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

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**FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

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**Intuitive Machines, Inc.**  
(Exact name of registrant as specified in its charter)

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

**36-5056189**  
(I.R.S. Employer  
Identification No.)

**3700 Bay Area Blvd  
Houston, TX 77058**  
(Address of Principal Executive Offices)(Zip Code)

**Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan**  
(Full title of the plan)

**Anna Chiara Jones**  
**General Counsel and Corporate Secretary**  
**3700 Bay Area Blvd**  
**Houston, TX 77058**  
**(281) 520-3703**  
(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*  
**Nick S. Dhesi**  
**John J. Slater**  
**Latham & Watkins LLP**  
**811 Main Street 3700**  
**Houston, TX 77002**  
**(212) 906-1200**

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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 the 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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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 7(a)(2)(B) of the Securities Act.

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**PART I**  
**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement on Form S-8 (the "Registration Statement") in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act. Such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the "SEC") either as part of this Registration Statement or as a prospectus or prospectus supplement pursuant to Rule 424 under the Securities Act.

**PART II**  
**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

*References in this Registration Statement to "we," "us," "our," and the "Registrant," or similar references, refer to Intuitive Machines, Inc. unless otherwise stated or the context otherwise requires.*

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

The following documents, which have been filed by the Registrant with the SEC pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are hereby incorporated by reference in, and shall be deemed to be a part of, this Registration Statement:

- (a) The Registrant's Annual Report on [Form 10-K](#) (File No. 001-40823) for the fiscal year ended December 31, 2022, filed with the SEC on March 31, 2023;
- (b) the Registrant's Current Report on Form 8-K (File No. 001-40823) filed with the SEC on [February 14, 2023](#) (as amended by the Current Reports on Form 8-K/A filed on [February 15, 2023](#) and [March 31, 2023](#)); and
- (c) the description of the Registrant's Class A common stock, par value \$0.0001 per share (the "Class A Common Stock"), contained in the Registrant's Registration Statement on [Form 8-A](#) filed with the SEC on February 14, 2023 (File No. 001-40823), including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14, and 15(d) of the Exchange Act subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into the Registration Statement and to be a part thereof from the date of the filing of such documents.

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

**Item 4. Description of Securities.**

Not applicable.

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

Not applicable.

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

Subsection (a) of Section 145 of the Delaware General Corporation Law (the "DGCL") empowers a corporation to indemnify any person who was or is a party or who is threatened to be made a party to 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 corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful.

Subsection (b) of Section 145 empowers a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 further provides that to the extent a director or officer of a corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to in subsections (a) and (b) of Section 145, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith; that indemnification provided for by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and the indemnification provided for by Section 145 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of such person's heirs, executors and administrators. Section 145 also empowers the corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify such person against such liabilities under Section 145.

Section 102(b)(7) of the DGCL provides that a corporation's certificate of incorporation may contain a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit.

Additionally, our Certificate of Incorporation limits the liability of our directors to the fullest extent permitted by the DGCL, and our by-laws provide that we will indemnify them to the fullest extent permitted by such law. We have entered into and expect to continue to enter into agreements to indemnify our directors, executive officers and other employees as determined by our board of directors. Under the terms of such indemnification agreements, we are required to indemnify each of our directors and officers, to the fullest extent permitted by the laws of the state of Delaware if the basis of the indemnitee's involvement was by reason of the fact that the indemnitee is or was our director or officer or was serving at our request in an official capacity for another entity. We must indemnify our officers and directors against all reasonable fees, expenses, charges and other costs of any type or nature whatsoever, including any and all expenses and obligations paid or incurred in connection with investigating, defending, being a witness in, participating in (including on appeal), or preparing to defend, be a witness or participate in any completed, actual, pending or threatened action, suit, claim or proceeding, whether

civil, criminal, administrative or investigative, or establishing or enforcing a right to indemnification under the indemnification agreement. The indemnification agreements also require us, if so requested, to advance all reasonable fees, expenses, charges and other costs that such director or officer incurred, provided that such person will return any such advance if it is ultimately determined that such person is not entitled to indemnification by us. Any claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

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

Not applicable.

**Item 8. Exhibits.**

Exhibit Number	Description of Exhibit	Incorporated by Reference			
		Form	File No.	Exhibit	Filing Date
4.1	<a href="#">Certificate of Incorporation of Intuitive Machines, Inc.</a>	8-K	001-40823	3.1	February 14, 2023
4.2	<a href="#">By-Laws of Intuitive Machines, Inc.</a>	8-K	001-40823	3.2	February 14, 2023
4.3	<a href="#">Specimen Class A Common Stock Certificate of Intuitive Machines, Inc.</a>	S-4/A	333-267846	4.5	January 20, 2023
5.1*	<a href="#">Opinion of Latham &amp; Watkins LLP</a>				
23.1*	<a href="#">Consent of Marcum LLP</a>				
23.2*	<a href="#">Consent of Grant Thornton LLP</a>				
23.3*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)				
24.1*	<a href="#">Power of Attorney (included on signature page)</a>				
99.1	<a href="#">Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan</a>	8-K	001-40823	10.7	February 14, 2023
99.1.1	<a href="#">Form Restricted Stock Unit Award Agreement (under Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan)</a>	8-K	001-40823	10.8	February 14, 2023
99.1.1.1*	<a href="#">Form Restricted Stock Unit Award Agreement (under Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan)</a>				
107.1*	<a href="#">Filing Fee Table</a>				

\* Filed herewith.

**Item 9. Undertakings.**

(A) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the “Securities Act”);

(ii) 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 the Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

*Provided, however*, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the Registration Statement is on Form S-8, and 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 Registrant 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.

(B) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the 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.

(C) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant 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 Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant 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 Registrant 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 of 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

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Houston, State of Texas, on this 9th day of May, 2023.

### Intuitive Machines, Inc.

By: /s/ Erik Sallee

**Erik Sallee**  
**Chief Financial Officer**

## POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints each of Stephen Altemus, Erik Sallee and Anna Jones, acting alone or together with another attorney-in-fact, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in his or her name, place and stead, in any and all capacities, to sign any or all further amendments (including post-effective amendments) to this registration statement (and any additional registration statement related hereto permitted by Rule 462(b) promulgated under the Securities Act of 1933 (and all further amendments, including post-effective amendments, thereto)), and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities held on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Stephen Altemus</u> Stephen Altemus	Chief Executive Officer, President and Director (Principal Executive Officer)	May 9, 2023
<u>/s/ Erik Sallee</u> Erik Sallee	Chief Financial Officer (Principal Financial Officer)	May 9, 2023
<u>/s/ Steven Vontur</u> Steven Vontur	Controller (Principal Accounting Officer)	May 9, 2023
<u>/s/ Dr. Kamal Ghaffarian</u> Dr. Kamal Ghaffarian	Chairman of the Board of Directors	May 9, 2023
<u>/s/ Michael Blitzer</u> Michael Blitzer	Director	May 9, 2023
<u>/s/ Lieutenant General William Liquori</u> Lieutenant General William Liquori	Director	May 9, 2023
<u>/s/ Robert Masson</u> Robert Masson	Director	May 9, 2023

## Calculation of Filing Fee Table

### Form S-8

(Form Type)

### Intuitive Machines, 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 <sup>(1)</sup>	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Class A common stock, par value \$0.0001 per share	Rule 457(c) and 457(h)	12,706,811 <sup>(2)</sup>	\$6.99 <sup>(3)</sup>	\$ 88,820,608.89	\$110.20 per million dollars	\$ 9,788.03
<b>Total Offering Amounts</b>					\$ 88,820,608.89		\$ 9,788.03
<b>Total Fee Offsets <sup>(4)</sup></b>							\$—
<b>Net Fee Due</b>							\$ 9,788.03

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- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), the shares of Class A common stock, par value \$0.0001 per share (the “Class A Common Stock”), of Intuitive Machines, Inc. (the “Registrant”) being registered hereunder include such indeterminate number of shares of the Class A Common Stock as may issuable with respect to the shares of the Class A Common Stock being registered hereunder as a result of stock dividends, stock splits, recapitalization, or other similar transactions.
- (2) Represents 12,706,811 shares of Class A Common Stock authorized for future issuance under the Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan pursuant to its terms.
- (3) Estimated in accordance with Rule 457(c) and 457(h) of the Securities Act solely for the purpose of calculating the registration fee, based upon the average of the high and low prices of the Registrant’s Class A Common Stock as reported on The Nasdaq Stock Market LLC on May 8, 2023, which date is within five business days prior to filing this Registration Statement.
- (4) The Registrant does not have any fee offsets.

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**LATHAM & WATKINS** <sup>LLP</sup> FIRM / AFFILIATE OFFICES

Austin Milan  
Beijing Munich  
Boston New York  
Brussels Orange County  
Century City Paris  
Chicago Riyadh

May 9, 2023 Dubai San Diego

Düsseldorf San Francisco  
Frankfurt Seoul  
Hamburg Shanghai  
Hong Kong Silicon Valley  
Houston Singapore  
London Tel Aviv  
Los Angeles Tokyo  
Madrid Washington, D.C.

Intuitive Machines, Inc.  
3700 Bay Area Blvd  
Houston, Texas 77058

Re: Registration Statement on Form S-8; 12,706,811 shares of Class A Common Stock, par value \$0.0001 per share, of Intuitive Machines, Inc.

To the addressee set forth above:

We have acted as special counsel to Intuitive Machines, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing by the Company with the Securities and Exchange Commission of a registration statement on Form S-8 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), relating to the issuance of up to 12,706,811 shares of the Company's Class A common stock, par value \$0.0001 per share (the "Shares"), which may be issued pursuant to the Intuitive Machines, Inc. 2023 Long Term Omnibus Incentive Plan (the "Plan"). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the prospectus forming a part thereof, other than as expressly stated herein with respect to the issuance of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon the foregoing and upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein only as to the General Corporation Law of the State of Delaware, as amended (the "DCGL"), and we express no opinion with respect to any other laws.

LATHAM & WATKINS<sup>LLP</sup>

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the recipients thereof, and have been issued by the Company for legal consideration in excess of par value in the circumstances contemplated by the Plan, assuming that the individual grants or awards under the Plan are duly authorized by all necessary corporate action and duly granted or awarded and exercised in accordance with the requirements of law and the Plan (and the agreements and awards duly adopted thereunder and in accordance therewith), the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Securities Act. We consent to your filing this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Securities and Exchange Commission thereunder.

Sincerely,

/s/ Latham & Watkins,  
LLP

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Intuitive Machines, Inc. (formerly known as Inflection Point Acquisition Corp.) on Form S-8 of our report dated March 30, 2023, with respect to our audits of the financial statements of Intuitive Machines, Inc. (formerly known as Inflection Point Acquisition Corp.) as of December 31, 2022 and 2021, and for the year ended December 31, 2022 and for the period from January 27, 2021 (inception) through December 31, 2021 appearing in the Annual Report on Form 10-K of Intuitive Machines, Inc. for the year ended December 31, 2022. We were dismissed as auditors on February 13, 2023, effective immediately following the filing of the Intuitive Machines, Inc. yearly report on Form 10-K for the year ended December 31, 2022, which consists only of the accounts of the pre-Business Combination special purpose acquisition company, Inflection Point Acquisition Corp. and, accordingly, we have not performed any audit or review procedures with respect to any financial statements appearing in such Prospectus for the periods after the date of our dismissal.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
May 9, 2023

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We have issued our report dated March 30, 2023, with respect to the consolidated financial statements of Intuitive Machines, LLC included in the Current Report on Form 8-K filed on March 31, 2023, which is incorporated by reference in this Registration Statement on Form S-8. We consent to the incorporation by reference of the aforementioned report in this Registration Statement on Form S-8.

/s/ GRANT THORNTON LLP

Houston, Texas

May 9, 2023

**RESTRICTED STOCK UNIT AWARD AGREEMENT**

This Restricted Stock Unit Award Agreement (this “Agreement”) is dated as of [ ], 202[ ], and is made by and between Intuitive Machines, Inc., a Delaware corporation (the “Company”), and the participant whose name appears on the signature page to this Agreement (“Executive”). Capitalized terms used herein and not defined shall have the meaning ascribed to such terms in the Intuitive Machines, Inc. 2023 Omnibus Long Term Incentive Plan, as amended from time to time.

**Witnesseth:**

Whereas, the Board has adopted the Plan to motivate Eligible Persons of the Company or its Affiliates by providing them with an ownership interest in the Company;

Whereas, the Compensation Committee has approved the grant to Executive of the aggregate number of Restricted Stock Units set forth on the signature page to this Agreement; and

Whereas, Executive and the Company desire to enter into an agreement to evidence and confirm the grant of such Restricted Stock Units on the terms and conditions set forth herein.

Now, therefore, to evidence the Restricted Stock Units so granted, and to set forth the terms and conditions governing such Restricted Stock Units, the Company and Executive hereby agree as follows:

1. Definitions.

(a) Cause. “Cause” means a termination of employment directly resulting from: (i) a willful breach of a substantial and material obligation of Executive under this Agreement which proximately causes material injury to the Company and which is not remedied within thirty (30) days after receipt of written notice from the Board (the “Cure Period”) specifically delineating each such claimed breach and setting forth the Company’s intention to terminate the Agreement if such breach is not remedied; provided, that if the specified breach cannot reasonably be remedied within said thirty (30) day period and Executive commences reasonable steps within said thirty (30) day period to remedy said breach and diligently continues such steps thereafter until a remedy is effected, as determined by the Company, such breach shall not constitute Cause; (ii) the continuous failure of Executive to substantially perform his duties as an employee of the Company, as determined solely by the Company (subject to the Cure Period); (iii) Executive having engaged in intentional misconduct that caused or reasonably could have caused a violation by the Company of any applicable laws, rules or regulations; (iv) any material act by Executive of fraud, dishonesty, gross negligence, or intentional misrepresentation or embezzlement, misappropriation or conversion of assets of the Company; (v) continuous intentional and material violation by Executive of the Company’s written policies, rules, code of ethics, or code of business conduct; (vi) Executive’s use of illegal drugs as evidenced by a drug test authorized by Company; (vii) Executive’s conviction of, confession to, pleading nolo contendere to, that Executive has engaged in a felony or any crime involving dishonesty or moral turpitude; (viii) a breach by Executive of the provisions of Sections 5, 6 or 7 of Executive’s Employment Agreement; (ix) the willful or continuous failure by Executive to comply with the lawful directions of the Board of Directors; or (x) the intentional material breach by Executive of any fiduciary duty owed to the Company.

(b) Change in Control. “Change in Control” shall be deemed to occur upon any of the following events:

(i) any “person” as such term is used in Sections 13(d) and 14(d) of the Exchange Act (other than (A) the Company or any of its Affiliates, (B) any trustee or other fiduciary holding securities under any employee benefit plan of the Company or any of its Affiliates, (C) an underwriter temporarily holding securities pursuant to an offering of such securities, (D) an entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of Common Stock, or (E) a member of the Investor Group or the Investor Group collectively) becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, by way of merger, consolidation, recapitalization, reorganization or otherwise, of more than fifty percent (50%) of the total voting power of the then outstanding voting securities of the Company;

(ii) the cessation of control (by virtue of their not constituting a majority of directors) of the Board by the individuals who (x) were directors on the Effective Date or (y) become directors after Effective Date and whose election or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds of the directors then in office who were directors on the Effective Date or whose election or nomination for election was previously so approved;

(iii) the consummation of (A) a merger, consolidation, reorganization or business combination of the Company with any other Person, (B) the sale or other disposition of all or substantially all of the assets of the Company or OpCo in any single transaction or series of related transactions or (C) the acquisition of assets or equity interests of another Person by the Company or OpCo, in each case other than a transaction that would result in the voting securities constituting a majority of the total voting power of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the entity that survives such transaction or that, as a result of the transaction, controls or owns, directly or indirectly, all or substantially all of the Company’s assets or otherwise succeeds to the business of the Company following such transaction (such entity, the “Surviving Entity”)), directly or indirectly, at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or the Surviving Entity outstanding immediately after such transaction; or

(iv) the consummation of a plan of complete liquidation of the Company or the sale or disposition by the Company of all or substantially all the Company’s assets.

Notwithstanding the foregoing, if a Change in Control constitutes a payment event with respect to any Award (or any portion of an Award) that provides for the deferral of compensation that is subject to Section 409A of the Code, to the extent required to avoid the imposition of additional taxes under Section 409A of the Code, the transaction or event described in subsection (i), (ii), (iii), (iv), or (v) with respect to such Award (or portion thereof) shall only constitute a Change in Control for purposes of the payment timing of such Award if such transaction also constitutes a “change in control event,” as defined in Treasury Regulation Section 1.409A-3(i)(5).

(c) Good Reason. “Good Reason” for Executive to resign his employment means: (A) a material diminution in the nature, status, or scope of Executive’s authorities or duties; (B) a material reduction in Executive’s annual base salary; (C) a material reduction in Executive’s target annual bonus; or (D) a relocation that requires Executive to report to a work location more than 35 miles from the work location to which Executive was previously assigned. Executive may not resign his employment for Good Reason unless Executive has provided the Company with at least thirty (30) days’ prior written notice of his intention to resign for Good Reason and

the Company has not cured such condition within a thirty (30) day period (the "Cure Period"). Executive shall only be treated as having terminated his employment for Good Reason if Executive then actually separates from service with the Company no later than thirty (30) days following the end of the Cure Period.

3. Grant. The Company hereby evidences and confirms its grant to Executive, effective as of the date hereof (the "Grant Date"), of the aggregate number of Restricted Stock Units set forth on the signature page hereof.

4. Vesting.

(a) Vesting. Except as otherwise provided in this Agreement, subject to the continuous engagement or employment of Grantee by the Company or any Affiliate through the applicable vesting date, the Restricted Stock Units shall vest [ ].

(b) Change in Control. All of the unvested Restricted Stock Units shall immediately vest upon a Change in Control, if Executive is employed by the Company or any Affiliate at the time of the applicable Change in Control.

(c) Termination without Cause or Resignation for Good Reason. All of the unvested Restricted Stock Units shall immediately vest upon (1) the Company's termination of Executive without Cause, or (2) Executive's resignation for Good Reason, as defined in this Agreement and in Executive's Employment Agreement.

(d) Compensation Committee Acceleration. The Compensation Committee may accelerate the vesting of all or any portion of the Restricted Stock Units, at any time and from time to time. Notwithstanding the immediately preceding sentence, except as approved by the Compensation Committee, no Restricted Stock Units shall vest after the date on which Executive receives a notice of termination of engagement or employment from the Company, other than without Cause, or tenders a notice of termination to the Company, other than for Good Reason, as applicable.

5. Forfeiture.

(a) Termination. In the event Executive's employment or service to the Company and its Affiliates are terminated either (1) by the Company for Cause as defined in this Agreement, (2) by Executive without Good Reason as defined in this Agreement, or (3) due to Executive's death or disability, the Restricted Stock Units (or portion thereof) that are not vested as of Executive's termination of employment or service shall be immediately forfeited and cancelled on the date of such termination of services.

(b) Breach of Restrictive Covenants. If Executive violates or fails to comply with the confidentiality, non-solicitation, and other restrictive covenant provisions contained in any written agreement by and between Executive and the Company that are in effect, then all Restricted Stock Units (whether vested or unvested) shall be automatically and immediately forfeited and canceled without consideration therefor.

6. Transferability. Except as expressly permitted under Section 14(b) of the Plan, the Restricted Stock Units may not be sold, transferred, pledged, assigned or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution.

7. Settlement. As soon as reasonably practicable after each vesting date, but in no event later than 60 days after such vesting date, the Company will issue to Executive a number of shares of Common Stock equal to the number of Restricted Stock Units that vested on such date.

8. Forfeiture; Recovery of Compensation. By accepting, or being deemed to have accepted, the Restricted Stock Units, Executive expressly agrees to be bound by the terms of any clawback or recoupment policy of the Company that applies to incentive compensation that includes the Restricted Stock Units.

9. General Provisions.

(a) Plan Provisions. The Restricted Stock Units granted hereunder are being issued pursuant to and in accordance with the Plan (a copy of which has been made available to Executive) and, as such, are subject in all respects to the Plan, all of the terms of which are made a part of and incorporated into this Agreement. In the event of any conflict between any term of this Agreement and the terms of the Plan, the terms of the Plan shall control.

(b) No Rights as a Stockholder. Executive shall have no voting or other rights as a stockholder of the Company with respect to any Restricted Stock Units (or portion thereof) until the Restricted Stock Units (or portion thereof) have been settled and issued in accordance with the terms and conditions of Section 7 of this Agreement and Section 9(d)(ii) of the Plan

(c) Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Executive is subject to Section 16 of the Exchange Act, the Plan, the grant notice, this Agreement and the RSUs will be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3) that are requirements for the application of such exemptive rule. To the extent applicable laws permit, this Agreement will be deemed amended as necessary to conform to such applicable exemptive rule.

(d) Binding Effect; Benefits; Assignability. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or assigns any legal or equitable right, remedy or claim under or in respect of any agreement or any provision contained herein. Neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by the Company or Executive without the prior written consent of the other party.

(e) Amendment. This Agreement may be amended, modified or supplemented only by a written instrument executed by Executive and the Company; *provided, however*, that, without Executive's consent, the Compensation Committee may amend (such amendment to have the minimum economic effect necessary, as determined by the Compensation Committee in its sole discretion) this Agreement in such a manner as may be necessary or appropriate to avoid having the Restricted Stock Units become subject to the penalty provisions of Section 409A of the Code.

(f) Section 409A.

(i) Generally. This award is not intended to constitute “nonqualified deferred compensation” within the meaning of Section 409A of the Code (together with any Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the date hereof, “Section 409A”). However, notwithstanding any other provision of the Plan or this Agreement, if at any time the Compensation Committee determines that this award (or any portion thereof) may be subject to Section 409A, the Compensation Committee shall have the right in its sole discretion (without any obligation to do so or to indemnify Executive or any other person for failure to do so) to adopt such amendments to the Plan or this Agreement, or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, as the Compensation Committee determines are necessary or appropriate for this award either to be exempt from the application of Section 409A or to comply with the requirements of Section 409A.

(ii) Specified Employee. If Executive is a “specified employee” (as such term is defined for purposes of Code Section 409A) at the time of his termination of service, no amount that is nonqualified deferred compensation subject to Code Section 409A and that becomes payable by reason of such termination of service shall be paid to Executive (or in the event of Executive’s death, Executive’s representative or estate) before the earlier of (i) the first business day after the date that is six months following the date of Executive’s termination of service, and (ii) within 30 days following the date of Executive’s death. For purposes of Code Section 409A, a termination of service shall be deemed to occur only if it is a “separation from service” within the meaning of Code Section 409A, and references in the Plan and this Agreement to “termination of service” or similar terms shall mean a “separation from service.” If the Restricted Stock Units are or become subject to Code Section 409A, unless this Agreement provides otherwise, such Restrictive Stock Units shall be payable upon Executive’s “separation from service” within the meaning of Code Section 409A. If the Restricted Stock Units are or become subject to Code Section 409A and if payment of such Restricted Stock Units would be accelerated or otherwise triggered under a Change in Control, then the definition of Change in Control shall be deemed modified, only to the extent necessary to avoid the imposition of any additional tax under Code Section 409A, to mean a “change in control event” as such term is defined for purposes of Code Section 409A.

(g) Severability. In the event that any one or more of the provisions of this Agreement shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

(h) Assignability. The Company may assign any of its rights under this Agreement to a single or multiple assignees, and this Agreement will inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in this Agreement or the Plan, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

(i) Counterparts; Section Headings. This Agreement may be executed in any number of counterpart, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. The parties hereto agree to accept a signed facsimile or portable document format copy of this Agreement as a fully binding original. Except as otherwise indicated, references herein to any “Section” means a “Section” of this Agreement, and the section headings in this Agreement are for purposes of reference only and shall not limit or define the meaning hereof.

(j) Entire Agreement. This Agreement, together with the Plan and any other documents incorporated by reference herein, constitutes the entire obligation of the parties with respect to the grant of Restricted Stock Units and supersedes any prior written or oral expressions of intent or understanding with respect to such subject matter.

*-- Signature page follows --*

In Witness whereof, the Company and Executive have executed this Restricted Stock Unit Award Agreement as of the date first above written.

**Executive**

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Number of Restricted Stock  
Units:                    [ ]