

As filed with the Securities and Exchange Commission on March 4, 2022

Registration No.

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

**FORM S-8**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**EZCORP, INC.**

(Exact name of registrant as specified in its charter)

**Delaware 74-2540145**

(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

**2500 Bee Cave Road, Building One, Suite 200, Rollingwood, Texas 78746**

(Address of Principal Executive Offices) (Zip Code)

**EZCORP, INC. 2022 LONG-TERM INCENTIVE PLAN**

(Full title of the plan)

**Thomas H. Welch, Jr.**  
**Chief Legal Officer and Secretary**  
**EZCORP, Inc.**

**2500 Bee Cave Road, Building One, Suite 200, Rollingwood, Texas 78746**

(Name and address of agent for service)

**(512) 314-3409**

(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer   
Non-Accelerated filer  Smaller reporting company   
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

## **PART I**

### **INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The information specified in Part I of this Form has been omitted from this Registration Statement in accordance with the Note to Part I of Form S-8. EZCORP, Inc., a Delaware corporation (the "Company," "we" or "us") will provide all participants in the 2022 Long-Term Incentive Plan (the "Plan") with the document(s) containing the information required by Part I of Form S-8.

## **PART II**

### **INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

#### **Item 3 — Incorporation of Documents by Reference.**

The following documents, which have been filed with the Securities and Exchange Commission (the "SEC") pursuant to the Securities Exchange Act of 1934 (the "Exchange Act") by the Company (Commission File No. 0-19424), are incorporated herein by reference and made a part hereof (except to the extent that information therein is deemed furnished and not filed pursuant to the Exchange Act):

- (a) Annual Report on Form 10-K for the year ended September 30, 2021;
- (b) Quarterly Report on Form 10-Q for the quarter ended December 31, 2021;
- (c) Current Reports on Form 8-K dated December 2, 2021, January 13, 2022, January 31, 2022 and March 3, 2022; and
- (d) The description of our Class A Non-Voting Common Stock set forth in Exhibit 4.1 of our Current Report on Form 8-K filed with the SEC on October 3, 2013, and any amendments thereto or reports that we may file in the future for the purpose of updating such description.

In addition, all documents that we file with the SEC pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (excluding information therein deemed to be furnished and not filed with the SEC as noted below) after the effective date of this Registration Statement and prior to the filing of a post-effective amendment that indicates all securities offered hereby have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated herein by reference and to be a part of this Registration Statement from the date of filing of such documents.

Any statement contained herein or in any document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed to constitute a part of this Registration Statement, except as so modified or superseded.

Notwithstanding the foregoing, we are not incorporating by reference any information furnished under Items 2.02 or 7.01 (or corresponding information furnished under Item 9.01 or included as an exhibit) in any past or future Current Report on Form 8-K that we may file with the SEC, unless otherwise specified in such Current Report.

**Item 4 — Description of Securities.**

Not applicable.

**Item 5 — Interests of Named Experts and Counsel.**

Certain legal matters in connection with the validity of the Company's Class A Non-Voting Common Stock offered hereby have been passed upon by Thomas H. Welch, Jr., Chief Legal Officer and Secretary of the Company. Mr. Welch is an employee and stockholder of the Company and will be a participant in the Plan.

**Item 6 — Indemnification of Directors and Officers.**

Article Eighth of our Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") provides that the Company shall indemnify its present or former directors and officers, and may indemnify any employee or agent of the Company, to the fullest extent permitted under the Delaware General Corporation Law (the "DGCL"). Pursuant to Section 145 of the DGCL, the Company generally has the power to indemnify each of its present and former directors, officers, employees and agents against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) to which such person is a party or is threatened to be made a party by reason of the fact that such person is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation or entity, so long as (a) such person acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful, or (b) such person has been successful on the merits or otherwise in defense of any such action, suit or proceeding or in defense of any claim, issue or matter therein; provided, however, that in the case of any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor, indemnification is generally limited to expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit and is not available with respect to any claim, issue or matter as to which such person has been adjudged to be liable to the Company unless and only to the extent that the court determines that such person is fairly and reasonably entitled to indemnity for such expenses that the court shall deem proper. Section 145 of the DGCL expressly provides that the indemnification authorized thereunder shall not be deemed exclusive of any rights to which a person may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 145 of the DGCL also gives the Company the power to purchase and maintain insurance on behalf of any of its present or former directors, officers, employees or agents, or any person who is or was serving at the request of the Company as a director, officer, employee or agent of another corporation or entity, and the Company maintains directors and officers insurance policies for the benefit of its directors, officers and employees.

**Item 7 — Exemption from Registration Claimed.**

Not applicable.

## Item 8 — Exhibits.

The following exhibits are filed as a part of this Registration Statement:

<b>Exhibit Number</b>	<b>Description</b>
4.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on October 3, 2013, Commission File No. 0-19424)
4.2	Certificate of Amendment, dated March 25, 2014, to the Company's Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K filed on March 25, 2014, Commission File No. 0-19424)
4.3	Amended and Restated Bylaws, effective July 20, 2014 (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed on July 22, 2014, Commission File No. 0-19424)
4.4	Specimen of Class A Non-Voting Common Stock certificate (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1 effective August 23, 1991, Commission File No. 33-41317)
5.1*	<a href="#">Opinion of legal counsel</a>
23.1*	<a href="#">Consent of BDO USA, LLP, independent registered public accounting firm</a>
23.2*	Consent of legal counsel (included in Exhibit 5.1)
24.1*	Power of attorney (set forth on signature page)
99.1	<a href="#">EZCORP, Inc. 2022 Long-Term Incentive Plan, effective March 1, 2022</a> (incorporated by reference to Exhibit 99.2 to the Company's Current Report on Form 8-K filed on March 3, 2022, Commission File No. 0-19424)
107*	<a href="#">Filing Fee Table</a>

\* Filed herewith

## Item 9 — Undertakings.

The Company hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
  - (a) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933 (the "Securities Act");

- (b) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement;
- (c) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (1)(a) and (1)(b) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the Company pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for purposes of determining any liability under the Securities Act, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (5) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

## SIGNATURES

**The Registrant.** Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Rollingwood, State of Texas, on March 4, 2022.

### EZCORP, INC.

By: /s/ Lachlan P. Given  
Lachlan P. Given,  
Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated. Each person whose signature appears below hereby authorizes and appoints Thomas H. Welch, Jr. as his or her attorney-in-fact to sign on his or her behalf individually and in the capacity stated below all amendments and post-effective amendments to this registration statement as that attorney-in-fact may deem necessary or appropriate.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Lachlan P. Given</u> Lachlan P. Given	Chief Executive Officer and Director (principal executive officer)	March 4, 2022
<u>/s/ Timothy K. Jugmans</u> Timothy K. Jugmans	Chief Financial Officer (principal financial officer)	March 4, 2022
<u>/s/ Robert J. Hicks</u> Robert J. Hicks	Chief Accounting Officer (principal accounting officer)	March 4, 2022
<u>/s/ Matthew W. Appel</u> Matthew W. Appel	Director	March 4, 2022
<u>/s/ Zena Srivatsa Arnold</u> Zena Srivatsa Arnold	Director	March 4, 2022
<u>/s/ Phillip E. Cohen</u> Phillip E. Cohen	Executive Chairman and Director	March 4, 2022
<u>/s/ Jason A. Kulas</u> Jason A. Kulas	Director	March 4, 2022
<u>/s/ Pablo Lagos Espinosa</u> Pablo Lagos Espinosa	Director	March 4, 2022
<u>/s/ Gary L. Tillett</u> Gary L. Tillett	Director	March 4, 2022

## Calculation of Filing Fee Tables

### Form S-8 Registration Statement (Form Type)

#### EZCORP, INC.

(Exact Name of Registrant as Specified in its Charter)

Table 1 – Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered (1)	Proposed Maximum Offering Price Per Unit (2)	Maximum Aggregate Offering Price (2)	Fee Rate	Amount of Registration Fee (2)
Equity	Class A Non-Voting Common Stock, par value, \$0.01 per share	Rule 457(c) and 457(h)	400,000	\$5.91	\$2,364,000	\$92.70 per \$1,000,000	\$219.14
Total Offering Amounts				—	\$2,364,000	—	\$219.14
Total Fee Offsets				—	—	—	—
Net Fee Due				—	—	—	\$219.14

- (1) Pursuant to Rule 416, this Registration Statement shall be deemed to cover such additional shares of Class A Non-Voting Common Stock as may become issuable pursuant to the antidilution provisions of the 2022 Long-Term Incentive Plan.
- (2) Estimated solely for purposes of calculating the registration fee, in accordance with Rule 457(h), on the basis of the price of securities of the same class, as determined in accordance with Rule 457(c), using the average of the high and low prices for the Class A Non-Voting Common Stock reported on The NASDAQ Stock Market on March 1, 2022.



Exhibit 5.1

March 4, 2022

EZCORP, Inc.  
Building One, Suite 200  
2500 Bee Cave Road  
Rollingwood, Texas 78746

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

I am Chief Legal Officer and Secretary for EZCORP, Inc., a Delaware corporation (the "Company"), and have represented the Company in connection with the preparation of the Registration Statement on Form S-8 (the "Registration Statement") to be filed with the Securities and Exchange Commission in connection with the registration under the Securities Act of 1933 of the offer and sale of 400,000 shares of the Company's Class A Non-Voting Common Stock, par value \$.01 per share (the "Shares"), that may be issued from time to time pursuant to awards granted under the 2022 Long-Term Incentive Plan (the "Plan").

In reaching the opinion set forth herein, I have examined such agreements, certificates of public officials and officers of the Company, records, documents and matters of law as I deemed relevant.

Based on the foregoing and subject further to the assumptions, exceptions and qualifications hereinafter stated, I am of the opinion that the Shares, when issued in the manner contemplated by the Registration Statement and in accordance with the terms of the Plan and the relevant award agreements, will be legally issued, fully paid and nonassessable.

In rendering the opinion set forth herein, I have assumed that the Company will receive the full amount and type of consideration (as specified in the Plan and each applicable award agreement) for each of the Shares or will have received that consideration upon the issuance of the Shares pursuant to the applicable award agreement; that such consideration will be in cash, personal property or services already performed; that such consideration will equal or exceed the par value per share of the Shares; that appropriate certificates or other evidence of ownership with respect to the Shares will be properly executed upon each such issuance; and that each grant of an award pursuant to the Plan will be duly authorized.

The opinion expressed above is limited to the laws of the State of Texas, the Delaware General Corporation Law and the federal laws of the United States of America. I am not admitted to the practice of law in the State of Delaware.

I hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, I do not thereby admit that I come into the category of persons whose consent is required under Section 7 of the Securities Act of 1933 or the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

Sincerely,

/s/ Thomas H. Welch, Jr.

Thomas H. Welch, Jr.,  
Chief Legal Officer and Secretary



## Exhibit 23.1

### Consent of Independent Registered Public Accounting Firm

EZCORP, Inc.  
Austin, Texas

We hereby consent to the incorporation by reference in this Registration Statement of our reports dated November 17, 2021, relating to the consolidated financial statements and the effectiveness of EZCORP, Inc.'s internal control over financial reporting, appearing in the Company's Annual Report on Form 10-K for the year ended September 30, 2021.

/s/ BDO USA, LLP

BDO USA, LLP  
Dallas, Texas

March 4, 2022

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

**EZCORP, INC.**  
**2022 Long-Term Incentive Plan**  
Effective March 1, 2022

## I — General

- 1.1 **Purpose** — The 2022 Long-Term Incentive Plan (the “**Plan**”) has been established by EZCORP, Inc., a Delaware corporation (the “**Company**”), to attract and retain qualified employees, consultants and directors and motivate them to achieve long-term goals, to provide incentive compensation opportunities that are competitive with those of similar companies and to further align Participants’ interests with those of the Company’s other stockholders through compensation alternatives based on the Company’s common stock, thereby promoting the long-term financial interests of the Company and enhancing long-term stockholder return.
- 1.2 **Term** — The Plan shall become effective as of March 1, 2022 (the “**Effective Date**”) and shall remain effective as long as Awards (as defined in Section 2.1) granted under the plan remain outstanding.
- 1.3 **Replacement of Existing Plan** — No further awards will be made under the 2010 Long-Term Incentive Plan (the “**2010 Plan**”) from and after January 1, 2022, but the provisions of the 2010 Plan shall continue to be applicable to the awards made under such plan that are outstanding as of December 31, 2021 and the “Authorized Shares” under the 2010 Plan (as specified in Section 3.1 of such plan) shall remain available to satisfy such awards.

## II — Awards and Participants

- 2.1 **Types of Awards** — Awards granted under the Plan (“**Awards**”) shall represent rights to acquire shares of the Company’s Class A Non-Voting Common Stock, par value \$0.01 per share (“**Stock**”), and may consist of the following:
- (a) **Restricted Stock** — A grant of Stock that is subject to a risk of forfeiture or other restrictions that will lapse upon the satisfaction of specified conditions or the achievement of specified performance goals; or
  - (b) **Restricted Stock Unit** — A right to receive Stock in the future, with the right to future delivery of such Stock being subject to a risk of forfeiture or other restrictions that will lapse upon the satisfaction of specified conditions or the achievement of specified performance goals.

Awards may be granted singly or in combination with other Awards. Awards also may be made in combination with, in replacement of, as alternatives to or as the payment form for grants or rights under any other compensation plan, contract or agreement of the Company.

## 2.2 **Eligibility and Participation** —

- (a) The persons eligible to receive Awards under to the Plan (the “**Eligible Recipients**”) shall consist of:
- (1) Employees of the Company and its Subsidiaries (as defined below);
  - (2) Members of the Company’s Board of Directors (the “**Board**”) who are not employees of the Company or any of its Subsidiaries (the “**Non-Employee Directors**”); and
  - (3) Consultants, independent contractors or advisors to the Company or its Subsidiaries whom the Committee identifies as having a direct and significant effect on the performance of the Company or any of its Subsidiaries.

As used herein, the term “**Subsidiary**” shall mean any entity of which 50% or more of the total combined voting power of all classes of securities entitled to vote is owned, directly or indirectly, by the Company; provided, however, that the Committee may use any other definition of “Subsidiary” it deems necessary or desirable in accordance with its judgment as to the best interests of the Company and its stockholders and in accordance with the purposes of the Plan.

- (b) No Eligible Recipient shall be entitled to receive any Award under the Plan unless and until the Award to such Eligible Recipient has been approved by the Board pursuant to Section 4.1 and such Eligible Recipient has actually received such Award (thereafter, a “**Participant**”). The designation of an Eligible Recipient to receive any Award under the Plan shall not require the designation of that person to receive any other Award under the Plan.
- (c) The Plan does not constitute a contract of employment with any Eligible Recipient or Participant, and selection as a Participant will not give any Eligible Recipient the right to be retained in the employ of the Company or any Subsidiary or to continue to provide services to the Company or any Subsidiary.

## III — Shares Available For Awards

- 3.1 **Authorized and Available Shares** — The total number of shares of Stock that may be issued pursuant to Awards under the Plan (the “**Authorized Shares**”) shall be such number as is approved from time to time by the holder (the “**Voting Stockholder**”) of the issued and outstanding shares of the Company’s Class B Voting Common Stock, par value \$0.01 per share (the “**Voting Stock**”). At any time, the number of shares of Stock that may then be issued pursuant to Awards under the Plan (the “**Available Shares**”) shall be equal to the difference between (a) the number of Authorized Shares at such time and (b) the sum of (1) the number of shares of Stock subject to issuance upon settlement of then outstanding Awards and (2) the number of shares of Stock that have been previously issued upon settlement of Awards. No Award may cover a number of shares of Stock in excess of the number of Available Shares then existing.
- 3.2 **Restoration of Shares** — If the shares of Stock subject to any Award are not issued or cease to be issuable for any reason (including because the Award is forfeited, cancelled or terminated, is

settled in cash in lieu of Stock or is exchanged for other Awards or because such Shares were withheld to cover applicable tax withholding), such shares shall no longer be charged against the number of Authorized Shares in calculating the number of Available Shares under Section 3.1 and shall again be included in Available Shares.

- 3.3 **Adjustments to Number of Authorized Shares and Available Shares** — If there is any change in the number of outstanding shares of Stock by reason of a stock dividend, split, spin-off, recapitalization, merger, consolidation, combination, extraordinary dividend, exchange of shares or other similar change, the number of Authorized Shares and the number of Available Shares (as well as the number of shares subject to, and other appropriate terms of, any outstanding Award) will be automatically adjusted to accurately and equitably reflect the effect thereon of such change. The adjustments required by this Section 3.3 shall be made by the Board, and its determination as to what adjustments should be made and the extent thereof will be final, binding and conclusive.
- 3.4 **Source of Stock** — Shares of Stock issued under the Plan may consist in whole or in part of authorized and unissued shares or treasury shares.
- 3.5 **No Fractional Shares** — No fractional shares shall be issued under the Plan, upon settlement of any Award or upon any adjustment to an Award pursuant to Section 3.3. Any fractional share that would otherwise be issuable shall be cancelled with no payment of consideration.

## IV — Approval of Awards, Participants and Award Terms

- 4.1 **General** — All Awards under the Plan (including the type, recipient, amount and terms) shall be subject to review and approval by the Board, and no Award may be made under the Plan without the approval of the Board; provided, however, that if the Voting Stockholder is not a member of the Board, then Awards under the Plan shall also require the approval of the Voting Stockholder.
- 4.2 **Terms of Awards** — Subject to the provisions of the Plan, the People and Compensation Committee of the Board (the “**Committee**”) shall determine the type of Awards to grant, select those Eligible Recipients who are to receive Awards and establish the terms of Awards, and shall submit its recommendations to the Board for approval pursuant to Section 4.1. In selecting Eligible Recipients to receive Awards and in determining the type, amount and terms of their respective Awards, the Committee may consider any and all factors that it deems relevant or appropriate.

The Award terms established and recommended by the Committee shall include the following (as applicable):

- (a) The number of shares of Stock subject to the Award;
- (b) The schedule on which the Award, or portions thereof, vest or applicable restrictions lapse (including the service requirements, performance goals or other conditions under which the Award vests or restrictions lapse); and
- (c) The termination and expiration of the Award.

The Committee may include in any Award terms that provide for the acceleration of vesting and lapse of restrictions, as applicable, upon or following a Participant's death, Normal Retirement (as defined in Section 4.9(b)) or Permanent Disability (as defined in Section 4.9(c)). Notwithstanding any other provision of the Plan, the inclusion in any Award of any provision for the acceleration of vesting or lapse of restrictions upon a Change of Control (as defined in Section 4.9(a)) shall require the approval of the Voting Stockholder.

- 4.3 **Award Agreements** — Each Award shall be evidenced by a written agreement issued by the Company and setting forth the terms, provisions and conditions of such Award (an “**Award Agreement**”). Each Award Agreement shall be consistent with the terms of the Award as approved by the Board pursuant to Section 4.1, shall be in such form as may be specified by the Committee and may be evidenced by an electronic transmission (including an e-mail or reference to a website or other URL) sent to the recipient through the Company’s normal process for communicating electronically with its employees. As a condition to receiving an Award, an Eligible Recipient shall be required to affirmatively accept the Award and agree to the terms, provisions and conditions set forth in the Award Agreement by physically or electronically executing the Award Agreement or by otherwise physically or electronically acknowledging such acceptance and agreement.
- 4.4 **Transferability of Awards** — A Participant may not sell, assign, transfer, pledge or otherwise dispose of any Award, and the benefits of an Award shall run solely to the Participant named in the Award Agreement applicable to such Award. This restriction shall not apply to shares of Stock that are issued in connection with the settlement of an Award.
- 4.5 **Dividends and Dividend Equivalents** — An Award may provide the Participant with the right to receive dividend or dividend equivalent payments with respect to Stock subject to the Award; provided, however, that such payments shall be subject to the same vesting provisions as are applicable such Stock and any dividend or dividend equivalent payments with respect to Stock subject to the Award shall be credited to an account for the Participant to be settled when and if such Stock vests.
- 4.6 **Settlement of Awards** — The Company’s obligation to settle Awards may be satisfied through the delivery of Stock, cash payments, the granting of replacement Awards or any combination thereof, as the Board shall approve upon the recommendation of the Committee. Satisfaction of any such obligations under an Award may be subject to such conditions, restrictions and contingencies as recommended by the Committee and approved by the Board. The Board may permit or require the deferral of any Award settlement, subject to such rules and procedures as may be established by the Committee, which may include provisions for the payment or crediting of interest, dividends or dividend equivalents.
- 4.7 **Withholding of Taxes** — All distributions under the Plan (including the grant of Awards and the issuance of Stock, cash or other consideration in settlement of an Award) are subject to withholding of all applicable taxes, and the delivery of any Award (or the issuance of any Stock, cash or other consideration in settlement thereof) may be conditioned on the satisfaction of applicable withholding obligations. The Committee, subject to such requirements as it may impose, may permit such withholding obligations to be satisfied through cash payment by the Participant, through the surrender of shares of Stock that the Participant already owns or through the surrender or withholding of shares of Stock to which the Participant is otherwise entitled under the Plan. The Company shall not loan funds to any Participant for the purpose of

paying taxes associated with the grant or vesting of an Award or for any other purpose relating to an Award.

- 4.8 **Awards to Non-Employee Directors** — Non-Employee Directors shall not be eligible to receive any Awards under the Plan other than the Awards specified in this Section.
- (a) **Discretionary Awards** — The Board, upon the recommendation of the Committee and in its discretion, may grant an Award to any Non-Employee Director. Awards under this Section are discretionary, and until the Board approves an Award to a Non-Employee Director, such Non-Employee Director shall not have any right or claim to any Award. The receipt of an Award under the Plan shall not give any Non-Employee Director any right or claim to receive any other Award under the Plan, and the Board may determine that any or all Non-Employee Directors are not eligible to receive Awards under the Plan for an indefinite period or for any specified period.
  - (b) **Terms of Non-Employee Director Awards** — In connection with the grant of an Award under this Section, the Board, upon the recommendation of the Committee and in its discretion, shall establish the terms and provisions of such Award; provided, however, that the vesting period for any Award shall be no less than six months from the date of grant.
- 4.9 **Certain Defined Terms** — As used herein, the following terms shall have the respective meanings indicated below:
- (a) “*Change in Control*” means the acquisition by any person (other than Phillip E. Cohen or any of his immediate family members or affiliates) of beneficial ownership of more than 50% of the outstanding Voting Stock.
  - (b) “*Normal Retirement*” means, with respect to any Participant, a voluntary termination of such Participant’s employment with the Company or any of its Subsidiaries on or after attaining the age 65 or age 60 with at least 5 years of service.
  - (c) “*Permanent Disability*” means, with respect to any Participant, a condition such that the Participant by reason of physical or mental disability becomes unable to perform his or her normal duties for more than 180 days in the aggregate (excluding infrequent or temporary absence due to ordinary transitory illness) during any twelve-month period.

## V — Plan Governance and Administration

- 5.1 **Administration** — The Plan shall be administered by Committee, which shall have the authority to construe and interpret the Plan and Awards granted hereunder, to establish and amend rules for Plan administration and to make all other determinations that it deems necessary or advisable for the effective administration of the Plan.
- 5.2 **Authority and Liability** — In all matters relating to the Plan, the Board and the Committee shall act in a manner that is consistent with the Company’s certificate of incorporation and by-laws and all applicable laws, rules and regulations, and all actions and decisions of the Committee shall be consistent with the terms of Awards approved by the Board pursuant to Section 4.1. The decisions and determinations of the Board and the Committee shall be made in accordance with their respective judgment as to the best interests of the Company and its stockholders and

the furtherance of the purposes of the Plan, and shall be final and binding (subject to further review and approval by the Voting Stockholder if required by the provisions of the Plan). No member of the Board or the Committee, nor the Voting Stockholder, shall be personally liable for any action or determination relating to the Plan or any Award that was taken or made in good faith.

- 5.3 **Delegation** — The Board or the Committee may delegate any or all of its authority and responsibilities with respect to the Plan and Awards, on such terms and conditions as it considers appropriate, to the Chief Executive Officer of the Company; provided, however, that determinations, decisions and approvals regarding Awards or other benefits under the Plan to the Company's Executive Officers (as designated from time to time by the Board) may not be delegated and shall be made by the Board and the Committee, as the case may be.

## VI — Miscellaneous Provisions

- 6.1 **Amendment and Termination** — The Board may at any time and in any way amend, suspend or terminate the Plan or any Award granted under the Plan; provided, however, that no such amendment, suspension or termination may materially impair any Award then outstanding without the consent of the holder of such Award; and provided further, however, that without the approval of the Voting Stockholder, no amendment to the Plan may increase the number of Authorized Shares or modify the provisions of Section 3.1 or otherwise affect the provisions of the Plan granting the approval rights to the Voting Stockholder.
- 6.2 **Liability of the Company** — By accepting any benefits under the Plan, each Participant and each person claiming under or through such Participant shall be conclusively deemed to have indicated acceptance and ratification of, and consented to, any action taken or made under the Plan by or at the direction of the Company, the Board or the Committee. No Participant or any person claiming under or through a Participant shall have any right or interest, whether vested or otherwise, in the Plan or in any Award hereunder, contingent or otherwise, unless and until such Participant shall have complied with all of the terms, conditions and provisions of the Plan and the Award Agreement relating thereto. Neither the Company, the Board nor the Committee shall be required to give any security or bond for the performance of any obligation which may be created by the Plan.
- 6.3 **Unfunded Plan** — Insofar as it provides for Awards, the Plan shall be unfunded. Although bookkeeping accounts may be established with respect to Participants who are granted Awards, any such accounts will be used merely as an administrative convenience. Except for the holding of Restricted Stock in escrow, the Company shall not be required to segregate any assets that may at any time be represented by Awards, nor shall the Plan be construed as providing for such segregation, nor shall the Company, the Board or the Committee be deemed to be a trustee of Stock or cash to be awarded under the Plan. Any liability of the Company to any Participant with respect to an Award shall be based solely upon any contractual obligations that may be created by the Plan; no such obligation of the Company shall be deemed to be secured by any pledge or other encumbrance on any property of the Company.
- 6.4 **Compliance With Applicable Laws** — Notwithstanding any other provision of the Plan or any Award Agreement, the Company shall have no obligation to issue any shares of Stock under the Plan or pursuant to any Award unless such issuance would comply with all applicable laws and the applicable requirements of any securities exchange or similar entity. Prior to the issuance of

any shares of Stock under the Plan or pursuant to an Award, the Company may require a written statement that the recipient is acquiring the shares for investment and not for the purpose or with the intention of distributing the shares. The certificates representing the shares of Stock issued pursuant to an Award under the Plan may bear such legend or legends as the Committee deems appropriate in order to assure compliance with applicable securities laws and regulations.

- 6.5 **Governing Law and Venue** — The Plan and Awards granted hereunder (including Award Agreements evidencing such Awards) will be governed by and construed in accordance with the laws of the State of Delaware, United States of America, other than with respect to choice of laws, rules and principles. Venue for any and all disputes arising out of or in connection with the Plan, any Award hereunder or any Award Agreement shall exclusively be in Travis County, Texas, United States of America, and the courts sitting in Travis County, Texas, United States of America shall have exclusive jurisdiction to adjudicate such disputes.
- 6.6 **Foreign Jurisdictions** — To the extent that the Committee determines that the material terms approved by the Board or imposed by the Plan preclude the achievement of the material purposes of the Plan in jurisdictions outside the United States, the Board, upon the recommendation of the Committee, will have the authority and discretion to modify those terms and provide for such additional terms and conditions as the Board approves to accommodate differences in local law, policy or custom or to facilitate administration of the Plan. The Board, upon the recommendation of the Committee, may adopt or approve sub-plans, appendices or supplements to, or amendments, restatements or alternative versions of, the Plan as it may consider necessary, appropriate or desirable, without thereby affecting the terms of the Plan as in effect for any other purpose. The special terms and any appendices, supplements, amendments, restatements or alternative versions, however, shall not include any provisions that are inconsistent with the terms of the Plan as then in effect, unless the Plan could have been amended to eliminate such inconsistency without further approval by the Voting Stockholder.
- 6.7 **Use of Terms** —
- (a) Words of any gender (whether masculine, feminine or neuter) shall be deemed to include all other genders. Words of the singular number shall be deemed to include the plural number, and vice versa, where applicable.
  - (b) When used herein, the word "including" means "including, without limitation."
  - (c) Unless otherwise specified, references herein to Articles or Sections shall be deemed to be references to Articles or Sections, as applicable, of the Plan. When used herein, the words "hereof," "herein" and "hereunder" and words of similar import shall refer to the Plan as a whole and not to any particular provision of the Plan.