NAME:

**[NAME OF COMPANY]**

**Questionnaire for 5% Holders[[1]](#footnote-1)**

IN CONNECTION WITH A  
PROPOSED PUBLIC OFFERING  
OF COMMON STOCK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This questionnaire should be completed by each **beneficial owner**  of more than 5% of the outstanding shares of capital stock of **[NAME OF COMPANY]** (the “Company”). The responses to this questionnaire will be used by the Company in the preparation of the registration statement (the “Registration Statement”) to be filed with the Securities and Exchange Commission (the “SEC”) [(***for IPOs and direct listings***) and an application to list the shares of the Company’s common stock on the [Nasdaq Stock Market (“NASDAQ”)] [or the] [New York Stock Exchange (“NYSE”)]]. [(***For underwritten public offerings*)**In addition, the information requested in Section L of this questionnaire may be used by the underwriters and their counsel in preparation of related filings with the Financial Industry Regulatory Authority (“FINRA”) in connection with a proposed offering of the Company’s common stock.]

To assist you in completing this questionnaire, the Company has supplied certain information set forth herein for your review. This information is provided as an accommodation only, may not be accurate or complete and requires your confirmation or correction in each case. If you do not make any changes to such information, then the Company will assume that the information is correct as presented.

Please answer EVERY question. If the answer to any question is “None” or “Not Applicable,” please so state. If you require more space to provide answers, please indicate this in the proper space on the questionnaire and provide your answer on an attached sheet indicating the corresponding question. Unless otherwise stated, answers should be given as of the date on which you complete this questionnaire. Please keep in mind that, throughout the questionnaire, some questions will refer to the Company and its [**subsidiaries**][**subsidiary**][, or the Company and its [**subsidiaries**][**subsidiary**] and [**parent**][**parents**]]. If information is provided with respect to [a][the] **subsidiary**[or [a][the] **parent**] of the Company, please so state.

It is important that your answers are complete and accurate. A misstatement or omission of **material** facts in any document filed with the SEC may subject the Company and its officers and directors to civil and criminal liabilities. Failure to provide complete and accurate information may also result in a violation of other applicable regulatory requirements. The Company will rely on your answers in the preparation of the Registration Statement. **Terms in bold are defined in the attached Appendix I.**

If you require any clarification of the meaning or implication of any questions or are in doubt as to the significance of any information you have, please contact **[name]** of the Company at **[email address]** or **[phone number]** or **[name]** of **[law firm name]** at **[email address]** or **[phone number]**. If you learn of any information that would affect the accuracy or completeness of the information reported in this questionnaire, please contact the aforementioned individuals immediately.

***Please complete, sign and return this questionnaire by emailing a .pdf copy to [email address of return contact] no later than [DATE].***

Your signature at the end of this questionnaire constitutes your consent to the disclosure of the information contained in your answers in the Registration Statement and for any other purpose as may be necessary or appropriate.

# 

# GENERAL INFORMATION

## Please provide your full name and address, or the full name and address of the entity on whose behalf you are completing this questionnaire. Please also provide a daytime phone number and an e-mail address:

Full name:

Address (business):

Phone:

Email:

# Adverse Interests; Legal Proceedings

## To your best knowledge, are you, or is any **associate** of yours, an adverse party to the Company or any **parent** or **subsidiary** in any pending legal proceeding?

Yes  No

If yes, please briefly describe such proceedings.

## To your best knowledge, do you, or does any **associate** of yours, have a **material** interest adverse to the Company or any **parent** or **subsidiary** in any pending legal proceeding?

Yes  No

If yes, please briefly describe such interests.

## Are you aware of any pending, threatened or contemplated litigation to which the Company or any **parent** or **subsidiary** is a party or of which any of their property is subject, including proceedings contemplated by governmental authorities or circumstances that could form the basis for any such action?

Yes  No

If yes, please describe.

## Have you been convicted of a felony or misdemeanor relating to financial issues (e.g., embezzlement, fraud, theft) during the past ten years?

Yes  No

If yes, please describe such events in detail. Please use additional sheets to answer if necessary.

## Have you ever been the subject of any inquiries, investigations, lawsuits, litigation, arbitration, hearings, or any other legal or administrative proceedings:

### that are or were initiated, or conducted by any regulatory, civil, or criminal agency (including but not limited to the SEC, FINRA, Public Company Accounting Oversight Board, state securities regulators, Commodities Futures Trading Commission, Department of Justice, state bar associations, state boards of accountancy, or any foreign regulatory, civil or criminal authority); or

Yes  No

### in which claims are or were asserted otherwise alleging fraud, deceit or misrepresentation and seeking damages in excess of $100,000.[[2]](#footnote-2)

Yes  No

If you answered yes to questions B.5.a or b above, please provide a detailed description of the matter and include documentation for any such proceedings that have been concluded. You may attach additional pages to this questionnaire if needed.

**NOTE**: This question is not time limited. If the Company elects to apply for a possible listing of its Common Stockon NASDAQ, the Company will be requested to provide NASDAQ with a detailed description of any previous or pending inquiry, investigation, litigation, arbitration, hearings or any other legal or administrative proceeding in the United States or any other country against the Company or any officer, director, stockholder or **affiliate** of the Company. Please be aware that in connection with any such action, we may be required to provide NASDAQ with copies of all court and administrative filings and papers, which reflect the substance of the allegations, the final disposition of any such proceedings and the sanctions imposed, including but not limited to, complaints, indictments, opinions, orders, final judgments, letters of censure, undertakings, and SEC formal orders of investigations.

# Promoters and control persons

## Are you currently, or have you been at any time during the past five years, a **promoter** of the Company?

Yes  No

If “Yes,” please state the nature and amount of (i) anything of value (including money, property, contracts, options or rights of any kind) received or to be received by you, directly or indirectly from the Company and (ii) any assets, services or other consideration therefor received or to be received by the Company. As to any assets acquired or to be acquired by the Company from you, the disclosure should state the amount at which the assets were acquired or are to be acquired and the principles followed or to be followed in determining such amount and identify the persons making the determination and their relationship, if any, with you or the Company. If the assets were acquired by you within two years prior to their transfer to the Company, the disclosure should state the cost thereof to you.

## If you are a **control** person or a **promoter** of the Company, or if you have within the past five years been a **promoter** of the Company, please state whether any of the following events occurred within the past 5 years. **If not applicable, check here**:

### A petition under any federal or state bankruptcy or insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court with respect to any business or property of, (i) you, (ii) any partnership in which you were a general partner at or within two years before the time of such filing or appointment, or (iii) any corporation or business association of which you were an **executive officer** at or within two years before the time of such filing or appointment;

Yes  No

### You were convicted in a criminal proceeding or are the subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

Yes  No

### You were the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, permanently or temporarily barring, suspending or otherwise limiting me from:

#### acting as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, floor broker, leverage transaction merchant, any other person regulated by the Commodity Futures Trading Commission, or an associated person of any of the foregoing, or as an investment advisor, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

#### engaging in any type of business practice; or

#### engaging in in any activity in connection with the purchase or sale of any security or commodity or in connection with any violation of federal or state securities laws or federal commodities laws;

Yes  No

### You were the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any federal or state authority barring, suspending or otherwise limiting (for more than 60 days) your right to engage in any activity described in question C.2.c(i) above, or to be associated with persons engaged in any such activity;

Yes  No

### You were found by a court in a civil action or by the SEC to have violated any federal or state securities law, and such judgment or finding has not been subsequently reversed, suspended or vacated, or you are presently the subject of an investigation which could result in the finding of such a violation; and

Yes  No

### You were found by a court in a civil action or by the Commodities Futures Trading Commission to have violated any federal commodities law, and such judgment or finding has not been subsequently reversed, suspended or vacated, or you are presently the subject of an investigation which could result in the finding of such a violation;

Yes  No

If you answered yes to any of the items C.2.a-f above, please describe such events in detail. Include in your explanation any mitigating circumstances the Company might explain in its filings. Please use additional sheets to answer if necessary.

# STOCK OWNERSHIP IN THE COMPANY[[3]](#footnote-3)

## **Beneficial Ownership**

Generally, the term “beneficial ownership” refers to any direct or indirect interest in the securities that entitles you to any of the rights or benefits of ownership, even though you may not be the holder of record of the securities.

As a result, examples of securities that should be included in response to the questions in D.1.a and D.1.d below include **all**:

* Shares you own or have the right to acquire (including shares registered in your name individually or jointly with others and shares held in “street name” for your account, which are typically held in the name of a bank, broker, nominee, depository or other agent);
* Shares owned by a partnership in which you are a partner or by an estate or trust of which you or any of your ***family members*** is a beneficiary (or shares which such partnership, estate or trust has the right to acquire); and
* Shares registered in the name of, or beneficially owned by, your spouse, minor children or other ***relatives*** (including those of your spouse) who live in your house (or shares which such individuals have the right to acquire).

If you have any reason to believe that any interest in securities of the Company (or any of its **subsidiaries**) that you may have, however remote, is a **beneficial** interest, please describe it. It is preferable to err on the side of inclusion rather than exclusion. Where the SEC’s interpretation of **beneficial ownership**would require disclosure of your interest or possible interest in certain securities of the Company or any of its **subsidiaries**, and you believe that you do not actually possess the attributes of **beneficial ownership**, an appropriate response is to disclose the interest and at the same time disclaim **beneficial ownership** of the securities (space is provided to disclaim **beneficial ownership** in D.1.g below).

Please fill in all blanks in the following questions related to your **beneficial ownership** of the Company’s capital stock.

Alternatively, if this questionnaire is accompanied by a report that lists your beneficial ownership of the Company’s securities, you do not need to fill out the table below. Instead, please review the report and make any necessary corrections on the report or in the space provided below.

### Other as indicated in Schedule D, as of [*the most recent practicable date*], I **beneficially owned** the below scheduled equity securities of the Company or any of its **subsidiaries**:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Class and/or series of stock** | **Number of shares** | **Registered in the name of** | **Relationship to Beneficial owner** | **Sole or shared voting control?** | **Sole or shared investment control?** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**If no shares are *beneficially owned*, check here**:

#### Correct

#### Not correct Please correct the table above.

### If any of the shares identified in D.1.a above are held other than in an individual capacity, name the natural person or those natural persons who have the power to vote, or to direct the voting of, or to dispose of, or to direct the disposition of, such shares. **If all shares are held in an individual capacity, check here**:

### Specify any shares pledged as security and describe the pledge arrangement. Pledges include regular pledges and negative pledges of stock for loans and hedging arrangements with brokerage firms (e.g., prepaid variable forward contracts and securities held in margin accounts at brokerage firms). **If no shares are pledged as security, check here**:

### Other as indicated in Schedule D, as of [*the most recent practicable date plus 60 days*], I will have the **right to acquire**, or the right to acquire sole or shared “voting power” and/or “investment power” with respect to, the below scheduled equity securities of the Company or any of its **subsidiaries**:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Type of underlying security (*e.g.*, common stock, preferred stock)** | **Shares that may be acquired pursuant to:** | | | | | |
| **Exercise of an option, warrant or right** | **Conversion of a security** | **Revocation or automatic termination of a trust, discretionary account or similar arrangement** | | **Settlement of any stock unit award, stock bonus award or other equity award** | **Other contractual rights** |
|  |  |  |  |  | |  |
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|  |  |  |  |  | |  |

If there are no rights to acquire stock, check here:

#### Correct

#### Not correct Please correct the table above.

### If any of the rights identified in D.1.d above are held other than in an individual capacity, name the natural person or those natural persons who would have the power to vote, or to direct the voting of, or to dispose of, or to direct the disposition of, the shares acquirable pursuant to such rights. **If all rights are held in an individual capacity, check here**:

### Describe any contract, **arrangement**, understanding, relationship or otherwise (e.g., shares held in a trust for which you are a trustee, shares subject to a written voting or investment **arrangement**, or shares held by a corporate benefit plan over which you exercise **control**), concerning sole or shared voting and/or investment power over any of the securities described in D.2.a or D.2.d above. Please be certain to identify the specific shares, with whom shared, the nature of the relationship and a description of any underlying voting trust agreement, investment **arrangement** or the like. **If none, check here**:

### If you wish to disclaim **beneficial ownership** of any of the shares described in questions D.1.a or D.1.d above for purposes other than for use in the Registration Statement, please indicate the number and class of shares being disclaimed and the basis for the disclaimer:

## I have not, and and my designees have not, purchased financial instruments that are designed to hedge or offset any decrease in the market value of Company equity securities (i) granted to me by the Company as part of my compensation, or (ii) held, directly or indirectly, by me. For the purposes of this question, financial instruments include prepaid variable forward contracts, equity swaps, collars, or direct or indirect interests in an exchange fund.

### Correct

### Not correct Describe:

# TRANSACTIONS AND RELATIONSHIPS WITH THE COMPANY[[4]](#footnote-4)[[5]](#footnote-5)

## List all entities that you directly or indirectly have control over. For purposes of this question, “control” is the possession, direct or indirect, of the power to direct or cause the direction of management and policies of an entity through ownership, by contract, or otherwise. If you control an entity, which in turn controls another entity, both entities would be considered controlled by you and therefore should be listed below. If you do not control any entities, please confirm below.

|  |
| --- |
| **Entities** |
|  |
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|  |

I do not control any entities.

## List all entities that you directly or indirectly, including through other entities, can significantly influence the management or operating policies of to the extent that the entity might be prevented from fully pursuing its own separate interests. All such entities should be listed below. If you do not exert such influence over any entities, please confirm below.

|  |
| --- |
| **Entities** |
|  |
|  |
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|  |
|  |

I have no such influence over any entities.

## List any and all family members[[6]](#footnote-6) who might control or influence you, or who might be controlled or influenced by you, because of your family relationship. For each, list any affiliations with entities that they control or can significantly influence to the extent that the entity might be prevented from fully pursuing its own separate interests. **If none, check here:**

|  |  |
| --- | --- |
| **Family Member** | **Affiliations** |
|  |  |
|  |  |
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|  |  |

## Describe any transaction since [*first day of third most recently completed fiscal year (e.g., January 1, 2018 for a questionnaire prepared in 2021 for a 12/31 fiscal year end company)*], or any currently proposed transaction, to which the Company or any **affiliate** of the Company was or is to be a participant, in which you or any of the persons or entities listed in question A.1 or A.1 above had or will have any direct or indirect interest.

Please consider the following:

* The term “transactions” should be interpreted broadly and includes, but is not limited to, any financial transaction, **arrangement** or relationship (including any indebtedness or guarantee of indebtedness, employment or consulting arrangement, *etc.*) or any series of similar transactions, **arrangements** or relationships.
* You should note that this question requires disclosure of indirect, as well as direct, interests in transactions. A person that has an interest in, or a position or relationship with, a firm, corporation or other entity that engages in a transaction with or provides services to the Company or any of its **affiliates** may have an indirect interest in such transaction by reason of that interest, position or relationship.
* You should include all transactions from [*the beginning of the third most recently completed fiscal year*]through the date you complete this questionnaire.
* You should include situations where the Company or any **affiliate** is a party to the transaction as well as situations where the Company is involved in the transaction but is not technically a party.
* You should not limit your responses to transactions that occurred while you were an officer or director.
* You do not need to disclose any transaction that is fully described elsewhere in the questionnaire.

In responding to this question, identify:

* the relevant person and indicate the person’s relationship to you and the Company;
* the nature of such person’s interest in the transaction, including the person’s position(s) or relationship(s) with, or ownership in, a firm, corporation or entity that is a party to, or has an interest in, the transaction;
* the approximate dollar value of the amount involved in the transaction;
* the approximate dollar value of the amount of the person’s interest in the transaction, which should be computed without regard to the amount of profit or loss; and
* any other information regarding the transaction or the relevant person in the context of the transaction that may be **material** to investors in light of the circumstances of the particular transaction.

**If none, check here**:

(*Attach additional sheets, if necessary*)

## Describe any transaction of the kind described in question E.4 above, to your knowledge, to which the Company or any **affiliate** of the Company was or is to be a participant and in which any other director, nominee for director, **executive officer** or 5% or greater stockholder, or any **immediate family member** of the foregoing, had or will have any direct or indirect interest. **If none, check here**:

## To your knowledge, were there any transactions of the kind specified in questions E.4 or E.5 above that were not reviewed, approved or ratified in accordance with the Company’s policies and procedures?

Yes  No

If “Yes”, please explain:

## Do you have or have you had any other business relationships with the Company, any **parent** or **subsidiary** or their respective management, other than as a director, officer, employee or shareholder of the Company or any **parent** or **subsidiary**?

Yes  No

If yes, please briefly describe the details below.

## Please describe any agreement or **arrangement** pursuant to which any **controlling** person, director or officer of the Company is insured or indemnified in any manner against any liability which he or she may incur in his or her capacity as such, other than pursuant to a statutory provision, the Company’s charter or by-laws, or the Company’s standard director and officer indemnification agreements.[[7]](#footnote-7)

# RELATIONSHIPS WITH AUDITORS

## Neither I nor any **associate** has any interest, direct or indirect, by security holdings, through employment or consulting relationships, or otherwise, in [*Auditor*] or has an ownership interest of 5% or more, or serve as an officer or director of, any entity (public or private) that has a direct or **material** indirect business relationship with [*Auditor*].

### Correct

### Not Correct Describe:

## To the best of my knowledge, neither [*Auditor*], nor any partner or professional employee of that firm since [*first day of most recently completed fiscal year*] (i) had or was committed to acquire any direct **material** financial interest in the Company or (ii) was connected with the Company as a promoter, underwriter, voting trustee, director, officer or employee.

### Correct

### Not Correct Describe:

## I have not, nor has any **family member** or any of my **associates** received tax or any other financial advice from [*Auditor*], or any partner or professional employee of that firm, in the past **five** years, nor do I, or any **family member** or any of my **associates** propose to seek or obtain such advice at any time during the current fiscal year ending [*last day of current fiscal year*].

### Correct

### Not Correct Describe:

# Foreign Corrupt Practices Act.

## Have you been involved or potentially involved in, or do you have knowledge of, any of the following matters: (a) any political contributions by the Company or from its assets, whether legal or illegal; (b) the disbursement or receipt of Company funds outside the normal system of accountability; (c) payments, whether direct or indirect, to or from foreign or domestic governments, officials, employees or agents for purposes other than the satisfaction of lawful obligations, or any transaction which has as its intended effect the transfer of company assets for the purposes of effecting such a payment; (d) the improper or inaccurate recording of payments and receipts on the books of the Company or any Parent or Subsidiary; or (e) any other matters of similar nature involving disbursements of Company assets (in each case including the Company and Parent or Subsidiary)?

Yes  No

If you answered “yes” to any of these questions, please provide details below:

# DISCLOSURE OF CERTAIN ACTIVITIES RELATED TO IRAN.

Please note the following instructions when responding to the two questions in this Section H:

* In determining whether you have anything to report in response to the questions in this Section H, please note that “**affiliate**” as used in this Section H includes both U.S. and foreign entities.
* Because the Company is subject to ongoing disclosure requirements with respect to these matters each quarter, we also request that you inform us immediately if you or any of your **affiliates** engages, or plans to engage, in any of the activities described below at any time during the current fiscal year or thereafter.

## Since the initial organization of the Company, have you or any or your **affiliates** engaged in any transactions with, relating to, or benefiting Iran, its government (including its agencies, political subdivisions, and any entity controlled by it or acting on its behalf), or any persons or entities in Iran, whether such transactions are direct or indirect?

Yes  No

## Since the initial organization of the Company, have you or any of your **affiliates** had any dealings with any person or entity whose property or interests in property are blocked by the U.S. government for reasons relating to terrorism or the proliferation of weapons of mass destruction pursuant to Executive Orders 13224 or 13382? For reference, a current list of these persons and entities may be found at http://sdnsearch.ofac.treas.gov/ by selecting NPWMD and SDGT in the “Program” field and clicking “Search.” Such persons or entities need not be located in or related to Iran.

Yes  No

# TRANSACTIONS RELATED TO THE PROPOSED PUBLIC OFFERING ***(for public offerings only)***

**IF SECTION IS NOT APPLICABLE, CHECK HERE**:

## Marketing Arrangements and Reports on Company.

### You do not know of (i) any engineering, management or similar report or memorandum relating to broad aspects of the business, operation or products of the Company which has been prepared within the past 12 months for or by the Company, any holder of more than 5% of the Company’s Common Stock, or any underwriter, or (ii) any report or memorandum other than the Registration Statement which has been prepared for external use by the Company in connection with the proposed offering:

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

## You do not know of any **arrangement** made or to be made by any person, or any transaction already effected:

### to limit or restrict the sale of the Company’s common stock after the proposed initial public offering;

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

### to stabilize the market for the Company’s common stock after the proposed initial public offering;

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

### to withhold commissions or otherwise to hold each underwriter or dealer responsible for the distribution of its participation in the offering;

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

### to grant any discounts or the payment of any commission to any underwriter or the payment of any finders’ fee or similar payment; or

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

### to allocate any of the common stock which is to be registered to me or any of my **associates** or to any officer or director of the Company.

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

# [SEC REPORTING.

## Do you have a CIK number for electronic filings through the SEC’s EDGAR system?

Yes  No

If yes, please provide your CIK number and CCC code for the Company to complete Section 16 filings on your behalf:[[8]](#footnote-8)   
   
 ]

# MISCELLANEOUS.

## Neither you nor any **associate** of yours has had a **material relationship** with the investment firm or underwriting organization which might participate in the underwriting of the securities being registered.

Confirm  Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

## You are not now nor have you ever been interested in or affiliated or connected with the Company’s independent public accounting firm or [***insert external law firm name***].

Confirm Modify \_\_\_\_\_\_\_\_\_\_\_\_\_

# FINRA: STATEMENT OF SECURITY HOLDER. ***(FOR UNDERWRITTEN PUBLIC OFFERINGS ONLY***)

For purposes of the questions in this Section L, please refer to the definitions set forth in Appendix II*.* Defined terms are identified in this Section L in **bold**type. Note that FINRA often defines terms to have a broader meaning than in ordinary usage.

Unless stated otherwise, answers should be given as of the date you complete this questionnaire. If there is any response or underlying factual matter about which you are uncertain, please state the matter fully and include any additional explanation so that the reviewer will have maximum access to and understanding of all required information.

The applicable **Review Period** for this **Public Offering** begins on approximately [*insert date 180 days prior to earliest expected date of submission of Registration Statement*] and runs through and includes the 60th day following thefinal closing of the **Public Offering**.

To date, the **Participating Members** for this **Public Offering** are [*insert bank*], [*insert bank*] and [*insert bank*].

Please provide your full name and, if applicable, the name of the entity on whose behalf you are completing this questionnaire and in whose name the securities of the **Issuer** are registered:

**Status**

## Indicate your status below as one or more of the following (check all that apply):

Yes No

(a) an officer or member of the board of directors of the **Issuer**

(b) a **Beneficial Owner** of ten percent (10%) or more of any class of the **Issuer**’s securities

(c) an acquirer of the **Issuer**’s unregistered equity securities that were acquired during the **Review Period** for the **Public Offering** (except for securities acquired through any stock bonus, pension or profit-sharing plan that qualifies under Section 401 of the U.S. Internal Revenue Code or similar plan)

(d) an existing securityholder selling the **Issuer**’s securities in the **Public** **Offering**

**Affiliation or Association with Participating Members**

## Neither I nor anyone in my **Immediate Family** is (i) a **Participating Member**, (ii) an owner of stock or other securities of a **Participating Member**, (iii) an **Affiliate** of a **Participating Member**, or (iv) an **Associated Person** of a **Participating Member** with respect to the proposed **Public Offering**.

Confirm  Exception (Please provide explanation below)

(Please provide description of any such affiliation or association and name of the **Participating Member**)

|  |  |
| --- | --- |
| **Name of Participating Member** | **Details of Participation in potential Public Offering, if any** |
|  |  |
|  |  |
|  |  |
|  |  |

Are you an entity organized as a hedge fund, investment partnership or other collective business or investment vehicle?

Yes  No

Note: A private entity stockholder such as a hedge fund, investment partnership, or other collective investment vehicle must answer this question 2 on behalf of itself as well as each of its investors (including any partner of a limited partnership, member of a limited liability company or shareholder of a corporation, as applicable). Please advise in the space above if the entity itself or any of its investors is a **Participating Member**, an owner of securities of a **Participating Member**, an **Affiliate** of a **Participating Member**, or an **Associated Person** of a **Participating Member** and provide the name(s) of such investor(s).

If your answer to question 2 above was “Exception,” to the extent applicable, please provide the following:

### Number of equity securities of the **Participating Member** that you currently hold or the face value of any debt securities currently owned, the date such securities were acquired, and the price paid for such securities.

N/A

### All purchases and other acquisitions (including any contracts or arrangements for the future purchase or acquisition, but excluding issuances or transfers of such securities pursuant to a stock bonus, pension or profit sharing plan) of any securities of the **Issuer** by you during the **Review Period** for the **Public Offering**. Please include the following details: (a) class of securities, (b) number of securities acquired or to be acquired, (c) price or other consideration paid or to be paid for the securities, (d) date of acquisition and (e) name of source.

N/A

### All sales and dispositions (including any contracts or arrangements for the future sale or disposition) of any securities of the **Issuer** by you during the **Review Period** for the **Public Offering**. Please include the following details: (a) class of securities, (b) number of securities sold or to be sold/disposed of, (c) price or other consideration paid or to be paid for the securities, (d) date of sale/disposition and (e) name of acquirer.

N/A

**Underwriting Compensation Arrangements**

## Do you know of any arrangement entered into during the **Review Period** for the **Public Offering** that provides for the receipt of any **Underwriting Compensation** (including but not limited to cash payments and expense reimbursements) by any **Participating Member**, and/or the transfer of any warrants, options, or other securities (including debt securities and **Derivative Instruments**) from the **Issuer** to, any **Participating Member**? If yes, please set forth below any information known to you about such arrangement.

Yes  No

Explanation:

For any debt securities or **Derivative Instruments**:

The debt securities or **Derivative Instruments** described above were acquired or entered into at a fair price in transactions conducted in good faith and on an arm’s length commercially reasonable basis.

Confirm  Exception (Please provide explanation below)

Explanation:

The debt securities or **Derivative Instruments** described above were not acquired or entered into in transactions related to the **Public Offering** (for example, proposed by the **Participating Members** as part of the **Public Offering** or as part of a hedging transaction entered into in connection the **Public Offering** orotherwise tied to the consummation of the **Public Offering**).

Confirm  Exception (Please provide explanation below)

Explanation:

## Other than information already disclosed elsewhere in this Questionnaire, you have no additional information relating to any **Underwriting Compensation** and arrangements or any other dealings between (i) any **Participating Member** with respect to the **Public Offering** or any of their **Affiliates** or **Associated Persons**, on the one hand, and (ii) the **Issuer**, on the other hand.

Confirm  Exception (Please provide explanation below)

Explanation:

**Use of Proceeds**

## You have no knowledge as to whether any **Participating Member**, any **Affiliate** of a **Participating Member**, or any **Associated Person** of a **Participating Member** may receive any portion of the net proceeds from the **Public Offering**.

Confirm  Exception (Please provide information below)

|  |  |
| --- | --- |
| **Name of Participating Member (or other Entity listed above)** | **Amount of Proceeds to be Received** |
|  |  |
|  |  |
|  |  |

N/A

**Certain Relationships and Related Party Transactions**

## You have never had a material relationship, other than a brokerage account, with any **Participating Member** or investment firm or underwriting organization which might participate in the underwriting of the **Public Offering**.

Confirm  Exception (Please provide explanation below)

Explanation:

## You have never been an employee or member of the **Immediate Family** of an employee of any investment banking or brokerage firm which will be or has been an underwriter for securities of the **Issuer** (including, but not limited to, the securities being issued in the **Public Offering**) or, if the respondent to this Questionnaire is an entity, no **Participating Member** (including any of its **Affiliates** or **Associated Persons**) owns any of the entity’s outstanding common equity, preferred equity, debt securities or general, limited or special partnership interests.

Confirm  Exception (Please provide explanation below)

Explanation:

I have attached \_\_\_\_\_\_\_\_\_ additional pages to this questionnaire.

I certify that the information herein (including any additional information attached hereto) is true and correct to the best of my knowledge. I agree to notify the Company immediately of any changes in the foregoing answers resulting from any developments, including the passage of time, occurring prior to the effectiveness of the Registration Statement [*(for underwritten public offerings)* and through the 60th day following the closing of the offering]. I understand and acknowledge that the Company and its counsel[, [*Insert Company Counsel, if known*],] will rely on the information herein for purposes of the preparation and filing of the Registration Statement [(***for underwritten public offerings***)and that the Company’s underwriters and their counsel[, [*Underwriters’ Counsel, if known*],] will rely on the information herein for purposes of obtaining clearance for the public offering from FINRA. In the absence of any such modification, the Company, the underwriters and their counsel are entitled to rely on the information provided in this questionnaire and to proceed on the basis that such information continues to be, to the best of the undersigned’s knowledge, information and belief, complete and correct]].

|  |  |
| --- | --- |
| Dated: | Signature |
|  | Name: Please print or type |

**APPENDIX I**

Definitions

**Affiliate**. The term “**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, the person specified.

Any majority-owned subsidiary, or less-than-majority owned business entity which is in fact **controlled** by a person, is an **affiliate** of the person owning the majority interest or **controlling** the business entity. Directors who are also employees, executive officers, general partners and managing members of an **affiliate** of another person will also be deemed to be **affiliates** of that other person.

**Associate**. The term “**associate**,” as used in this questionnaire, means:

1. any corporation or organization (other than the Company or a majority-owned subsidiary of the Company) of which you are an officer or partner or are, directly or indirectly, the beneficial owner of 10% or more of any class of equity securities;

2. any trust or other estate in which you have a substantial beneficial interest or as to which you serve as trustee or in a similar fiduciary capacity; and

3. your spouse, or any relative of you or your spouse, who lives with you, or who is a director or officer of the Company or any **parent** or **subsidiary**.

**Arrangement**. The term “**arrangement**” means any plan, contract, authorization or understanding, whether or not set forth in a formal document.

**Beneficial Ownership**. The Securities and Exchange Commission has adopted a definition of “**beneficial ownership**,” as used in this questionnaire, that is different from the one with which you may be familiar in the context of insider trading. Securities owned “**beneficially**” would include not only securities held by you for your own benefit, whether in bearer form or registered in your own name or otherwise, but also securities held by others for your benefit (regardless of whether or how they are registered) such as, for example, securities held for you by custodians, brokers, relatives, executors, administrators, or trustees, and securities held for your account by pledgees, securities owned by a partnership in which you are a member, and securities owned by any corporation which is or should be regarded as a personal holding corporation of yours.

The Securities and Exchange Commission’s definition of “**beneficial ownership**” provides generally that:

(a) A person “**beneficially owns**” a security if he or she, directly or indirectly, has or shares voting power (i.e., the power to vote, or to direct the voting of such security) and/or investment power (i.e., the power to dispose or to direct the disposition of such security) whether through any contract, arrangement, understanding, relationship or otherwise.

(b) A person is also deemed to be the beneficial owner of a security if he or she has the right to acquire such security within 60 days including any right to acquire such a security during that time period (a) through the exercise of any option, warrant or right; (b) through the conversion of a security; (c) pursuant to the power to revoke a trust, discretionary account or similar arrangement; or (d) pursuant to the automatic termination of a trust, discretionary account or similar arrangement.

In the view of the Securities and Exchange Commission, any person or entity that controls, or has the power to control, a beneficial owner is itself a beneficial owner with respect to the securities owned by the controlled person or entity. Thus, for example, a parent company would be the beneficial owner of securities owned by a subsidiary over which it has control. The term “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the Company, whether through the ownership of voting securities by contract or otherwise.

Please note that under the definitions set forth above, there may be more than one beneficial owner of the same security, such as when a person places securities in a revocable discretionary account with a trustee or investment adviser who can vote or dispose of the securities; in that case, the individual would have investment power since he could revoke the arrangement and the trustee or investment adviser would have voting power and investment power. Thus, both the individual and the investment adviser would have beneficial ownership of the same securities.

**Control**. The term “**control**” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the Company, whether through the ownership of voting securities, by contract, or otherwise.

**Equity incentive plan**. The term “**equity incentive plan**” means an **incentive plan** (or portion of an incentive plan) under which awards are granted that full within the scope of FASB ASC Topic 718.

**Executive Officer**. The term “**executive officer**” means the chairman, president, treasurer, CEO, CFO, any vice president in charge of a principal business unit, division or function (e.g., sales, administration, or finance), and any other officer or person who performs a policy making function for the Company. Executive officers of any **parent** or **subsidiary** may be deemed executive officers of the Company if they perform such policy-making functions for the Company.

**Family Member**. The terms “**family member**” or “**member of your family**” include your spouse, parents, children and siblings, whether by blood, marriage or adoption (including mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, stepparents and stepchildren), and also include anyone residing in your home (other than a tenant or employee).

**Group**. A “**group**” may exist when two or more persons act as a general partnership, limited partnership, syndicate or other group for the purpose of acquiring, holding or disposing of securities of the Company.

**Immediate Family**. A person’s “**immediate family**” includes such person’s children, stepchildren, parents, stepparents, spouse, siblings, mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in law and sisters-in-law, as well as any other person (other than a tenant or employee) sharing such person’s household.

**Incentive Plan**. The term “**incentive plan**” means a **plan** that provides an incentive for performance to occur over a specified period, whether such performance is measured by reference to financial performance of the company, the company’s stock price or any other performance measure.

**Material**. The term “**material**”, when used in this questionnaire to describe a requirement for the furnishing of information as to any subject, refers to information relating to matters about which an average investor might reasonably wish or expect to be informed before determining whether to buy or sell securities of the Company.

**Material Relationship**. The term “**material relationship**” has not been defined by the Securities and Exchange Commission. However, the Commission likely will construe as a “**material relationship**” any relationship which tends to prevent arm’s-length bargaining in dealings with a company, whether arising from a close business connection or family relationship, a relationship of control or otherwise. You should conclude that you have such a relationship, for example, with any organization of which you own, directly or indirectly, 10% or more of the outstanding voting stock, or in which you have some other substantial interest, and with any person or organization with whom you have, or with whom any relative or spouse (or any other person or organization as to which you have any of the foregoing other relationships) has, a contractual relationship.

**Non-equity incentive plan**. The term “non-equity incentive plan” means an incentive plan (or portion of an incentive plan) that is not an equity incentive plan.

**Parent**. The term “**parent**” means any entity that **controls** the Company directly or indirectly through one or more intermediaries.

**Plan**. The term “**plan**” includes, but is not limited to the following: any plan, contract, authorization or arrangement, whether or not set forth in any formal documents, pursuant to which the following may be received: cash, stock, restricted stock or restricted stock units, phantom stock, stock options, stock appreciation rights, stock options in tandem with stock appreciation rights, warrants, convertible securities, performance units and performance shares. A plan may be applicable to one person.

**Perquisite**. Under SEC guidance, if an item is “integrally and directly related” to the performance of duties it is *not* a “**perquisite**” (also referred to as a “**perk**” herein) (e.g., cell phone or laptop use for contact outside the office or additional clerical services devoted to company matters). If the item is not “integrally and directly related” to the performance of duties it will be considered a “**perquisite**”if it confers a direct or indirect benefit that has a personal aspect without regard to whether it may be provided for some business reason or for the convenience of the Company, unless it is generally available on a non-discriminatory basis to all employees (e.g., personal financial advice regarding retirement made available to all employees).

**Promoter**. The term “**promoter**” means any person who, acting alone or in concert with one or more persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of a company. The term includes any person who, in connection with the founding and organizing of the business or enterprise of a company, directly or indirectly receives in consideration of services or property (or both) 10% or more of any class of securities of the company or 10% or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a “promoter” if such person does not otherwise take part in founding and organizing the enterprise.

**Right to acquire**. The term “**right to acquire**” as applied to **beneficial ownership** of securities means any right to acquire such **beneficial ownership**, including without limitation any right to acquire such **beneficial ownership** (a) through the exercise of any option, warrant or right, (b) through the conversion of a security, (c) pursuant to the power to revoke a trust, discretionary account or similar **arrangement**, or (d) pursuant to the automatic termination of a trust, discretionary account or similar **arrangement**.

**Subsidiary**. The term “**subsidiary**” means any entity **controlled** by the Company directly or indirectly through one or more subsidiaries.

**APPENDIX II**

FINRA Definitions

For purposes of the FINRA questions in Section L of this questionnaire, the following terms when highlighted in **bold** type, have the following meanings:

1. “**Affiliate**” means an **Entity** that **Controls**, is **Controlled By** or is under **Common Control** with a **FINRA Member**.

2. “**Associated Person**” means a (i) a natural person who is registered or who has applied for registration under FINRA’s rules or (ii) a sole proprietor, partner, officer, director or branch manager of a **FINRA Member**, or a natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a **FINRA Member**, whether or not any such person is registered or exempt from registration with **FINRA**. [*Article I, section (rr) of the FINRA By-Laws*]

3. “**Beneficial Ownership**” of a security means the right to the economic benefits of the security.

For purposes of responding to this Questionnaire, you are deemed to be a “**Beneficial Owner**” of a security if you directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, have or share a direct or indirect pecuniary interest in the security. You have a pecuniary interest in a security if you have the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in such security. You may have an indirect pecuniary interest in a security and should include such security in your ownership disclosure if (a) such security is held by a member of your **Immediate Family** or (b) you have an interest in a trust holding such security. If you are a general or limited partner of a partnership holding a security you should include your proportionate interest in such security in your ownership disclosure.

4. “**Common Equity**” means the total number of shares of common stock outstanding without regard to class, whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, redeemable or non-redeemable, as reflected on the consolidated financial statements of the **Issuer**.

5. “**Company**” means a corporation, a partnership, an association, a joint stock company, a trust, a fund, or an organized group of persons whether incorporated or not; including any receiver, trustee in bankruptcy or similar official, or liquidating agent of any of the foregoing.

6. “**Compensation**” means cash compensation and non-cash compensation.

7. “**Control**” means (i) **Beneficial Ownership** of 10% or more of the outstanding **Common Equity** of an **Entity**, including any right to receive such securities within 60 days of the **FINRA Member’s** participation in the **Public Offering**; (ii) the right to 10% or more of the distributable profits or losses of an **Entity** that is a partnership, including any right to receive an interest in such distributable profits or losses within 60 days of the **FINRA Member’s** participation in the **Public Offering**; (iii) **Beneficial Ownership** of 10% or more of the outstanding **Preferred Equity** of an **Entity**, including any right to receive such **Preferred Equity** within 60 days of the **FINRA Member’s** participation in the **Public Offering**; or (iv) the power to direct or cause the direction of the management or policies of an **Entity**. FINRA defines “**Common Control**” as the same natural person or entity controlling two or more **Entities**.

8. “**Derivative Instrument**” means any “eligible OTC derivative instrument” as defined in SEA Rule 3b-13(a)(1), (2) and (3). The term “fair price” means the participating members have priced a derivative instrument or non-convertible or non‑exchangeable debt security in good faith; on an arm’s length, commercially reasonable basis, and in accordance with pricing methods and models and procedures used in the ordinary course of their business for pricing similar transactions. A **Derivative Instrument** or other security received as **Compensation** for providing services for the **Issuer**, for providing or arranging a loan, credit facility, merger, acquisition or any other service, including underwriting services will not be deemed to be entered into or acquired at a fair price.

9. “**Direct Participation Program**” means a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules or regulations adopted pursuant hereto the term shall mean each of the separate entities or programs making up the overall program and/or the overall program itself. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code, and any company including separate accounts, registered pursuant to the Investment Company Act.

10. “**Effective Date**” means the date on which an issue of securities becomes legally eligible for distribution to the public.

11. “**Entity**”, for purposes of the definitions of “**Control**” and “**Affiliate**” as used in this Questionnaire, includes a company, corporation, partnership, trust, sole proprietorship, association or organized group of persons; but excludes (i) an investment company registered under the U.S. Investment Company Act of 1940; (ii) a “separate account” as defined in Section 2(a)(37) of the U.S. Investment Company Act of 1940; (iii) a “real estate investment trust” as defined in Section 856 of the U.S. Internal Revenue Code; and (iv) a “direct participation program” as defined in FINRA Rule 2310.

12. “**FINRA Member**” means any broker or dealer admitted to membership in **FINRA**. [*Article I, sections (e), (k) and (ee) of the FINRA By-Laws.*]

13. “**Immediate Family**” means:

(a) the spouse or child of an **Associated Person** of a **FINRA Member**; and

(b) any relative who either lives in the same household as, has a business relationship with, provides material support to, or receives material support from, an **Associated Person** of a **FINRA Member**, including, but not limited to, a parent, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

14. “**Institutional Investor**” means any person that has an aggregate of at least $50 million invested in securities in its portfolio or under management, including investments held by its wholly owned subsidiaries; provided that no participating members manage the institutional investor’s investments or have an equity interest in the institutional investor, either individually or in the aggregate, that exceeds 5% for a publicly owned entity or 1% for a nonpublic entity.

15. “**Issuer**” means the registrant or other person that is offering its securities to the public, any selling security holder offering securities to the public, any affiliate of the registrant or such other person or selling security holder, and the officers or general partners, and directors thereof, but does not include a **Participating Member** unless the **Participating Member** is itself the registrant or a selling security holder offering its own beneficially held securities to the public.

16. “**Offering Proceeds**” means the proceeds of all the securities offered in the **Public Offering** by **Participating Members**, not including securities subject to an **Overallotment Option**, securities to be received by the **Participating Members**, or underlying securities.

17. “**Overallotment Option**” means an option granted by the **Issuer** to the **Participating Members** for the purpose of offering additional shares to the public in connection with the distribution of the **Public Offering**.

18. “**Participating Member**” means any **FINRA Member** that is participating in a **Public Offering**, any **Affiliate or Associated Person** thereof, and any **Immediate Family** member, but does not include the **Issuer**.

19. “**Participate**, **Participation** or **Participating**” means involvement in the preparation of the offering document or other documents, involvement in the distribution of the **Public Offering**, furnishing of customer or broker lists for solicitation, or providing advisory or consulting services to the **Issuer** related to the **Public Offering**, but do not include:

(a) the preparation of an appraisal in a savings and loan conversion or a bank offering or the preparation of a fairness opinion pursuant to Rule 13e-3; and

(b) advisory or consulting services provided to the **Issuer** by an independent financial adviser. “Independent Financial Advisor,” for this purpose, means a **FINRA Member** or an **Affiliate** or **Associated Person** of a **FINRA Member** that provides advisory or consulting services to the **Issuer** and is neither engaged in, nor **Affiliated** or **Associated** with any **Participating Member**.

20. “**Person**” means any natural person, partnership, corporation, company, association, or other legal entity.

21. “**Preferred Equity**” means the aggregate capital invested by all persons in the preferred securities outstanding without regard to class, whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, redeemable or non-redeemable, as reflected on the consolidated financial statements of the **Issuer**.

22. “**Public Offering**” means any primary or secondary offering of securities made in whole or in part in the United States pursuant to a registration statement, offering circular or similar offering document including exchange offers, rights offerings, and offerings of securities made pursuant to a merger or acquisition except for:

(a) securities exempt from registration with the **SEC** pursuant to the provisions of Sections 4(a)(1), 4(a)(2) or 4(a)(5) of the Securities Act;

(b) securities exempt from registration with the **SEC** pursuant to Rule 504 of SEC Regulation D if the securities are restricted securities under Securities Act Rule 144(a)(3) or Rule 506 of SEC Regulation D;

(c) securities exempt from registration with the **SEC** pursuant to Securities Act Rule 144A or SEC Regulation S; or

(d) securities which are defined as “exempted securities” in Section 3(a)(12) of the Exchange Act.

23. “**Review Period**” means

(a) for a firm commitment offering, the 180-day period preceding the required filing date through the 60-day period following the **Effective Date** of the **Public Offering**;

(b) for a best efforts offering, the 180-day period preceding the required filing date through the 60-day period following the final closing of the **Public Offering**; and

(c) for a firm commitment or best efforts takedown or any other continuous offering made pursuant to Securities Act Rule 415, the 180-day period preceding the required filing date of the takedown or continuous offering through the 60-day period following the final closing of the takedown or continuous offering.

24. “**Real Estate Investment Trust**” means a real estate investment trust as defined in Section 856 of the U.S. Internal Revenue Code.

25. “**Total Equity Securities**” For the purposes of paragraph (d), the term “total equity securities” means the aggregate of the total shares of:

(a) common stock outstanding of the **Issuer**; and

(b) common stock of the **Issuer** underlying all convertible securities outstanding that convert without the payment of any additional consideration.

26. “**Underwriting Compensation**” means any payment, right, interest, or benefit received or to be received by a **Participating Member** from any source for underwriting, allocation, distribution, advisory and other investment banking services in connection with a public offering. In addition, **Underwriting Compensation** shall include finder’s fees, underwriter’s counsel fees, and securities.

**Supplementary Material .01 Underwriting Compensation**

The following are examples of payments or benefits that are considered underwriting compensation:

(a) discounts or commissions;

(b) fees and expenses paid or reimbursed to, or paid on behalf of, the **Participating Members**, including but not limited to road show fees and expenses and due diligence expenses;

(c) fees and expenses of **Participating Members**’ counsel paid or reimbursed to, or paid on behalf of, the **Participating Members** (except for reimbursement of “blue sky” fees);

(d) finder’s fees paid or reimbursed to, or paid on behalf of, the **Participating Members**;

(e) wholesaling fees and expenses;

(f) financial consulting and advisory fees;

(g) common or preferred stock, options, warrants, and other equity securities, including debt securities convertible to or exchangeable for equity securities, **Beneficially Owned** by any **Participating Members**, and acquired during the **Review Period** except that any such securities acquired by a **Participating Member** in a **Public Offering** at the **Public Offering** price and on the same terms as all others purchasing in the **Public Offering** that are not **Participating Members** shall not be deemed underwriting compensation;

(h) sales incentive items;

(i) any right or rights of first refusal provided to any **Participating Member** to **Participate** in future **Public Offerings**, private placements or other financings, the value of which will be 1% of the **Offering Proceeds** or a dollar amount contractually agreed to by the **Issuer** and the **Participating Member** to waive such right of first refusal;

(j) any **Compensation** to be received by a **Participating Member** or by any person nominated by the **Participating Member** as an advisor to the **Issuer’s** board of directors in excess of that received by other members of the board of directors;

(k) any **Compensation** to be received by the **Participating Members** as a result of the exercise or conversion of warrants, options, convertible securities, or similar securities distributed as part of the **Public Offering** within 12 months following the commencement of sales in the **Public Offering**;

(l) fees of a qualified independent underwriter required by Rule 5121;

(m) any **Compensation** paid to any **Participating Member** in connection with a prior proposed **Public Offering** that was not completed, if the **Participating Member** **Participates** in the revised **Public Offering**, except that accountable expenses shall not be deemed underwriting compensation; and

(n) non-cash compensation, such as gifts, training and education expenses, sales incentives, and business entertainment expenses.

1. Note to Form: This form is intended to be a comprehensive questionnaire that can be used by companies for distribution to 5% holders, regardless of the exchange on which they may list (whether NASDAQ or NYSE) and regardless of the type of offering (whether traditional IPO, direct listing or deSPAC), notwithstanding that some of the questions may not be applicable depending on the recipient, type of offering or selected exchange. For instance, the FINRA questions are only applicable in a traditional IPO context. [↑](#footnote-ref-1)
2. This may include derivative lawsuits in which the director is a named defendant (e.g., lawsuits in connection with a public M&A deal, which are not uncommon) if such lawsuits allege fraud, deceit or misrepresentation and seek damages in excess of $100,000. When in doubt, be overinclusive. [↑](#footnote-ref-2)
3. Note to Form: The Company and its external legal counsel should populate the beneficial ownership information for recipients to the extent possible. However, the best that companies and their counsel can do is prepopulate holdings to the extent that information is available. Companies and their counsel often will not have all relevant information, including for example, regarding indirect holdings to determine beneficial ownership. Therefore, it will ultimately be the responsibility of the director, officer or 5% holder to provide the requested information regarding ownership and confirm the information pre-populated by the Company or their counsel. [↑](#footnote-ref-3)
4. Note to Form: The Public Company Accounting Oversight Board’s Auditing Standard No. 2410 (AS 2410) requires an auditor to evaluate a company’s identification of, accounting for, and disclosure of relationships and transactions between the Company and its related parties by:

   * performing specific procedures to obtain an understanding of a company’s relationships and transactions with its related parties;
   * testing the accuracy and completeness of a company’s identified related parties and relationships and transactions with related parties;
   * determining whether previously undisclosed relationships or transactions with related parties, in fact, exist (and if so, investigate why any related parties or relationships or transactions with related parties were previously undisclosed to the auditor); and
   * assessing the need to perform additional procedures to identify other relationships or transactions with related parties previously undisclosed to the auditor.

   Although each auditor will determine the specific procedures needed to satisfy AS 2410, the questions below will facilitate the Company’s participation in this process. [↑](#footnote-ref-4)
5. Note to Form: Consider sending these questions and the questions in Sections F and G to the Company’s auditors to see if they would like to make any revisions or additions. [↑](#footnote-ref-5)
6. For U.S. GAAP SEC filers, the AS 2410 concept of “related parties” is defined in the Financial Accounting Standards Board’s Accounting Standards Codification Topic 850, *Related Party Disclosures*. “Related parties” include immediate family members of principal owners or members of management and “immediate family” is defined as “family members who might control or influence a principal owner or a member of management, or who might be controlled or influenced by a principal owner or a member of management, because of the family relationship.” In most cases, we would expect the definition of “immediate family” to include your spouse, children and other family members living in the same household as you. Further, it may include a parent, stepparent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law or other relatives, if, in your judgment, any of these individuals are in a position to have control or influence on you, or to be controlled or influenced by you (for example, a parent for whom you provide significant monetary support). [↑](#footnote-ref-6)
7. Arrangements between investment funds and their own personnel would be responsive to this question if they provide for indemnification of such personnel in connection with service on a portfolio company’s board, for example. These types of arrangements should be disclosed (e.g., “Mr./Ms. X has various indemnification protections pursuant to his/her employment agreement with XYZ firm, pursuant to which XYZ firm has agreed to indemnify Mr./Ms. X against liability which he/she may incur in his capacity as a director of XYZ firm’s portfolio companies”). [↑](#footnote-ref-7)
8. Note to Form: Directors, executive officers and persons who beneficially own more than 10% of any class of registered equity security of the Company are “Insiders” for purposes of Section 16 of the Exchange Act. Section 16 requires insiders of a public company to report their direct and indirect ownership of the Company’s equity securities and any transactions in such securities. Some fund investors who are “insiders” handle Section 16 filings internally, while others have the Company prepare such filings on their behalf. If the Company does not intend to complete Section 16 filings on the insider’s behalf, or if this questionnaire is not being completed by or on behalf of an “insider” for purposes of Section 16, then this question can be removed. [↑](#footnote-ref-8)