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

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**FORM 8-K**

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**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(D)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): May 4, 2023**

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**SELECT WATER SOLUTIONS, INC.**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**001-38066**  
(Commission  
File Number)

**81-4561945**  
(I.R.S. Employer  
Identification No.)

**1233 West Loop South, Suite 1400**  
**Houston, TX 77027**  
(Address of Principal Executive Offices)

**(713) 235-9500**  
(Registrant's Telephone Number, Including Area Code)

**Select Energy Services, Inc.**  
(Former Name, if Changed Since Last Report)

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

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

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

<b>Title of each class</b>	<b>Trading Symbol(s)</b>	<b>Name of each exchange on which registered</b>
Class A common stock, \$0.01 par value	WTTR	New York Stock Exchange

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

Emerging growth company

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

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

On May 5, 2023 (the “Effective Date”), Select Energy Services, LLC (a subsidiary of Select Energy Services, Inc. (“Select”) and herein referred to together with Select as the “Company”) entered into an employment agreement (the “Employment Agreement”) with John D. Schmitz, the Company’s Chairman of the Board of Directors, Chief Executive Officer and President. The Employment Agreement supersedes and replaces that certain letter agreement by and between Mr. Schmitz and the Company dated March 1, 2021. The initial term of the Employment Agreement is for the period beginning on the Effective Date and ending on December 31, 2025, and the term will automatically renew annually for successive 12-month periods unless either party provides written notice of non-renewal at least 60 days prior to the expiration of the initial term or renewal term. Notwithstanding the foregoing, Mr. Schmitz’s employment may be earlier terminated in accordance with the terms of the Employment Agreement.

Pursuant to the Employment Agreement, Mr. Schmitz will receive an annualized base salary of \$800,000 and will continue to be eligible to receive (i) an annual bonus with an annual bonus target amount of 115% of his annualized base salary under the Company’s short-term incentive bonus program (the “STI Plan”) for each year within the initial term or renewal term, as applicable, provided that Mr. Schmitz remains employed through the date on which each such bonus is paid and (ii) annual equity awards pursuant to the Company’s equity incentive plan.

The Employment Agreement also provides for certain severance benefits upon Mr. Schmitz’s termination of employment without “Cause,” upon expiration of the initial term or a renewal term as a result of the Company’s issuance of a notice of non-renewal, upon Mr. Schmitz’s resignation for “Good Reason,” or due to Mr. Schmitz’s death or “Disability” (each quoted term as defined in the Employment Agreement), including (i) cash severance equal to two times (or, if such termination occurs within 60 days prior to, or within 24 months following, a “Change in Control” (such quoted term as defined in the Employment Agreement), three times) the sum of (a) the then-current annualized base salary and (b) the target annual bonus for the year of termination, payable in substantially equal installments over the 12-month (or, if such termination occurs within 60 days prior to, or within 24 months following, a Change in Control, 24-month) period following the termination date, (ii) a pro-rated annual bonus under the STI Plan for the year in which the termination occurs, based on actual performance and payable at the time such bonuses are paid to other participants in the STI Plan, (iii) an annual bonus under the STI Plan for the year prior to the year in which the termination occurs, to the extent such bonus has not yet been paid as of the termination date, payable at the time such bonuses are paid to other participants in the STI Plan and (iv) reimbursement of certain premiums paid for continuation coverage under the Company’s group health plans. All severance payments and benefits are contingent upon Mr. Schmitz’s execution and non-revocation of a release of claims in favor of the Company and its affiliates. Additionally, the Employment Agreement contains certain restrictive covenants regarding confidential information, non-competition, non-solicitation, and intellectual property. The foregoing description of the Employment Agreement is not complete and is qualified in its entirety to the full text of the Employment Agreement, which is filed herewith as Exhibit 10.1 and incorporated herein by reference.

**ITEM 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Years.**

As described under Item 5.07 below, the Company held its 2023 Annual Meeting of Stockholders (the “Annual Meeting”) on May 4, 2023. At the Annual Meeting, upon the recommendation of the board of directors of the Company (the “Board”), the Company’s stockholders approved an amendment and restatement (the “A&R Certificate”) of the Company’s Fourth Amended and Restated Certificate of Incorporation (the “Current Certificate”) to, among other things, reflect new Delaware law provisions regarding officer exculpation and to change the name of the Company to Select Water Solutions, Inc.

The A&R Certificate became effective upon filing with the Secretary of State of the State of Delaware on May 8, 2023. A description of the A&R Certificate is provided in “Proposal No. 3 — Approval of the Amendment and Restatement of the Company’s Fourth Amended and Restated Certificate of Incorporation to Reflect New Delaware Law Provisions Regarding Officer Exculpation” and “Proposal No. 4 — Approval of the Amendment and Restatement of the Company’s Fourth Amended and Restated Certificate of Incorporation to, Among Other Things, Change the Name of the Company to Select Water Solutions, Inc.” of the Company’s definitive proxy statement, filed with the U.S. Securities and Exchange Commission on March 20, 2023 (the “Proxy Statement”), which description and text are incorporated herein by reference. The foregoing description of the terms of the A&R Certificate and the description incorporated by reference from the Proxy Statement do not purport to be complete and are qualified in their entireties by the full text of the A&R Certificate, which is filed herewith as Exhibit 3.1 and incorporated herein by reference.

The Company's Class A common stock will continue to trade under the ticker symbol "WTTR" on the New York Stock Exchange.

The Board also approved an amendment and restatement (the "A&R Bylaws") of the Company's Second Amended and Restated Bylaws to, among other things, reflect the name change and certain changes to law, including the amendment of Sections 141(k), 222 and 232 of the Delaware General Corporation Law and the adoption of Rule 14a-19 under the Securities Exchange Act of 1934, as amended. The A&R Bylaws became effective immediately upon the A&R Certificate becoming effective on May 8, 2023. The foregoing description of the terms of the A&R Bylaws is not complete and is qualified in its entirety by reference to the full text of the A&R Bylaws, which is filed herewith as Exhibit 3.2 and incorporated herein by reference.

**ITEM 5.07 Submission of Matters to a Vote of Security Holders.**

The Annual Meeting was held on May 4, 2023. At the Annual Meeting, 99,804,851 shares of the Company's common stock, par value \$0.01 per share, or approximately 78.65%, of the 126,890,588 issued and outstanding ordinary shares entitled to vote at the Annual Meeting were present in person or by proxies.

The final results of the voting on each matter of business at the Annual Meeting are as follows:

**Proposal 1 – Election of Directors.**

NOMINEES	FOR	AGAINST	WITHHOLD	BROKER NON-VOTES
Gayle L. Burleson	74,946,796	0	14,272,856	10,585,199
Richard A. Burnett	88,632,605	0	587,047	10,585,199
Luis Fernandez-Moreno	72,436,365	0	16,783,287	10,585,199
Robin H. Fielder	85,909,774	0	3,309,878	10,585,199
John D. Schmitz	88,638,833	0	580,819	10,585,199
Troy W. Thacker	85,834,581	0	3,385,071	10,585,199
Douglas J. Wall	67,314,918	0	21,904,734	10,585,199

**Proposal 2 – Ratification of the appointment of Grant Thornton LLP as the Company's independent registered public accounting firm for fiscal year 2023.**

FOR	AGAINST	ABSTAIN
99,087,138	113,176	604,537

**Proposal 3 – Approval of the amendment and restatement of the Company’s Fourth Amended and Restated Certificate of Incorporation to reflect new Delaware law provisions regarding officer exculpation.**

FOR	AGAINST	ABSTAIN	BROKER NON-VOTES
78,100,861	10,327,446	791,345	10,585,199

**Proposal 4 – Approval of the amendment and restatement of the Company’s Fourth Amended and Restated Certificate of Incorporation to, among other things, change the name of the Company to Select Water Solutions, Inc.**

FOR	AGAINST	ABSTAIN
98,976,094	247,905	580,852

**Item 7.01 Regulation FD Disclosure.**

On May 8, 2023, the Company issued a press release announcing, among other things, the change of the name of the Company. The full text of the press release is included as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

THE INFORMATION FURNISHED UNDER ITEM 7.01 OF THIS CURRENT REPORT ON FORM 8-K, INCLUDING EXHIBIT 99.1 ATTACHED HERETO, SHALL NOT BE DEEMED “FILED” FOR THE PURPOSES OF SECTION 18 OF THE SECURITIES AND EXCHANGE ACT OF 1934, NOR SHALL IT BE DEEMED INCORPORATED BY REFERENCE INTO ANY REGISTRATION STATEMENT OR OTHER FILING PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, EXCEPT AS OTHERWISE EXPRESSLY STATED IN SUCH FILING.

**ITEM 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
<a href="#">3.1</a>	<a href="#">Fifth Amended and Restated Certificate of Incorporation of Select Water Solutions, Inc.</a>
<a href="#">3.2</a>	<a href="#">Third Amended and Restated Bylaws of Select Water Solutions, Inc.</a>
<a href="#">10.1</a>	<a href="#">Employment Agreement between John D. Schmitz and Select Energy Services, LLC, dated May 5, 2023</a>
<a href="#">99.1</a>	<a href="#">Press Release, dated May 8, 2023.</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

**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 hereunto duly authorized.

Dated May 8, 2023

SELECT WATER SOLUTIONS, INC.

By: /s/ Nick Swyka

Nick Swyka

Senior Vice President and Chief Financial Officer

**FIFTH AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
SELECT ENERGY SERVICES, INC.**

Select Energy Services, Inc. (the “*Corporation*”), a corporation organized and existing under the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the “*DGCL*”), hereby certifies as follows:

1. The original Certificate of Incorporation of the Corporation (the “*Original Certificate of Incorporation*”) was filed with the Secretary of State of the State of Delaware on November 21, 2016.
  2. The Amended and Restated Certificate of Incorporation (the “*A&R Certificate of Incorporation*”), which restated and amended the Original Certificate of Incorporation, was filed with the Secretary of State of the State of Delaware on December 19, 2016.
  3. The Second Amended and Restated Certificate of Incorporation (the “*Second A&R Certificate of Incorporation*”), which restated and amended the A&R Certificate of Incorporation, was filed with the Secretary of State of the State of Delaware on April 4, 2017.
  4. Upon the effectiveness of the registration statement filed by the Corporation with the Securities and Exchange Commission (such event being a Conversion End Date) (as defined in the Second A&R Certificate of Incorporation), on June 13, 2017, each share of Class A-1 Common Stock (as defined in the Second A&R Certificate of Incorporation) outstanding as of such date automatically converted into a share of Class A Common Stock.
  5. The Third Amended and Restated Certificate of Incorporation (the “*Third A&R Certificate of Incorporation*”), which restated and integrated and also further amended the Second A&R Certificate of Incorporation, was filed with the Secretary of State of the State of Delaware on November 1, 2017.
  6. The Fourth Amended and Restated Certificate of Incorporation (the “*Fourth A&R Certificate of Incorporation*”), which restated and integrated and also further amended the Third A&R Certificate of Incorporation, was filed with the Secretary of State of the State of Delaware on May 16, 2019.
  7. This Fifth Amended and Restated Certificate of Incorporation, which restates and amends the Fourth A&R Certificate of Incorporation, has been declared advisable by the board of directors of the Corporation (the “*Board*”), duly adopted by the stockholders of the Corporation and duly executed by the officers of the Corporation in accordance with Sections 103, 228, 242 and 245 of the DGCL. References to this “*Amended and Restated Certificate of Incorporation*” herein refer to the Fifth Amended and Restated Certificate of Incorporation, as amended, restated, supplemented and otherwise modified from time to time.
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8. The Fourth A&R Certificate of Incorporation is hereby amended, integrated and restated in its entirety to read as follows:

**ARTICLE I  
NAME**

SECTION 1.1 Name. The name of the Corporation is Select Water Solutions, Inc.

**ARTICLE II  
REGISTERED AGENT**

SECTION 2.1 Registered Agent. The address of its registered office in the State of Delaware is 108 Lakeland Ave, City of Dover, County of Kent, Delaware 19901. The name of the Corporation's registered agent at such address is CAPITOL SERVICES, INC.

**ARTICLE III  
PURPOSE**

SECTION 3.1 Purpose. The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL as it currently exists or may hereafter be amended.

**ARTICLE IV  
CAPITALIZATION**

SECTION 4.1 Number of Shares. The total number of shares of stock that the Corporation shall have the authority to issue is 550,000,000 shares of stock, consisting of (A) 50,000,000 shares of preferred stock, par value \$0.01 per share ("**Preferred Stock**"), (B) 350,000,000 shares of Class A common stock, par value \$0.01 per share ("**Class A Common Stock**"), and (C) 150,000,000 shares of Class B common stock, par value \$0.01 per share ("**Class B Common Stock**" and, together with the Class A Common Stock, the "**Common Stock**").

SECTION 4.2 Provisions Relating to Preferred Stock.

(A) Preferred Stock may be issued from time to time in one or more series, the shares of each series to have such designations and powers, preferences, privileges and rights, and qualifications, limitations and restrictions thereof, as are stated and expressed herein and in the resolution or resolutions providing for the issue of such series adopted by the Board as hereafter prescribed (a "**Preferred Stock Designation**").

(B) Subject to any limitations prescribed by law and the rights of any series of the Preferred Stock then outstanding, if any, authority is hereby expressly granted to and vested in the Board to authorize the issuance of Preferred Stock from time to time in one or more series, and with respect to each series of Preferred Stock, to fix and state by the resolution or resolutions from time to time adopted by the Board providing for the issuance thereof the designations and the powers, preferences, privileges and rights, and qualifications, limitations and restrictions relating to each series of Preferred Stock, including, but not limited to, the following:

(1) whether or not the series is to have voting rights, full, special or limited, or is to be without voting rights, and whether or not such series is to be entitled to vote as a separate series either alone or together with the holders of one or more other classes or series of stock;

(2) the number of shares to constitute the series and the designations thereof;

(3) the powers, preferences, privileges and relative, participating, optional or other special rights, if any, and the qualifications, limitations and restrictions thereof, if any, with respect to any series;

(4) whether or not the shares of any series shall be redeemable at the option of the Corporation or the holders thereof or upon the happening of any specified event, and, if redeemable, the redemption price or prices (which may be payable or issuable in the form of cash, notes, securities or other property), and the time or times at which, and the terms and conditions upon which, such shares shall be redeemable and the manner of redemption;

(5) whether or not the shares of a series shall be subject to the operation of retirement or sinking funds to be applied to the purchase or redemption of such shares for retirement, and, if such retirement or sinking fund or funds are to be established, the annual amount thereof, and the terms and provisions relative to the operation thereof;

(6) the dividend rate, whether dividends are payable or issuable in cash, stock of the Corporation or other property, the conditions upon which and the times when such dividends are payable or issuable, the preference to or the relation to the payment or issuance of dividends payable or issuable on any other class or classes or series of stock, whether or not such dividends shall be cumulative or noncumulative, and if cumulative, the date or dates from which such dividends shall cumulate, and whether such dividends shall be compounded and if so the rate of such compounding;

(7) the preferences, if any, and the amounts thereof which the holders of any series thereof shall be entitled to receive upon the voluntary or involuntary liquidation, dissolution or winding up of, or upon any distribution of the assets of, the Corporation;

(8) whether or not the shares of any series, at the option of the Corporation or the holder thereof or upon the happening of any specified event, shall be convertible into or exchangeable for, the shares of any other class or classes or of any other series of the same or any other class or classes or series of stock, securities or other property of the Corporation and the conversion price or prices or ratio or ratios or the rate or rates at which such exchange may be made, with such adjustments, if any, as shall be stated and expressed or provided for in such resolution or resolutions; and

(9) such other powers, preferences, privileges and rights, and qualifications, limitations and restrictions with respect to any series as may to the Board seem advisable.

(C) The shares of each series of Preferred Stock may vary from the shares of any other series thereof in any or all of the foregoing respects.



SECTION 4.3 Provisions Relating to Common Stock

(A) Except as may otherwise be provided in this Amended and Restated Certificate of Incorporation (including for the avoidance of doubt the terms of Section 4.3(D)), each share of Common Stock shall have identical rights and privileges in every respect. Common Stock shall be subject to the express terms of Preferred Stock and any series thereof. Except as otherwise required by this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation) or by applicable law, the holders of shares of Common Stock shall be entitled to one vote for each such share on all matters which the stockholders are entitled to vote, the holders of shares of Common Stock shall have the exclusive right to vote for the election of directors and on all other matters upon which the stockholders are entitled to vote, and the holders of Preferred Stock shall not be entitled to vote at or receive notice of any meeting of stockholders, other than as provided in the applicable Preferred Stock Designation. Except as otherwise required in this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation) or by applicable law, the holders of Common Stock shall vote together as a single class on all matters (or, if any holders of Preferred Stock are entitled to vote together with the holders of Common Stock, the holders of Common Stock and the Preferred Stock shall vote together as a single class).

(B) Notwithstanding the foregoing, except as otherwise required in this Amended and Restated Certificate of Incorporation or by applicable law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation) or pursuant to the DGCL.

(C) Subject to the prior rights and preferences, if any, applicable to shares of Preferred Stock or any series thereof, the holders of shares of Class A Common Stock shall be entitled to receive, ratably in proportion to the number of shares of Class A Common Stock held by them, such dividends and distributions (payable or issuable in cash, stock or otherwise), if any, as may be declared thereon by the Board at any time and from time to time out of any funds of the Corporation legally available therefor. Dividends and other distributions shall not be declared or paid on the Class B Common Stock unless (1) the dividend consists of shares of Class B Common Stock or of rights, options, warrants or other securities convertible or exercisable into or exchangeable for shares of Class B Common Stock paid proportionally with respect to each outstanding share of Class B Common Stock and (2) a dividend consisting of shares of Class A Common Stock or of rights, options, warrants or other securities convertible or exercisable into or exchangeable for shares of Class A Common Stock on equivalent terms is simultaneously paid to the holders of Class A Common Stock. If dividends are declared on the Class A Common Stock or the Class B Common Stock that are payable or issuable in shares of Class A Common Stock Class B Common Stock or securities convertible into, or exercisable or exchangeable for Class A Common Stock or Class B Common Stock, the dividends payable or issuable to the holders of Class A Common Stock shall be paid only in shares of Class A Common Stock (or securities convertible into, or exercisable or exchangeable for Class A Common Stock), the dividends payable or issuable to the holders of Class B Common Stock shall be paid only in shares of Class B Common Stock (or securities convertible into, or exercisable or exchangeable for Class B Common Stock), and such dividends shall be paid in the same number of shares (or fraction thereof) on a per share basis of the Class A Common Stock and Class B Common Stock, respectively (or securities convertible into, or exercisable or exchangeable for the same number of shares (or fraction thereof) on a per share basis of the Class A Common Stock and Class B Common Stock, respectively). In no event shall the shares of any of Class A Common Stock or Class B Common Stock be split, divided, or combined unless the outstanding shares of the Class A Common Stock or Class B Common Stock, as applicable, be proportionately split, divided or combined.

(D) In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of Preferred Stock or any series thereof as provided in the applicable Preferred Stock Designation, the holders of shares of Class A Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Class A Common Stock held by them. The holders of shares of Class B Common Stock, as such, shall not be entitled to receive any assets of the Corporation in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation. A dissolution, liquidation or winding-up of the Corporation, as such terms are used in this paragraph (D), shall not be deemed to be occasioned by or to include any consolidation or merger of the Corporation with or into any other corporation or corporations or other entity or a sale, lease, exchange or conveyance of all or a part of the assets of the Corporation.

(E) Units of SES Holdings, LLC and shares of Class B Common Stock shall be exchangeable for shares of Class A Common Stock on the terms and subject to the conditions set forth in the Eighth Amended and Restated Limited Liability Agreement of SES Holdings, LLC dated and made effective as of December 19, 2016, as the same may be amended from time to time in accordance with its terms (the "**LLC Agreement**"). The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, solely for the purpose of issuance upon exchange of the outstanding units of SES Holdings, LLC and shares of Class B Common Stock for Class A Common Stock pursuant to the LLC Agreement, such number of shares of Class A Common Stock that shall be issuable upon any such exchange pursuant to the LLC Agreement; *provided* that nothing contained herein shall be construed to preclude the Corporation from satisfying its obligations in respect of any such exchange of units of SES Holdings, LLC and shares of Class B Common Stock pursuant to the LLC Agreement by delivering to the holder of such units of SES Holdings, LLC and such shares of Class B Common Stock upon such exchange, cash in lieu of shares of Class A Common Stock in the amount permitted by and provided in the LLC Agreement or shares of Class A Common Stock which are held in the treasury of the Corporation. All shares of Class A Common Stock that shall be issued upon any such exchange will, upon issuance in accordance with the LLC Agreement, be validly issued, fully paid and non-assessable.

(F) The number of authorized shares of Class A Common Stock, Class B Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the outstanding shares of stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), and no vote of the holders of Class A Common Stock Class B Common Stock or Preferred Stock voting separately as a class shall be required therefor.

(G) No stockholder shall, by reason of the holding of shares of any class or series of capital stock of the Corporation, have any preemptive or preferential right to acquire or subscribe for any shares or securities of any class or series, whether now or hereafter authorized, which may at any time be issued, sold or offered for sale by the Corporation, unless specifically provided for in the terms of a series of Preferred Stock.

## **ARTICLE V DIRECTORS**

### **SECTION 5.1 Term and Classes.**

(A) The business and affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by statute or by this Amended and Restated Certificate of Incorporation or the bylaws of the Corporation (as they may be amended and restated from time to time, the “*Bylaws*”), the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

(B) From and after the date of the effectiveness of this Amended and Restated Certificate of Incorporation, the directors, other than those who may be elected by the holders of any series of Preferred Stock specified in the related Preferred Stock Designation, shall be elected annually, and each director shall hold office until his or her successor shall have been duly elected and qualified, subject, however, to such director’s earlier death, resignation, disqualification or removal.

SECTION 5.2 Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock then outstanding, any newly created directorship that results from an increase in the number of directors or any vacancy on the Board that results from the death, resignation, disqualification or removal of any director or from any other cause shall, unless otherwise required by law or by resolution of the Board, be filled solely by the affirmative vote of a majority of the remaining members of the Board, even if less than a quorum, or by a sole remaining director, and shall not be filled by the stockholders. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall hold office for the remaining term of his or her predecessor. No decrease in the number of authorized directors constituting the Board shall shorten the term of any incumbent director.

SECTION 5.3 Removal. Subject to the rights of the holders of shares of any series of Preferred Stock, if any, to elect or remove additional directors pursuant to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation), any director may be removed at any time, either with or without cause, by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of stock of the Corporation entitled to vote generally for the election of directors, voting together as a single class and acting at a meeting of the stockholders or by written consent (if permitted) in accordance with the DGCL, this Amended and Restated Certificate of Incorporation and the Bylaws.

SECTION 5.4 Number. Subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, if any, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by the affirmative vote of a majority of the Whole Board. Unless and except to the extent that the Bylaws so provide, the election of directors need not be by written ballot. For purposes of this Amended and Restated Certificate of Incorporation, the term "**Whole Board**" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships.

**ARTICLE VI  
STOCKHOLDER ACTION**

SECTION 6.1 Written Consents. Subject to the rights of holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be taken at a duly held annual or special meeting of stockholders and may not be taken by any consent in writing of such stockholders.

**ARTICLE VII  
SPECIAL MEETINGS**

SECTION 7.1 Special Meetings. Special meetings of stockholders of the Corporation may be called only by the Board pursuant to a resolution adopted by the affirmative vote of a majority of the Whole Board. Subject to the rights of holders of any series of Preferred Stock, the stockholders of the Corporation shall not have the power to call or request a special meeting of stockholders of the Corporation. The Board may postpone, reschedule or cancel any special meeting of the stockholders previously scheduled by the Board.

**ARTICLE VIII  
BYLAWS**

SECTION 8.1 Bylaws. In furtherance of, and not in limitation of, the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to adopt, amend or repeal the Bylaws. Any adoption, amendment or repeal of the Bylaws by the Board shall require the approval of a majority of the Whole Board. Stockholders shall also have the power to adopt, amend or repeal the Bylaws with the affirmative vote of holders of more than 50% in voting power of the then-outstanding shares of stock entitled to vote thereon, voting together as a single class. No bylaws hereafter made or adopted, nor any repeal of or amendment thereto, shall invalidate any prior act of the Board that was valid at the time it was taken.

**ARTICLE IX  
LIMITATION OF DIRECTOR AND OFFICER LIABILITY**

SECTION 9.1 Limitation of Director and Officer Liability. No director or officer of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL. In addition to the circumstances in which a director or officer of the Corporation is not personally liable as set forth in the preceding sentence, a director or officer of the Corporation shall not be liable to the fullest extent permitted by any amendment to the DGCL hereafter enacted that further limits or permits the Corporation to limit the liability of a director or officer. Any amendment, repeal or modification of this Article IX shall be prospective only and shall not affect any limitation on liability of a director or officer for acts or omissions occurring prior to the date of such amendment, repeal or modification.

**ARTICLE X  
CORPORATE OPPORTUNITY**

SECTION 10.1 Corporate Opportunities. Members of the SES Group (defined below) and SCF Group (defined below) own and will own substantial equity interests in other entities (existing and future) that participate in the energy industry (as applicable, "*Portfolio Companies*") and may make investments and enter into advisory service agreements and other agreements from time to time with those Portfolio Companies. Certain members of the Board may also serve as employees, partners, officers or directors of members of the SES Group, the SCF Group or Portfolio Companies and, at any given time, members of the SES Group, the SCF Group or Portfolio Companies may be in direct or indirect competition with the Corporation and/or its subsidiaries. The Corporation waives, to the maximum extent permitted by law, the application of the doctrine of corporate opportunity (or any analogous doctrine) with respect to the Corporation, to the SES Group, the SCF Group or Portfolio Companies or any directors or officers of the Corporation who are also employees, partners, members, managers, officers or directors of any of the SES Group, the SCF Group or Portfolio Companies. As a result of such waiver, no member of the SES Group or the SCF Group, nor any director or officer of the Corporation who is also an employee, partner, member, manager, officer or director of any member of the SES Group, the SCF Group or Portfolio Companies, shall, to the fullest extent permitted by law, have any obligation to refrain from: (A) engaging in or managing the same or similar activities or lines of business as the Corporation or any of its subsidiaries or developing or marketing any products or services that compete (directly or indirectly) with those of the Corporation or any of its subsidiaries; (B) investing in or owning any (public or private) interest in any Person engaged in the same or similar activities or lines of business as, or otherwise in competition with, the Corporation or any of its subsidiaries (including any member of the SES Group or the SCF Group, a "*Competing Person*"); (C) developing a business relationship with any Competing Person; or (D) entering into any agreement to provide any service(s) to any Competing Person or acting as an officer, director, member, manager or advisor to, or other principal of, any Competing Person, regardless (in the case of each of (A) through (D)) of whether such activities are in direct or indirect competition with the business or activities of the Corporation or any of its subsidiaries (the activities described in (A) through (D) are referred to herein as "*Specified Activities*"). To the fullest extent permitted by law, the Corporation hereby renounces pursuant to Section 122(17) of the DGCL (for itself and on behalf of its subsidiaries) any interest or expectancy in, or in being offered an opportunity to participate in, any Specified Activity that may be presented to or become known to any member of the SES Group, the SCF Group or Portfolio Companies or any director or officer of the Corporation who is also an employee, partner, member, manager, officer or director of any member of the SES Group, the SCF Group or Portfolio Companies.

SECTION 10.2 Definitions. For purposes of this Article X, the following terms have the following definitions:

(A) “*Affiliate*” means, with respect to a specified Person, a Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such specified Person; with respect to any SES Group or SCF Group member, an “*Affiliate*” shall include (1) any Person who is the direct or indirect ultimate holder of “*equity securities*” (as such term is described in Rule 405 under the Securities Act of 1933, as amended) of such SES Group or SCF Group member, and (2) any investment fund, alternative investment vehicle, special purpose vehicle or holding company that is directly or indirectly managed, advised or controlled by such SES Group or SCF Group member, including any Portfolio Company.

(B) “*SCF Group*” means SCF-VI, L.P., SCF-VII, L.P. and SCF-VII(A), L.P. and their respective Affiliates (other than the Corporation).

(C) “*SES Group*” means Legacy Owner Holdco, Crestview Holdco, Crestview Entities, B-29 Investments LP, Sunray Capital, LP, and Proactive Investments, LP and their respective Affiliates (other than the Corporation).

(D) “*Person*” means any individual, corporation, partnership, limited liability company, joint venture, firm, association, or other entity.

To the fullest extent permitted by applicable law, any Person purchasing or otherwise acquiring or holding any interest in any shares of capital stock of the Corporation shall be deemed to have notice of, and to have consented to, the provisions of this Article X. This Article X shall not limit any protections or defenses available to, or indemnification or advancement rights of, any director or officer of the Corporation under this Amended and Restated Certificate of Incorporation, the Bylaws or any applicable law.

#### ARTICLE XI BUSINESS COMBINATIONS WITH INTERESTED STOCKHOLDERS

SECTION 11.1 Section 203 of the DGCL. The Corporation shall not be governed by or subject to the provisions of Section 203 of the DGCL as now in effect or hereafter amended, or any successor statute thereto.

SECTION 11.2 Interested Stockholder Transactions. Notwithstanding anything to the contrary set forth in this Amended and Restated Certificate of Incorporation, the Corporation shall not engage in any Business Combination (as defined below) at any point in time at which the Corporation’s Common Stock is registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission thereunder (the “*Exchange Act*”), with any Interested Stockholder (as defined below) for a period of three years following the time that such stockholder became an Interested Stockholder, unless:

(A) prior to such time, the Board approved either the Business Combination or the transaction which resulted in such stockholder becoming an Interested Stockholder; or

(B) at or subsequent to such time the Business Combination is approved by the Board and authorized at an annual or special meeting of stockholders by the affirmative vote of at least sixty-six and two-thirds percent (66 2/3%) of the outstanding shares of each class of capital stock of the Corporation that are not owned by such Interested Stockholder.

SECTION 11.3 Definitions. For purposes of this Article XI, the following terms have the following definitions:

(A) “**Affiliate**” means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person;

(B) “**Associate**,” when used to indicate a relationship with any Person, means: (i) any corporation, partnership, unincorporated association or other entity of which such Person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of shares of voting stock of the Corporation; (ii) any trust or other estate in which such Person has at least a 20% beneficial interest or as to which such Person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such Person, or any relative of such spouse, who has the same residence as such Person.

(C) “**Business Combination**” means (i) any merger or consolidation of the Corporation or any direct or indirect majority-owned subsidiary of the Corporation with the Interested Stockholder or (ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of the Corporation, to or with the Interested Stockholder, whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation which assets have an aggregate market value equal to ten percent (10%) or more of either the aggregate market value of all the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding shares of capital stock of the Corporation.

(D) “**Control**,” including the terms “controlling,” “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of stock or other equity interests, by contract or otherwise.

(E) “**Interested Stockholder**” means any Person (other than the Corporation and any direct or indirect majority-owned subsidiary of the Corporation) that (i) is the owner of fifteen percent (15%) or more of the outstanding shares of capital stock of the Corporation that are entitled to vote, or (ii) is an Affiliate of the Corporation and was the owner of fifteen percent (15%) or more of the outstanding shares of capital stock of the Corporation that are entitled to vote at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such Person is an Interested Stockholder, and the Affiliates and Associates of such Person. Notwithstanding anything in this Article XI to the contrary, the term “**Interested Stockholder**” shall not include: (x) any member of the Legacy Group, (y) any Person who acquires voting stock of the Corporation directly from any member of the Legacy Group or any of its respective Affiliates, and excluding, for the avoidance of doubt, any Person who acquires voting stock of the Corporation through a broker’s transaction executed on any securities exchange or other over-the-counter market or pursuant to an underwritten public offering or (z) any member of the SCF Group. The “**Legacy Group**” means any or all of: (i) SES Legacy Holdings, LLC (“**Legacy Owner Holdco**”); (ii) Crestview Partners II SES Investment, LLC (“**Crestview Holdco**”); (iii) any funds, limited partnerships or other investment entities or vehicles managed by Crestview Advisors, L.L.C. or controlled by Crestview Partners II GP, L.P., (the “**Crestview Entities**”); (iv) B-29 Investments LP; (v) Sunray Capital, LP; (vi) Proactive Investments, LP; (vii) any or all of Robert Delaney, Gary Gillette, Adam Klein, Eric Mattson, Cody Ortowski, John Schmitz, and any officers or directors of the Corporation; (viii) successors in interest to, assigns of, third-party transferees of all or substantially all of the ownership interests of, and Affiliates (as defined in Section 10.2, and other than the Corporation) of any of the persons referenced in the immediately preceding clauses (i) through (viii); and (ix) any person (1) who holds equity interests in Legacy Owner Holdco or Crestview Holdco and (2) executes an agreement for purposes of maintaining shared control over the governance, business and affairs of the Corporation, with any of Crestview Holdco, B-29 Investments LP or Sunray Capital, LP in a form mutually acceptable to the parties thereto, and excluding, for the avoidance of doubt, any Person who acquires voting stock of the Corporation through a broker’s transaction executed on any securities exchange or other over-the-counter market or pursuant to an underwritten public offering. The “**SCF Group**” means any and all of (a) SCF-VI, L.P.; (b) SCF-VII, L.P.; (c) SCF-VII(A), L.P.; and (d) any funds, limited partnership or other investment entities or vehicles managed or controlled by SCF Partners, Inc. For purposes of this Amended and Restated Certificate of Incorporation, beneficial ownership of shares shall be determined in accordance with Rule 13d-3 promulgated under the Exchange Act.

(F) “**Person**” means any individual, corporation, partnership, unincorporated association or other entity.

## ARTICLE XII AMENDMENT OF CERTIFICATE OF INCORPORATION

### SECTION 12.1 Amendments.

(A) The Corporation shall have the right, subject to any express provisions or restrictions contained in this Amended and Restated Certificate of Incorporation, from time to time, to amend this Amended and Restated Certificate of Incorporation or any provision hereof in any manner now or hereafter provided by applicable law, and all rights and powers of any kind conferred upon a director or stockholder of the Corporation by this Amended and Restated Certificate of Incorporation or any amendment hereof are subject to such right of the Corporation.

(B) Notwithstanding any other provision of this Amended and Restated Certificate of Incorporation or the Bylaws (and in addition to any other vote that may be required by applicable law or this Amended and Restated Certificate of Incorporation), the affirmative vote of the holders of a majority in voting power of the outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class, shall be required to amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation.



**ARTICLE XIII  
FORUM SELECTION**

SECTION 13.1 Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by applicable law, be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (C) any action asserting a claim against the Corporation, its directors, officers or employees or agents arising pursuant to any provision of the DGCL, this Amended and Restated Certificate of Incorporation or the Bylaws, or (D) any action asserting a claim against the Corporation or any directors, officers or employees or agents of the Corporation governed by the internal affairs doctrine, except as to each of (A) through (D) above, for any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or over which the Court of Chancery does not have subject matter jurisdiction. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XIII.

If any provision or provisions of this Article XIII shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article XIII (including, without limitation, each portion of any sentence of this Article XIII containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

SECTION 13.2 Stockholder Consent to Personal Jurisdiction. To the fullest extent permitted by law, if any action the subject matter of which is within the scope of Section 13.1 above is filed in a court other than a court located within the State of Delaware (a "**Foreign Action**") in the name of any stockholder, such stockholder shall be deemed to have consented to (A) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce Section 13.1 above (an "**FSC Enforcement Action**") and (B) having service of process made upon such stockholder in any such FSC Enforcement Action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

IN WITNESS WHEREOF, the undersigned has executed this Fifth Amended and Restated Certificate of Incorporation as of this 8th day of May, 2023.

**SELECT ENERGY SERVICES, INC.**

By: /s/ Nick Swyka  
Name: Nick Swyka  
Title: Senior Vice President and Chief Financial Officer

*Signature Page to Fifth Amended and Restated Certificate of Incorporation*

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**THIRD AMENDED AND RESTATED  
BYLAWS  
OF  
SELECT WATER SOLUTIONS, INC.**  
Incorporated under the Laws of the State of Delaware  
**Date of Adoption: May 8, 2023**  
**ARTICLE I  
OFFICES AND RECORDS**

SECTION 1.1. Registered Office. The registered office of Select Water Solutions, Inc. (the “*Corporation*”) in the State of Delaware shall be as set forth in the Fifth Amended and Restated Certificate of Incorporation of the Corporation, as it may be amended, restated, supplemented and otherwise modified from time to time (the “*Amended and Restated Certificate of Incorporation*”), and the name of the Corporation’s registered agent at such address is as set forth in the Amended and Restated Certificate of Incorporation. The registered office and registered agent of the Corporation may be changed from time to time by the board of directors of the Corporation (the “*Board*”) in the manner provided by applicable law.

SECTION 1.2. Other Offices. The Corporation may have such other offices, either within or without the State of Delaware, as the Board may designate or as the business of the Corporation may from time to time require.

SECTION 1.3. Books and Records. The books and records of the Corporation may be kept outside the State of Delaware at such place or places as may from time to time be designated by the Board.

**ARTICLE II  
STOCKHOLDERS**

SECTION 2.1. Annual Meeting. If required by applicable law, an annual meeting of the stockholders of the Corporation shall be held at such date, time and place, if any, either within or outside of the State of Delaware or by means of remote communication, as may be fixed by resolution of the Board. The Board may adjourn, postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board for any reason, or without reason, whether or not a quorum is present.

SECTION 2.2. Special Meeting. Special meetings of stockholders of the Corporation may be called only by the Board pursuant to a resolution adopted by the affirmative vote of a majority of the Whole Board. “*Common Stock*” shall have the meaning provided such term in the Amended and Restated Certificate of Incorporation. For purposes of these Bylaws, beneficial ownership of shares shall be determined in accordance with Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”) and the rules and regulations thereunder. The person or persons authorized by this Section 2.2 to call a special meeting may fix the date, time and place, if any, of such meeting. Subject to the rights of holders of any series of preferred stock of the Corporation (the “*Preferred Stock*”), the stockholders of the Corporation shall not have the power to call or request a special meeting of stockholders of the Corporation. The Board may adjourn, postpone, reschedule or cancel any special meeting of the stockholders previously scheduled by the Board for any reason, or without reason, whether or not a quorum is present. For purposes of these Bylaws, the term “*Whole Board*” shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships.

SECTION 2.3. Record Date.

(A) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall, unless otherwise required by applicable law, not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

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(B) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than 60 days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(C) Unless otherwise restricted by the Amended and Restated Certificate of Incorporation, in order that the Corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date for determining stockholders entitled to express consent to corporate action in writing without a meeting is fixed by the Board, (1) when no prior action of the Board is required by applicable law, the record date for such purpose shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law, and (2) if prior action by the Board is required by applicable law, the record date for such purpose shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

SECTION 2.4. Stockholder List. The officer who has charge of the stock ledger shall prepare, at least ten days before every meeting of stockholders, a complete list of stockholders entitled to vote at any meeting of stockholders (*provided, however*, if the record date for determining the stockholders entitled to vote is less than ten days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date), arranged in alphabetical order and showing the address of each such stockholder and the number of shares registered in the name of such stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least ten days prior to the meeting, either on a reasonably accessible electronic network (*provided* that the information required to gain access to the list is provided with the notice of the meeting) or during ordinary business hours at the principal place of business of the Corporation. Except as otherwise required by applicable law, the stock ledger of the Corporation shall be the only evidence as to the stockholders entitled by this section to examine the list required by this section or to vote in person or by proxy at any meeting of the stockholders.

SECTION 2.5. Place of Meeting. If no designation is made for the place of meeting for any annual meeting or for any special meeting of the stockholders pursuant to the terms of Section 2.1 or Section 2.2, as applicable, the place of meeting shall be the principal executive offices of the Corporation. The Board, acting in its sole discretion, may establish guidelines and procedures in accordance with applicable provisions of the Delaware General Corporation Law (the “*DGCL*”) and any other applicable law for the participation by stockholders and proxyholders in a meeting of stockholders by means of remote communications, and may determine that any meeting of stockholders will not be held at any place but will be held solely by means of remote communication, or a combination of both means. Stockholders and proxyholders complying with such procedures and guidelines and otherwise entitled to vote at a meeting of stockholders shall be deemed present in person and entitled to vote at a meeting of stockholders, whether such meeting is to be held at a designated place, solely by means of remote communication, or both means.

SECTION 2.6. Notice of Meeting. Unless otherwise required by law, the Amended and Restated Certificate of Incorporation or these Bylaws, notice, stating the place, if any, date and time of the meeting, shall be given not less than ten days nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting. The notice shall specify (A) the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting), (B) the place, if any, date and time of such meeting, (C) the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting and (D) in the case of a special meeting, the purpose or purposes for which such meeting is called. If the stockholder list referred to in Section 2.4 of these Bylaws is made accessible on an electronic network, the notice of meeting must indicate how the stockholder list can be accessed. If the meeting of stockholders is to be held by means of electronic communications, the notice of meeting must provide the information required to access such stockholder list during the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation. If transmitted electronically, the notice shall be deemed given when directed to the stockholder’s electronic mail address as supplied by the stockholder to the Secretary of the Corporation or as otherwise directed pursuant to the stockholder’s authorization or instructions. Such further notice shall be given as may be required by applicable law. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the notice of meeting.

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SECTION 2.7. Quorum and Adjournment of Meetings.

(A) Except as otherwise required by applicable law, by the Amended and Restated Certificate of Incorporation or by these Bylaws, the holders of a majority of the voting power of all of the outstanding shares of stock of the Corporation entitled to vote at the meeting, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the voting power of all of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The Chairman of the Meeting may adjourn or recess the meeting from time to time for any reason, or without reason, whether or not there is such a quorum. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment or recess, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(B) Any meeting of stockholders, annual or special, may adjourn or recess from time to time to reconvene at the same or some other place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), and notice need not be given of any such adjourned or recessed meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed present in person and vote at such adjourned or recessed meetings are (i) announced at the meeting at which the adjournment or recess is taken, (ii) displayed, during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxyholders to participate in the meeting by means of remote communication or (iii) set forth in the notice of meeting given in accordance with Section 2.6 of these Bylaws; *provided, however*, that if the adjournment or recess is for more than 30 days, a notice of the adjourned or recessed meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned or recessed meeting, the Corporation may transact any business that might have been transacted at the original meeting; *provided, further* that if after an adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

SECTION 2.8. Proxies. At all meetings of stockholders, a stockholder may vote by proxy executed in writing (or in such other manner prescribed by the DGCL) by the stockholder or by his duly authorized attorney-in-fact. Any copy, facsimile transmission or other reliable reproduction of the writing or transmission created pursuant to this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, *provided* that such copy, facsimile transmission or other reproduction shall be a complete reproduction of the entire original writing or transmission. No proxy may be voted or acted upon after the expiration of three years from the date of such proxy, unless such proxy provides for a longer period. Every proxy is revocable at the pleasure of the stockholder executing it unless the proxy states that it is irrevocable and applicable law makes it irrevocable. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or by filing another duly executed proxy bearing a later date with the Secretary of the Corporation.

SECTION 2.9. Notice of Stockholder Business and Nominations.

(A) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board and the proposal of other business to be considered by the stockholders at an annual meeting of stockholders may be made only (a) pursuant to the Corporation's notice of meeting (or any supplement thereto), (b) by or at the direction of the Board or any committee thereof or (c) by any stockholder of the Corporation who (i) was a stockholder of record at the time of giving of notice provided for in these Bylaws and at the time of the annual meeting, (ii) is entitled to vote at the meeting and (iii) complies with the notice procedures and other requirements set forth in these Bylaws and applicable law. Section 2.9(A)(1)(c) of these Bylaws shall be the exclusive means for a stockholder to make nominations or submit other business (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the Corporation's notice of meeting) before an annual meeting of the stockholders.

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(2) For any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.9(A)(1)(c) of these Bylaws, (a) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (b) such other business must otherwise be a proper matter for stockholder action under the DGCL and (c) the record stockholder and the beneficial owner, if any, on whose behalf any such proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement required by these Bylaws. To be timely, a stockholder's notice must be received by the Secretary of the Corporation at the principal executive offices of the Corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that subject to the following sentence, in the event that the date of the annual meeting is scheduled for a date that is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so received not later than the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment, recess or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

To be in proper form, a stockholder's notice (whether given pursuant to this Section 2.9(A)(2) or Section 2.9(B)) to the Secretary of the Corporation must:

(a) set forth, as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such stockholder's Stockholder Associated Person (as defined in Section 2.9(C)(3)), if any, (ii) (A) the class or series and number of shares of the Corporation that are, directly or indirectly, owned beneficially and of record by such stockholder and such beneficial owner, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of stock of the Corporation or otherwise (a "**Derivative Instrument**"), directly or indirectly owned beneficially by such stockholder or by any Stockholder Associated Person and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation held by such stockholder or by any Stockholder Associated Person, (C) a complete and accurate description of any agreement, arrangement or understanding between or among such stockholder and such stockholder's Stockholder Associated Person and any other person or persons in connection with such stockholder's director nomination and the name and address of any other person(s) or entity or entities known to the stockholder to support such nomination, (D) a description of any proxy, contract, arrangement, understanding or relationship pursuant to which such stockholder or any Stockholder Associated Person has a right to vote, directly or indirectly, any shares of any security of the Corporation, (E) any short interest in any security of the Corporation held by such stockholder or any Stockholder Associated Person (for purposes of these Bylaws, a person shall be deemed to have a "short interest" in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (F) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder or by any Stockholder Associated Person that are separated or separable from the underlying shares of the Corporation, (G) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder or any Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (H) any performance-related fees (other than an asset-based fee) that such stockholder or any Stockholder Associated Person is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including, without limitation, any such interests held by members of such stockholder's or any Stockholder Associated Person's immediate family sharing the same household (which information shall be supplemented by such stockholder and any Stockholder Associated Person, if any, not later than ten days after the record date for determining the stockholders entitled to vote at the meeting to disclose such ownership as of the record date; *provided, that* if such date is after the date of the meeting, not later than the day prior to the meeting), (iii) any other information relating to such stockholder and any Stockholder Associated Person, if any, that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for, as applicable, the proposal or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (iv) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to bring such nomination or other business before the meeting, and (v) a representation as to whether or not such stockholder or any Stockholder Associated Person will deliver a proxy statement or form of proxy to holders of at least the percentage of the voting power of the Corporation's outstanding stock required to approve or adopt the proposal or, in the case of a nomination or nominations, at least the percentage of the voting power of the Corporation's outstanding stock reasonably believed by the stockholder or Stockholder Associated Person, as the case may be, to be sufficient to elect such nominee or nominees (such representation, a "**Solicitation Statement**");

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(b) if the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, set forth (i) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest of such stockholder and Stockholder Associated Person, if any, in such business, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration), which is not to exceed 500 words, and (iii) a complete and accurate description of all agreements, arrangements and understandings between or among such stockholder and such stockholder's Stockholder Associated Person, if any, and the name and address of any other person(s) or entity or entities in connection with the proposal of such business by such stockholder;

(c) set forth, as to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board (i) all information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (ii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and Stockholder Associated Person, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant, and (iii) a representation that such person intends to serve a full term, if elected as director; and

(d) with respect to each nominee for election or reelection to the Board, include (i) a completed and signed questionnaire, representation and agreement in a form provided by the Corporation, which form the stockholder must request from the Secretary of the Corporation in writing with no less than 7 days advance notice, and (ii) a written representation and agreement (in the form provided by the Secretary of the Corporation upon written request) that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "**Voting Commitment**") that has not been disclosed to the Corporation or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, (C) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation and (D) acknowledges that a material breach of any of the foregoing will constitute grounds for the Corporation not to accept such person's nomination or, if such person has been elected despite such material breach, such person agrees to immediately resign from the Board. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee.

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(3) A stockholder providing notice of a nomination or proposal of other business to be brought before a meeting shall further update and supplement such notice, so that the information provided or required to be provided in such notice shall be true and correct (a) as of the record date for the meeting and (b) as of the date that is ten business days prior to the meeting or any adjournment, recess, cancellation, rescheduling or postponement thereof. All information provided in the stockholder's notice must be true, complete and correct as of the date of its initial submission to the Corporation, and any supplements to such initial stockholder's notice shall be true, complete and correct as of the dates provided in the preceding sentence, and any update or supplement shall be made only to the extent that such information has changed since the stockholder's prior submission of his or her notice. Any such supplement shall be delivered to, or mailed and received by, the Secretary of the Corporation at the principal executive offices of the Corporation not later than five business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date) and not later than seven business days prior to the date for the meeting or any postponement or adjournment thereof, if practicable (or, if not practicable, on the first practicable date prior to any adjournment, recess or postponement thereof (in the case of the update and supplement required to be made as of ten business days prior to the meeting or any adjournment, recess or postponement thereof)); it being understood that providing any such update or supplement shall not be deemed to cure any defect in the stockholder's notice or otherwise limit the Corporation's right to exclude any business proposal or nominee from the meeting on account of such defect.

(B) Special Meetings of Stockholders.

Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the Board. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to a notice of meeting (1) by or at the direction of the Board or any committee thereof or (2) if the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who (a) is a stockholder of record at the time of giving of notice provided for in these Bylaws and at the time of the special meeting, (b) is entitled to vote at the meeting, and (c) complies with the notice procedures set forth in these Bylaws and applicable law.

(C) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in these Bylaws and applicable law shall be eligible to serve as directors, and only such business shall be conducted at a meeting of stockholders as has been brought before the meeting in accordance with the procedures set forth in these Bylaws and applicable law. Except as otherwise provided by applicable law, the Amended and Restated Certificate of Incorporation or these Bylaws, the Chairman of the Meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and applicable law and, if any proposed nomination or business is not in compliance with these Bylaws and applicable law, to declare that such defective proposal or nomination shall be disregarded.

(2) Any stockholder or beneficial owner, if any, or any Stockholder Associated Person, directly or indirectly soliciting proxies for the election of directors must use a proxy card color other than white, which shall be reserved for exclusive use by the Corporation.

(3) For purposes of these Bylaws, "**public announcement**" shall mean disclosure in a press release reported by Dow Jones News Service, the Associated Press, or any other national news service or in a document publicly filed or furnished by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder, and "**Stockholder Associated Person**" shall mean, for any stockholder, (a) any person or entity controlling, directly or indirectly, or acting in concert with, such stockholder, (b) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder or (c) any person or entity controlling, controlled by or under common control with any person or entity referred to in the preceding clauses (a) or (b).

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(4) If a stockholder or beneficial owner, if any, or any Stockholder Associated Person intend to solicit proxies in support of any director nominee other than the Corporation's nominees, such person shall, in addition to the requirements of this Section 2.9:

(a) Deliver to the Corporation, no later than the earlier of the time provided in this Section 2.9 or the time provided in Rule 14a-19 of the Exchange Act, the notice and other information required in Rule 14a-19 of the Exchange Act; and

(b) Deliver to the Corporation, no later than five business days prior to the applicable meeting of stockholders, reasonable evidence that it (including any others acting in concert with it) has met the requirements of Rule 14a-19 of the Exchange Act with respect to such nominees.

Unless otherwise required by law, if any stockholder (1) provides notice pursuant to Rule 14a-19(b) of the Exchange Act and (2) subsequently fails to comply with any requirement of Rule 14a-19 of the Exchange Act or any other rules or regulations thereunder or fails timely to provide the evidence described in the preceding clause (b), then the Corporation shall disregard any proxies or votes solicited for such nominees, and such nominations shall be disregarded.

(5) In addition to the foregoing provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in these Bylaws; *provided, however*, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations or proposals as to any other business to be considered pursuant to Section 2.9(A) or Section 2.9(B) of these Bylaws. Nothing in these Bylaws shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals or nominations in the Corporation's proxy materials pursuant to the mandatory provisions under the Exchange Act and the rules and regulations thereunder or (b) of the holders of any series of Preferred Stock to elect directors if and to the extent provided for under applicable law, the Amended and Restated Certificate of Incorporation or these Bylaws.

(6) Unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) making a nomination or proposal under this Section 2.9 does not appear at a meeting of stockholders to present such nomination or proposal, the nomination shall be disregarded and the proposed business shall not be transacted, as the case may be, notwithstanding that proxies in favor thereof may have been received by the Corporation. For purposes of this Section 2.9, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

SECTION 2.10. Conduct of Business. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the Chairman of the Meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate in its sole discretion. The Chairman of the Board, if one shall have been elected, or in the Chairman of the Board's absence or if one shall not have been elected, the director or officer designated by the majority of the Whole Board, shall preside at all meetings of the stockholders as "Chairman of the Meeting." Except to the extent inconsistent with such rules and regulations as adopted by the Board, the Chairman of the Meeting shall have the right and authority to convene and whether or not a quorum is present and for any or no reason to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of the Chairman of the Meeting, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the Chairman of the Meeting, may include, without limitation, the following: (A) the establishment of an agenda or order of business for the meeting; (B) regulating the opening and closing of the polls for balloting and matters that are to be voted on by ballot, (C) rules and procedures for maintaining order at the meeting and the safety of those present; (D) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the Chairman of the Meeting shall determine; (E) restrictions on entry to the meeting after the time fixed for the commencement thereof; (F) limitations on the time allotted to questions or comments by participants; and (G) restrictions of the use of photographic, audio and video recording devices (including cellular phones). The Chairman of the Meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting, and if such Chairman of the Meeting should so determine, such Chairman of the Meeting shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the Chairman of the Meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

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SECTION 2.11. Required Vote. Subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, at any meeting at which directors are to be elected, so long as a quorum is present, directors shall be elected by a plurality of the votes validly cast in such election. Unless otherwise provided in the Amended and Restated Certificate of Incorporation, cumulative voting for the election of directors shall be prohibited. All matters (other than the election of directors and certain non-binding advisory votes described below) presented to the stockholders at a meeting at which a quorum is present shall, unless a different or minimum vote is required by applicable law, the rules and regulations of any stock exchange applicable to the Corporation, any law or regulation application to the Corporation or its securities, the Amended and Restated Certificate of Incorporation or these Bylaws, in which case such different or minimum vote shall be the applicable vote on the matter, be decided by the affirmative vote of the holders of a majority of the voting power of the outstanding shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders. In non-binding advisory matters with more than two possible vote choices, the affirmative vote of a plurality of the voting power of the outstanding shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the recommendation of the stockholders.

SECTION 2.12. Treasury Stock. The Corporation shall not vote, directly or indirectly, shares of its own stock belonging to it or any other corporation, if a majority of shares entitled to vote in the election of directors of such corporation is held, directly or indirectly by the Corporation, and such shares will not be counted for quorum purposes; *provided, however*, that the foregoing shall not limit the right of the Corporation or such other corporation, to vote stock of the Corporation held in a fiduciary capacity.

SECTION 2.13. Inspectors of Elections; Opening and Closing the Polls. The Corporation may, and when required by applicable law, shall, appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders and the appointment of an inspector is required by applicable law, the Chairman of the Meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his duties, shall take and sign an oath to faithfully execute the duties of inspector with strict impartiality and according to the best of his ability. The inspectors shall have the duties prescribed by applicable law.

SECTION 2.14. Stockholder Action by Written Consent. Subject to the rights of holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be taken at a duly held annual or special meeting of stockholders and may not be taken by any consent in writing of such stockholders.

### **ARTICLE III BOARD OF DIRECTORS**

SECTION 3.1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board elected in accordance with these Bylaws. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Amended and Restated Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders. The directors shall act only as a Board, and the individual directors shall have no power as such.

SECTION 3.2. Number, Tenure and Qualifications. Subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, if any, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by the affirmative vote of a majority of the Whole Board. The election and term of directors shall be as set forth in the Amended and Restated Certificate of Incorporation.

SECTION 3.3. Regular Meetings. Subject to Section 3.5, regular meetings of the Board shall be held on such dates, and at such times and places, if any, either within or without the State of Delaware, by means of remote communication, or both, as are determined from time to time by resolution of the Board.

SECTION 3.4. Special Meetings. Special meetings of the Board shall be called at the request of the Chairman of the Board, the Chief Executive Officer or a majority of the members of the Board then in office. The person or persons authorized to call special meetings of the Board may fix the place, if any, either within or without the State of Delaware, by means of remote communication, or both, date and time of the meetings. Any business may be conducted at a special meeting of the Board.

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SECTION 3.5. Notice. Notice of any special meeting of directors shall be given to each director at his business or residence in writing by hand delivery, first-class or overnight mail, courier service or facsimile or electronic transmission or orally by telephone. If mailed by first-class mail, such notice shall be deemed adequately delivered if deposited in the United States mails so addressed, with postage thereon prepaid, at least five days before such meeting. If by overnight mail or courier service, such notice shall be deemed adequately delivered if the notice is delivered to the overnight mail or courier service company at least 24 hours before such meeting. If by facsimile or electronic transmission, such notice shall be deemed adequately delivered if the notice is transmitted at least 24 hours before such meeting. If by telephone or by hand delivery, the notice shall be given at least 24 hours prior to the time set for the meeting and shall be confirmed by facsimile or electronic transmission that is sent promptly thereafter. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice of such meeting, except for amendments to these Bylaws, as provided under Section 8.1.

SECTION 3.6. Action by Consent of Board. Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing, including by electronic transmission, and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of the State of Delaware.

SECTION 3.7. Meetings by Remote Communication. Members of the Board or any committee thereof may participate in a meeting of the Board or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

SECTION 3.8. Quorum. A whole number of directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board there shall be less than a quorum present, a majority of the directors present may, to the fullest extent permitted by law, adjourn the meeting from time to time without further notice unless (A) the date, time and place, if any, of the adjourned meeting are not announced at the time of adjournment, in which case notice conforming to the requirements of Section 3.5 of these Bylaws shall be given to each director, or (B) the meeting is adjourned for more than 24 hours, in which case the notice referred to in clause (A) shall be given to those directors not present at the announcement of the date, time and place of the adjourned meeting. Except as otherwise expressly required by law, the Amended and Restated Certificate of Incorporation or these Bylaws, all matters shall be determined by the affirmative vote of a majority of the directors present at a meeting at which a quorum is present. To the fullest extent permitted by law, the directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

SECTION 3.9. Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock then outstanding, any newly created directorship that results from an increase in the number of directors or any vacancy on the Board that results from the death, resignation, disqualification or removal of any director or from any other cause shall, unless otherwise required by law or by resolution of the Board, be filled solely by the affirmative vote of a majority of the directors then in office, even if less than a quorum, or the sole remaining director, and shall not be filled by the stockholders. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall hold office for the remaining term of his predecessor. No decrease in the number of authorized directors constituting the Board shall shorten the term of any incumbent director.

SECTION 3.10. Removal. Subject to the rights of the holders of shares of any series of Preferred Stock, if any, to elect or remove additional directors pursuant to the Amended and Restated Certificate of Incorporation (including any certificate of designation thereunder), any director may be removed with or without cause by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of stock of the Corporation entitled to vote generally for the election of directors, voting together as a single class and acting at a meeting of the stockholders in accordance with the DGCL, the Amended and Restated Certificate of Incorporation and these Bylaws.

SECTION 3.11. Records. The Board shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board and of the stockholders, appropriate stock books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the Corporation.

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SECTION 3.12. Compensation. Unless otherwise restricted by the Amended and Restated Certificate of Incorporation or these Bylaws, the Board shall have authority to fix the compensation of directors, including fees and reimbursement of expenses.

SECTION 3.13. Regulations. To the extent consistent with applicable law, the Amended and Restated Certificate of Incorporation and these Bylaws, the Board may adopt such rules and regulations for the conduct of meetings of the Board and for the management of the affairs and business of the Corporation as the Board may deem appropriate.

#### ARTICLE IV COMMITTEES

SECTION 4.1. Designation; Powers. The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Any such committee, to the extent permitted by applicable law and to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it.

SECTION 4.2. Procedure; Meetings; Quorum. Any committee designated pursuant to Section 4.1 shall choose its own chairman by a majority vote of the members then in attendance in the event the chairman has not been selected by the Board, shall keep regular minutes of its proceedings, and shall meet at such times and at such place or places, if any, as may be provided by the charter of such committee or by resolution of such committee or resolution of the Board. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting where a quorum is present shall be necessary for the adoption by it of any resolution. The Board shall adopt a charter for each committee for which a charter is required by applicable laws, regulations or stock exchange rules, may adopt a charter for any other committee, and may adopt other rules and regulations for the governance of any committee not inconsistent with the provisions of these Bylaws or any such charter, and each committee may adopt its own rules and regulations of governance, to the extent not inconsistent with these Bylaws or any charter or other rules and regulations adopted by the Board.

SECTION 4.3. Substitution of Members. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of the absent or disqualified member. An alternate member may count toward a quorum and vote only if a member for whom such person is an alternate is absent or disqualified.

#### ARTICLE V OFFICERS

SECTION 5.1. Officers. The officers of the Corporation shall be Chief Executive Officer, a Secretary and such other officers as the Board from time to time may deem proper, including a Chairman of the Board (who must be a director), a President, Executive Vice Presidents, Senior Vice Presidents and a Treasurer. All officers elected by the Board shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article V. Such officers shall also have such powers and duties as from time to time may be conferred by the Board or by any committee thereof or, with respect to any Executive Vice President, Senior Vice President, Treasurer or Secretary, by the Chairman of the Board, Chief Executive Officer or President, if any. The Board or any committee thereof may from time to time elect, or the Chairman of the Board, Chief Executive Officer or President, if any, may appoint, such other officers (including a Chief Financial Officer, Chief Operating Officer and one or more Senior Vice Presidents, Assistant Secretaries and Assistant Treasurers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these Bylaws or as may be prescribed by the Board or such committee thereof or by the Chairman of the Board, Chief Executive Officer or President, as the case may be. Any number of offices may be held by the same person.

SECTION 5.2. Election and Term of Office. Each officer shall hold office until his successor shall have been duly elected or appointed and shall have qualified or until his death or until he shall resign, but any officer may be removed from office at any time by the affirmative vote of a majority of the Board or, except in the case of an officer or agent elected by the Board, by the Chairman of the Board, Chief Executive Officer or President, if any. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of his successor, his death, his resignation or his removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

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SECTION 5.3. Chairman of the Board. The Chairman of the Board shall preside at all meetings of the Board. The Chairman of the Board shall be responsible for the general management of the affairs of the Corporation and shall perform all duties incidental to his office that may be required by law and all such other duties as are properly required of him by the Board. He shall make reports to the Board and shall see that all orders and resolutions of the Board and of any committee thereof are carried into effect. The Chairman of the Board may also serve as Chief Executive Officer, if so elected by the Board.

SECTION 5.4. Chief Executive Officer. The Chief Executive Officer shall act in a general executive capacity and shall assist the Chairman of the Board in the administration and operation of the Corporation's business and general supervision of its policies and affairs. The Chief Executive Officer shall, in the absence of or because of the inability to act of the Chairman of the Board, perform all duties of the Chairman of the Board. The Chief Executive Officer shall have the authority to sign, in the name and on behalf of the Corporation, checks, orders, contracts, leases, notes, drafts and all other documents and instruments in connection with the business of the Corporation.

SECTION 5.5. President. The President, if any, shall have such powers and shall perform such duties as shall be assigned to him by the Board. In the absence (or inability or refusal to act) of the Chairman of the Board and Chief Executive Officer, the President (if any and if he or she shall be a director) shall preside when present at all meetings of the Board.

SECTION 5.6. Executive Vice Presidents and Senior Vice Presidents. Each Executive Vice President and Senior Vice President, if any, shall have such powers and shall perform such duties as shall be assigned to him by the Board or the Chairman of the Board, the Chief Executive Officer or the President, if any.

SECTION 5.7. Treasurer. The Treasurer, if any, shall exercise general supervision over the receipt, custody and disbursement of corporate funds. He shall have such further powers and duties and shall be subject to such directions as may be granted or imposed upon him from time to time by the Board, the Chairman of the Board, the Chief Executive Officer or the President, if any.

SECTION 5.8. Secretary. The Secretary, if any, shall keep or cause to be kept in one or more books provided for that purpose, the minutes of all meetings of the Board, the committees of the Board and the stockholders; he shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by applicable law; he shall be custodian of the records and the seal of the Corporation and affix and attest the seal to all stock certificates of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal; and in general, he shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board, the Chairman of the Board, the Chief Executive Officer or the President, if any.

SECTION 5.9. Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation or removal may be filled by the Board for the unexpired portion of the term at any meeting of the Board. Any vacancy in an office appointed by the Chairman of the Board, the Chief Executive Officer or the President, if any, because of death, resignation or removal may be filled by the Chairman of the Board, the Chief Executive Officer or the President, if any.

SECTION 5.10. Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Board, the Chief Executive Officer or any officer authorized by the Chairman of the Board, the Chief Executive Officer or the President, shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation or entity in which the Corporation may hold securities and otherwise to exercise any and all rights and powers that the Corporation may possess by reason of its ownership of securities in such other corporation or entity.

SECTION 5.11. Delegation. The Board may from time to time delegate the powers and duties of any officer to any other officer or agent, notwithstanding any provision hereof.

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**ARTICLE VI  
STOCK CERTIFICATES AND TRANSFERS**

SECTION 6.1. Stock Certificates and Transfers. The interest of each stockholder of the Corporation evidenced by certificates for shares of stock shall be in such form as the appropriate officers of the Corporation may from time to time prescribe, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock may be uncertificated shares. The shares of the stock of the Corporation shall be entered in the books of the Corporation as they are issued and shall exhibit the holder's name and number of shares. Subject to the provisions of the Amended and Restated Certificate of Incorporation, the shares of the stock of the Corporation shall be transferred on the books of the Corporation, which may be maintained by a third-party registrar or transfer agent, by the holder thereof in person or by his attorney, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require or upon receipt of proper transfer instructions from the registered holder of uncertificated shares and upon compliance with appropriate procedures for transferring shares in uncertificated form, at which time the Corporation shall issue a new certificate to the person entitled thereto (if the stock is then represented by certificates), cancel the old certificate and record the transaction upon its books.

Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including, without limitation, the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer, an Assistant Treasurer, the Secretary and an Assistant Secretary, certifying the number of shares owned by such holder in the Corporation. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

SECTION 6.2. Lost, Stolen or Destroyed Certificates. No certificate for shares or uncertificated shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board or any financial officer may in its or his discretion require.

SECTION 6.3. Ownership of Shares. The Corporation shall be entitled to treat the holder of record of any share or shares of stock of the Corporation as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by the laws of the State of Delaware.

SECTION 6.4. Regulations Regarding Certificates. Subject to applicable law, the Board shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration or the replacement of certificates for shares of stock of the Corporation. The Corporation may enter into additional agreements with stockholders to restrict the transfer of stock of the Corporation in any manner not prohibited by the DGCL.

**ARTICLE VII  
MISCELLANEOUS PROVISIONS**

SECTION 7.1. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January and end on the 31st day of December of each year.

SECTION 7.2. Dividends. Except as otherwise provided by law or the Amended and Restated Certificate of Incorporation, the Board may from time to time declare, and the Corporation may pay, dividends on its outstanding shares of stock, which dividends may be paid in either cash, property or shares of stock of the Corporation. A member of the Board, or a member of any committee designated by the Board, shall be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation, as to the value and amount of the assets, liabilities or net profits of the Corporation, or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid.

SECTION 7.3. Seal. If the Board determines that the Corporation shall have a corporate seal, the corporate seal shall have inscribed thereon the words "Corporate Seal," the year of incorporation and the words "Select Water Solutions, Inc. — Delaware."

SECTION 7.4. Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the DGCL, the Amended and Restated Certificate of Incorporation or these Bylaws, a waiver thereof in writing, including by electronic transmission, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board or committee thereof need be specified in any waiver of notice of such meeting. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

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SECTION 7.5. Resignations. Any director or any officer, whether elected or appointed, may resign at any time by giving written notice, including by electronic transmission, of such resignation to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary, and such resignation shall be deemed to be effective upon receipt by the Chairman of the Board, the Chief Executive Officer, the President or the Secretary, or at such later time as is specified therein. No formal action shall be required of the Board or the stockholders to make any such resignation effective.

SECTION 7.6. Indemnification and Advancement of Expenses.

(A) The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "*proceeding*") by reason of the fact that he, or a person for whom he is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, trustee, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (a "*Covered Person*"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, trustee, employee or agent, or in any other capacity while serving as a director, officer, trustee, employee or agent, against all expenses, liability and loss (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred or suffered by such Covered Person in connection with such proceeding.

(B) The Corporation shall, to the fullest extent not prohibited by applicable law as it presently exists or may hereafter be amended, pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any proceeding in advance of its final disposition; *provided, however*, that to the extent required by applicable law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined by final judicial decision from which there is no further right to appeal (hereinafter, a "*final adjudication*") that the Covered Person is not entitled to be indemnified under this Section 7.6 or otherwise.

(C) The rights to indemnification and advancement of expenses under this Section 7.6 shall be contract rights and such rights shall continue as to a Covered Person who has ceased to be a director, officer, trustee, employee or agent and shall inure to the benefit of his heirs, executors and administrators. Notwithstanding the foregoing provisions of this Section 7.6, except for proceedings to enforce rights to indemnification and advancement of expenses, the Corporation shall indemnify and advance expenses to a Covered Person in connection with a proceeding (or part thereof) initiated by such Covered Person only if such proceeding (or part thereof) was authorized by the Board.

(D) If a claim for indemnification under this Section 7.6 (following the final disposition of such proceeding) is not paid in full within 60 days after the Corporation has received a claim therefor by the Covered Person, or if a claim for any advancement of expenses under this Section 7.6 is not paid in full within 30 days after the Corporation has received a statement or statements requesting such amounts to be advanced, the Covered Person shall thereupon (but not before) be entitled to file suit to recover the unpaid amount of such claim. If successful in whole or in part, the Covered Person shall be entitled to be paid the expense of prosecuting such claim, or a claim brought by the Corporation to recover an advancement of expenses prior to the terms of an undertaking, to the fullest extent permitted by applicable law. In any such action, the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law. In (1) any suit brought by a Covered Person to enforce a right to indemnification hereunder (but not in a suit brought by a Covered Person to enforce a right to an advancement of expenses) it shall be a defense that, and (2) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the Covered Person has not met any applicable standard of conduct for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Covered Person is proper in the circumstances because the Covered Person has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) that the Covered Person has not met such applicable standard of conduct, shall create a presumption that the Covered Person has not met the applicable standard of conduct or, in the case of such a suit brought by the Covered Person, be a defense to such suit. In any suit brought by the Covered Person to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Covered Person is not entitled to be indemnified, or to such advancement of expenses, under this Section 7.6 or otherwise shall be on the Corporation.

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(E) The rights conferred on any Covered Person by this Section 7.6 shall not be exclusive of any other rights that such Covered Person may have or hereafter acquire under any statute, any provision of the Amended and Restated Certificate of Incorporation, these Bylaws, any agreement or vote of stockholders or disinterested directors or otherwise.

(F) This Section 7.6 shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

(G) Any Covered Person entitled to indemnification and/or advancement of expenses, in each case pursuant to this Section 7.6, may have certain rights to indemnification, advancement and/or insurance provided by one or more persons with whom or which such Covered Person may be associated (including, without limitation, any member of the Legacy Group (as such term is defined in the Amended and Restated Certificate of Incorporation) (the “*Legacy Group*”)). The Corporation hereby acknowledges and agrees that (1) the Corporation shall be the indemnitor of first resort with respect to any proceeding, expense, liability or matter that is the subject of this Section 7.6, (2) the Corporation shall be primarily liable for all such obligations and any indemnification afforded to a Covered Person in respect of a proceeding, expense, liability or matter that is the subject of this Section 7.6, whether created by law, organizational or constituent documents, contract or otherwise, (3) any obligation of any persons with whom or which a Covered Person may be associated (including, without limitation, any member of the Legacy Group) to indemnify such Covered Person and/or advance expenses or liabilities to such Covered Person in respect of any proceeding shall be secondary to the obligations of the Corporation hereunder, (4) the Corporation shall be required to indemnify each Covered Person and advance expenses to each Covered Person hereunder to the fullest extent provided herein without regard to any rights such Covered Person may have against any other person with whom or which such Covered Person may be associated (including, without limitation, any member of the Legacy Group) or insurer of any such person, and (5) the Corporation irrevocably waives, relinquishes and releases any other person with whom or which a Covered Person may be associated (including, without limitation, any member of the Legacy Group) from any claim of contribution, subrogation or any other recovery of any kind in respect of amounts paid by the Corporation hereunder.

(H) The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was serving as a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

SECTION 7.7. Facsimile and Electronic Signatures. In addition to the provisions for use of facsimile or electronic signatures elsewhere specifically authorized in these Bylaws, facsimile or electronic signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board or a committee thereof, the Chairman of the Board, the Chief Executive Officer or President (if any).

SECTION 7.8. Time Periods. In applying any provision of these Bylaws that require that an act be done or not done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

SECTION 7.9. Reliance Upon Books, Reports and Records. Each director and each member of any committee of the Board shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the Corporation and upon information, opinions, reports or statements presented to the Corporation by any of the Corporation’s officers or employees, or committees designated by the Board, or by any other person as to the matters the member reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

## **ARTICLE VIII AMENDMENTS**

SECTION 8.1. Amendments. In furtherance of, and not in limitation of, the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to adopt, amend or repeal the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws of the Corporation by the Board shall require the approval of a majority of the Whole Board. Stockholders shall also have the power to adopt, amend or repeal the Bylaws of the Corporation by the affirmative vote of holders of more than 50% in voting power of the then-outstanding shares of stock entitled to vote thereon, voting together as a single class. No Bylaws hereafter made or adopted, nor any repeal of or amendment thereto, shall invalidate any prior act of the Board that was valid at the time it was taken.

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**EMPLOYMENT AGREEMENT**

This Employment Agreement (“**Agreement**”) is made and entered into by and between Select Energy Services, LLC, a Delaware limited liability company (the “**Company**”), and John D. Schmitz (“**Employee**”) effective as of May 5, 2023 (the “**Effective Date**”).

WHEREAS, Employee is currently employed by the Company and serves as its President and Chief Executive Officer; and

WHEREAS, the Company desires to continue to employ Employee, and Employee desires to continue to be employed by the Company, pursuant to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Employment.** During the Employment Period (as defined in Section 4), the Company shall employ Employee, and Employee shall serve, as President and Chief Executive Officer of the Company and in such other position or positions as may be agreed to by Employee and the Company from time to time. The Company and Employee acknowledge that, as of the Effective Date, Employee will continue to serve as Chairman of the Board of Directors (the “**Board**”) of Select Energy Services, Inc., a Delaware corporation and the parent of the Company (“**Parent**”).

2. **Duties and Responsibilities of Employee.**

(a) During the Employment Period, Employee shall devote Employee’s best efforts and full business time and attention to the businesses of Parent and its direct and indirect subsidiaries as may exist from time to time, including the Company (collectively, Parent and its direct and indirect subsidiaries are referred to as the “**Company Group**”) as may be requested by Parent or the Company from time to time. Employee’s duties and responsibilities shall include those normally incidental to the positions identified in Section 1, as well as such additional duties as may be reasonably assigned to Employee by the Company from time to time, which duties and responsibilities may include providing services to other members of the Company Group in addition to the Company. Employee may, without violating this Section 2(a), (i) as a passive investment, either make or manage personal investments or own publicly traded securities in such form or manner as will not require any services by Employee in the operation of the entities in which such securities are owned; (ii) engage in charitable and civic activities; or (iii) engage in those business activities that have been disclosed by Employee in writing to the Board or the Compensation Committee thereof and that have been approved by the Board or the Compensation Committee, in each case in a writing that identifies this Section 2(a)(iii), *provided that* in each case under this Section 2(a)(i), (ii) and (iii), such ownership, interests or activities do not interfere with Employee’s ability to fulfill Employee’s duties and responsibilities under this Agreement and are not inconsistent with Employee’s obligations to any member of the Company Group or competitive with the business of any member of the Company Group.

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(b) Employee hereby represents and warrants that Employee is not the subject of, or a party to, any employment agreement, non-competition, non-solicitation, restrictive covenant or non-disclosure agreement, or any other agreement, obligation, restriction or understanding that would prohibit Employee from executing this Agreement or fully performing each of Employee's duties and responsibilities hereunder, or would in any manner, directly or indirectly, limit or affect any of the duties and responsibilities that may now or in the future be assigned to Employee hereunder. Employee expressly acknowledges and agrees that Employee is strictly prohibited from using or disclosing any confidential information belonging to any prior employer in the course of performing services for any member of the Company Group, and Employee promises that Employee shall not do so. Employee shall not introduce documents or other materials containing confidential information of any prior employer to the premises or property (including computers and computer systems) of any member of the Company Group.

(c) Employee owes each member of the Company Group fiduciary duties (including (i) duties of loyalty and disclosure and (ii) such fiduciary duties that an officer of the Company owes under the laws of the State of Delaware), and the obligations described in this Agreement are in addition to, and not in lieu of, the obligations Employee owes each member of the Company Group under statutory and common law.

### 3. Compensation.

(a) Base Salary. During the Employment Period, the Company shall pay to Employee an annualized base salary of \$800,000 (the "Base Salary") in consideration for Employee's services under this Agreement, payable in substantially equal installments in conformity with the Company's customary payroll practices for similarly situated employees as may exist from time to time, but no less frequently than monthly. Employee's Base Salary shall be subject to review by the Board (sitting without Employee) and adjustments may be made following advance notice to Employee. Any such adjusted base salary shall then be deemed the "Base Salary" hereunder.

(b) STI Plan. Employee shall be eligible to continue participating in the Company's short-term incentive bonus program (the "STI Plan") with an annual bonus target amount of 115% of Employee's Base Salary, subject to the terms of the STI Plan as in effect from time to time. Each bonus, if any, paid pursuant to the STI Plan shall be paid as soon as administratively feasible after the Board (or a committee thereof) certifies whether the applicable performance targets for the applicable calendar year have been achieved. Notwithstanding anything in this Section 3(b) to the contrary, no bonus will be paid under the STI Plan for a particular calendar year unless Employee remains continuously employed by the Company from the Effective Date through the date the Board (or a committee thereof) certifies whether the applicable performance targets for the applicable calendar year have been achieved (except as set forth in Section 7).

(c) Equity Incentive Plan. Employee shall be eligible to continue receiving annual equity awards pursuant to the Select Energy Services, Inc. 2016 Equity Incentive Plan, as amended (the "EIP"), subject to the terms of any applicable award agreement and the EIP as in effect from time to time. The Compensation Committee of the Board, following consultation with Employee, and subject to approval of the Board, will determine the type and size of equity awards to be granted and the vesting and performance conditions to which such awards will be subject.

4. **Term of Employment.** The initial term of Employee's employment under this Agreement shall be for the period beginning on the Effective Date and ending on December 31, 2025 (the "**Initial Term**"). On December 31, 2025 and on each subsequent anniversary thereafter, the term of Employee's employment under this Agreement shall automatically renew and extend for a period of twelve (12) months (each such twelve (12)-month period being a "**Renewal Term**") unless written notice of non-renewal is delivered by either party to the other not less than sixty (60) days prior to the expiration of the then-existing Initial Term or Renewal Term, as applicable. Notwithstanding any other provision of this Agreement, Employee's employment pursuant to this Agreement may be terminated at any time in accordance with Section 7. The period from the Effective Date through the expiration of this Agreement or, if sooner, the termination of Employee's employment pursuant to this Agreement, regardless of the time or reason for such termination, shall be referred to herein as the "**Employment Period**."

5. **Business Expenses.** Subject to Section 23, the Company shall reimburse Employee for Employee's reasonable out-of-pocket business-related expenses actually incurred in the performance of Employee's duties under this Agreement so long as Employee timely submits all documentation for such expenses, as required by Company policy in effect from time to time. Any such reimbursement of expenses shall be made by the Company upon or as soon as practicable following receipt of such documentation (but in any event not later than the close of Employee's taxable year following the taxable year in which the expense is incurred by Employee). Except to the extent permitted by Section 13, in no event shall any reimbursement be made to Employee for any expenses incurred after the date of Employee's termination of employment with the Company.

6. **Benefits.** During the Employment Period, Employee shall be eligible to participate in the same benefit plans and programs in which other similarly situated Company employees are eligible to participate, subject to the terms and conditions of the applicable plans and programs in effect from time to time. The Company shall not, however, by reason of this Section 6, be obligated to institute, maintain, or refrain from changing, amending, or discontinuing, any such plan or policy, so long as such changes are similarly applicable to similarly situated Company employees generally.

7. **Termination of Employment.**

(a) **Company's Right to Terminate Employee's Employment for Cause.** The Company shall have the right to terminate Employee's employment hereunder at any time for Cause. For purposes of this Agreement, "**Cause**" shall mean:

- (i) Employee's engagement in gross negligence or willful misconduct in the performance of Employee's duties;
- (ii) Employee's material breach of any material provision of any policy or code of conduct established by Parent or the Company and applicable to Employee;
- (iii) Employee's willful engagement in conduct that is materially injurious to Parent or any of its affiliates; or

(iv) conviction of Employee for, or plea of *nolo contendere* by Employee to, or adjudicated probation or deferred adjudication received by Employee in connection with, any felony involving fraud, dishonesty or moral turpitude.

(b) Company's Right to Terminate for Convenience. The Company shall have the right to terminate Employee's employment for convenience at any time and for any reason, or no reason at all, upon written notice to Employee.

(c) Employee's Right to Terminate for Good Reason. Employee shall have the right to terminate Employee's employment with the Company at any time for Good Reason. For purposes of this Agreement, "**Good Reason**" shall mean:

(i) a material diminution in Employee's Base Salary, other than a 25% or less reduction of Employee's Base Salary as in effect at the time that applies to all of the Company's executive officers; or

(ii) Employee ceases to be Chief Executive Officer of the Company.

Notwithstanding the foregoing provisions of this Section 7(c) or any other provision of this Agreement to the contrary, any assertion by Employee of a termination for Good Reason shall not be effective unless all of the following conditions are satisfied: (A) the condition described in Section 7(c)(i) or (ii) giving rise to Employee's termination of employment must have arisen without Employee's consent; (B) Employee must provide written notice to the Board of the existence of such condition(s) within forty-five (45) days after the initial occurrence of such condition(s); (C) the condition(s) specified in such notice must remain uncorrected for thirty (30) days following the Board's receipt of such written notice; and (D) the date of Employee's termination of employment must occur within one hundred and thirty-five (135) days after the initial occurrence of the condition(s) specified in such notice.

(d) Death or Disability. Upon the death or Disability of Employee, Employee's employment with Company shall automatically (and without any further action by any person or entity) terminate with no further obligation under this Agreement of either party hereunder, except as provided for in Section 7(f). For purposes of this Agreement, a "**Disability**" shall mean Employee's inability to perform the essential functions of Employee's position (after accounting for reasonable accommodation, if applicable and required by applicable law), due to physical or mental impairment that continues, or can reasonably be expected to continue, for a period in excess of one hundred-twenty (120) consecutive days or one hundred-eighty (180) days, whether or not consecutive (or for any longer period as may be required by applicable law), in any twelve (12)-month period.

(e) Employee's Right to Terminate for Convenience. In addition to Employee's right to terminate Employee's employment for Good Reason, Employee shall have the right to terminate Employee's employment with the Company for convenience at any time and for any other reason, or no reason at all, upon thirty (30) days' advance written notice to the Company; *provided, however*, that if Employee has provided notice to the Company of Employee's termination of employment, the Company may determine, in its sole discretion, that such termination shall be effective on any date prior to the effective date of termination provided in such notice (and, if such earlier date is so required, then it shall not change the basis for Employee's termination of employment nor be construed or interpreted as a termination of employment pursuant to Section 7(b)).

(f) Effect of Termination.

(i) If Employee's employment hereunder is terminated for any reason, then upon the date on which Employee's employment terminates (the "**Termination Date**"), Employee will be entitled to (1) payment of all accrued and unpaid Base Salary earned through the Termination Date, (2) reimbursement for all incurred but unreimbursed expenses for which Employee is entitled to reimbursement in accordance with Section 5, (3) payment of all accrued and unused paid vacation for the calendar year in which the Termination Date occurs, and (4) benefits to which Employee is entitled under the terms of any applicable benefit plan or program (collectively, the "**Accrued Benefits**").

(ii) If Employee's employment hereunder is terminated by the Company without Cause pursuant to Section 7(b), upon the expiration of the Initial Term or a Renewal Term as a result of the Company's issuance of a notice of non-renewal pursuant to Section 4, by Employee for Good Reason pursuant to Section 7(c), or as a result of Employee's death or due to the Company's termination due to Employee's Disability, then in addition to the Accrued Benefits, so long as (and only if): (1) Employee (or, if applicable, an authorized representative of Employee's estate) executes on or before the Release Expiration Date (as defined below), and does not revoke within any time provided by the Company to do so, a release of all claims in a form reasonably acceptable to the Company (the "**Release**"), which Release shall release each member of the Company Group and their respective affiliates, and the foregoing entities' respective shareholders, members, partners, officers, managers, directors, fiduciaries, employees, representatives, agents and benefit plans (and fiduciaries of such plans) from any and all claims, including any and all causes of action arising out of Employee's employment with the Company and any other member of the Company Group or the termination of such employment, but excluding all claims to severance payments Employee may have under this Section 7; and (2) Employee abides by the terms of each of Sections 9, 10 and 11, then:

(A) the Company shall make severance payments to Employee in a total amount equal to the product of 2.0 *multiplied by* the sum of (a) twelve (12) months' worth of Employee's Base Salary for the year in which the termination occurs, *plus* (b) an amount equal to Employee's target bonus under the STI Plan for the year in which such termination occurs (such total severance payments being referred to as the "**Severance Payment**"); *provided, however*, if the Termination Date is within sixty (60) days prior to, or within twenty-four (24) months following, the date of a Change in Control (as defined below), then subject to the terms and conditions set forth in Sections 7(f)(ii)(1) and (2) above, then the Company shall, in lieu of the Severance Payment, make severance payments in a total amount equal to the product of 3.0 *multiplied by* the sum of (x) twelve (12) months' worth of Employee's Base Salary for the year in which the Termination Date occurs, *plus* (y) an amount equal to Employee's target bonus under the STI Plan for the year in which the Termination Date occurs (such total severance payments being referred to as the "**CIC Severance Payment**"). The Severance Payment or the CIC Severance Payment (as applicable, the "**Cash Severance Payment**") will be divided into substantially equal installments and paid over a number of months equal to the number of months' worth of Employee's Base Salary included in the Cash Severance Payment. On the Company's first regularly scheduled pay date that is on or after the date that is sixty (60) days after the Termination Date, the Company shall pay to Employee, without interest, a number of such installments equal to the number of such installments that would have been paid during the period beginning on the Termination Date and ending on the Company's first regularly scheduled pay date that is on or after the date that is sixty (60) days after the Termination Date had the installments been paid commencing on the Company's first regularly scheduled pay date coincident with or next following the Termination Date, and each of the remaining installments shall be paid on the Company's regularly scheduled pay dates during the remainder of such twelve (12)-month period (or, if the Termination Date is within 60 days prior to, or within twenty-four (24) months following, the date of a Change in Control, such eighteen (18)-month period); *provided, however*, that to the extent, if any, that the aggregate amount of the installments of the Cash Severance Payment that would otherwise be paid pursuant to the preceding provisions of this Section 7(f)(ii) after March 15 of the calendar year following the calendar year in which the Termination Date occurs (the "**Applicable March 15**") exceeds the maximum exemption amount under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A), then such excess shall be paid to Employee in a lump sum on the Applicable March 15 (or the first Business Day preceding the Applicable March 15 if the Applicable March 15 is not a Business Day) and the installments of the Cash Severance Payment payable after the Applicable March 15 shall be reduced by such excess (beginning with the installment first payable after the Applicable March 15 and continuing with the next succeeding installment until the aggregate reduction equals such excess). "**Business Day**" shall mean any day except a Saturday, Sunday or other day on which commercial banks in New York, New York or Houston, Texas are authorized or required by law to be closed. For the avoidance of doubt, in no event shall Employee be eligible to receive both the Severance Payment and the CIC Severance Payment.

(B) The Company shall pay Employee a pro-rated portion of the bonus under the STI Plan that Employee would have been paid for the calendar year in which the Termination Date occurs, if any (the "**Pro-Rata Bonus Payment**"), which Pro-Rata Bonus Payment shall be paid (if the applicable criteria for earning a bonus under the STI Plan for such calendar year, other than the requirement with respect to continued employment through the applicable certification date, are satisfied) to Employee at the same time bonuses under the STI Plan for such calendar year are paid to similarly situated employees of the Company, but in no event no later than March 15 of the calendar year following the calendar year in which the Termination Date occurs.

(C) The Company shall pay Employee the bonus under the STI Plan that Employee would have been paid for the calendar year ending on or prior to the Termination Date (the “**Prior Year Bonus Payment**”), to the extent such bonus has not yet been paid as of the Termination Date. The Prior Year Bonus Payment, if any, will be made at the same time bonuses under the STI Plan for such calendar year are paid to similarly situated employees of the Company, but in no event no later than March 15 of the calendar year in which the Termination Date occurs.

(D) During the portion, if any, of the eighteen (18)-month period following the Termination Date (the “**Reimbursement Period**”) that Employee elects to continue coverage for Employee and Employee’s spouse and eligible dependents, if any, under the Company’s group health plans pursuant to Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“**COBRA**”), the Company shall promptly reimburse Employee on a monthly basis for the full amount Employee pays to effect and continue such coverage (the “**COBRA Benefit**”). Each payment of the COBRA Benefit shall be paid to Employee on the Company’s first regularly scheduled pay date in the calendar month immediately following the calendar month in which Employee submits to the Company documentation of the applicable premium payment having been paid by Employee, which documentation shall be submitted by Employee to the Company within thirty (30) days following the date on which the applicable premium payment is due. Employee shall be eligible to receive such reimbursement payments until the earliest of: (x) the last day of the Reimbursement Period; (y) the date Employee is no longer eligible to receive COBRA continuation coverage; and (z) the date on which Employee becomes eligible to receive coverage under a group health plan sponsored by another employer (and any such eligibility shall be promptly reported to the Company by Employee); *provided, however*, that the election of COBRA continuation coverage and the payment of any premiums due with respect to such COBRA continuation coverage shall remain Employee’s sole responsibility, and the Company shall not assume any obligation for payment of any such premiums relating to such COBRA continuation coverage. Notwithstanding the foregoing, if the provision of the benefits described in this paragraph cannot be provided in the manner described above without penalty, tax or other adverse impact on the Company or any other member of the Company Group, then the Company and Employee shall negotiate in good faith to determine an alternative manner in which the Company may provide substantially equivalent benefits to Employee without such adverse impact on the Company or such other member of the Company Group.

(iii) If the Release is not executed and returned to the Company on or before the Release Expiration Date, and the required revocation period has not fully expired without revocation of the Release by Employee, then Employee shall not be entitled to any portion of the Cash Severance Payment, Pro-Rata Bonus Payment, Prior Year Bonus Payment or COBRA Benefit. As used herein, the “**Release Expiration Date**” is that date that is thirty (30) days following the date upon which the Company delivers the Release to Employee (which shall occur no later than seven (7) days after the Termination Date); *provided, however*, in the event that such termination of employment is “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967), the Release Expiration Date shall be that date that is forty-five (45) days following such delivery date.

(iv) For the avoidance of doubt, the Cash Severance Payment, Pro-Rata Bonus Payment, Prior Year Bonus Payment and COBRA Benefit (and any portions thereof) shall not be payable in the event that the Employment Period ends due to a termination by the Company for Cause pursuant to Section 7(a), due to the expiration of the Initial Term or Renewal Term, as applicable, following Employee's issuance of a notice of non-renewal pursuant to Section 4, or by Employee for convenience pursuant to Section 7(e).

(g) Change in Control. For purposes of this Agreement, "**Change in Control**" shall have the meaning of such term in the EIP as of the Effective Date, without regard to Section 2(g)(i)(C) of the EIP.

(h) After-Acquired Evidence. Notwithstanding any provision of this Agreement to the contrary, in the event that the Company determines that Employee is eligible to receive the Cash Severance Payment, Pro-Rata Bonus Payment or COBRA Benefit pursuant to Section 7(f) but, within eighteen (18) months after such determination, the Company subsequently acquires evidence that: (i) Employee has failed to abide by the terms of Sections 9, 10 or 11; or (ii) a Cause condition existed prior to the Termination Date that, had the Company been fully aware of such condition, would have given the Company the right to terminate Employee's employment pursuant to Section 7(a), then the Company shall have the right to cease the payment of any future installments of the Cash Severance Payment, Pro-Rata Bonus Payment and COBRA Benefit, and Employee shall promptly return to the Company all installments of the Cash Severance Payment, Pro-Rata Bonus Payment and COBRA Benefit received by Employee prior to the date that the Company determines that the conditions of this Section 7(g) have been satisfied.

8. Disclosures. Promptly upon becoming aware of (a) any actual or potential Conflict of Interest or (b) any lawsuit, claim or arbitration filed against or involving Employee or any trust or vehicle owned or controlled by Employee that (with respect to such lawsuit, claim or arbitration) could be reasonably be expected to affect Employee's ability to perform his duties hereunder or, if determined adversely, could reasonably be expected to have an adverse effect on any member of the Company Group, in each case, Employee shall disclose such actual or potential Conflict of Interest or such lawsuit, claim or arbitration to the Board. A "**Conflict of Interest**" shall exist when Employee engages in, or plans to engage in, any activities, associations, or interests that conflict with, or create an appearance of a conflict with, Employee's duties, responsibilities, authorities, or obligations for and to any member of the Company Group. Any unintentional failure by Employee to timely report a Conflict of Interest under this Section 8 shall not be deemed a material breach of this Agreement by Employee, so long as Employee reports such Conflict of Interest within three Business Days of the earlier of Employee learning of such failure or receiving an inquiry from the Board or a committee thereof regarding such failure.

9. Confidentiality. In the course of Employee's employment with the Company and the performance of Employee's duties on behalf of the Company Group hereunder, Employee has been provided and will continue to be provided with, and have access to, Confidential Information (as defined below). In consideration of Employee's receipt and access to such Confidential Information, and as a condition of Employee's continued employment hereunder, Employee shall comply with this Section 9.



(a) Both during the Employment Period and thereafter, except as expressly permitted by this Agreement or by directive of the Board, Employee shall not disclose any Confidential Information to any person or entity (other than a legal or financial advisor of Employee who maintains such Confidential Information in strict confidence) and shall not use any Confidential Information except for the benefit of the Company Group. Employee shall follow all written Company Group policies and protocols regarding the security of all documents and other materials containing Confidential Information (regardless of the medium on which Confidential Information is stored). The covenants of this Section 9(a) shall apply to all Confidential Information, whether now known as a result of Employee's employment with the Company or later to become known to Employee during the period that Employee is employed by or affiliated with the Company or any other member of the Company Group.

(b) Notwithstanding any provision of Section 9(a) to the contrary, Employee may make the following disclosures and uses of Confidential Information: (i) disclosures to other employees of a member of the Company Group who have a need to know the information in connection with the businesses of the Company Group; (ii) disclosures and uses that are approved in writing by the Board; or (iii) disclosures to a person or entity that has (x) been retained by a member of the Company Group to provide services to one or more members of the Company Group and (y) agreed in writing, or otherwise has a professional responsibility, to abide by the terms of a confidentiality agreement acceptable to the Company or to keep such Confidential Information confidential, as applicable.

(c) Upon the expiration of the Employment Period, and at any other time upon written request of the Company, Employee shall promptly surrender and deliver to the Company all documents (including electronically stored information) and all copies thereof and all other materials of any nature containing or pertaining to all Confidential Information and any other Company Group property (including any Company Group-issued computer, mobile device or other equipment) in Employee's possession, custody or control and Employee shall not retain any such documents or other materials or property of the Company Group. Within five (5) days of any such request, Employee shall certify to the Company in writing that all such documents, materials and property have been returned to the Company.

(d) All trade secrets, confidential or proprietary information, non-public information, designs, ideas, concepts, improvements, product developments, discoveries and inventions, whether patentable or not, that are or have been conceived, made, developed or acquired by or disclosed to Employee, individually or in conjunction with others, during the period that Employee is employed and has previously been employed by the Company or any other member of the Company Group (whether during business hours or otherwise and whether on the Company's premises or otherwise) that relate to any member of the Company Group's businesses or properties, products or services (including all such information relating to corporate opportunities, operations, future plans, methods of doing business, business plans, strategies for developing business and market share, research, financial and sales data, pricing terms, evaluations, opinions, interpretations, acquisition prospects, the identity of customers or acquisition targets or their requirements, the identity of key contacts within customers' organizations or within the organization of acquisition prospects, or marketing and merchandising techniques, prospective names and marks) and other information that is competitively valuable to any member of the Company Group by virtue of it not being known to the general public is defined as "**Confidential Information**." Moreover, all documents, videotapes, written presentations, brochures, drawings, memoranda, notes, records, files, correspondence, manuals, models, specifications, computer programs, e-mail, voice mail, electronic databases, maps, drawings, architectural renditions, models and all other writings or materials of any type including or embodying any of such information, ideas, concepts, improvements, discoveries, inventions and other similar forms of expression are and shall be the sole and exclusive property of the Company or the applicable member of the Company Group and be subject to the same restrictions on disclosure applicable to all Confidential Information pursuant to this Agreement. For purposes of this Agreement, Confidential Information shall not include any information that (i) is or becomes generally available to the public other than as a result of a disclosure or wrongful act of Employee or any of Employee's agents; (ii) was available to Employee on a non-confidential basis before its disclosure by a member of the Company Group; (iii) is independently developed by Employee without reference to any Confidential Information of any member of the Company Group; or (iv) becomes available to Employee on a non-confidential basis from a source other than a member of the Company Group; *provided, however*, that such source is not known by Employee to be bound by a confidentiality agreement with, or other obligation with respect to confidentiality to, a member of the Company Group.

(e) Notwithstanding the foregoing, nothing in this Agreement shall prohibit or restrict Employee from lawfully: (i) initiating communications directly with, cooperating with, providing information to, causing information to be provided to, or otherwise assisting in an investigation by, any governmental authority (including the Securities and Exchange Commission) regarding a possible violation of any law; (ii) responding to any inquiry or legal process directed to Employee from any such governmental authority; (iii) testifying, participating or otherwise assisting in any action or proceeding by any such governmental authority relating to a possible violation of law; or (iv) making any other disclosures that are protected under the whistleblower provisions of any applicable law. Additionally, pursuant to the federal Defend Trade Secrets Act of 2016, an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (A) is made (1) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney and (2) solely for the purpose of reporting or investigating a suspected violation of law; (B) is made to the individual's attorney in relation to a lawsuit for retaliation against the individual for reporting a suspected violation of law; or (C) is made in a complaint or other document filed in a lawsuit or proceeding, if such filing is made under seal. Nothing in this Agreement requires Employee to obtain prior authorization before engaging in any conduct described in this paragraph, or to notify the Company that Employee has engaged in any such conduct.

10. **Non-Competition; Non-Solicitation**

(a) The Company shall provide Employee Confidential Information for use during the Employment Period, and Employee acknowledges and agrees that the Company Group will be entrusting Employee, in Employee's unique and special capacity, with developing the goodwill of the Company Group, and in consideration of the Company providing Employee with access to Confidential Information, and as an express incentive for the Company to enter into this Agreement and to continue to employ Employee hereunder, Employee has voluntarily agreed to the covenants set forth in this Section 10. Employee agrees and acknowledges that the limitations and restrictions set forth herein, including geographical and temporal restrictions on certain competitive activities, are reasonable in all respects, will not cause Employee undue hardship, and are material and substantial parts of this Agreement intended and necessary to prevent unfair competition and to protect the Company Group's Confidential Information, goodwill and legitimate business interests.

(b) During the Prohibited Period, Employee shall not, without the prior written approval of the Board, directly or indirectly, for Employee or on behalf of or in conjunction with any other person or entity of any nature:

(i) engage in or participate within the Market Area in competition with any member of the Company Group in any aspect of the Business, which prohibition shall prevent Employee from directly or indirectly: (A) owning, managing, operating, or being an officer or director of, any business that competes with any member of the Company Group in the Market Area; or (B) joining, becoming an employee or consultant of, or otherwise being affiliated with, any person or entity engaged in, or planning to engage in, the Business in the Market Area in competition, or anticipated competition, with any member of the Company Group in any capacity (with respect to this clause (B)) in which Employee's duties or responsibilities directly or indirectly relate to the Business;

(ii) appropriate any Business Opportunity of, or relating to, any member of the Company Group located in the Market Area;

(iii) solicit, canvass, approach, encourage, entice or induce any customer or supplier of any member of the Company Group to cease or lessen such customer's or supplier's business with any member of the Company Group; or

(iv) solicit, canvass, approach, encourage, entice or induce any employee or contractor of any member of the Company Group to terminate his, her or its employment or engagement with any member of the Company Group.

(c) Notwithstanding the foregoing, following the Termination Date, the above-referenced limitations in Sections 10(b)(i), (ii) and (iii) shall not apply in those portions of the Market Area located within the State of Oklahoma. Instead, Employee agrees that, following the Termination Date, the restrictions on Employee's activities within those portions of the Market Area located within the State of Oklahoma (in addition to those restrictions set forth in Section 9 and Section 10(b)(iv) above) shall be as follows: during that portion of the Prohibited Period that follows the Termination Date, Employee will not directly solicit the sale of goods, services, or a combination of goods and services from the established customers of the Company or any other member of the Company Group.

(d) Because of the difficulty of measuring economic losses to the Company Group as a result of a breach or threatened breach of the covenants set forth in Section 9 and in this Section 10, and because of the immediate and irreparable damage that would be caused to the members of the Company Group for which they would have no other adequate remedy, the Company and each other member of the Company Group shall be entitled to seek to enforce the foregoing covenants, in the event of a breach or threatened breach, by injunctions and restraining orders from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall not be the Company's or any other member of the Company Group's exclusive remedy for a breach but instead shall be in addition to all other rights and remedies available to the Company and each other member of the Company Group, at law and equity.

(e) The covenants in this Section 10, and each provision and portion hereof, are severable and separate, and the unenforceability of any specific covenant (or portion thereof) shall not affect the provisions of any other covenant (or portion thereof). Moreover, in the event any arbitrator or court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth are unreasonable, then it is the intention of the parties that such restrictions be enforced to the fullest extent which such arbitrator or court deems reasonable, and this Agreement shall thereby be reformed.

(f) The following terms shall have the following meanings:

(i) "**Business**" shall mean the business and operations that are the same or similar to those performed by the Company and any other member of the Company Group for which Employee provides services or about which Employee obtains Confidential Information during the Employment Period, which business and operations include such businesses and operations as may be described in Parent's periodic and current reports filed with the Securities and Exchange Commission from time to time, and other services ancillary thereto, specifically as applied to any equipment, hardware, software, knowledge, processes, customers, strategies, known future plans, and vendors which are contained, classified, known or performed in connection with such services.

(ii) "**Business Opportunity**" shall mean any commercial, investment or other business opportunity relating to the Business of any member of the Company Group.

(iii) "**Market Area**" shall mean: (A) the counties and parishes set forth on Exhibit A hereto; and (B) any other geographic area or market where or with respect to which (x) Employee provides or has provided services on behalf of the Company or any other member of the Company Group or (y) the Company or any other member of the Company Group has specific plans to conduct any business and Employee provides material services with respect to such plans.

(iv) "**Prohibited Period**" shall mean the period during which Employee is employed by any member of the Company Group and continuing for a period of twelve (12) months following the date that Employee is no longer employed by any member of the Company Group.

11. **Ownership of Intellectual Property.**

(a) Employee agrees that the Company shall own, and Employee hereby assigns, all right, title and interest (including patent rights, copyrights, trade secret rights, mask work rights, trademark rights, and all other intellectual and industrial property rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), discoveries, developments, improvements, innovations, works of authorship, mask works, designs, know-how, ideas, formulae, processes, techniques, data and information authored, created, contributed to, made or conceived or reduced to practice, in whole or in part, by Employee during the period in which Employee is or has been employed by or affiliated with the Company or any other member of the Company Group, whether or not registerable under U.S. law or the laws of other jurisdictions, that either (a) relate, at the time of conception, reduction to practice, creation, derivation or development, to any member of the Company Group's businesses or actual or anticipated research or development, or (b) were developed on any amount of the Company's or any other member of the Company Group's time or with the use of any member of the Company Group's equipment, supplies, facilities or Confidential Information (all of the foregoing collectively referred to herein as "**Company Intellectual Property**"), and Employee shall promptly disclose all Company Intellectual Property to the Company in writing. To support Employee's disclosure obligation herein, Employee shall keep and maintain adequate and current written records of all Company Intellectual Property made by Employee (solely or jointly with others) during the period in which Employee is or has been employed by or affiliated with the Company or any other member of the Company Group in such form as may be specified from time to time by the Company. These records shall be available to, and remain the sole property of, the Company at all times.

(b) All of Employee's works of authorship and associated copyrights created during the period in which Employee is employed by or affiliated with the Company or any other member of the Company Group and in the scope of Employee's employment or engagement shall be deemed to be "works made for hire" within the meaning of the Copyright Act. To the extent any right, title and interest in and to Company Intellectual Property cannot be assigned by Employee to the Company, Employee shall grant, and does hereby grant, to the Company Group an exclusive, perpetual, royalty-free, transferable, irrevocable, worldwide license (with rights to sublicense through multiple tiers of sublicensees) to make, have made, use, sell, offer for sale, import, export, reproduce, practice and otherwise commercialize such rights, title and interest.

(c) To the extent allowed by law, this Section applies to all rights that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like, including without limitation those rights set forth in 17 U.S.C. §106A (collectively, "**Moral Rights**"). To the extent Employee retains any Moral Rights under applicable law, Employee hereby ratifies and consents to any action that may be taken with respect to such Moral Rights by or authorized by the Company or any member of the Company Group, and Employee hereby waives and agrees not to assert any Moral Rights with respect to such Moral Rights. Employee shall confirm any such ratifications, consents, waivers, and agreements from time to time as requested by the Company.

(d) All inventions (whether or not patentable), original works of authorship, designs, know-how, mask works, ideas, trademarks or names, information, developments, improvements, and trade secrets of which Employee is the sole or joint author, creator, contributor, or inventor that were made or developed by Employee prior to Employee's employment with or affiliation with the Company or any other member of the Company Group, or in which Employee asserts any intellectual property right, and which are applicable to or relate in any way to the business, products, services, or demonstrably anticipated research and development or business of any member of the Company Group ("**Prior Inventions**") are listed on **Exhibit B**, and Employee represents that **Exhibit B** is a complete list of all such Prior Inventions. If no such list is attached, Employee hereby represents and warrants that there are no Prior Inventions, and Employee shall make no claim of any rights to any Prior Inventions. If, in the course of Employee's employment with or affiliation with the Company or any other member of the Company Group, Employee incorporates into the product, process, or device of any member of the Company Group a Prior Invention, the Company Group is hereby granted and will have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use, import, export, offer for sale, sell and otherwise commercialize such Prior Invention as part of or in connection with such product, process, or device of any member of the Company Group.

(e) Employee shall perform, during and after the period in which Employee is or has been employed by or affiliated with the Company or any other member of the Company Group, all acts deemed necessary or desirable by the Company to permit and assist each member of the Company Group, at the Company's expense, in obtaining and enforcing the full benefits, enjoyment, rights and title throughout the world in the Company Intellectual Property and Confidential Information assigned, to be assigned, or licensed to the Company under this Agreement. Such acts may include execution of documents and assistance or cooperation (i) in the filing, prosecution, registration, and memorialization of assignment of any applicable patents, copyrights, mask work, or other applications, (ii) in the enforcement of any applicable patents, copyrights, mask work, moral rights, trade secrets, or other proprietary rights, and (iii) in other legal proceedings related to the Company Intellectual Property or Confidential Information.

(f) In the event that the Company (or, as applicable, a member of the Company Group) is unable for any reason to secure Employee's signature to any document required to file, prosecute, register, or memorialize the assignment of any patent, copyright, mask work or other applications or to enforce any patent, copyright, mask work, moral right, trade secret or other proprietary right under any Confidential Information or Company Intellectual Property (including derivative works, improvements, renewals, extensions, continuations, divisionals, continuations in part, continuing patent applications, reissues, and reexaminations of such Company Intellectual Property), Employee hereby irrevocably designates and appoints the Company and each of the Company's duly authorized officers and agents as Employee's agents and attorneys-in-fact to act for and on Employee's behalf and instead of Employee (i) to execute, file, prosecute, register and memorialize the assignment of any such application, (ii) to execute and file any documentation required for such enforcement, and (iii) to do all other lawfully permitted acts to further the filing, prosecution, registration, memorialization of assignment, issuance, and enforcement of patents, copyrights, mask works, moral rights, trade secrets or other rights under the Confidential Information or Company Intellectual Property, all with the same legal force and effect as if executed by Employee.

(g) In the event that Employee enters into, on behalf of any member of the Company Group, any contracts or agreements relating to any Confidential Information or Company Intellectual Property, Employee shall assign such contracts or agreements to the Company (or the applicable member of the Company Group) promptly, and in any event, prior to Employee's termination. If the Company (or the applicable member of the Company Group) is unable for any reason to secure Employee's signature to any document required to assign said contracts or agreements, or if Employee does not assign said contracts or agreements to the Company (or the applicable member of the Company Group) prior to Employee's termination, Employee hereby irrevocably designates and appoints the Company (or the applicable member of the Company Group) and each of the Company's duly authorized officers and agents as Employee's agents and attorneys-in-fact to act for and on Employee's behalf and instead of Employee to execute said assignments and to do all other lawfully permitted acts to further the execution of said documents.

(h) The Company and Employee acknowledge that Employee has provided services to the Company and the Company Group prior to the Effective Date. Accordingly, if and to the extent that, prior to the Effective Date: (a) Employee conceived, made, developed, acquired or received access to any information from or on behalf of the Company or any other member of the Company Group that would have been Confidential Information if conceived, made, developed, acquired or received after the Effective Date; or (b) Employee conceived, created, authored, invented, developed, or reduced to practice any item, including any intellectual property rights with respect thereto, that would have been Company Intellectual Property if conceived, created, authored, invented, developed, or reduced to practice after the Effective Date, then such information will be deemed Confidential Information under this Agreement and any such item will be deemed Company Intellectual Property under this Agreement, and this Agreement will apply to such information or item as if conceived, created, authored, invented, developed, or reduced to practice following the Effective Date.

12. **Arbitration**

(a) Subject to Section 12(b) and Section 12(d), any dispute, controversy or claim between Employee and any member of the Company Group arising out of or relating to this Agreement or Employee's employment or engagement with any member of the Company Group will be finally settled by arbitration in Houston, Texas in accordance with the then-existing American Arbitration Association ("**AAA**") Employment Arbitration Rules. The arbitration award shall be final and binding on both parties. Any arbitration conducted under this Section 12 shall be heard by a single arbitrator (the "**Arbitrator**") selected in accordance with the then-applicable rules of the AAA. All disputes shall be arbitrated on an individual basis, and each party hereto hereby foregoes and waives any right to arbitrate any dispute as a class action or collective action or on a consolidated basis or in a representative capacity on behalf of other persons or entities who are claimed to be similarly situated, or to participate as a class member in such a proceeding. The Arbitrator shall expeditiously hear and decide all matters concerning the dispute. Except as expressly provided to the contrary in this Agreement, the Arbitrator shall have the power to (i) gather such materials, information, testimony and evidence as the Arbitrator deems relevant to the dispute before him or her (and each party will provide such materials, information, testimony and evidence requested by the Arbitrator), and (ii) grant injunctive relief and enforce specific performance. The decision of the Arbitrator shall be reasoned, rendered in writing, be final and binding upon the disputing parties and the parties agree that judgment upon the award may be entered by any court of competent jurisdiction. The arbitration provisions set forth in this Section 12 shall be subject to the Federal Arbitration Act.

(b) Notwithstanding Section 12(a), either party may make a timely application for, and seek to obtain, judicial emergency or temporary injunctive relief to enforce any of the provisions of Sections 9 through 11; *provided, however*, that the remainder of any such dispute (beyond the application for emergency or temporary injunctive relief) shall be subject to arbitration under this Section 12.

(c) By entering into this Agreement and entering into the arbitration provisions of this Section 12, THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THEY ARE KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVING THEIR RIGHTS TO A JURY TRIAL.

(d) Nothing in this Section 12 shall prohibit a party to this Agreement from (i) instituting litigation to enforce any arbitration award, or (ii) joining the other party to this Agreement in a litigation initiated by a person or entity that is not a party to this Agreement. Further, nothing in this Section 12 precludes Employee from filing a charge or complaint with a federal, state or other governmental administrative agency.

(e) Notwithstanding anything in this Section 12, to the extent that any dispute, controversy or claim between Employee and any member of the Company Group arises out of or relates to the EIP or any award agreement related thereto, such dispute, controversy or claim shall be subject to the dispute resolution provisions set forth in the EIP or such award agreement, as applicable.

13. **Assistance with Claims.** During the Employment Period and thereafter, upon request from the Company, Employee shall cooperate with the Company Group in providing truthful information and assistance with respect to the pursuit or defense of any claims or actions that may be made by or against any member of the Company Group that relate to Employee's actual or prior areas of responsibility. If any such participation occurs after the end of the Employment Period, then: (i) the Company will reimburse Employee for Employee's reasonable expenses that have been pre-approved by the Company in writing and that arise as a result of Employee providing such assistance; and (ii) in the event that Employee is required to provide more than forty (40) hours in cumulative assistance pursuant to this Section 13 following the end of the Employment Period (which, for the avoidance of doubt, shall not include any time spent by Employee providing testimony as required by applicable law or legal process) then prior to Employee being obligated to provide such assistance, the parties shall reach agreement regarding a reasonable hourly rate of compensation to be provided by the Company to Employee for Employee's post-Employment Period time in excess of forty (40) hours spent in providing such assistance, which compensation shall take into account any costs incurred by Employee in not being able to devote his business time to any other obligation that he may then have. Any request for assistance pursuant to this Section 13 that occurs after the end of the Employment Period shall take into account Employee's other personal and professional commitments as may be in effect.

14. **Withholdings; Deductions.** The Company may withhold and deduct from any benefits and payments made or to be made pursuant to this Agreement (a) all federal, state, local and other taxes as may be required pursuant to any law or governmental regulation or ruling and (b) any deductions consented to in writing by Employee.

15. **Title and Headings; Construction.** Titles and headings to Sections hereof are for the purpose of reference only and shall in no way limit, define or otherwise affect the provisions hereof. Any and all Exhibits or Attachments referred to in this Agreement are, by such reference, incorporated herein and made a part hereof for all purposes. Unless the context requires otherwise, all references to laws, regulations, contracts, agreements and instruments refer to such laws, regulations, contracts, agreements and instruments as they may be amended from time to time, and references to particular provisions of laws or regulations include a reference to the corresponding provisions of any succeeding law or regulation. All references to "dollars" or "\$" in this Agreement refer to United States dollars. The word "or" is not exclusive. The words "herein", "hereof", "hereunder" and other compounds of the word "here" shall refer to the entire Agreement, including all Exhibits attached hereto, and not to any particular provision hereof. Wherever the context so requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural and conversely. All references to "including" shall be construed as meaning "including without limitation." Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by each of the parties hereto and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the parties hereto.



16. **Applicable Law; Submission to Jurisdiction.** This Agreement shall in all respects be construed according to the laws of the State of Texas without regard to its conflict of laws principles that would result in the application of the laws of another jurisdiction. With respect to any claim or dispute related to or arising under this Agreement, the parties hereby consent to the arbitration provisions of Section 12 and recognize and agree that should any resort to a court be necessary and permitted under this Agreement, then they consent to the exclusive jurisdiction, forum and venue of the state and federal courts (as applicable) located in Harris County, Texas.

17. **Entire Agreement and Amendment.** This Agreement (and, as referenced herein, the STI Plan and EIP) contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior and contemporaneous agreements and understandings, oral or written, between the parties hereto concerning the subject matter hereof, including, for the avoidance of doubt, that certain letter agreement dated March 1, 2021, entered into by and between the Company and Employee (the "**Prior Bonus Agreement**"); provided, however, this Agreement complements and is in addition to (and does not replace or supersede) any obligation that Employee has to any member of the Company Group with respect to confidentiality or non-disclosure, non-competition, or non-solicitation. For the avoidance of doubt, Employee acknowledges and agrees that the Company and each other member of the Company Group have fully and finally satisfied any and all obligations that they have had, and ever could have, under the Prior Bonus Agreement. In entering into this Agreement, Employee expressly acknowledges and agrees that Employee has received all sums and compensation that Employee has been owed, is owed, or ever could be owed for services provided to any member of the Company Group through the date Employee signs this Agreement, with the exception of any unpaid Base Salary for the pay period that includes the date on which Employee signs this Agreement. This Agreement may be amended only by a written instrument executed by both parties hereto.

18. **Waiver of Breach.** Any waiver of this Agreement must be executed by the party to be bound by such waiver. No waiver by either party hereto of a breach of any provision of this Agreement by the other party, or of compliance with any condition or provision of this Agreement to be performed by such other party, will operate or be construed as a waiver of any subsequent breach by such other party or any similar or dissimilar provision or condition at the same or any subsequent time. The failure of either party hereto to take any action by reason of any breach will not deprive such party of the right to take action at any time.

19. **Assignment.** This Agreement is personal to Employee, and neither this Agreement nor any rights or obligations hereunder shall be assignable or otherwise transferred by Employee. The Company may assign this Agreement without Employee's consent, including to any member of the Company Group and to any successor to or acquirer of (whether by merger, purchase or otherwise) all or substantially all of the equity, assets or businesses of the Company.

20. **Notices.** Notices provided for in this Agreement shall be in writing and shall be deemed to have been duly received (a) when delivered in person, (b) on the first Business Day after such notice is sent by express overnight courier service, or (c) on the second Business Day following deposit with an internationally-recognized second-day courier service with proof of receipt maintained, in each case, to the following address, as applicable:

**If to the Company, addressed to:**

Select Energy Services, LLC  
1820 N I-35  
Gainesville, Texas 76240  
Attn: Board of Directors and General Counsel

**If to Employee,** addressed to Employee's last known address on file with the Company.

21. **Counterparts.** This Agreement may be executed in any number of counterparts, including by electronic mail or facsimile, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a copy hereof containing multiple signature pages, each signed by one party, but together signed by both parties hereto.

22. **Deemed Resignations.** Except as otherwise determined by the Board or as otherwise agreed to in writing by Employee and any member of the Company Group prior to the termination of Employee's employment with the Company or any member of the Company Group, any termination of Employee's employment shall constitute, as applicable, an automatic resignation of Employee: (a) as an officer of the Company and each member of the Company Group; (b) from the Board; and (c) from the board of directors or board of managers (or similar governing body) of any member of the Company Group and from the board of directors or board of managers (or similar governing body) of any corporation, limited liability entity, unlimited liability entity or other entity in which any member of the Company Group holds an equity interest and with respect to which board of directors or board of managers (or similar governing body) Employee serves as such Company Group member's designee or other representative.

23. **Section 409A.**

(a) Notwithstanding any provision of this Agreement to the contrary, all provisions of this Agreement are intended to comply with Section 409A of the Internal Revenue Code of 1986 (the “**Code**”), and the applicable Treasury regulations and administrative guidance issued thereunder (collectively, “**Section 409A**”) or an exemption therefrom and shall be construed and administered in accordance with such intent. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, each installment payment provided under this Agreement shall be treated as a separate payment. Any payments to be made under this Agreement upon a termination of Employee’s employment shall only be made if such termination of employment constitutes a “separation from service” under Section 409A.

(b) To the extent that any right to reimbursement of expenses or payment of any benefit in-kind under this Agreement constitutes nonqualified deferred compensation (within the meaning of Section 409A), (i) any such expense reimbursement shall be made by the Company no later than the last day of Employee’s taxable year following the taxable year in which such expense was incurred by Employee, (ii) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (iii) the amount of expenses eligible for reimbursement or in-kind benefits provided during any taxable year shall not affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other taxable year; *provided*, that the foregoing clause shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period in which the arrangement is in effect.

(c) Notwithstanding any provision in this Agreement to the contrary, if any payment or benefit provided for herein would be subject to additional taxes and interest under Section 409A if Employee’s receipt of such payment or benefit is not delayed until the earlier of (i) the date of Employee’s death or (ii) the date that is six (6) months after the Termination Date (such date, the “**Section 409A Payment Date**”), then such payment or benefit shall not be provided to Employee (or Employee’s estate, if applicable) until the Section 409A Payment Date. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement are exempt from, or compliant with, Section 409A and in no event shall any member of the Company Group be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Employee on account of noncompliance with Section 409A.

24. **Certain Excise Taxes.** Notwithstanding anything to the contrary in this Agreement, if Employee is a “disqualified individual” (as defined in Section 280G(c) of the Code), and the payments and benefits provided for in this Agreement, together with any other payments and benefits which Employee has the right to receive from the Company or any of its affiliates, would constitute a “parachute payment” (as defined in Section 280G(b)(2) of the Code), then the payments and benefits provided for in this Agreement shall be either (a) reduced (but not below zero) so that the present value of such total amounts and benefits received by Employee from the Company or any of its affiliates shall be one dollar (\$1.00) less than three times Employee’s “base amount” (as defined in Section 280G(b)(3) of the Code) and so that no portion of such amounts and benefits received by Employee shall be subject to the excise tax imposed by Section 4999 of the Code or (b) paid in full, whichever produces the better net after-tax position to Employee (taking into account any applicable excise tax under Section 4999 of the Code and any other applicable taxes). The reduction of payments and benefits hereunder, if applicable, shall be made by reducing, first, payments or benefits to be paid in cash hereunder in the order in which such payment or benefit would be paid or provided (beginning with such payment or benefit that would be made last in time and continuing, to the extent necessary, through to such payment or benefit that would be made first in time) and, then, reducing any benefit to be provided in-kind hereunder in a similar order. The determination as to whether any such reduction in the amount of the payments and benefits provided hereunder is necessary shall be made by the Company in good faith. If a reduced payment or benefit is made or provided and through error or otherwise that payment or benefit, when aggregated with other payments and benefits from the Company or any of its affiliates used in determining if a “parachute payment” exists, exceeds one dollar (\$1.00) less than three times Employee’s base amount, then Employee shall immediately repay such excess to the Company upon notification that an overpayment has been made. Nothing in this **Section 24** shall require the Company to be responsible for, or have any liability or obligation with respect to, Employee’s excise tax liabilities under Section 4999 of the Code.

25. **Clawback.** To the extent required by applicable law or any applicable securities exchange listing standards, amounts paid or payable under this Agreement shall be subject to the provisions of any applicable clawback policies or procedures adopted by the Company, which clawback policies or procedures may provide for forfeiture and/or recoupment of amounts paid or payable under this Agreement. Notwithstanding any provision of this Agreement to the contrary, the Company reserves the right, without the consent of Employee, to adopt any such clawback policies and procedures (but only to the extent required by applicable law or any applicable securities exchange listing standards), including such policies and procedures applicable to this Agreement with retroactive effect.

26. **Effect of Termination.** The provisions of Sections 7, 9-14 and 22-25 and those provisions necessary to interpret and enforce them, shall survive any termination of this Agreement and any termination of the employment relationship between Employee and the Company.

27. **Third-Party Beneficiaries.** Each member of the Company Group that is not a signatory to this Agreement shall be a third-party beneficiary of Employee's obligations under Sections 8, 9, 10, 11, 12 and 22 and shall be entitled to enforce such obligations as if a party hereto.

28. **Severability.** If an arbitrator or court of competent jurisdiction determines that any provision of this Agreement (or portion thereof) is invalid or unenforceable, then the invalidity or unenforceability of that provision (or portion thereof) shall not affect the validity or enforceability of any other provision of this Agreement, and all other provisions shall remain in full force and effect.

[Remainder of Page Intentionally Blank;  
Signature Page Follows]

IN WITNESS WHEREOF, Employee and the Company each have caused this Agreement to be executed and effective as of the Effective Date.

**EMPLOYEE**

/s/ John D. Schmitz

John D. Schmitz

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**SELECT ENERGY SERVICES, LLC**

By: /s/ Nick Swyka

Name: Nick Swyka

Title: Senior Vice President and Chief Financial Officer

Signature Page to  
Employment Agreement

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**EXHIBIT A**  
**MARKET AREA**

<b>STATE</b>	<b>COUNTY/PARISH</b>			
<b>COLORADO</b>	Adams	Arapahoe	Weld	
<b>LOUISIANA</b>	Bossier	De Soto	Lincoln	Sabine
	Caddo	Jackson	Red River	
<b>NEW MEXICO</b>	Chaves Eddy	Lea	San Juan	
<b>NORTH DAKOTA</b>	Billings	Divide	Golden	Mountrail
	Burke	Dunn	Valley	Williams
			McKenzie	
<b>OHIO</b>	Ashland	Guernsey	Jefferson	Summit
	Belmont	Harrison	Monroe	Trumbull
<b>OKLAHOMA</b>	Alfalfa	Dewey	Lincoln	Pittsburg
	Beckham	Ellis	Logan	Roger Mills
	Blaine	Garfield	Love	Stephens
	Canadian	Garvin	Major	Washita
	Carter	Grady	McClain	Woods
	Coal	Hughes	Oklahoma	Woodward
	Custer	Kingfisher		
<b>PENNSYLVANIA</b>	Armstrong	Greene	Tioga	Westmoreland
	Bradford	Lycoming	Washington	Wyoming
	Elk	Sullivan		
<b>TEXAS</b>	Andrews	Hemphill	Maverick	Shelby
	Angelina	Henderson	McMullen	Tarrant
	Atascosa	Howard	Midland	Tom Green
	Borden	Irion	Nacogdoches	Upton
	Culberson	Jackson	Panola	Ward
	DeWitt	Karnes	Pecos	Webb
	Dimmit	La Salle	Reagan	Wheeler
	Ector	Lavaca	Reeves	Winkler
	Frio	Live Oak	Roberts	Wise
	Glasscock	Loving	Rusk	Zavala
	Gonzales	Martin	San Augustine	
<b>UTAH</b>	Duchesne			
<b>WEST VIRGINIA</b>	Brooke	Marion	Ohio	Tyler
	Doddridge	Marshall	Ritchie	Wetzel
	Harrison	Monongalia		
<b>WYOMING</b>	Campbell	Johnson	Laramie	Sweetwater
	Converse			

Exhibit A

**EXHIBIT B**

**PRIOR INVENTIONS**

1. The following is a complete list of all Prior Inventions relevant to the subject matter of Employee's employment by the Company that have been made or conceived or first reduced to practice by Employee alone or jointly with others prior to Employee's employment with or affiliation with the Company or any other member of the Company Group:

Check appropriate space(s):

None.

See below:

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Due to confidentiality agreements with a prior employer, Employee cannot disclose certain Prior Inventions that would otherwise be included on the above-described list.

Additional sheets attached.

2. Employee proposes to bring to Employee's employment the following devices, materials, and documents of a former employer or other person to whom Employee has an obligation of confidentiality that is not generally available to the public, which materials and documents may be used in Employee's employment pursuant to the express written authorization of Employee's former employer or such other person (a copy of which is attached to this Agreement):

Check appropriate space(s):

None.

See below.

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Additional sheets attached.

Exhibit B

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## NEWS RELEASE

Contacts: [Select Energy Services](#)  
Chris George – Senior Vice President, Corporate  
Development, Investor Relations & Sustainability  
(713) 296-1073  
[IR@selectenergyservices.com](mailto:IR@selectenergyservices.com)

[Dennard Lascar Investor Relations](#)  
Ken Dennard  
(713) 529-6600  
[WTTR@dennardlascar.com](mailto:WTTR@dennardlascar.com)

**SELECT ENERGY SERVICES COMPLETES NAME CHANGE TO SELECT WATER SOLUTIONS**

HOUSTON, TX – May 8, 2023 – Select Water Solutions, Inc. (NYSE: WTTR) (“Select” or the “Company”), a leading provider of sustainable water and chemical solutions to the energy industry, today announced that the Company’s stockholders approved an amendment and restatement (the “A&R Certificate”) of the Company’s Fourth Amended and Restated Certificate of Incorporation to, among other things, change the name of the Company from Select Energy Services, Inc. to Select Water Solutions, Inc. to reflect its strategic focus as a water-first company.

The board of directors of the Company had recommended the name change proposal be placed in consideration at its 2023 Annual Meeting of Stockholders (the “Annual Meeting”) held on May 4, 2023. The name change became effective upon filing of the A&R Certificate with the Secretary of State of the State of Delaware on May 8, 2023. The Company’s Class A common stock will continue to trade under the ticker symbol “WTTR” on the New York Stock Exchange.

John Schmitz, Chairman of the Board, President and CEO, stated “I am excited about formalizing our name change to Select Water Solutions, Inc. and furthering our operational rebranding initiatives, to embrace our heritage as a water-first company. I look forward to deploying our new brand into the marketplace and across our operations in the months ahead. This rebranding will align our employees and field operations, simplify our external communications with our customers and investors and promote maximum brand recognition for our capabilities and technologies across Select’s entire platform of operations. Select is uniquely positioned to capitalize on new and diverse growth opportunities utilizing and building upon our existing expertise in sustainable water and chemical solutions; moreover, this rebranding initiative better prepares Select for the future — a future connected by water,” concluded Schmitz.

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## **About Select Water Solutions, Inc.**

Select is a leading provider of sustainable water and chemical solutions to the energy industry. These solutions are supported by the Company's critical water infrastructure assets, chemical manufacturing and water treatment and recycling capabilities. As a leader in sustainable water and chemical solutions, Select places the utmost importance on safe, environmentally responsible management of water throughout the lifecycle of a well. Additionally, Select believes that responsibly managing water resources throughout its operations to help conserve and protect the environment is paramount to the Company's continued success. For more information, please visit Select's website, <https://www.selectwater.com/>.

## **Cautionary Statement Regarding Forward-Looking Statements**

All statements in this communication other than statements of historical facts are forward-looking statements which contain our current expectations about our future results. We have attempted to identify any forward-looking statements by using words such as "could," "believe," "anticipate," "expect," "intend," "project," "will," "estimate" and other similar expressions. Examples of forward-looking statements include, but are not limited to, the expectations of plans, business strategies, objectives and growth and anticipated financial and operational performance. Although we believe that the expectations reflected, and the assumptions or bases underlying our forward-looking statements are reasonable, we can give no assurance that such expectations will prove to be correct. Such statements are not guarantees of future performance or events and are subject to known and unknown risks and uncertainties that could cause our actual results, events or financial positions to differ materially from those included within or implied by such forward-looking statements. These risks and uncertainties include the risks that the benefits contemplated from our recent acquisitions may not be realized, the ability of Select to successfully integrate the acquired businesses' operations, including employees, and realize anticipated synergies and cost savings and the potential impact of the consummation of the acquisitions on relationships, including with employees, suppliers, customers, competitors and creditors. Factors that could materially impact such forward-looking statements include, but are not limited to: the global macroeconomic uncertainty related to the Russia-Ukraine war; central bank policy actions, bank failures and associated liquidity risks and other factors; actions by the members of OPEC+ with respect to oil production levels and announcements of potential changes in such levels, including the ability of the OPEC+ countries to agree on and comply with supply limitations; the severity and duration of world health events, including the COVID-19 pandemic, which had a negative impact on our business; the level of capital spending and access to capital markets by oil and gas companies, trends and volatility in oil and gas prices, and our ability to manage through such volatility; and other factors discussed or referenced in the "Risk Factors" section of our most recent Annual Report on Form 10-K and those set forth from time to time in our other filings with the SEC. Investors should not place undue reliance on our forward-looking statements. Any forward-looking statement speaks only as of the date on which such statement is made, and we undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events, changed circumstances or otherwise, unless required by law.

*WTTR-PR*