exchanges on which GreenSky's shares of capital stock may be listed. The Committee shall have the right to rely on an opinion of its or GreenSky's counsel as to such compliance. No Distribution shall be made hereunder unless the Employer has obtained such consent or approval as the Employer may deem advisable from regulatory bodies having jurisdiction over such matters.

9.11 Other Agreements; No Duplicate Payments. To the extent the Participant and the Employer are parties to any other agreements or arrangements relating to the Participant's employment that provide for payment(s) of any bonuses under this Plan on termination of employment, change in control or otherwise, this Plan and such other agreements or arrangements shall be construed and interpreted so that (i) the Bonus Awards and Distributions payable under the Plan and such other agreements or arrangements are only paid once; it being the intent of this Plan not to provide the Participant any duplicative payments of Bonus Awards, but that (ii) the Participant shall be entitled to receive the full benefits of both the Plan and such other agreements or arrangements; it being the intent of GreenSky and its Affiliates to provide the Participant with the benefits of such other agreements or arrangements. To the extent a Participant is entitled to a bonus payment calculated under this Plan and under any other agreement or arrangement, which would result in a duplicative payment of the Bonus Award or Distribution, no Bonus Award or Distribution will be payable hereunder if the payment under the other agreement or arrangement is not reduced by any duplicative payment under this Plan. To the extent a Participant is entitled to a bonus

payment or portion thereof calculated under this Plan under any other agreement or arrangement, which bonus payment or portion thereof is not otherwise payable under this Plan, the terms of such other agreement or arrangement shall control and be given effect.

9.12 Temporary Leaves of Absence. The Committee in its sole discretion may decide to what extent leaves of absence for government or military service, illness, temporary disability or other reasons shall, or shall not, be deemed an interruption or termination of employment.

9.14 Compensation Recoupment Policy. Notwithstanding any other provision of this Plan, any Bonus Award received by the Participant and/or cash paid hereunder, shall be subject to potential cancellation, recoupment, rescission, payback or other action in accordance with the terms of any Compensation Recoupment Policy GreenSky may adopt, and as it may be amended from time to time. By acceptance of the Bonus Award, the Participant agrees and consents to GreenSky's application, implementation and enforcement of (a) any such Compensation Recoupment Policy or any similar policy established by GreenSky or any Affiliate that may apply to the Participant and (b) any provision of applicable law relating to cancellation, rescission, payback or recoupment of compensation, and expressly agrees that the Committee may take such actions as are necessary to effectuate the Compensation Recoupment Policy, any similar policy (as applicable to the Participant) or applicable law without further consent or action being required by the Participant. To the extent that the terms of this Plan and the Compensation Recoupment Policy or any similar policy conflict, then the terms of such policy shall prevail.

9.15 Restrictive Covenants. Bonus Awards under the Plan are contingent upon the Participant continuing to comply with any Confidentiality, Non-Solicitation, Non-Recruitment, Non-Competition and Invention Assignment Agreement to which the Participant is a party with GreenSky and/or any of its Affiliates. If the Participant breaches in any material respect any such agreement, the Participant shall forfeit the right to receive any further Bonus Awards under the Plan and, to the extent permitted by law, the Participant agrees to return to the Employer the gross amount of all Bonus Awards received in the twelve (12) months prior to such breach.

## **10. AMENDMENT AND TERMINATION OF THE PLAN**

10.1 Amendment. Except as set forth in Section 10.3 below, the Committee in its sole discretion may at any time amend the Plan in whole or in part.

### 10.2 Termination of the Plan.

(a) Employer's Right to Terminate. Except as set forth in Section 10.3 below, the Committee may at any time terminate the Plan, if it determines in good faith that the continuation of the Plan is not in the best interest of GreenSky and its stockholders. No such termination of the Plan shall reduce any Distributions already made.

(b) Payments upon Termination of the Plan. Upon the termination of the Plan under this Section 10.2, Awards for future Bonus Periods shall not be made. With respect to the Bonus Period in which such termination takes place, the Employer will pay to each Participant the Participant's Bonus Award, if any, for such Bonus Period, less any applicable withholdings, only to the extent the Committee provides for any such payments on termination of the Plan (in which case all such payments will be made no later than the fifteenth day of the third month following the end of the Bonus Period that includes the effective date of termination of the Plan).

10.3 Amendment or Termination after a Change in Control. Notwithstanding any other provision of the Plan, the Committee may not amend or terminate the Plan in whole or in part, or change eligibility for participation in the Plan, on or after a Change in Control to the extent any such amendment or termination, or change in eligibility for participation in the Plan, would adversely affect the Participants' rights hereunder or result in Bonus Awards not being paid consistent with the terms of the Plan in effect prior to such amendment or termination for the Bonus Period in which the amendment or termination of the Plan takes place and any prior Bonus Period.

## 11. COMPLIANCE WITH SECTION 409A

11.1 Tax Compliance. This Plan is intended to be exempt from the applicable requirements of Section 409A of the Code and shall be construed and interpreted in accordance therewith. The Committee may at any time amend, suspend or terminate this Plan, or any payments to be made hereunder, as necessary to be exempt from Section 409A of the Code. Notwithstanding the preceding, no Employer shall be liable to any Employee or any other person if the Internal Revenue Service or any court or other authority having jurisdiction over such matter determines for any reason that any Bonus Award or Distribution to be made under this Plan is subject to taxes, penalties or interest as a result of failing to comply with Section 409A of the Code. The Distributions under the Plan are intended to satisfy the exemption from Section 409A of the Code for "short-term deferrals."

## 12. CLAIMS PROCEDURES

12.1 Filing of Claim. If a Participant becomes entitled to a Bonus Award or a Distribution has otherwise become payable, and the Participant has not received the benefits to which the Participant believes he or she is entitled under such Bonus Award or Distribution, then the Participant must submit a written claim for such benefits to the Committee within ninety (90) days of the date the Bonus Award would have become payable (assuming the Participant is entitled to the Bonus Award) or the claim will be forever barred.

12.2 Appeal of Claim. If a claim of a Participant is wholly or partially denied, the Participant or his or her duly authorized representative may appeal the denial of the claim to the Committee. Such appeal must be made at any time within thirty (30) days after the Participant receives written notice from the Committee of the denial of the claim. In connection therewith, the Participant or his or her duly authorized representative may request a review of the denied claim, may review pertinent documents and may submit issues and comments in writing. Upon receipt of an appeal, the Committee shall make a decision with respect to the appeal and, not later than sixty (60) days after receipt of such request for review, shall furnish the Participant with a decision on review in writing, including the specific reasons for the decision, as well as specific references to the pertinent provisions of the Plan upon which the decision is based. Notwithstanding the foregoing, if the Committee has not rendered a decision on appeal within sixty (60) days after receipt of such request for review, the Participant's appeal shall be deemed to have been denied upon the expiration of the sixty (60)-day review period.

12.3 Final Authority. The Committee has discretionary and final authority under the Plan to determine the validity of any claim. Accordingly, any decision the Committee makes on the Participant's appeal shall be final and binding on all parties. If a Participant disagrees with the Committee's final decision, the Participant may bring suit, but only after the claim on appeal has been denied or deemed denied. Any such lawsuit must be filed within one hundred eighty (180) days of the Committee's denial (or deemed denial) of the Participant's claim or the claim will be forever barred.