

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

CURRENT REPORT

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

**June 6, 2023
Date of Report (date of earliest event reported)**

Asensus Surgical, Inc.
(Exact name of Registrant as specified in its charter)

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

**0-19437
(Commission
File Number)**

**11-2962080
(I.R.S. Employer
Identification Number)**

**1 TW Alexander Drive, Suite 160
Durham, NC 27703
(Address of principal executive offices)**

**919-765-8400
(Registrant's telephone number, including area code)**

**Not Applicable
(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 (see General Instruction A.2. below):

- 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))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock \$0.001 par value per share	ASXC	NYSE American

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.

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

On June 6, 2023, at the 2023 Annual Meeting of Stockholders (the “Annual Meeting”), the stockholders of Asensus Surgical, Inc. (the “Company”) voted to approve, among other things, the Company’s Amended and Restated Incentive Compensation Plan (the “Plan”) to increase the number of shares reserved for issuance under the Plan by 22,000,000 shares. The vote for approval of the amended and restated Plan is set forth below under Item 5.07 and incorporated herein by reference.

The amended and restated Plan is attached to this Current Report on Form 8-K and incorporated by reference into this Item.

Item 5.07 Submission of Matters to a Vote of Security Holders.

On June 6, 2023, the Company held the Annual Meeting. At the Annual Meeting, the total number of shares represented in person or by proxy was 100,621,804 of the 239,346,219 shares of Common Stock outstanding and entitled to vote at the Annual Meeting as of the record date, April 14, 2023. The following matters were voted upon at the Annual Meeting:

1. Election of Directors. The following named persons were elected as Directors of the Company to serve until the next Annual Meeting of Stockholders in 2024 or until their successors are elected and qualified. The votes cast were as follows:

<u>Director Nominee</u>	For	Vote Withheld
David B. Milne	30,702,681	2,320,236
Anthony Fernando	30,566,673	2,456,244
Andrea Biffi	31,225,760	1,797,157
Kevin Hobert	30,802,027	2,220,890
Elizabeth Kwo	31,292,806	1,730,111
Richard C. Pfenniger, Jr.	26,524,997	6,497,920
William N. Starling	29,584,658	3,438,259

There were 67,598,887 broker non-votes for this proposal.

2. Say on Pay. The stockholders voted to approve, on an advisory basis, the compensation of the Company’s named executive officers for 2022, as described in the [proxy statement](#) for the Annual Meeting in accordance with Regulation S-K, Item 402. The stockholder vote was as follows:

Votes	26,569,319	FOR the resolution
Votes	5,107,805	AGAINST the resolution
Votes	1,345,793	ABSTAIN

There were 67,598,887 broker non-votes for this proposal.

3. Frequency of Say on Pay. The stockholders voted to approve the frequency of the submission of future Say on Pay proposals to the stockholders as once every year. The stockholder vote was as follows:

Votes	28,699,919	ONE YEAR
Votes	2,104,677	TWO YEARS
Votes	1,203,337	THREE YEARS
Votes	1,014,984	ABSTAIN

There were 67,598,887 broker non-votes for this proposal.

Following the Annual Meeting, and based upon the vote of the stockholders, approving annual Say on Pay proposals, the Board of Directors adopted and approved the recommendation of the stockholders and will continue to submit annual Say on Pay proposals to the stockholders each year until the occurrence of the next advisory vote on the frequency of the submission of future Say on Pay proposals.

4. Amendment and Restatement of the Incentive Compensation Plan. The stockholders voted to approve the amendment and restatement of the Plan to increase the number of shares reserved for issuance under the Plan by 22,000,000 shares. The stockholder vote was as follows:

Votes	24,907,822	FOR the resolution
Votes	7,076,633	AGAINST the resolution
Votes	1,038,462	ABSTAIN

There were 67,598,887 broker non-votes for this proposal.

5. Ratification of Independent Public Accounting Firm for 2023. The stockholders voted to ratify the appointment of BDO USA, LLP as the independent registered public accounting firm for the Company for the year ending December 31, 2023. The stockholder vote was as follows:

Votes	92,523,034	FOR the resolution
Votes	7,008,611	AGAINST the resolution
Votes	1,090,159	ABSTAIN

There were no broker non-votes for this proposal.

Item 9.01 Financial Statements and Exhibits.

Exhibit No.	Description
10.1*	Asensus Surgical, Inc. Amended and Restated Incentive Compensation Plan.
104	Cover Page Interactive Data File (formatted in inline XBRL)

* Represents a management contract, compensatory plan or arrangement required to be separately identified.

SIGNATURES

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

ASENSUS SURGICAL, INC.

Date: June 6, 2023

/s/ Shameze Rampertab

Shameze Rampertab

Executive Vice President and Chief Financial Officer

ASENSUS SURGICAL, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN

Amended and Restated as of: June 6, 2023

ASENSUS SURGICAL, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN

1.	Purpose	1
2.	Definitions	1
3.	Administration of the Plan	5
4.	Shares Subject to Plan	6
5.	Limitation on Awards to Non-Employee Directors	6
6.	Specific Terms of Awards	7
7.	Certain Provisions Applicable to Awards	11
8.	Impact of Termination of Employment Events	12
9.	Dissolution or Liquidation; Change in Control	13
10.	General Provisions	16
	<u>EXHIBIT A</u>	A-1
	<u>EXHIBIT B</u>	B-1
	<u>EXHIBIT C</u>	C-1

ASENSUS SURGICAL, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN

1. **Purpose.** The purpose of this Amended and Restated Incentive Compensation Plan, as amended from time to time (the “**Plan**”), is to assist Asensus Surgical, Inc., a Delaware corporation (the “**Company**”) and its Subsidiaries (as hereinafter defined) to attract, motivate, retain and reward high-quality executives and other employees, officers, directors, consultants and other persons who provide services to the Company or its Subsidiaries by enabling such persons to acquire or increase an ownership interest in the Company in order to strengthen the mutuality of interests between such persons and the Company’s stockholders, and providing such persons with incentives to expend their maximum efforts in the creation of stockholder value.

2. **Definitions.** For purposes of the Plan, the following terms shall be defined as set forth below, in addition to such terms defined in Section 1 hereof and elsewhere herein.

(a) “**Affiliate**” means any entity that is, directly or indirectly, controlled by, under common control with or controlling the Company or any entity in which the Company has a significant ownership interest as determined by the Committee.

(b) “**Automatic Exercise Date**” shall mean, with respect to an Option, the last business day of the applicable term that was established by the Committee for such Option (e.g., the last business day prior to the tenth anniversary of the date of grant of such Option if the Option initially had a ten-year term); provided that with respect to an Option that has been amended pursuant to this Plan so as to alter the term, “Automatic Exercise Date” shall mean the last business day of the term that was established by the Committee for such Option as amended.

(c) “**Award**” means any Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award, Other Stock-Based Award or Performance Award, together with any other right or interest, granted to a Participant under the Plan.

(d) “**Award Agreement**” means any written agreement, contract or other instrument or document evidencing any Award granted by the Committee hereunder.

(e) “**Beneficiary**” means the person, persons, trust or trusts that have been designated by a Participant in his or her most recent written beneficiary designation filed with the Company to receive the benefits specified under the Plan upon such Participant’s death or to which Awards or other rights are transferred if and to the extent permitted under Section 10(b) hereof. If, upon a Participant’s death, there is no designated Beneficiary or surviving designated Beneficiary, then the term Beneficiary means the person, persons, trust or trusts entitled by will or the laws of descent and distribution to receive such benefits.

(f) “**Beneficial Owner**” and “**Beneficial Ownership**” have the meanings ascribed to such terms in Rule 13d-3 promulgated under the Exchange Act and any successor to such Rule.

(g) “**Board**” means the Company’s Board of Directors.

(h) “**Cause**” with respect to any Participant, has the meaning specified in an employment or other agreement with, for the performance of services to, the Company or a Subsidiary. In the absence of any such agreement, “Cause” means (i) the failure by the Participant to perform, in a reasonable manner, his or her duties as assigned by the Company or a Subsidiary, (ii) any violation or breach by the Participant of his or her employment, consulting or other similar agreement with the Company or a Subsidiary, if any, (iii) any violation or breach by the Participant of any non-competition, non-solicitation, non-disclosure and/or other similar agreement with the Company or a Subsidiary, (iv) any act by the Participant of dishonesty or bad faith with respect to the Company or a Subsidiary, (v) use of alcohol, drugs or other similar substances in a manner that adversely affects the Participant’s work performance, or (vi) the commission by the Participant of any act, misdemeanor, or crime reflecting unfavorably upon the Participant or the Company or any Subsidiary. The good faith determination by the Committee of whether the Participant’s Continuous Service was terminated by the Company for “Cause” shall be final and binding for all purposes hereunder.

(i) “**Change in Control**” has the meaning set forth in Section 9(c).

(j) “**Code**” means the Internal Revenue Code of 1986, as amended from time to time, including regulations thereunder and successor provisions and regulations thereto.

(k) “**Committee**” means a committee designated by the Board to administer the Plan; provided, however, that if the Board fails to designate a committee or if there are no longer any members on the committee so designated by the Board, then the Board shall serve as the Committee. The Committee shall consist of at least two directors, and each member of the Committee shall be (i) a “non-employee director” within the meaning of Rule 16b-3 (or any successor rule) promulgated under the Exchange Act, unless administration of the Plan by “non-employee directors” is not then required in order for exemptions under Rule 16b-3 to apply to transactions under the Plan, (ii) an “outside director” that meets any applicable requirements of the Code, and (iii) Independent.

(l) “**Common Stock**” means the common stock, par value \$0.001 per share, of the Company.

(m) “**Consultant**” means any person (other than an Employee or a Director) who is engaged by the Company or any Subsidiary to render consulting or advisory services to the Company or such Subsidiary.

(n) “**Continuous Service**” means the uninterrupted provision of services to the Company or any Subsidiary in any capacity of Employee, Director, Consultant or other service provider. Continuous Service shall not be considered to be interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Subsidiaries, or any successor entities, in any capacity of Employee, Director, Consultant or other service provider, or (iii) any change in status as long as the individual remains in the service of the Company or a Subsidiary in any capacity of Employee, Director, Consultant or other service provider (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave.

(o) “**Director**” means a member of the Board.

(p) “**Disability**” means a permanent and total disability (within the meaning of Section 22(e) of the Code), as determined by a medical doctor satisfactory to the Committee.

(q) “**Dividend Equivalent**” means a dividend payable on a hypothetical Share of Common Stock.

(r) “**Effective Date**” means May 7, 2015, which was the date of the Company’s 2015 Annual Meeting on which this Plan was initially approved by stockholders of the Company.

(s) “**Eligible Person**” means each officer, Director, Employee, Consultant and other person who provides services to the Company or any Subsidiary. The foregoing notwithstanding, only employees of the Company, or any parent corporation or subsidiary corporation of the Company (as those terms are defined in Sections 424(e) and (f) of the Code, respectively), shall be Eligible Persons for purposes of receiving any Incentive Stock Options. An Employee on leave of absence may be considered as still in the employ of the Company or a Subsidiary for purposes of eligibility for participation in the Plan.

(t) “**Employee**” means any person, including an officer or Director, who is an employee of the Company or any Subsidiary.

(u) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, including rules promulgated thereunder and successor provisions and rules thereto.

(v) “**Fair Market Value**” means, as of any given date, the closing sale price per share of the Common Stock reported on a consolidated basis on the principal stock exchange or market on which the Common Stock is traded on the date as of which such value is being determined or, if there is no sale on that date, then on the last previous day on which a sale was reported. If the Common Stock is not so listed on an exchange or market, Fair Market Value will be determined by the Committee, or under procedures established by the Committee.

(w) “**Good Reason**” has the meaning of “good reason” or “for good reason” as set forth in any employment agreement between the Participant and the Company or a Subsidiary.

(x) “**Incentive Stock Option**” means any Option intended to be designated as an incentive stock option within the meaning of Section 422 of the Code or any successor provision thereto.

(y) “**Independent**”, when referring to either the Board or members of the Committee, shall have the same meaning as used in the rules of NYSE American or any national securities exchange on which any securities of the Company are listed for trading, and if not listed for trading, by the rules of NYSE American.

(z) “**Option**” means a right granted to a Participant under Section 6(b) hereof, to purchase Shares at a specified price during specified time periods.

(aa) “**Optionee**” means a person to whom an Option is granted under this Plan or any person who succeeds to the rights of such person under this Plan.

(bb) “**Other Stock-Based Awards**” means Awards granted to a Participant under Section 6(f) hereof.

(cc) “**Participant**” means a person who has been granted an Award under the Plan which remains outstanding, including a person who is no longer an Eligible Person.

(dd) “**Performance Award**” means any Award of Options, Restricted Stock, Restricted Stock Units or Other Stock Awards with Performance Goals granted pursuant to Section 6(g).

(ee) “**Performance Goals**” means financial or operating, stock performance-related or individually-based goals established for an Award by the Committee, or, pursuant to delegated authority, by a delegate.

(ff) “**Performance Period**” means that period established by the Committee at the time any Performance Award is granted or at any time thereafter during which any Performance Goals specified by the Committee with respect to such Performance Award are to be measured.

(gg) “**Person**” has the meaning ascribed to such term in Section 3(a)(9) of the Exchange Act and used in Sections 13(d) and 14(d) thereof, and includes a “group” as defined in Section 13(d) thereof.

(hh) “**Repriced**” means (i) any transaction performed with the intent or effect of (A) reducing the exercise price of any outstanding Option, (B) cancelling or exchanging outstanding Options in exchange for cash, other Awards or replacement Options, including through a tender offer process, with exercise prices that are less than the exercise price of the cancelled or exchanged Options, or (C) any similar share exchange transaction involving outstanding Awards; or (ii) any transaction defined as repricing under the NYSE American rules for listed companies.

(ii) “**Restricted Stock**” means any Share issued with the restriction that the holder may not sell, transfer, pledge or assign such Share and with such risks of forfeiture and other restrictions as the Committee, in its sole discretion, may impose (including any restriction on the right to vote such Share and the right to receive any dividends), which restrictions may lapse separately or in combination at such time or times, in installments or otherwise, as the Committee may deem appropriate.

(jj) “**Restricted Stock Award**” means an Award granted to a Participant under Section 6(d) hereof.

(kk) “**Restricted Stock Units**” or “**RSUs**” mean a unit or other right to receive one Share per unit, including Restricted Stock, cash measured based upon the value of Shares or a combination thereof, at the end of a specified restriction or forfeiture period.

(ll) “**Restricted Stock Unit Award**” means an Award of RSUs granted to a Participant under Section 6(e) hereof.

(mm) “**Rule 16b-3**” means Rule 16b-3, as from time to time in effect and applicable to the Plan and Participants, promulgated by the Securities and Exchange Commission under Section 16 of the Exchange Act.

(nn) “**Shares**” means the shares of Common Stock, and such other securities as may be substituted (or resubstituted) for Shares pursuant to Section 10(c) hereof.

(oo) “**Stock Appreciation Right**” means a right granted to a Participant under Section 6(c) hereof.

(pp) “**Subsidiary**” means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% or more of the assets on liquidation or dissolution.

(qq) “**Termination of Employment**” means, with respect to any Employee, the Employee’s ceasing to be an Employee; provided, however, that for Incentive Stock Option purposes, Termination of Employment will occur when the Participant ceases to be an employee (as determined in accordance with Code Section 3401(c) and the regulations promulgated thereunder) of the Company or one of its Subsidiaries; and provided further that for any Award subject to Section 409A, Termination of Employment means a separation from service within the meaning of Section 409A. The Committee shall determine whether any corporate transaction, such as a sale or spin-off of a division or business unit, or a joint venture, shall be deemed to result in a Termination of Employment.

3. Administration of the Plan. The Plan shall be administered by the Committee, except to the extent the Board elects to administer the Plan, in which case the Plan shall be administered by only those directors who are Independent Directors, in which case references herein to the “Committee” shall be deemed to include references to the Independent members of the Board. Except to the extent prohibited by applicable law (including applicable stock exchange rules), the Committee may delegate to one or more individuals the day-to-day administration of the Plan and any of the functions assigned to it in the Plan. Such delegation may be revoked at any time.

(a) **Powers of the Committee.** Subject to the other provisions of the Plan, the Committee shall have the authority, in its discretion, to:

- (i) select the Eligible Persons to whom Awards are to be granted hereunder;
- (ii) determine the number of Shares to be covered by each Award granted hereunder;
- (iii) determine the type of Award to be granted to the selected Eligible Persons;
- (iv) approve forms of Award Agreements for use under the Plan;
- (v) determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder;
- (vi) correct administrative errors;
- (vii) construe and interpret the terms of the Plan and Awards granted under the Plan;
- (viii) adopt rules and procedures relating to the operation and administration of the Plan to accommodate the specific requirements of applicable laws and procedures;
- (ix) prescribe, amend and rescind rules and regulations relating to the Plan;
- (x) modify or amend each Award, including, but not limited to, the acceleration of vesting or exercisability; provided, however, that any such amendment is subject to Section 10(e);
- (xi) allow Participants to satisfy withholding tax amounts by electing (in such form and under such conditions as the Committee may provide) to have the Company withhold from the Shares to be issued upon exercise of an Option or vesting or lapse of forfeiture of a Restricted Stock Award, RSU Award, Performance Award or Other Stock Award that number of Shares having a Fair Market Value equal to the maximum that can be withheld in the applicable jurisdiction;
- (xii) authorize any person to execute on behalf of the Company any instrument required to effect the grant of an Award previously granted by the Committee;

(xiii) determine the duration and purpose of leaves of absences which may be granted to a Participant without constituting a Termination of Employment for purposes of the Plan, subject to the applicable requirements of Code Section 409A; and

(xiv) make all other determinations deemed necessary or advisable for administering the Plan and any Award granted hereunder.

(b) **Effect of Committee's Decisions.** All decisions, determinations and interpretations by the Committee regarding the Plan, any rules and regulations under the Plan and the terms and conditions of any Award granted hereunder, shall be final and binding on all Participants. The Committee shall consider such factors as it deems relevant, in its sole and absolute discretion, to making such decisions, determinations and interpretations including, without limitation, the recommendations or advice of any officer or other Employee of the Company and such attorneys, consultants and accountants as it may select.

(c) **Limitation of Liability.** The Committee and the Board, and each member thereof, shall be entitled to, in good faith, rely or act upon any report or other information furnished to him or her by any officer or Employee, the Company's independent auditors, Consultants or any other agents assisting in the administration of the Plan. Members of the Committee and the Board, and any officer or Employee acting at the direction or on behalf of the Committee or the Board, shall not be personally liable for any action or determination taken or made in good faith with respect to the Plan, and shall, to the extent permitted by law, be fully indemnified and protected by the Company with respect to any such action or determination.

4. **Shares Subject to Plan.**

(a) **Aggregate Limits.** Subject to adjustment as provided in Section 10(c) hereof, the total number of Shares reserved and available for delivery under the Plan shall be 54,072,307. Any Shares subject to Awards that are cancelled, expire or are forfeited without the issuance of any Shares shall be available for re-grant under the Plan. Notwithstanding anything to the contrary contained herein, Shares subject to an Award under the Plan shall not again be made available for issuance or delivery under the Plan if such Shares are (i) Shares tendered or withheld in payment of the Option exercise price, or (ii) Shares delivered to or withheld by the Company to satisfy any tax withholding obligation authorized by the Committee. Shares issued in payment of any Award may either be authorized and unissued Shares or treasury Shares. Any cash tendered to pay any exercise price or to meet tax withholding obligations will not be used by the Company to purchase additional Shares on the open market for use under this Plan. Notwithstanding anything in this Section 4 to the contrary but subject to adjustment as provided in Section 10(c) hereof, the maximum aggregate number of Shares that may be issued under the Plan as a result of the exercise of the Incentive Stock Options shall be 54,072,307 Shares.

(b) **Award Vesting Limitations.** Notwithstanding anything to the contrary in this Plan, but subject to Section 9 of the Plan, Awards granted under the Plan shall vest no earlier than the six-month anniversary of the applicable date of grant; provided, however, that notwithstanding the foregoing, but subject to Section 9(b), Awards that result in the issuance of up to five percent (5%) of the Shares available pursuant to Section 4(a) may be granted to any one or more Participants without respect to such minimum vesting provisions.

5. **Limitation on Awards to Non-Employee Directors.** Awards granted under the Plan during any calendar year to any non-employee Director shall not exceed \$250,000 in value, except that in connection with his or her initial appointment to the Board, such non-employee Director may be granted an Award or Awards with a value of up to \$500,000.

6. Specific Terms of Awards.

(a) **General.** Awards may be granted on the terms and conditions set forth in this Section 6. In addition, the Committee may impose on any Award or the exercise thereof, at the date of grant or thereafter (subject to Section 10(e)), such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall determine, including terms requiring forfeiture of Awards in the event of termination of the Participant's Continuous Service and terms permitting a Participant to make elections relating to his or her Award. The Committee shall retain full power and discretion to accelerate, waive or modify, at any time, any term or condition of an Award that is not mandatory under the Plan. Except in cases in which the Committee is authorized to require other forms of consideration under the Plan, or to the extent other forms of consideration must be paid to satisfy the requirements of Delaware law, no consideration other than services may be required for the grant (as opposed to the exercise) of any Award.

(b) **Options.** The Committee is authorized to grant Options to any Eligible Person on the following terms and conditions:

(i) **Exercise Price.** The exercise price per Share purchasable under an Option shall not be less than 100% of the Fair Market Value of a Share on the date of grant of the Option and shall not, in any event, be less than the par value of a Share on the date of grant of the Option. If an Employee owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and an Incentive Stock Option is granted to such Employee, the exercise price of such Incentive Stock Option (to the extent required by the Code at the time of grant) shall be no less than 110% of the Fair Market Value of a Share on the date such Incentive Stock Option is granted.

(ii) **Vesting Period, Performance Goals and Time and Method of Exercise.** Options granted under the Plan shall vest and be exercisable at such time, subject to achievement of designated Performance Goals, if any, and/or in such installments during the period prior to the expiration of the Option's term as determined by the Committee and set forth in the Award Agreement. The minimum vesting schedule for Options shall be six months after the date of grant. The Committee shall determine the methods by which the exercise price may be paid or deemed to be paid (including in the discretion of the Committee a cashless exercise procedure), the form of such payment, including, without limitation, cash, Shares (including without limitation the withholding of Shares otherwise deliverable pursuant to the Award), other Awards or awards granted under other plans of the Company or a Subsidiary, and the methods by or forms in which Shares will be delivered to Participants.

(iii) **Incentive Stock Options.** The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code. Anything in the Plan to the contrary notwithstanding, no term of the Plan relating to Incentive Stock Options (including any Stock Appreciation Right issued in tandem therewith) shall be interpreted, amended or altered, nor shall any discretion or authority granted under the Plan be exercised, so as to disqualify either the Plan or any Incentive Stock Option under Section 422 of the Code, unless the Participant has first requested, or consents to, the change that will result in such disqualification. Thus, if and to the extent required to comply with Section 422 of the Code, Options granted as Incentive Stock Options shall be subject to the following special terms and conditions:

(1) the Option shall not be exercisable for more than ten years after the date such Incentive Stock Option is granted; provided, however, that if a Participant owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and the Incentive Stock Option is granted to such Participant, the term of the Incentive Stock Option shall be (to the extent required by the Code at the time of the grant) for no more than five years after the date of grant; and

(2) the aggregate Fair Market Value (determined as of the date the Incentive Stock Option is granted) of the Shares with respect to which Incentive Stock Options granted under the Plan and all other option plans of the Company (and any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) that become exercisable for the first time by the Participant during any calendar year shall not (to the extent required by the Code at the time of the grant) exceed \$100,000.

(iv) **No Option Repricings.** Other than in connection with a change in the Company's capitalization (as described in Section 10(c)), the exercise price of an Option may not be Repriced without stockholder approval.

(v) **Expiration of Option Term: Automatic Exercise of In-The-Money Options.** Unless otherwise determined by the Committee (in an Award Agreement or otherwise) or as otherwise directed in writing to the Company by a Participant holding an Option, each Option outstanding on the Automatic Exercise Date with an exercise price per share that is less than the Fair Market Value per share of Common Stock as of such date shall automatically and without further action by the Participant or the Company be exercised on the Automatic Exercise Date. Payment of the exercise price of any such Option and related tax obligations shall be "net settled" to the maximum extent permitted by applicable law. Unless otherwise determined by the Committee, this Section 6(b)(v) shall not apply to an Option if the Participant incurs a Termination of Employment on or before the Automatic Exercise Date.

(c) **Stock Appreciation Rights.** The Committee may grant Stock Appreciation Rights to any Eligible Person in conjunction with all or part of any Option granted under the Plan or at any subsequent time during the term of such Option (a "Tandem Stock Appreciation Right"), or without regard to any Option (a "Freestanding Stock Appreciation Right"), in each case upon such terms and conditions as the Committee may establish in its sole discretion, not inconsistent with the provisions of the Plan, including the following:

(i) **Right to Payment.** A Stock Appreciation Right shall confer on the Participant to whom it is granted a right to receive, upon exercise thereof, the excess of (A) the Fair Market Value of one Share on the date of exercise over (B) for Tandem Stock Appreciation Rights, the exercise price per share of the related Option and for Freestanding Stock Appreciation Rights, the Fair Market Value per share on the date of grant.

(ii) **Other Terms.** The Committee shall determine at the date of grant or thereafter, the time or times at which and the circumstances under which a Stock Appreciation Right may be exercised in whole or in part (including based on achievement of Performance Goals and/or future service requirements), the time or times at which Stock Appreciation Rights shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the method of exercise, method of settlement, form of consideration payable in settlement, method by or forms in which Shares will be delivered or deemed to be delivered to Participants, whether or not a Stock Appreciation Right shall be in tandem or in combination with any other Award, and any other terms and conditions of any Stock Appreciation Right.

(iii) **Tandem Stock Appreciation Rights.** Any Tandem Stock Appreciation Right may be granted at the same time as the related Option is granted or, for Options that are not Incentive Stock Options, at any time thereafter before exercise or expiration of such Option. Any Tandem Stock Appreciation Right related to an Option may be exercised only when the related Option would be exercisable and the Fair Market Value of the Shares subject to the related Option exceeds the exercise price at which Shares can be acquired pursuant to the Option. In addition, if a Tandem Stock Appreciation Right exists with respect to less than the full number of Shares covered by a related Option, then an exercise or termination of such Option shall not reduce the number of Shares to which the Tandem Stock Appreciation Right applies until the number of Shares then exercisable under such Option equals the number of Shares to which the Tandem Stock Appreciation Right applies. Any Option related to a Tandem Stock Appreciation Right shall no longer be exercisable to the extent the Tandem Stock Appreciation Right has been exercised, and any Tandem Stock Appreciation Right shall no longer be exercisable to the extent the related Option has been exercised.

(d) **Restricted Stock Awards.** The Committee is authorized to grant Restricted Stock Awards to any Eligible Person on the following terms and conditions:

(i) **Grant and Restrictions.** Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose, or as otherwise provided in this Plan, covering a period of time specified by the Committee (the "**Restriction Period**"). The minimum Restriction Period is six months after the date of grant. The terms of any Restricted Stock Award granted under the Plan shall be set forth in a written Award Agreement which shall contain provisions determined by the Committee and not inconsistent with the Plan. The restrictions may lapse separately or in combination at such times, under such circumstances (including based on achievement of Performance Goals and/or future service requirements), in such installments or otherwise, as the Committee may determine at the date of grant or thereafter. Except to the extent restricted under the terms of the Plan and any Award Agreement relating to a Restricted Stock Award, a Participant granted Restricted Stock shall have all of the rights of a stockholder, including the right to vote the Restricted Stock and the right to receive dividends thereon (subject to any mandatory reinvestment or other requirement imposed by the Committee). During the Restriction Period, subject to Section 10(b) below, the Restricted Stock may not be sold, transferred, pledged, hypothecated, margined or otherwise encumbered by the Participant.

(ii) **Forfeiture.** Upon termination of a Participant's Continuous Service during the applicable Restriction Period, the Participant's Restricted Stock that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited and reacquired by the Company.

(iii) **Certificates for Stock.** Restricted Stock granted under the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Stock are registered in the name of the Participant, the Committee may require that such certificates bear an appropriate legend referring to the terms, conditions and restrictions applicable to such Restricted Stock, that the Company retain physical possession of the certificates, and that the Participant deliver a stock power to the Company, endorsed in blank, relating to the Restricted Stock.

(iv) **Dividends.** Dividends that are declared and paid on the outstanding shares of Common Stock during any period for which forfeiture restrictions apply to a Restricted Stock Award shall not be paid at the time dividends are paid to stockholders, but shall be accrued, without interest, and paid out when such forfeiture restrictions lapse; provided, that any accrued dividends are forfeited to the extent the underlying Shares under the Award are forfeited.

(e) **Restricted Stock Unit Award.** The terms and conditions of a grant of a RSU Award shall be reflected in an Award Agreement. RSUs shall be earned, and forfeiture restrictions shall lapse, at such time, in such installments, and/or subject to such Performance Goal(s) and with such Performance Period as determined by the Committee or, if applicable, a delegate of the Committee. No Shares shall be issued at the time a RSU Award is granted, and the Company will not be required to set aside a fund for the payment of any such RSU Award. A Participant shall have no voting or dividend rights with respect to any RSUs granted hereunder until the Shares, if any, underlying the RSU Award are earned and issued.

(i) **Restrictions.** A RSU Award shall be subject to (A) forfeiture until the expiration of the Restricted Period by the Committee, and/or satisfaction of any applicable Performance Goals as established under Section 6(g) during a designated Performance Period, to the extent provided in the applicable Award Agreement, and to the extent such RSUs are forfeited, all rights of the Participant to such RSUs shall terminate without further obligation on the part of the Company, and (B) such other terms and conditions as may be set forth in the applicable Award Agreement. The minimum Restriction Period or Performance Period for RSU Awards shall be six months after the date of grant.

(ii) **Settlement of Restricted Stock Units.** Upon the expiration of the Restriction Period, and/or satisfaction of the applicable Performance Goals for the Performance Period, the Company shall deliver to the Participant, or his or her Beneficiary, without charge, one Share for each such outstanding RSU for which forfeiture restrictions have lapsed, or which has been earned; provided, however, that, if explicitly provided in the applicable Award Agreement, the Committee may, in its sole discretion, elect to pay cash or part cash and part Shares in lieu of delivering only Shares for such RSUs. If a cash payment is made in lieu of delivering Shares, the amount of such payment shall be equal to the Fair Market Value of the Shares as of the date on which the Restriction Period lapsed, or, if applicable, the date on which the Committee or, if applicable, a delegate of the Committee, determines that the applicable Performance Goals have been met.

(iii) **Dividend Equivalents.** Unless set forth in an Award Agreement, no Dividend Equivalents will be paid on any RSU Award. Dividend Equivalents, if added in an Award Agreement, shall only be paid to the extent the RSU Award is earned and paid.

(f) **Other Stock-Based Awards.** The Committee is authorized, subject to limitations under applicable law, to grant to any Eligible Person such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Shares, as deemed by the Committee to be consistent with the purposes of the Plan. Other Stock-Based Awards may be granted to Participants either alone or in addition to other Awards granted under the Plan, and such Other Stock-Based Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan. The Committee shall determine the terms and conditions of such Awards.

(g) **Performance Awards.** The Committee is authorized to grant Performance Awards to any Eligible Person payable in cash, Shares, other Awards or a combination, on terms and conditions established by the Committee, if and to the extent that the Committee shall, in its sole discretion, determine that an Award shall be subject to those provisions. The performance criteria to be achieved during any Performance Period and the length of the Performance Period shall be determined by the Committee upon the grant of each Performance Award; provided, however, the minimum Performance Period shall be one year. Except as provided in Section 9, Performance Awards will be distributed only after the end of the relevant Performance Period.

The Committee will establish, in writing, the Performance Goals and the Performance Period for each applicable Performance Award; provided, however, that where the determination of the Performance Goals and Performance Period for any Award for which the Committee has delegated authority under Section 3, the authority to establish Performance Goals and a Performance Period is also delegated. Such Performance Goals may vary by Participant and by Award. The Committee, in its discretion, may adjust or modify the calculation of Performance Goals to prevent dilution or enlargement of the rights of Participants. The amount of the Performance Award earned shall be conclusively determined by the Committee or, if applicable, its delegate. Performance Awards may be paid in a lump sum or in installments following the close of the Performance Period.

7. Certain Provisions Applicable to Awards.

(a) **Term of Awards.** The term of each Award shall be for such period as may be determined by the Committee; provided that in no event shall the term of any Option or Stock Appreciation Right exceed a period of ten years (or in the case of an Incentive Stock Option such shorter term as may be required under Section 422 of the Code).

(b) **Form and Timing of Payment Under Awards.** Subject to the terms of the Plan and any applicable Award Agreement, payments to be made by the Company or a Subsidiary upon the exercise of an Option or other Award or settlement of an Award may be made in such forms as the Committee shall determine, including, without limitation, cash, Shares or other Awards.

(c) **Exemptions from Section 16(b) Liability.** It is the intent of the Company that the grant of any Awards to or other transaction by a Participant who is subject to Section 16 of the Exchange Act shall be exempt from Section 16 pursuant to an applicable exemption (except for transactions acknowledged in writing to be non-exempt by such Participant). Accordingly, if any provision of this Plan or any Award Agreement does not comply with the requirements of Rule 16b-3 then applicable to any such transaction, such provision shall be construed or deemed amended to the extent necessary to conform to the applicable requirements of Rule 16b-3 so that such Participant shall avoid liability under Section 16(b).

(d) **Code Section 409A.** Shares shall not be issued pursuant to the exercise of an Award unless the issuance and delivery of such Shares shall comply with applicable laws and shall be further subject to the approval of counsel for the Company with respect to such compliance. Without limiting the foregoing, the Plan is intended to comply with Section 409A of the Code to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Committee shall make a good faith effort to interpret and administer the Plan in compliance therewith. Any payments described in the Plan that are due within the “short-term deferral period” as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable laws require otherwise. For purposes of Section 409A of the Code, each installment payment provided under this Plan shall be treated as a separate payment. Notwithstanding anything to the contrary in the Plan, to the extent required to avoid accelerated taxation and tax penalties under Section 409A of the Code, (a) amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following the Participant’s termination of Continuous Service shall instead be paid on the first payroll date after the six-month anniversary of the Participant’s separation from service (or the Participant’s death, if earlier), and (b) amounts payable upon the termination of a Participant’s Continuous Service shall only be payable if such termination constitutes a “separation from service” within the meaning of Section 409A of the Code. Notwithstanding the foregoing, neither the Company, any Subsidiary nor the Committee shall have any obligation to take any action to prevent the assessment of any excise tax or penalty on any Participant under Section 409A of the Code and neither the Company nor the Committee will have any liability to any Participant for such tax or penalty.

(e) **Clawbacks.** The Company shall have the right to recoup or “claw back” any payment made with respect to an Award under the Plan to the extent necessary to comply with applicable federal securities laws or the provisions of any applicable clawback policy of the Company.

8. Impact of Termination of Employment Events. The following Termination of Employment events shall have the following consequences for outstanding Awards; provided, however, the limitation set forth in Section 4(b) shall apply.

(a) **General Rule.** Except as otherwise set forth in this Section 8, upon a Termination of Employment, unless an employment or other agreement with the Participant provides for different consequences:

(i) **Options.** All outstanding vested and exercisable Options granted to such Participant shall remain exercisable for 90 days after Termination of Employment; provided, that the Option will expire at the expiration of the stated term if earlier.

(ii) **Other Awards.** All outstanding and unvested Awards other than Options shall be forfeited.

(b) **For Cause.** In the event of a Termination of Employment for Cause, all outstanding Awards, whether vested or not, shall be forfeited.

(c) **Disability of a Participant.**

(i) **Options.** Upon a Participant’s Termination of Employment as a result of the Participant’s Disability, all outstanding vested and exercisable Options granted to such Participant shall remain exercisable for one year after Termination of Employment as a result of a Disability; provided, that the Option will expire at the expiration of the stated term if earlier.

(ii) **Other Awards.** If a Participant’s Termination of Employment is due to the Participant’s Disability:

(1) all outstanding and unvested Awards not described in subsection (c)(ii)(2) that would have vested prior to the first anniversary of the date of Termination of Employment will accelerate, all forfeiture restrictions will lapse, and the Shares will be issued within thirty (30) days after the date of Termination of Employment; and

(2) all outstanding Awards that are conditioned upon achievement of one or more Performance Goals and granted to such Participant with a Performance Period ending prior to the first anniversary of the Date of Termination shall continue to be subject to the applicable Performance Goals and paid out, if earned and vested, after the end of the Performance Period when it is determined whether the Award is earned, but in no event later than March 15 in the year following the end of the Performance Period.

(d) **Death of Participant.**

(i) **Options.** Upon a Participant's Termination of Employment as a result of the Participant's death, all outstanding vested and exercisable Options granted to such Participant shall remain exercisable for one year after Termination of Employment as a result of a death; provided, that the Option will expire at the expiration of the stated term if earlier. If an Option is held by the Participant when he or she dies, the Option may be exercised by the Beneficiary designated by the Participant, the executor or administrator of the Participant's estate or, if none, by the person(s) entitled to exercise the Option under the Participant's will or the laws of descent or distribution.

(ii) **Other Awards.**

(1) all outstanding and unvested Awards not described in subsection (d)(ii)(2) that would have vested prior to the first anniversary of the date of Termination of Employment will accelerate, all forfeiture restrictions will lapse, and the Shares will be issued within thirty (30) days after the date of Termination of Employment; and

(2) all outstanding Awards that are conditioned upon achievement of one or more Performance Goals and granted to such Participant with a Performance Period ending prior to the first anniversary of the Date of Termination shall continue to be subject to the applicable Performance Goals and paid out, if earned and vested, after the end of the Performance Period when it is determined whether the Award is earned, but in no event later than March 15 in the year following the end of the Performance Period.

9. Dissolution or Liquidation; Change in Control.

(a) **Dissolution or Liquidation.** In the event of the proposed dissolution or liquidation of the Company, other than a dissolution or liquidation that is defined as a Change of Control, the Committee shall notify each Participant as soon as practicable prior to the effective date of such proposed transaction. The Committee in its discretion may provide for an Option to be fully vested and exercisable until ten days prior to such transaction. In addition, the Committee may provide that any restrictions on any Award shall lapse prior to the transaction, provided the proposed dissolution or liquidation takes place at the time and in the manner contemplated. To the extent it has not been previously exercised, an Award will terminate immediately prior to the consummation of such proposed transaction.

(b) **Change in Control.** The provisions of this Section 9(b) shall apply in the case of a Change in Control. If more specific terms are set forth in any separate plan document or agreement between the Company and any Participant, such separate plan or agreement shall govern the treatment of Awards.

(i) **Awards Not Assumed or Substituted by the Surviving Entity.** Upon the occurrence of a Change in Control, and except with respect to any Awards assumed by the surviving entity or otherwise equitably converted or substituted in connection with the Change in Control in a manner approved by the Committee or the Board, any outstanding Awards shall be dealt with in accordance with any of the following approaches, as determined by the agreement effectuating the transaction or, if and to the extent not so determined, as determined by the Committee: (A) the continuation of the outstanding Awards by the Company, if the Company is a surviving entity, (B) the assumption or substitution for the outstanding Awards by the surviving entity or its parent or subsidiary, (C) full exercisability or vesting and accelerated expiration of the outstanding Awards, or (D) settlement of the value of the outstanding Awards in cash or cash equivalents or other property followed by cancellation of such Awards (which value, in the case of Options or Stock Appreciation Rights, shall be measured by the amount, if any, by which the Fair Market Value of a Share exceeds the exercise or grant price of the Option or Stock Appreciation Right as of the effective date of the transaction). The Committee shall give written notice of any proposed transaction referred to in this Section 9(b)(i) a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after the approval of such transaction), in order that Participants may have a reasonable period of time prior to the closing date of such transaction within which to exercise any Awards that are then exercisable (including any Awards that may become exercisable upon the closing date of such transaction). A Participant may condition his or her exercise of any Awards upon the consummation of the transaction. To the extent that this provision causes Incentive Stock Options to exceed the dollar limitation set forth in Code Section 422(d), the excess Options shall be deemed to be non-statutory Options.

(ii) **Awards Assumed or Substituted by Surviving Entity.** With respect to Awards assumed by the surviving entity or otherwise equitably converted or substituted in connection with a Change in Control, if within two years after the effective date of the Change in Control, a Participant's employment is terminated without Cause or the Participant terminates his or her employment for Good Reason in connection with a Change in Control, if applicable, then (A) all of that Participant's outstanding Awards shall become fully vested and exercisable, (B) all time-based vesting restrictions on the Participant's outstanding Awards shall lapse, and (C) the payout opportunities attainable under all of such Participant's outstanding Performance Awards shall be deemed to have been earned as of the date of such employment termination at the target level, and (subject to Section 9(b)(iv) and Section 10(a)) there shall be a pro rata payout to the Participant or his or her Beneficiary within 30 days following the date of the employment termination (unless a later date is required by Section 10(a) hereof) based upon the length of time within the Performance Period that has elapsed prior to the date of the employment termination; provided, however, if a severance plan or agreement or employment agreement in place at the time of the Change in Control provides for additional acceleration, the terms of such severance plan or agreement or employment agreement shall control. To the extent that this provision causes Incentive Stock Options to exceed the dollar limitation set forth in Code Section 422(d), the excess Options shall be deemed to be non-statutory Options.

(iii) **Equitable Adjustments.** The Committee, in its sole discretion, may include such further provisions and limitations in any Award Agreement or certificate, as it may deem equitable and in the best interests of the Company that are not inconsistent with the provisions of the Plan.

(iv) **Code Section 409A.** No action shall be taken under this Section 9(b) which shall cause an Award to fail to be exempt from or comply with Code Section 409A.

(v) **Consent.** Notwithstanding any other provision of the Plan or any Award Agreement, the provisions of this Section 9(b) may not be terminated, amended, or modified upon or after a Change of Control in a manner that would adversely affect a Participant's rights with respect to an outstanding Award without the prior written consent of the Participant.

(c) **Definition of Change in Control.** A "Change in Control" means the occurrence of any of the following:

(i) Any Person becomes the Beneficial Owner of 50% or more of either (A) the then-outstanding shares of common stock of the Company (the "Outstanding Company Common Stock") or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Outstanding Company Voting Securities"); provided, however, that, for purposes of this definition, the following acquisitions shall not constitute a Change in Control: (i) any acquisition directly from the Company, (ii) any acquisition by the Company, (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary or Affiliate or (iv) any acquisition pursuant to a transaction that complies with (iii)(A), (iii)(B) and (iii)(C) of this definition;

(ii) Individuals who, as of the date hereof, constitute the Board of Directors (the “**Incumbent Board**”) cease for any reason to constitute at least a majority of the Board of Directors; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual was a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs in connection with or as a result of an actual or threatened election contest 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 of Directors;

(iii) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its subsidiaries, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or stock of another entity by the Company or any of its subsidiaries (each, a “**Business Combination**”), in each case unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Stock and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Stock and the Outstanding Company Voting Securities, as the case may be, (B) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 50% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such corporation, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board of Directors providing for such Business Combination; or

(iv) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

10. General Provisions.

(a) **Compliance With Legal and Other Requirements.** The Company may, to the extent deemed necessary or advisable by the Committee, postpone the issuance or delivery of Shares or payment of other benefits under any Award until completion of such registration or qualification of such Shares or other required action under any federal or state law, rule or regulation, listing or other required action with respect to any stock exchange or automated quotation system upon which the Shares or other Company securities are listed or quoted, or compliance with any other obligation of the Company, as the Committee, may consider appropriate, and may require any Participant to make such representations, furnish such information and comply with or be subject to such other conditions as it may consider appropriate in connection with the issuance or delivery of Shares or payment of other benefits in compliance with applicable laws, rules, and regulations, listing requirements, or other obligations.

(b) **Limits on Transferability; Beneficiaries.** No Award or other right or interest granted under the Plan shall be pledged, hypothecated or otherwise encumbered or subject to any lien, obligation or liability of such Participant to any party, or assigned or transferred by such Participant otherwise than by will or the laws of descent and distribution or to a Beneficiary upon the death of a Participant, and such Awards or rights that may be exercisable shall be exercised during the lifetime of the Participant only by the Participant or his or her guardian or legal representative, except that Awards and other rights (other than Incentive Stock Options and Stock Appreciation Rights in tandem therewith) may be transferred to one or more Beneficiaries or other transferees during the lifetime of the Participant, and may be exercised by such transferees in accordance with the terms of such Award, but only if and to the extent such transfers are permitted by the Committee pursuant to the express terms of an Award Agreement (subject to any terms and conditions which the Committee may impose thereon). A Beneficiary, transferee, or other person claiming any rights under the Plan from or through any Participant shall be subject to all terms and conditions of the Plan and any Award Agreement applicable to such Participant, except as otherwise determined by the Committee, and to any additional terms and conditions deemed necessary or appropriate by the Committee.

(c) **Adjustments.**

(i) **Adjustments to Awards.** In the event that any extraordinary dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, forward or reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction or event affects the Shares and/or such other securities of the Company or any other issuer such that a substitution, exchange, or adjustment is determined by the Committee to be appropriate, then the Committee shall, in such manner as it may deem equitable, substitute, exchange or adjust any or all of (A) the number and kind of Shares which may be delivered in connection with Awards granted thereafter, (B) the number and kind of Shares by which per-Director Award limitations are measured under Section 5 hereof, (C) the number and kind of Shares subject to or deliverable in respect of outstanding Awards, (D) the exercise price, grant price or purchase price relating to any Award and/or make provision for payment of cash or other property in respect of any outstanding Award, and (E) any other aspect of any Award that the Committee determines to be appropriate.

(ii) **Other Adjustments.** The Committee (and the Board if and only to the extent such authority is not required to be exercised by the Committee to comply with relevant provisions of the Code) is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards (including Performance Awards, or Performance Goals relating thereto) in recognition of unusual or nonrecurring events (including, without limitation, acquisitions and dispositions of businesses and assets) affecting the Company, any Subsidiary or any business unit, or the financial statements of the Company or any Subsidiary, or in response to changes in applicable laws, regulations, accounting principles, tax rates and regulations or business conditions or in view of the Committee's assessment of the business strategy of the Company, any Subsidiary or business unit thereof, performance of comparable organizations, economic and business conditions, personal performance of a Participant, and any other circumstances deemed relevant.

(d) **Taxes.** The Company and any Subsidiary are authorized to withhold from any Award granted, any payment relating to an Award under the Plan, including from a distribution of Shares, or any payroll or other payment to a Participant, amounts of withholding and other taxes due or potentially payable in connection with any transaction involving an Award, and to take such other action as the Committee may deem advisable to enable the Company or any Subsidiary and Participants to satisfy obligations for the payment of withholding taxes and other tax obligations relating to any Award. This authority shall include authority to withhold or receive Shares and to make cash payments in respect thereof in satisfaction of a Participant's tax obligations, either on a mandatory or elective basis in the discretion of the Committee, subject to compliance with applicable law.

(e) **Amendment and Termination of the Plan or Awards.** The Board or the Committee may amend, alter, suspend, discontinue or terminate the Plan, or the Committee's authority to grant Awards under the Plan, or any Award Agreement, without the consent of stockholders or Participants, except that any such amendment shall be subject to approval of the stockholders of the Company in the manner and to the extent required by applicable law (including applicable stock exchange requirements). In addition, without limiting the foregoing, unless approved by the stockholders of the Company, no such amendment shall be made that would:

- (i) materially increase the maximum number of Shares for which Awards may be granted under the Plan, other than an increase pursuant to Section 10(c);
- (ii) reduce the minimum exercise price for Options granted under the Plan;
- (iii) Reprice any outstanding Awards, other than in connection with a change in the Company's capitalization (as described in Section 10(c)); or
- (iv) change the class of persons eligible to receive Awards under the Plan.

Notwithstanding the foregoing, without the consent of an affected Participant, no such Board or Committee action may materially and adversely affect the rights of such Participant under any previously granted and outstanding Award. No amendment, suspension or termination of the Plan shall impair the rights of any Participant under an outstanding Award, unless agreed to in a writing signed by the Participant and the Company. The Committee may waive any conditions or rights under, or amend, alter, suspend, discontinue or terminate any Award theretofore granted and any Award Agreement relating thereto, except as otherwise provided in the Plan; provided that, without the consent of an affected Participant, no such Committee or the Board action may materially and adversely affect the rights of such Participant under such Award.

(f) **Limitation on Rights Conferred Under Plan.** Neither the Plan nor any action taken hereunder or under any Award shall be construed as (i) giving any Eligible Person or Participant the right to continue as an Eligible Person or Participant or in the employ or service of the Company or a Subsidiary; (ii) interfering in any way with the right of the Company or a Subsidiary to terminate any Eligible Person's or Participant's Continuous Service at any time, (iii) giving an Eligible Person or Participant any claim to be granted any Award under the Plan or to be treated uniformly with other Participants and Employees, or (iv) conferring on a Participant any of the rights of a stockholder of the Company including, without limitation, any right to receive dividends or distributions, any right to vote or act by written consent or any right to attend meetings of stockholders unless and until such time as the Participant is duly issued Shares on the stock books of the Company in accordance with the terms of an Award. Neither the Company nor any of the Company's officers, directors, representatives or agents are granting any rights under the Plan to the Participant whatsoever, oral or written, express or implied, other than those rights expressly set forth in this Plan or the Award Agreement.

(g) **Unfunded Status of Awards; Creation of Trusts.** The Plan is intended to constitute an “unfunded” plan for incentive compensation. With respect to any payments not yet made to a Participant or obligation to deliver Shares pursuant to an Award, nothing contained in the Plan or any Award shall give any such Participant any rights that are greater than those of a general creditor of the Company; provided that the Committee may authorize the creation of trusts and deposit therein cash or Shares, or make other arrangements to meet the Company’s obligations under the Plan. Such trusts or other arrangements shall be consistent with the “unfunded” status of the Plan unless the Committee otherwise determines with the consent of each affected Participant. The trustee of such trusts may be authorized to dispose of trust assets and reinvest the proceeds in alternative investments, subject to such terms and conditions as the Committee may specify and in accordance with applicable law.

(h) **Non-exclusivity of the Plan.** Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board or a committee thereof to adopt such other incentive arrangements as it may deem desirable.

(i) **Fractional Shares.** No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, other Awards or other property shall be issued or paid in lieu of such fractional shares or whether such fractional shares or any rights thereto shall be forfeited or otherwise eliminated.

(j) **Governing Law.** The validity, construction and effect of the Plan, any rules and regulations under the Plan, and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to principles of conflict of laws, and applicable federal law.

(k) **Non-U.S. Laws.** The Committee shall have the authority to adopt such modifications, procedures, and subplans as may be necessary or desirable to comply with provisions of the laws of foreign countries in which the Company or its Subsidiaries may operate to assure the viability of the benefits from Awards granted to Participants performing services in such countries and to meet the objectives of the Plan.

(l) **Plan Effective Date and Shareholder Approval; Termination of Plan.** The Plan became effective on the Effective Date. The Plan shall terminate at the earliest of (a) such time as no Shares remain available for issuance under the Plan, (b) termination of this Plan by the Board or the Committee, or (c) the tenth anniversary of the Effective Date. Awards outstanding upon expiration of the Plan shall remain in effect until they have been exercised or terminated, or have expired.

EXHIBIT A

OPTIONS - ADDENDUM

France

The Committee has determined that it is necessary and advisable to establish a sub-plan for the purpose of permitting options to qualify for the French specific tax and social security treatment. Therefore, options granted under the Amended and Restated Incentive Compensation Plan (the "Plan") by Asensus Surgical, Inc. (the "Company") to employees who are French tax residents and/or subject to the French social security regime on a mandatory basis on the Grant Date (the "French Participants") of its Related Entities may be granted under the terms of this Addendum as follows:

1. Definitions:

Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Plan and in the Option Agreement. In the event of a conflict between the terms and conditions of the Plan, this Addendum and the Option Agreement, the terms and conditions of the Plan shall prevail except for the following additional terms that shall be defined as follows:

- Grant Date: the term "Grant Date" shall be the date on which the Board or the Committee (i) designates the French Participant(s), (ii) sets up the Exercise Price of the options, and (iii) specifies the terms and conditions of the options.
- Related Entities: the term "Related Entities" means the companies within the meaning of Article L. 225-197-2 of the French Commercial Code or any provision substituted for same.

2. Specific conditions laid down under this Addendum:

- 1) Notwithstanding any other provision of the Plan, options granted to any Participant who is a consultant, an "Administrateur," or a member of the "Conseil de Surveillance," as these terms are defined in French Corporate law, and who does not have a work contract with the Company or its Related Companies will be deemed to have not been granted an option pursuant to this Addendum.
 - 2) Notwithstanding any other provision of the Plan, the number of options offered through the Plan cannot exceed one third of the capital of the Company. This limit is reduced to 10% of the company capital if the options are granted over treasury shares.
 - 3) Notwithstanding any other provision of the Plan, no option can be granted to a French Participant who holds directly or indirectly more than ten percent (10%) of the Company's share capital.
 - 4) Notwithstanding any other provision of the Plan, any option with an Exercise Price on the Grant Date of the option that is less than 80% of the average of the market value of the underlying share during the twenty (20) trading days (using opening quotation) preceding the Grant Date shall be deemed to have not been granted under this Addendum. In addition, with respect to options to purchase existing shares, any option with an Exercise Price that is less than 80% of the average price paid by the Company to buy back the Shares it holds as at Grant Date shall be deemed to have not been granted under this Addendum.
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- 5) Notwithstanding any other provision of the Plan, options cannot be granted before the end of a period of twenty (20) stock exchange sessions after the date on which Shares are traded without dividend rights or capital increase subscription rights (“détachement du coupon”).
- 6) Notwithstanding any other provision of the Plan, no options can be granted during the ten (10) stock exchange sessions preceding or following the publication of the annual financial consolidated account or the annual financial statement.
- 7) Notwithstanding any other provision of the Plan, no options can be granted during the period starting the date the corporate management of the company is aware of information the publication of which could have a substantial consequence on the Fair Market Value of the Shares and ending ten (10) stock exchange sessions after the publication of this information.
- 8) Notwithstanding any other provision of the Plan, the Exercise Price of an option shall be adjusted only upon the occurrence of the events under section L.225-181 of the French Commercial Code. Any reduction by the Company, to the Exercise Price of an outstanding and unexercised option previously issued under this Addendum, to the current Fair Market Value of the underlying Shares shall be deemed to not have been an option granted under this Addendum.
- 9) Notwithstanding any other provision of the Plan, in the event of the death of a French Participant, the heirs of such French Participant shall have a six (6)-month period from the date of such French Participant's death, to exercise all or part of the options held by such French Participant on the day of his death regardless of whether or not they are vested. As a consequence, all the options held by such French Participant which have not yet been exercised by his/her heirs upon the expiration of the aforementioned six (6)-month period, shall be definitively and automatically forfeited.
- 10) Notwithstanding any other provision of the Plan and, except in the case of death of the French Participant, the options are non-transferable.
- 11) Notwithstanding any other provision of the Plan, it is intended that the options granted under this Addendum shall qualify for the special tax and social security treatment applicable to stock options according to Sections L. 225-177 to L. 225-186-1 of the French Commercial Code and in accordance with the relevant provisions set forth by French income tax and social security laws, but no undertaking is made to maintain such status.

The terms of the options granted to French Participants in accordance with this Addendum shall be interpreted accordingly and in accordance with the relevant provisions set forth by French income tax and social security laws, as well as the relevant administrative guidelines and subject to the fulfillment of any applicable legal, tax and reporting obligations, if applicable.

This Addendum is adopted and is effective as of October 26, 2015.

ASENSUS SURGICAL - RESTRICTED STOCK UNITS (RSU) - ADDENDUM

FRANCE

The Committee has determined that it is necessary and advisable to establish a sub-plan for the purpose of permitting Restricted Stock Units (“RSU”) to qualify for the French specific tax and social security treatment applicable to free share awards granted in accordance with Articles L.225-197-1 to L.225-197-6 of the French Commercial Code.

Therefore, RSU granted under the Amended and Restated Incentive Compensation Plan (the Plan”) by Asensus Surgical, Inc. (the “Company”) to employees who are French tax residents and/or subject to the French social security regime on a mandatory basis on the Grant Date (the “French Participants”) of its Related Entities may be granted under the terms of this Addendum as follows:

1. **Definitions:**

Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Plan and in the Agreement. In the event of a conflict between the terms and conditions of the Plan, this Addendum and the Agreement, the terms and conditions of the Plan shall prevail except for the following additional terms that shall be defined as follows:

- “Closed Period” means (i) ten quotation days preceding and three quotation days following the disclosure to the public of the consolidated financial statements or annual statement of the Company; or (ii) the period as from the date the corporate management possesses material information which could, if disclosed to the public, significantly impact the quotation of the Shares of the Company, until ten quotation days after the day such information is disclosed to the public.
- “Disability” means disability as determined in categories 2 and 3 under Article 341-4 of the French Social Security Code.
- “First Vesting Date” shall mean the date the first one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Grant Date” shall be the date on which the Committee (i) designates the French Participants; and (ii) specifies the terms and conditions of the RSU, including the number of Shares to be transferred at a future date, the Vesting Period, the Holding Period, the conditions for the delivery of the Shares underlying the RSU by the Company, if any, and the conditions for the disposal of the Shares, if any.
- “Holding Period” shall mean the period of at least two years following the First/Second/Third Vesting Dates during which the Shares cannot be sold or transferred.
- “Related Companies” means the companies within the meaning of Article L. 225-197-2 of the French Commercial Code or any provision substituted for same.
- “RSU” shall mean a promise by the Company to transfer Shares to a French Participant, at a future date, for free as long as the French Participant fulfills the conditions as provided for in the Agreement. The French Participants are not entitled to any dividend or voting rights until the Shares are transferred to the French Participant.

- “Second Vesting Date” shall mean the date the second one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Third Vesting Date” shall mean the date the last one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Vesting Date” shall mean the date the RSU become non-forfeitable and converted into Shares. The vesting schedule is provided for in the Agreement and may be composed of a First Vesting Date, a Second Vesting Date or a Third Vesting Date. To qualify for the French special tax and social security regime, such First Vesting Date shall not occur prior to the second anniversary of the Grant Date.

2. Specific conditions laid down under this Addendum:

- 1) This Addendum shall be applicable to French Employees and corporate officers (e.g., Président du Conseil d’Administration, Directeur Général, Directeur Général Délégué, Membre du Directoire, Gérant de sociétés, Président de sociétés par actions) of a Related Company and who is a French tax resident and/or subject to the French social security regime on a mandatory basis at the time of the grant (the “French Participants”).
- 2) RSU may be granted only to French Participants who hold less than ten percent (10%) of the outstanding Shares of the Company at the Grant Date, being specified that a grant cannot entitle a French Participant to hold more than ten percent (10%) of the share capital of the Company.
- 3) The First Vesting Date, the Second Vesting Date and the Third Vesting Date shall not occur prior to the expiration of a period of at least two years calculated from the Grant Date. However, notwithstanding the above, in the event of the death or Disability of a French Participant, all of his or her outstanding RSU shall vest as set forth in Section 8 and in Section 9 below.
- 4) The Shares are automatically transferred to the French Participant upon Vesting Date. The Shares transferred to a French Participant shall be recorded in the name of the French Participant in an account with the Company or a broker, or in such other manner as the Company may otherwise determine, to ensure compliance with applicable restrictions provided under French tax law.
- 5) Unless and until such time as Shares are transferred to the French Participant, the French Participant shall have no ownership of the Shares allocated to the RSU and shall have no right to vote and to receive dividends, if applicable, subject to the terms, conditions and restrictions described in the Plan, in the Agreement and herein.
- 6) The Shares shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of until the end of the Holding Period. This Holding Period applies even if the French Participant is no longer an employee or corporate officer of a Subsidiary in France, except as provided for in Section 8, in Section 9 and in Section 10 below. As from the end of each Holding Period (the release Date), the corresponding Shares shall be freely transferable, subject to applicable legal and regulatory provisions in force. In addition, the Shares allocated under this Addendum may not be sold or transferred during Closed Periods.
- 7) Notwithstanding any provision in the Plan to the contrary and, except in the case of French Participant’s death, the RSU are not transferable.

- 8) In the event of the death of a French Participant, all RSU held by the French Participant at the time of death shall become immediately transferable to the French Participant's heirs. The Company shall transfer the underlying Shares to the French Participant's heirs, at their request, provided such request occurs within six months following the death. Notwithstanding the foregoing, the French Participant's heirs are not subject to the restriction on the sale of shares set forth in Section 6 above.
- 9) In the event of the Disability of a French Participant, all RSU held by the French Participant at the time of termination due to the Disability become vested in full. In addition, the French Participant is no longer subject to the restriction on the sale of Shares set forth in Section 6 above.
- 10) In the event the French Participant is no longer a French tax resident and is no longer affiliated to the French social security regime on a mandatory basis at Vesting Date, the Holding Period as provided for in this Addendum should not apply.
- 11) It is intended that the RSU granted under this Addendum shall qualify for the special tax and social security treatment applicable to free shares granted under Sections L. 225-197-1 to L. 225-197-6 of the French Commercial Code and in accordance with the relevant provisions set forth by French tax and social security laws, but no undertaking is made to maintain such status.

The terms of the RSU granted to French Participants shall be interpreted accordingly and in accordance with the relevant provisions set forth by French tax and social security laws, as well as the relevant administrative guidelines and subject to the fulfillment of any applicable legal, tax and reporting obligations, if applicable.

This Addendum is adopted and is effective as of October 26, 2015.

**ISRAELI SUB-PLAN
TO
AMENDED AND RESTATED INCENTIVE COMPENSATION PLAN**

1. Special Provisions for Persons Who are Israeli Taxpayers

1.1 This Israeli Sub-Plan (the “**Sub-Plan**”) to ASENSUS SURGICAL INC.’s Amended and Restated Incentive Compensation Plan (the “**Plan**”), is made and entered effective as of September 21, 2018 (the “**Effective Date**”).

1.2 The provisions specified hereunder apply only to Awards granted to persons who are subject to taxation by the State of Israel.

1.3 The purpose of this Sub-Plan is to establish certain rules and limitations applicable to Awards that may be granted under the Sub-Plan to Participants from time to time, in compliance with applicable laws (including securities laws) currently in force in the State of Israel. Except as otherwise provided by this Sub-Plan, all Awards granted pursuant to this Sub-Plan shall be governed by the terms of the Plan. This Sub-Plan is applicable only to Awards granted after the Effective Date.

1.4 This Sub-Plan complies with, and is subject to, the ITO (as such term is defined below) and Section 102 (as such term is defined below).

1.5 The Plan and this Sub-Plan shall be read together. In any case of contradiction, whether explicit or implied, between the provisions of this Sub-Plan and the Plan, the provisions of this Sub-Plan shall govern.

2. Definitions.

Capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Plan. The following additional definitions will apply to Awards granted pursuant to this Sub-Plan:

“**3(i) Award**” means an Award that is subject to taxation pursuant to Section 3(i) of the ITO which has been granted under this Sub-Plan to any person who is NOT an Eligible 102 Participant.

“**102 Capital Gains Track**” means the tax track set forth in Section 102(b)(2) or Section 102(b)(3) of the ITO, as the case may be.

“**102 Capital Gains Track Grant**” means a 102 Trustee Grant qualifying for the special tax treatment under the 102 Capital Gains Track.

“**102 Earned Income Track**” means the tax track set forth in Section 102(b)(1) of the ITO.

“**102 Earned Income Track Grant**” means a 102 Trustee Grant qualifying for the ordinary income tax treatment under the 102 Earned Income Track.

“**102 Trustee Grant**” means an Award granted under this Sub-Plan pursuant to Section 102(b) of the ITO and held in trust by a Trustee for the benefit of the Eligible 102 Participant, and includes 102 Capital Gains Track Grants or 102 Earned Income Track Grants.

“**Affiliate**” means a present or future company that either (i) Controls the Company, (ii) is Controlled by the Company; or (iii) is Controlled by the same person or entity that Controls the Company.

“**Control**” or “**Controlled**” shall have the meaning ascribed thereto in Section 102.

“**Controlling Shareholder**” as defined under Section 32(9) of the ITO, means an individual who prior to the grant or as a result of the exercise of any Award, holds or would hold, directly or indirectly, in his name or with a relative (as defined in the ITO) (i) 10% or more of the outstanding shareholding of the Company, (ii) 10% or more of the voting power of the Company, (iii) the right to hold or purchase 10% or more of the outstanding equity or voting power, (iv) the right to obtain 10% or more of the “profit” of the Company (as defined in the ITO), or (v) the right to appoint a director.

“**Election**” means the Board’s election of the type (i.e., between 102 Capital Gains Track or 102 Earned Income Track) of 102 Trustee Grants that it will make under the Sub-Plan, as filed with the ITA.

“**Eligible 102 Participant**” means an individual that (i) (A) is employed by the Company’s Israeli Affiliate or (B) is a member of the board of the Company’s Israeli Affiliate, and (ii) who is not a Controlling Shareholder.

“**ITA**” means the Israeli Tax Authority.

“**ITO**” means the Israeli Income Tax Ordinance (New Version) 1961 and the rules, regulations, orders or procedures promulgated thereunder and any amendments thereto, including specifically the ITO Rules, each as may be amended from time to time.

“**ITO Rules**” means the Income Tax Rules (Tax Benefits in Share Issuance to Employees) 5763-2003.

“**Non-Trustee Grant**” means an Award granted under this Sub-Plan to an Eligible 102 Participant pursuant to Section 102(c) of the ITO and not held in trust by a Trustee.

“**Required Holding Period**” means the requisite period prescribed by Section 102 and the ITO Rules, or such other period as may be required by the ITA, with respect to 102 Trustee Grants, during which the 102 Trustee Grants and the Shares issued upon the exercise of the 102 Trustee Grants must be held by the Trustee for the benefit of the person to whom it was granted.

“**Section 102**” means the provisions of Section 102 of the ITO, as amended from time to time.

“**Trustee**” means a person or entity designated by the Board to serve as a trustee and/or supervising trustee and approved by the ITA in accordance with the provisions of Section 102(a) of the ITO.

“**Trust Agreement**” means the agreement(s) between the Company and the Trustee regarding Awards granted under this Sub-Plan, as in effect from time to time.

3. Types of Grants and Section 102 Election.

3.1 Grants of Awards made pursuant to Section 102, shall be made pursuant to either (a) Section 102(b)(2) or Section 102(b)(3) of the ITO as the case may be, as 102 Capital Gains Track Grants, or (b) Section 102(b)(1) of the ITO as 102 Earned Income Track Grants. The Board’s Election regarding the type of 102 Trustee Grant it elects to make shall be filed with the ITA. Once such Election has been filed by the Company, the Board may change the type of 102 Trustee Grant that it elects to make only after the lapse of at least 12 months from the end of the calendar year in which the first grant was made pursuant to the previous Election, in accordance with Section 102. For the avoidance of doubt, such Election shall not prevent the Board from granting Non-Trustee Grants to Eligible 102 Participants at any time.

3.2 Eligible 102 Participants may receive only 102 Trustee Grants or Non-Trustee Grants under this Sub-Plan. Persons who are not Eligible 102 Participants may be granted only 3(i) Awards under this Sub-Plan or Non-Trustee Grants.

3.3 No 102 Trustee Grants may be granted pursuant to this App Sub-Plan until 30 days after the requisite filings required by the ITO and the ITO Rules have been filed with the ITA.

3.4 The Award Agreement or documents evidencing an Award granted under this Sub-Plan shall indicate (i) whether the Award is a 102 Trustee Grant, a Non-Trustee Grant or a 3(i) Award, and (ii) if the grant is a 102 Trustee Grant, whether it is a 102 Capital Gains Track Grant or a 102 Earned Income Track Grant.

4. Terms and Conditions of 102 Trustee Grants.

4.1 Each 102 Trustee Grant will be deemed granted on the date stated in a written notice by the Company, in accordance with the provisions of Section 102 and the Trust Agreement.

4.2 Each 102 Trustee Grant granted to an Eligible 102 Participant shall be held by the Trustee and each certificate for Shares acquired pursuant to a 102 Trustee Grant shall be issued to and registered in the name of a Trustee and shall be held in trust for the benefit of the Eligible 102 Participant for the Required Holding Period. After termination of the Required Holding Period, the Trustee may release such Award and any such Shares, provided that (i) the Trustee has received an acknowledgment from the ITA that the Eligible 102 Participant has paid any applicable tax due pursuant to the ITO; or (ii) the Trustee and/or the Company withholds any applicable tax due pursuant to the ITO. The Trustee shall not release any 102 Award or Shares issued thereunder and held by it prior to the full payment of the Eligible 102 Participant's tax liabilities.

4.3 Each 102 Trustee Grant (whether a 102 Capital Gains Track Grant or a 102 Earned Income Track Grant, as applicable) shall be subject to the relevant terms of Section 102 and the ITO, which shall be deemed an integral part of the 102 Trustee Grant and shall prevail over any term contained in the Plan, this Sub-Plan or any Award Agreement that is not consistent therewith. Any provision of the ITO and any approvals by the ITA not expressly specified in this Sub-Plan or any document evidencing an Award that are necessary to receive or maintain any tax benefit pursuant to Section 102 shall be binding on the Eligible 102 Participant. The Trustee and the Eligible 102 Participant granted a 102 Trustee Grant shall comply with the ITO and the terms and conditions of the Trust Agreement entered into between the Company and the Trustee. For the avoidance of doubt, it is reiterated that compliance with the ITO specifically includes compliance with the ITO Rules. Further, the Eligible 102 Participant agrees to execute any and all documents which the Board or the Trustee may reasonably determine to be necessary in order to comply with the provision of any applicable law, and, particularly, Section 102.

4.4 During the Required Holding Period, the Trustee shall not be required to release an Award, Shares acquired pursuant to such Award, or other shares received subsequently following any realization of rights derived from such Award or Shares (including share dividends) to the Eligible 102 Participant or sell such Award, Shares, or other shares to a third party, unless permitted to do so by applicable law. Notwithstanding the foregoing, the Trustee may, pursuant to a written request and subject to applicable law, release and transfer such Shares to a designated third party, provided that both of the following conditions have been fulfilled prior to such transfer: (i) all taxes required to be paid upon the release and transfer of the Share have been withheld for transfer to the ITA; and (ii) the Trustee has received written confirmation from the Board that all requirements for such release and transfer have been fulfilled according to the terms of the Company's corporate documents, the Plan, any applicable agreement and any applicable law. For the avoidance of doubt, such sale or release during the Required Holding Period will result in different tax ramifications to the Eligible 102 Participant under Section 102 of the ITO and the ITO Rules and/or any other regulations or orders or procedures promulgated thereunder, which shall apply to and shall be borne solely by such Eligible 102 Participant.

4.5 In the event a share dividend is declared and/or additional rights are granted with respect to Shares which were issued upon an exercise of a 102 Trustee Grant, such dividend and/or rights shall also be subject to the provisions of this Section 4, and the Required Holding Period for such share dividend and/or rights shall be measured from the commencement of the Required Holding Period for the 102 Trustee Grant with respect to which the dividend was declared and/or rights granted. In the event of a cash dividend on the 102 Trustee Grant or such Shares, the Trustee shall transfer the dividend proceeds to the Eligible 102 Participant after deduction of taxes and mandatory payments in compliance with applicable withholding requirements.

4.6 If an Award which is granted as a 102 Trustee Grant is exercised or vests during the Required Holding Period, the Shares issued upon such exercise or vesting shall be issued in the name of the Trustee for the benefit of the Eligible 102 Participant. If such Shares are issued after the Required Holding Period has lapsed, the Shares issued upon such exercise or vesting shall, at the election of the Eligible 102 Participant, either (i) be issued in the name of the Trustee or (ii) be transferred to the Eligible 102 Participant directly, provided that the Eligible 102 Participant first complies with all applicable provisions of the Plan and pays all taxes which apply on issuance of the Shares or to such transfer of Shares.

4.7 To avoid any doubt, notwithstanding anything to the contrary in the Plan, no Award qualifying as a 102 Trustee Grant shall be substituted for payment in cash or any other form of consideration, including other Awards or Shares, in the absence of an express approval of the ITA in advance for such substitution.

5. Assignability.

As long as Awards or Shares are held by the Trustee on behalf of an Eligible 102 Participant, no rights of the Eligible 102 Participant over the Awards or Shares may be transferred, assigned, pledged or mortgaged, other than by will or laws of descent and distribution.

6. Tax Consequences.

6.1 Any tax consequences arising from the grant or exercise of any Award, from the payment for Shares covered thereby, or from any other event or act (of the Company, the Company's its Affiliates, the Trustee, and/or the Participant), hereunder, shall be borne solely by the Participant. The Company, its Affiliates, and/or the Trustee shall withhold taxes according to the requirements under the applicable law (including applicable rules and regulations), including withholding taxes at source. Furthermore, the Participant shall agree to indemnify the Company, its Affiliates, and/or the Trustee and hold them harmless against and from any and all liability for any such tax or interest or penalty thereon, including without limitation, liabilities relating to the necessity to withhold, or to have withheld, any such tax from any payment made to the Participant. The Company, or any of its Affiliates and the Trustee may make such provisions and take such steps as it may deem necessary or appropriate for the withholding of all taxes required by law to be withheld with respect to Awards granted under the Sub-Plan and the exercise or vesting or sale thereof, including, but not limited, to (i) deducting the amount so required to be withheld from any other amount then or thereafter payable to a Participant, (ii) requiring a Participant to pay to the Company or any of its Affiliates the amount so required to be withheld as a condition of the issuance, delivery, distribution or release of Shares, and/or (iii) by causing the exercise of an Award and/or the sale of Shares held by or on behalf of a Participant to cover such liability, up to the amount required to satisfy minimum statutory withholding requirements. In addition, the Participant will be required to pay any amount which exceeds the tax to be withheld and remitted to the tax authorities, pursuant to applicable tax laws, regulations and rules.

6.2 With respect to Non-Trustee Grants, if an Eligible 102 Participant ceases to be a Company's Affiliate employee or director, the Eligible 102 Participant shall extend to the Company and/or its Affiliate security or a guarantee for the payment of tax due at the time of sale of Share to the satisfaction of the Board, all in accordance with the provisions of Section 102 of the ITO and the ITO Rules.

7. Governing Law and Jurisdiction.

The validity and enforceability of the Sub-Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to the provisions governing conflict of laws and applicable federal law, except to the extent that mandatory provisions of the laws of the State of Israel apply.

8. Securities Laws.

This Sub-Plan shall be subject to all applicable law. The Board shall be entitled to require Participants to comply with such applicable law as may be necessary. Furthermore, the grants of any Award under the Sub-Plan shall be subject to the procurement by the Company or its Affiliates of all approvals and permits required by regulatory authorities having jurisdiction over this Sub-Plan and the Awards granted hereunder.

This Addendum is adopted and effective as of September 21, 2018.

EXHIBIT C

**APPENDIX C TO
ASENSUS SURGICAL, INC.
AMENDED AND RESTATED INCENTIVE COMPENSATION PLAN
FOR CANADIAN RESIDENT EMPLOYEES**

This Appendix C to the Asensus Surgical, Inc. Amended and Restated Incentive Compensation Plan (the “Plan”) for Canadian Resident Employees (this “Appendix”) sets forth the modifications to Plan terms and procedures established by the Committee (in the case of a Committee, subject to the specific duties delegated by the Board to the Committee) pursuant to Section 10(k) of the Plan that apply to any Award granted to Participants who are (or who become) Canadian Resident Employees.

1. This Appendix shall apply to all Participants who are Canadian Resident Employees. In the event that a Participant becomes a Canadian Resident Employee subsequent to the grant of an Award under the Plan, then, pursuant to Section 10(k) of the Plan, such Award shall immediately be amended in a manner consistent with this Appendix.

2. In this Appendix, the following terms shall have the meanings set forth below:

“ITA” means the *Income Tax Act* (Canada) as it may be amended from time to time and all regulations, interpretations and administrative guidance issued thereunder.

“Canadian Resident Employee” means an Employee who is a resident in Canada for purposes of the ITA and any applicable income tax treaty or convention.

“Ontario Law” means the laws of the province of Ontario.

“72-503” means Ontario Securities Commission Rule 72-503 *Distributions Outside Canada*.

All other capitalized terms used, but not defined or redefined, in this Appendix will have the meanings ascribed to those terms in the Plan.

3. Subsections 2(h), 2(n), 2(p) and 2(rr) of the Plan shall, for the purposes of this Appendix, be amended to read as follows:

“(h) “**Cause**” with respect to any Participant, unless Ontario Law governs the employment of the Participant with the Company or a Subsidiary, has the meaning specified in an employment or other agreement with, for the performance of services to, the Company or a Subsidiary, or in the absence of any such agreement, “Cause” means (i) the failure by the Participant to perform, in a reasonable manner, his or her duties as assigned by the Company or a Subsidiary, (ii) any violation or breach by the Participant of his or her employment, consulting or other similar agreement with the Company or a Subsidiary, if any, (iii) any violation or breach by the Participant of any non-competition, non-solicitation, non-disclosure and/or other similar agreement with the Company or a Subsidiary, (iv) any act by the Participant of dishonesty or bad faith with respect to the Company or a Subsidiary, (v) use of alcohol, drugs or other similar substances in a manner that adversely affects the Participant’s work performance, or (vi) the commission by the Participant of any act, misdemeanor, or crime reflecting unfavorably upon the Participant or the Company or any Subsidiary. If Ontario Law governs the employment of the Participant with the Company or a Subsidiary, “Cause” shall mean, with respect to the Participant’s employment, the Participant is guilty of wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the Company and/or its Subsidiary. The good faith determination by the Committee of whether the Participant’s Continuous Service was terminated by the Company for “Cause” shall be final and binding for all purposes hereunder.

- (n) “**Continuous Service**” means the uninterrupted provision of services to the Company or any Subsidiary in any capacity of Employee, Director, Consultant or other service provider. Continuous Service shall not be considered to be interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Subsidiaries, or any successor entities, in any capacity of Employee, Director, Consultant or other service provider, or (iii) any change in status as long as the individual remains in the service of the Company or a Subsidiary in any capacity of Employee, Director, Consultant or other service provider (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave. For absolute clarity, Continuous Service ends on the Termination of Employment of an Employee of the Company or a Subsidiary.
- (p) “**Disability**” means a permanent and total disability (within the meaning of Section 22(e) of the Code or, if Ontario Law applies, pursuant to applicable Ontario Law), as determined by a medical doctor satisfactory to the Committee.
- (rr) “**Termination of Employment**” means, with respect to any Employee and unless Ontario Law governs the employment of the Employee with the Company or a Subsidiary, the Employee’s ceasing to be an Employee; provided, however, that for Incentive Stock Option purposes, Termination of Employment will occur when the Participant ceases to be an employee (as determined in accordance with Code Section 3401(c) and the regulations promulgated thereunder) of the Company or one of its Subsidiaries; and provided further that for any Award subject to Section 409A, Termination of Employment means a separation from service within the meaning of Section 409A. If Ontario law governs the employment of the Employee with the Company or a Subsidiary, “Termination of Employment” shall occur on the earliest of, as applicable, the date the Employee’s employment is terminated for Cause, the end of the applicable minimum notice period required by the *Employment Standards Act, 2000* in the event the Employee’s employment is terminated without Cause, the date the Employee delivers notice of resignation or retirement, the Employee’s death, or on the frustration of the Employee’s employment with the Company or a Subsidiary including but not limited to as a result of a Participant’s Disability. No period of common law notice (if applicable) or any other notice shall apply or be considered in respect of determining the Termination of Employment date for the purposes of the Plan. The Committee shall determine whether any corporate transaction, such as a sale or spin-off of a division or business unit, or a joint venture, shall be deemed to result in a Termination of Employment.”

4. Subsection 6(b)(ii) of the Plan shall be amended by replacing it in its entirety with the following:

“(ii) **Vesting Period, Performance Goals and Time and Method of Exercise.** Options granted under the Plan shall vest and be exercisable at such time, subject to achievement of designated Performance Goals, if any, and/or in such installments during the period prior to the expiration of the Option’s term as determined by the Committee and set forth in the Award Agreement. The minimum vesting schedule for Options shall be six months after the date of grant. The Committee shall determine the methods by which the exercise price may be paid or deemed to be paid and the methods by or forms in which Shares will be delivered to Participants; provided that the exercise price may not be paid or deemed to be paid with Shares (including the withholding of Shares otherwise deliverable pursuant to an Award).”

5. Subsection 6(b)(v) of the Plan shall be amended to delete the provision in its entirety.
6. Section 7(c) of the Plan shall be amended to include at the end of the provision the following:

“Shares are subject to certain restrictions on resale imposed by Canadian provincial securities laws. Notwithstanding any other provision of the Plan, any transfer or resale of any Shares acquired by the Participant pursuant to the Plan must be in accordance with the resale rules under applicable Canadian provincial securities laws, including 72-503, if he / she is a resident in the Province of Ontario. In Ontario, the prospectus requirement does not apply to the first trade of Shares issued in connection with the exercise of the Awards, provided the conditions set forth in section 2.8 of 72-503 are satisfied. The Shares acquired under the Plan may not be transferred or sold in Canada or to a Canadian resident other than in accordance with applicable provincial or territorial securities laws. The Participant is advised to consult his / her legal advisor prior to any resale of Shares.”

7. Section 7(d) of the Plan shall be amended by replacing it in its entirety with the following:

“(d) **Code Section 409A.** Shares shall not be issued pursuant to the exercise of an Award unless the issuance and delivery of such Shares shall comply with applicable laws, including but not limited to any applicable Ontario Law, and shall be further subject to the approval of counsel for the Company with respect to such compliance. Without limiting the foregoing, the Plan is intended to comply with Section 409A of the Code to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Committee shall make a good faith effort to interpret and administer the Plan in compliance therewith. Any payments described in the Plan that are due within the “short-term deferral period” as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable laws require otherwise. For purposes of Section 409A of the Code, each installment payment provided under this Plan shall be treated as a separate payment. Notwithstanding anything to the contrary in the Plan, to the extent required to avoid accelerated taxation and tax penalties under Section 409A of the Code, and save as required by applicable law, including but not limited to any applicable Ontario Law (a) amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following the Participant’s termination of Continuous Service shall instead be paid on the first payroll date after the six-month anniversary of the Participant’s separation from service (or the Participant’s death, if earlier), and (b) amounts payable upon the termination of a Participant’s Continuous Service shall only be payable if such termination constitutes a “separation from service” within the meaning of Section 409A of the Code. Notwithstanding the foregoing, neither the Company, any Subsidiary nor the Committee shall have any obligation to take any action to prevent the assessment of any excise tax or penalty on any Participant under Section 409A of the Code and neither the Company nor the Committee will have any liability to any Participant for such tax or penalty.”

8. Subsection 8(a) of the Plan shall be amended by replacing it in its entirety with the following:

“(i) **Options.** Unless Ontario Law governs the Participant’s employment with the Company or a Subsidiary, all outstanding vested and exercisable Options granted to such Participant shall remain exercisable for 90 days after Termination of Employment; provided, that the Option will expire at the expiration of the stated term if earlier. If Ontario Law governs the Participant’s employment with the Company or a Subsidiary, all outstanding vested and exercisable Options granted to such Participant shall remain exercisable until the earlier of the expiry of the stated term or 90 days after:

(a) the Participant is provided notice of Termination of Employment without Cause (if applicable); or otherwise

(b) a Termination of Employment for reasons other than a Termination of Employment (i) for Cause, (ii) as a result of the delivery of a notice of resignation or retirement by the Participant, (iii) as a result of a Participant’s Disability, or (iv) on the Participant’s death.

(ii) **Other Awards.** All outstanding and unvested Awards other than Options shall be forfeited on Termination of Employment.”

9. Subsection 10(a) of the Plan shall be amended by adding “, provincial” after the word “federal” in the first sentence.

10. Subsection 10(d) of the Plan shall be amended by adding the following at the end of the provision:

“The Company and any Subsidiary shall have the power and the right to require a Participant to remit to the Company or any Subsidiary, any amount necessary to satisfy federal, provincial, and local taxes, domestic or foreign, required by law or regulation to be withheld with respect to any taxable event arising as a result of the Plan.”

11. Subsection 10(e) of the Plan shall be amended by adding the following sentence after the first sentence:

“No amendment, alteration, suspension, discontinuance or termination of the Plan shall constitute constructive termination of the Participant’s employment by the Company or a Subsidiary, whether under the Plan, statute, contract or common law.”

12. Subsection 10(j) of the Plan shall be amended to add the following at the end of the last sentence:

“, save and except and only to the extent required by, applicable Ontario Law.”

* * *

This Addendum is adopted and effective as of October 27, 2020.