

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): September 9, 2020



**i3 Verticals, Inc.**  
(Exact name of registrant as specified in its charter)

<b>Delaware</b> (State or Other Jurisdiction of Incorporation)	<b>001-38532</b> (Commission File Number)	<b>82-4052852</b> (I.R.S. Employer Identification No.)
<b>40 Burton Hills Blvd., Suite 415</b> <b>Nashville, TN</b> (Address of principal executive offices)		<b>37215</b> (Zip Code)
	<b>(615) 465-4487</b> (Registrant's telephone number, including area code)	
	<b>Not Applicable</b> (Former name or former address, if changed since last report)	

Check the appropriate box if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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

<u>Title of each class</u> Class A Common Stock, \$0.0001 Par Value	<u>Trading Symbol(s)</u> IIIV	<u>Name of each exchange on which registered</u> Nasdaq Global Select Market
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Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company.

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

## **Item 8.01. Other Events.**

In connection with a proposed underwritten public offering of 3,250,000 shares of Class A common stock, i3 Verticals, Inc. (the “Company,” “we” and “our”) provided potential investors with the following additional disclosures concerning recent developments in its acquisition activity, weekly payment volumes and software and related services revenue:

### **Recent Developments**

#### *Recent Acquisition Activity*

A core component of our growth strategy includes a disciplined approach to acquisitions of companies and technology, evidenced by numerous platform acquisitions and tuck-in acquisitions since our inception in 2012. Our acquisitions have opened new strategic vertical markets, expanded our offerings in existing vertical markets, increased the number of businesses and organizations to whom we provide solutions and augmented our existing payment and software solutions and capabilities.

During the nine months ended June 30, 2020, we continued to actively pursue our acquisition strategy, though we did not complete any acquisitions during this period. This was primarily the result of the uncertainty from the COVID-19 pandemic and our desire to maintain liquidity and monitor the impact of the pandemic. Subsequent to June 30, 2020, we have completed the acquisition of three businesses, with two expanding our geographic reach and software capabilities in the public sector vertical and the other adding text-to-pay capabilities and other software solutions in our non-profit vertical. Total purchase consideration for these three completed acquisitions was \$27.5 million, funded with cash and revolving line of credit proceeds, and an amount of contingent consideration, which is still being valued. In connection with these three acquisitions, we also granted an aggregate of approximately 100,000 stock options under our 2018 Equity Incentive Plan to certain key employees of the acquired companies. In addition, we currently have finalized separate non-binding term sheets for four acquisitions with an aggregate purchase price of approximately \$50-60 million and an amount of contingent consideration. If completed, we would also expect to grant approximately 250,000-450,000 stock options to certain key employees of the acquired businesses under our newly adopted 2020 Acquisition Equity Incentive Plan, as described below. Each of the term sheets relate to an acquisition in one of our existing vertical markets. Assuming satisfactory completion of our due diligence review and negotiation and execution of definitive agreements, we would expect these four acquisitions to close in the fourth fiscal quarter of 2020 or the first fiscal quarter of 2021. Our negotiations for these potential acquisitions are ongoing and there is no assurance that we will be able to successfully negotiate and execute the definitive documents for or consummate any of these acquisitions.

#### *2020 Acquisition Equity Incentive Plan*

In connection with our acquisitions and as discussed above, we have historically granted stock options to certain key employees of the acquired companies to induce them to join us subsequent to an acquisition and to align their interests with those of our stockholders. In order to help facilitate this practice, on September 8, 2020, the Board of Directors of the Company, upon recommendation of the Compensation Committee, adopted the i3 Verticals, Inc. 2020 Acquisition Equity Incentive Plan (the “Acquisition Plan”) and reserved 1.5 million shares of the Company’s Class A common stock to be used exclusively for grants of awards to individuals that were not previously employees of the Company or its subsidiaries in connection with acquisitions, as a material inducement to the individual’s entry into employment with the Company or its subsidiaries within the meaning of Rule 5635(c)(4) of the Nasdaq Listing Rules. Under the Acquisition Plan, the Company may grant these eligible recipients stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance awards, and other stock-based awards. The Board of Directors also adopted a form of stock option agreement and form of restricted stock agreement (the “Form Agreements”) for use with the Acquisition Plan.

It is our current expectation that the shares reserved under the Acquisition Plan will be sufficient to meet our grant needs in connection with acquisitions for at least the next twelve months, but the actual number will

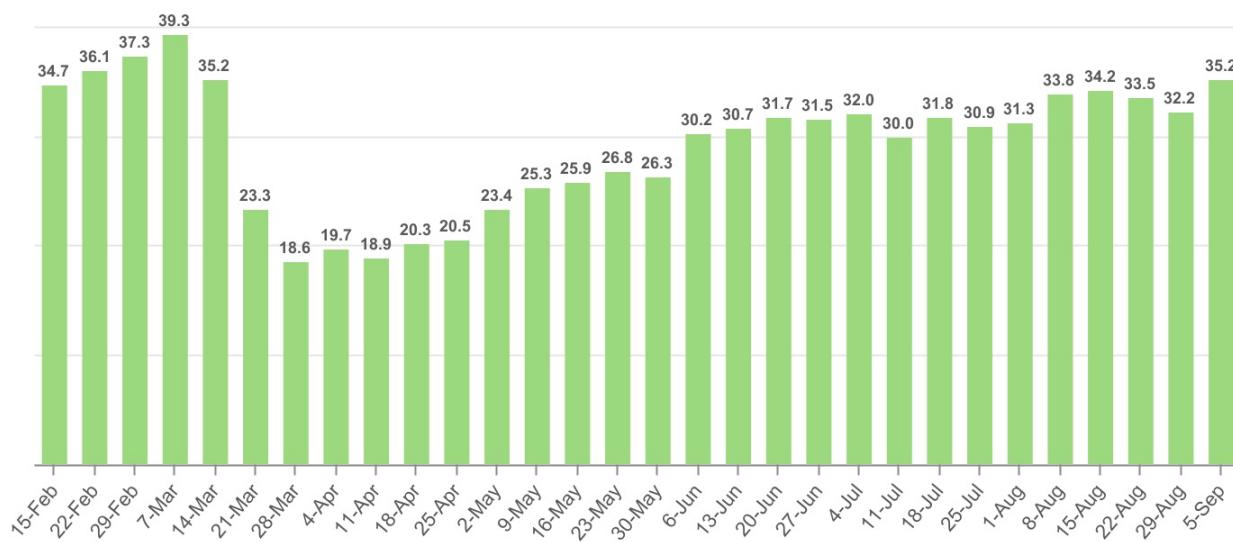
depend on the acquisitions consummated and the employees of those acquired companies who become employees of the Company.

The foregoing description of the Acquisition Plan and Form Agreements is not complete and is qualified in its entirety by reference to the text of the Acquisition Plan and Related Agreements, which are filed as Exhibits 10.1, 10.2 and 10.3, respectively, to this Current Report on Form 8-K.

#### **Payment Volumes**

The COVID-19 pandemic is significantly affecting overall economic conditions in the United States. The economic impact of these conditions is materially impacting our business and is expected to continue to adversely impact our strategic verticals and our business in general. For example, beginning in the second half of March 2020 and continuing into the third quarter of fiscal 2020, we and our clients have experienced a decline and subsequent partial recovery in payment volume and the number of transactions processed, and therefore, a decline and subsequent partial recovery in revenue in our strategic verticals. However, as the table below demonstrates, our average daily payment volume has recovered 82% from the COVID-19 lows we experienced during the week of March 28, 2020. The impact of the COVID-19 pandemic is fluid and continues to evolve, and therefore, we cannot currently predict with certainty the extent to which our business, results of operations, financial condition or liquidity will ultimately be impacted.

#### **Consolidated average daily payments volume<sup>(1)</sup> (\$ in millions)**



1. This includes credit and debit card volume from our processing portfolios for which daily volume figures are readily available. The volume of portfolios for which daily volume figures are unavailable and any volume for which we receive residual payments but do not control the merchant relationship are not included. Average daily volume above represents approximately 85% of the credit and debit volume we reported, or we expect to report in our consolidated financial statements.

## **Software and Related Services Revenue**

For the months ended July 31, 2020 and August 31, 2020, we estimate we had \$2.9 million and \$3.2 million, respectively, in software and related services revenue. Software and related services includes the sale of licenses, subscriptions, installation services, and ongoing support specific to software. While we currently expect that our final results will be consistent with the preliminary estimates set forth above, we note they are preliminary and have not been audited or reviewed and are thus inherently uncertain and subject to change as we complete our financial closing and review procedures for the three months and year ended September 30, 2020.

### **Software and Related Services Revenue Trends<sup>(1)</sup> (Monthly Adjusted Net Revenue - \$ in millions)**



1. Software and related services includes the sale of licenses, subscriptions, installation services, and ongoing support specific to software.
2. Preliminary estimates for the months ended July 31, and August 31, 2020, respectively.

## **Forward-Looking Statements**

This document contains forward-looking statements that are subject to risks and uncertainties. All statements other than statements of historical fact or relating to present facts or current conditions included in this release are forward-looking statements, including any statements regarding guidance and statements of a general economic or industry specific nature. Forward-looking statements give the Company's current expectations and projections relating to its financial condition, results of operations, guidance, plans, objectives, future performance and business. You generally can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as "anticipate," "estimate," "expect," "project," "plan," "intend," "believe," "may," "will," "should," "could," "likely" and other words and terms of similar meaning in connection with any discussion of the timing or nature of future operating or financial performance or other events. Forward-looking statements are not guarantees of future performance, and the Company's actual results could differ materially from the expectations expressed or implied in any forward-looking statements. You should not put undue reliance on them. Examples of forward-looking statements contained in this document include statements about the Company's expected timeline for certain acquisitions. Actual results may differ from those contained in any forward-looking statements made in this release for a variety of reasons, including those described in "Risk Factors" and "Note Regarding Forward-looking Statements" in the Company's Annual Report on Form 10-K for the year ended September 30, 2019, and in its subsequent periodic reports.

**Item 9.01. Financial Statements and Exhibits.**

(d) *Exhibits.*

Exhibit No.	Description
<u>10.1</u>	<a href="#">i3 Verticals, Inc. 2020 Acquisition Equity Incentive Plan.</a>
<u>10.2</u>	<a href="#">Form of Restricted Stock Award Agreement under i3 Verticals, Inc. 2020 Acquisition Equity Incentive Plan.</a>
<u>10.3</u>	<a href="#">Form of Stock Option Award Agreement under 2020 Acquisition Equity Incentive Plan.</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.

Date: September 9, 2020

#### **i3 VERTICALS, INC.**

By: /s/ Clay Whitson  
Name: Clay Whitson  
Title: Chief Financial Officer

**i3 VERTICALS, INC.**

**2020 ACQUISITION EQUITY INCENTIVE PLAN**

**i3 VERTICALS, INC.**  
**2020 ACQUISITION EQUITY INCENTIVE PLAN**

**Section 1. Purpose.**

This plan shall be known as the i3 Verticals, Inc. 2020 Acquisition Equity Incentive Plan (the “Plan”). The purpose of the Plan is to promote the interests of i3 Verticals, Inc., a Delaware corporation (the “Company”), its Subsidiaries and its stockholders by enabling the Company in connection with acquisitions, business combinations, mergers, joint ventures, partnerships and other strategic relationships by the Company or one or more of its Subsidiaries (each, an “Acquisition”) to grant equity awards to individuals who have not previously been an employee or a non-employee director of the Company or any of its Subsidiaries (or who have had a bona fide period of non-employment with the Company and its Subsidiaries) to induce them to accept employment with the Company. The Company intends that the Plan be reserved solely for persons to whom the Company may issue securities without stockholder approval as an inducement pursuant to Rule 5635(c)(4) of the listing standards of the Nasdaq Global Select Market.

**Section 2. Definitions.**

As used in the Plan, the following terms shall have the meanings set forth below:

- (a)     **“Affiliate”** means (i) any entity that, directly or indirectly, is controlled by the Company, (ii) any entity in which the Company has a significant equity interest, (iii) an affiliate of the Company, as defined in Rule 12b-2 promulgated under Section 12 of the Exchange Act, and (iv) any entity in which the Company has at least fifty percent (50%) of the combined voting power of the entity’s outstanding voting securities, in each case as designated by the Board as being a participating employer in the Plan.
- (b)     **“Award”** means any Option, Stock Appreciation Right, Restricted Share Award, Restricted Stock Unit, Performance Award, Other Stock-Based Award or other award granted under the Plan, whether singly, in combination or in tandem, to a Participant by the Committee (or the Board) pursuant to such terms, conditions, restrictions and/or limitations, if any, as the Committee (or the Board) may establish or which are required by applicable legal requirements.
- (c)     **“Award Agreement”** means any written agreement, contract or other instrument or document evidencing any Award.
- (d)     **“Board”** means the Board of Directors of the Company.
- (e)     **“Cause”** means, unless otherwise defined in an applicable Award Agreement, (i) the engaging by the Participant in willful misconduct that is injurious to the Company or its Subsidiaries or Affiliates, or (ii) the embezzlement or misappropriation of funds or property of the Company or its Subsidiaries or Affiliates by the Participant. For purposes of this paragraph,

no act, or failure to act, on the Participant's part shall be considered "willful" unless done, or omitted to be done, by the Participant not in good faith and without reasonable belief that the Participant's action or omission was in the best interest of the Company. Any determination of Cause for purposes of the Plan or any Award shall be made by the Committee in its sole discretion. Any such determination shall be final and binding on a Participant.

(f)     **"Change in Control"** means any of the following events:

(i)     an acquisition (other than directly from the Company) of any voting securities of the Company (the "Voting Securities") by any "Person" (as the term Person is used for purposes of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) immediately after which such Person has "Beneficial Ownership" (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of thirty-five percent (35%) or more of the combined voting power of the then outstanding Voting Securities; provided, however, that in determining whether a Change in Control has occurred, Voting Securities which are acquired in a "Non-Control Acquisition" (as hereinafter defined) shall not constitute an acquisition which would cause a Change in Control. A "Non-Control Acquisition" means an acquisition by (i) an employee benefit plan (or a trust forming a part thereof) maintained by (A) the Company or (B) any Subsidiary, or (ii) the Company or any Subsidiary;

(ii)    during any period of twelve (12) consecutive months, a majority of the members of the Board or other equivalent governing body of the Company cease to be composed of individuals (A) who were members of the Board or equivalent governing body on the first day of such period, (B) whose election or nomination to the Board or equivalent governing body was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of the Board or equivalent governing body, or (C) whose election or nomination to the Board or other equivalent governing body was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of the Board or equivalent governing body; or

(iii)   consummation of:

(1)     A merger, consolidation or reorganization involving the Company, unless,

(a)     The stockholders of the Company, immediately before such merger, consolidation or reorganization, own, directly or indirectly immediately following such merger, consolidation or reorganization, more than fifty percent (50%) of the combined voting power of the outstanding Voting Securities of the surviving entity or parent (the "Surviving Corporation") in substantially the same proportion as their ownership of

the Voting Securities immediately before such merger, consolidation or reorganization; and

**(b)** The individuals who were members of the incumbent Board immediately prior to the execution of the definitive agreement providing for such merger, consolidation or reorganization constitute more than fifty percent (50%) of the members of the board of directors of the Surviving Corporation; and

**(c)** No Person (other than the Company, any Subsidiary, any employee benefit plan (or any trust forming a part thereof) maintained by the Company, the Surviving Corporation or any Subsidiary, or any Person who, immediately prior to such merger, consolidation or reorganization, had Beneficial Ownership of thirty-five percent (35%) or more of the then outstanding Voting Securities unless, as a result of such merger, consolidation or reorganization, such Person acquired or would acquire additional voting securities of the Surviving Corporation representing additional voting power) has Beneficial Ownership of thirty-five percent (35%) or more of the combined voting power of the Surviving Corporation's then outstanding Voting Securities.

**(2)** A complete liquidation or dissolution of the Company; or

**(3)** The sale of all or substantially all of the assets of the Company to any Person (other than a transfer to a Subsidiary).

Notwithstanding the foregoing, a Change in Control shall not be deemed to occur solely because any Person (the "Subject Person") acquired Beneficial Ownership of more than the permitted amount of the outstanding Voting Securities as a result of the acquisition of Voting Securities by the Company which, by reducing the number of Voting Securities outstanding, increased the proportional number of shares Beneficially Owned by the Subject Person, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of Voting Securities by the Company, and after such share acquisition by the Company, the Subject Person becomes the Beneficial Owner of any additional Voting Securities Beneficially Owned by the Subject Person, then a Change in Control shall occur.

Unless otherwise provided in an applicable Award Agreement, solely for the purpose of determining the timing of any payments pursuant to any Award constituting a "deferral of compensation" subject to Section 409A of the Code, a Change in Control shall be limited to a "change in the ownership of the Company," a "change in the effective control of the Company," or a "change in the ownership of a substantial portion of the assets of the Company" as such terms are defined in Section 1.409A-3(i)(5) of the U.S. Treasury Regulations. No Award Agreement shall define a Change in Control in such a manner that a Change in Control would be deemed to occur prior to the actual consummation of the event or transaction that results in a change of control of the Company (e.g., upon the announcement, commencement, or stockholder

approval of any event or transaction that, if completed, would result in a change in control of the Company).

- (g)     **“Code”** means the Internal Revenue Code of 1986, as amended from time to time.
- (h)     **“Committee”** means a committee of the Board composed of not less than two Non-Employee Directors, each of whom shall be (i) a “non-employee director” for purposes of Exchange Act Section 16 and Rule 16b-3 thereunder, and (ii) “independent” within the meaning of the listing standards of the Nasdaq Global Select Market.
- (i)     **“Director”** means a member of the Board.
- (j)     **“Disability”** means, unless otherwise defined in an applicable Award Agreement, a disability that would qualify as a total and permanent disability under the Company’s then current long-term disability plan.
- (k)     **“Dividend Equivalents”** means a right granted to a Participant under the Plan to receive the equivalent value (in cash or Shares) of dividends paid on Shares.
- (l)     **“Eligible Employee”** means any individual who was not previously an employee or a non-employee director of the Company or any of its Subsidiaries (or who has had a bona fide period of non-employment with the Company and its Subsidiaries) who is hired as a full or part-time employee by the Company or one of its Subsidiaries following or in connection with an Acquisition involving such individual’s former employer or entity Affiliated with such former employer, and for whom the Award is being made as an inducement material to the individual’s entering into such employment with the Company, Subsidiary or an Affiliate within the meaning of Rule 5635(c)(4) of the listing standards of the Nasdaq Global Select Market (“Nasdaq”), or successor provision.
- (m)     **“Exchange Act”** means the Securities Exchange Act of 1934, as amended from time to time.
- (n)     **“Exercise Price”** means the purchase price payable to purchase one Share upon the exercise of an Option or the price by which the value of a SAR shall be determined upon exercise, pursuant to Section 1(ee).
- (o)     **“Fair Market Value”** with respect to the Shares, means, for purposes of a grant of an Award as of any date, (i) the closing sales price of the Shares on Nasdaq, or any other such exchange or market on which the shares are traded, on such date, or in the absence of reported sales on such date, the closing sales price on the immediately preceding date on which sales were reported (or in either case, such other price based on actual trading on the applicable date that the Committee determines is appropriate) or (ii) in the event there is no public market for the Shares

on such date, the fair market value as determined, in good faith, by the Committee in its sole discretion, and for purposes of a sale of a Share as of any date, the actual sales price on that date.

(p)     **“Good Reason”** means, unless otherwise provided in an applicable Award Agreement or other contractual agreement between the Participant and the Company, (1) a material reduction in Participant’s title, authority, reporting status or responsibilities, which is not cured within ten (10) days after written notice thereof to the Company or its affiliates (or their successor), (2) any reduction in Participant’s annual base salary or bonus opportunity as in effect immediately prior to a Change in Control; or (3) the relocation of the office at which Participant is to perform the majority of Participant’s duties following a Change in Control to a location more than fifty (50) miles from the office at which Participant worked immediately prior to the Change in Control.

(q)     **“Non-Employee Director”** means a member of the Board who is not an officer or employee of the Company or any Subsidiary or Affiliate.

(r)     **“Option”** means an option to purchase Shares from the Company that is granted under Sections 6 of the Plan.

(s)     **“Other Stock-Based Award”** means any Award granted under Sections 9 of the Plan.

(t)     **“Participant”** means any Eligible Employee who receives an Award hereunder.

(u)     **“Performance Award”** means any Award granted under Section 9 of the Plan.

(v)     **“Person”** means any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, government or political subdivision thereof or other entity.

(w)     **“Restricted Stock”** means any Share granted under Sections 7 of the Plan subject to certain vesting conditions and other restrictions.

(x)     **“Restricted Stock Unit”** means an unfunded, unsecured right to receive, on the applicable settlement date, one Share or an amount in cash or other consideration determined by the Committee to be of equal value as of such settlement date, subject to certain vesting conditions and other restrictions.

(y)     **“Retirement”** means, unless otherwise defined in an applicable Award Agreement, retirement of a Participant from the employ or service of the Company or any of its Subsidiaries or Affiliates in accordance with the terms of the applicable Company retirement plan or, if a Participant is not covered by any such plan, the Participant’s voluntary termination of employment on or after such Participant’s 65th birthday.

(z)     **“SEC”** means the Securities and Exchange Commission or any successor thereto.

(aa) “**Section 16**” means Section 16 of the Exchange Act and the rules promulgated thereunder and any successor provision thereto as in effect from time to time.

(ab) “**Section 409A**” means Section 409A of the Code and the regulations and other guidance promulgated thereunder.

(ac) “**Service Relationship**” means any relationship as a full-time employee or part-time employee of the Company or any subsidiary or any successor entity (e.g., a Service Relationship shall be deemed to continue without interruption in the event an individual’s status changes from full-time employee to part-time employee).

(ad) “**Shares**” means shares of the Class A common stock, \$0.0001 par value per share, of the Company.

(ae) “**Stock Appreciation Right**” or “**SAR**” means a stock appreciation right granted under Sections 6 of the Plan that entitles the holder to receive, with respect to each Share encompassed by the exercise of such SAR, the amount determined by the Committee and specified in an Award Agreement. In the absence of such a determination, the holder shall be entitled to receive, with respect to each Share encompassed by the exercise of such SAR, the excess of the Fair Market Value on the date of exercise over the Fair Market Value on the date of grant.

(af) “**Subsidiary**” means any Person (other than the Company) of which a majority of its voting power or its equity securities or equity interest is owned directly or indirectly by the Company.

(ag) “**Substitute Awards**” means Awards granted pursuant to Section 11.2 solely in assumption of, or in substitution for, outstanding awards previously granted by a company acquired by the Company or with which the Company combines.

(ah) “**Vesting Period**” means the period of time specified by the Committee during which vesting restrictions for an Award are applicable.

### **Section 3. Administration.**

(a) *Authority of Committee.* The Plan shall be administered by the Committee, which shall be appointed by and serve at the pleasure of the Board. Subject to the terms of the Plan and applicable law, to the extent consistent with Rule 5635(c)(4) of the Nasdaq listing standards, and in addition to other express powers and authorizations conferred on the Committee by the Plan, the Committee shall have full power and authority in its discretion to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of Shares to be covered by, or with respect to which payments, rights or other matters are to be calculated in connection with Awards; (iv) determine the timing, terms, and conditions of

any Award; (v) accelerate the time at which all or any part of an Award may be settled or exercised; (vi) determine whether, to what extent, and under what circumstances Awards may be settled or exercised in cash, Shares, other securities, other Awards or other property, or canceled, forfeited or suspended and the method or methods by which Awards may be settled, exercised, canceled, forfeited or suspended; (vii) determine whether, to what extent, and under what circumstances cash, Shares, other securities, other Awards, other property, and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the holder thereof or of the Committee; (viii) interpret and administer the Plan and any instrument or agreement relating to, or Award made under, the Plan; (ix) except to the extent prohibited by Section 6.2 or any other provision of the Plan, amend or modify the terms of any Award at or after grant with or without the consent of the holder of the Award; (x) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan, subject to the exclusive authority of the Board under Section 12 hereunder to amend or terminate the Plan.

*3.2 Committee Discretion Binding.* Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan or any Award shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive, and binding upon all Persons, including the Company, any Subsidiary or Affiliate, any Participant and any holder or beneficiary of any Award.

*3.3 Action by the Committee.* The exercise of an Option or receipt of an Award shall be effective only if an Award Agreement shall have been duly executed and delivered on behalf of the Company following the grant of the Option or other Award by the Committee. Subject to the Charter of the Committee and applicable legal requirements (including the rules and regulations of the Nasdaq Global Select Market and Rule 5635(c)(4) of the Nasdaq listing standards), the Committee may make such rules and regulations for the conduct of its business as it shall deem advisable.

*3.4 Delegation.* Subject to the terms of the Plan and applicable law, and to the extent consistent with Rule 5635(c)(4) of the Nasdaq listing standards, the Committee may delegate to one or more officers or managers of the Company or of any Subsidiary or Affiliate, or to a Committee of such officers or managers, the authority, subject to such terms and limitations as the Committee shall determine, to grant Awards to or to cancel, modify or waive rights with respect to, or to alter, discontinue, suspend or terminate Awards held by Participants who are not officers or directors of the Company for purposes of Section 16 or who are otherwise not subject to such Section. Any such delegation by the Committee shall include a limitation as to the amount of Awards that may be granted during the period of the delegation and shall contain specific guidelines as to the size of the grant for a specific employee level, the determination of the exercise price and the vesting criteria. The Committee may revoke or amend the terms of a delegation at any time but such action shall not invalidate any prior actions of the Committee's delegate or delegates that were consistent with the terms of the Plan.

*3.5 No Liability.* No member of the Board or Committee shall be liable for any action taken or determination made in good faith with respect to the Plan or any Award granted hereunder.

#### **Section 4. Shares Available for Awards.**

*4.1 Shares Available.* Subject to the remaining provisions of this Section 4.1 and Section 4.2 hereof, the number of Shares with respect to which Awards may be granted under the Plan (the “Share Reserve”) shall be 1,500,000. For purposes of this limitation, the Shares underlying any Awards that are forfeited, canceled, held back upon exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, reacquired by the Company prior to vesting, satisfied without the issuance of Shares or otherwise terminated (other than by exercise) under the Plan shall be added back to the Share Reserve for issuance under the Plan.

*4.2 Adjustments.* In the event that any unusual or non-recurring transactions, including an unusual or non-recurring dividend or other distribution (whether in the form of an extraordinary cash dividend or a dividend of Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other similar corporate transaction or event affects the Shares, then the Committee shall in an equitable and proportionate manner (and, as applicable, in such equitable and proportionate manner as is consistent with Section 409A of the Code and the regulations thereunder) either: (i) adjust any or all of (1) the aggregate number of Shares or other securities of the Company (or number and kind of other securities or property) with respect to which Awards may be granted under the Plan; (2) the number of Shares or other securities of the Company (or number and kind of other securities or property) subject to outstanding Awards under the Plan, provided that the number of shares subject to any Award shall always be a whole number; and (3) the grant or exercise price with respect to any Award under the Plan; (ii) provide for an equivalent award in respect of securities of the surviving entity of any merger, consolidation or other transaction or event having a similar effect; or (iii) make provision for a cash payment to the holder of an outstanding Award.

*4.3 Substitute Awards.* Any Shares issued by the Company as Substitute Awards in connection with the assumption or substitution of outstanding grants from any acquired company shall not reduce the Share Reserve.

*4.4 Sources of Shares Deliverable Under Awards.* Any Shares delivered pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or of issued Shares which have been reacquired by the Company.

## **Section 5. Eligibility.**

Grantees under the Plan will be such Eligible Employees as are selected from time to time by the Committee in its sole discretion.

## **Section 6. Options and Stock Appreciation Rights.**

6.1 *Grant.* Subject to Section 6.2, other applicable provisions of the Plan and other applicable legal requirements, the Committee shall have sole and complete authority to determine the Participants to whom Options and SARs shall be granted, the number of Shares subject to each such Award, the Exercise Price and the conditions and limitations applicable to the exercise of each Option and SAR. An Option may be granted with or without a related SAR. A SAR may be granted with or without a related Option. The grant of an Option or SAR shall occur when the Committee by resolution, written consent or other appropriate action determines to grant such Option or SAR for a particular number of Shares to a particular Participant at a particular Exercise Price, or such later date as the Committee shall specify in such resolution, written consent or other appropriate action. All Options granted under the Plan shall be non-qualified stock options.

6.2 *Price.* The Committee in its sole discretion shall establish the Exercise Price at the time each Option or SAR is granted. Except in the case of Substitute Awards, the Exercise Price of an Option or SAR may not be less than one hundred percent (100%) of the Fair Market Value of the Shares with respect to which the Option or SAR is granted on the date of grant of such Option or SAR. Notwithstanding the foregoing and except as permitted by the provisions of Section 4.2 hereof, the Committee shall not have the power to (i) amend the terms of previously granted Options or SARs to reduce the Exercise Price thereof, (ii) cancel such Options or SARs in exchange for cash or a grant of either substitute Options or SARs with a lower Exercise Price than the cancelled Award, or any other Award, (iii) take any other action with respect to an Option or SAR that would be treated as a repricing under the rules and regulations of the Nasdaq Global Select Market or such other principal securities exchange on which the Shares are traded, in each case without the approval of the Company's shareholders.

6.3 *Term.* Subject to the Committee's authority under Section 3.1, each Option and SAR and all rights and obligations thereunder shall expire on the date determined by the Committee and specified in the Award Agreement. The Committee shall be under no duty to provide terms of like duration for Options or SARs granted under the Plan. Notwithstanding the foregoing and except as provided in Section 6.4(a) hereof, no Option or SAR shall be exercisable after the expiration of ten (10) years from the date such Option or SAR was granted.

### *6.4 Exercise.*

(a) Each Option and SAR shall be exercisable at such times and subject to such terms and conditions as the Committee may, in its sole discretion, specify in the applicable Award Agreement or thereafter. The Committee shall have full and complete authority to determine whether an Option or SAR will be exercisable in full at any time or from time to time

during the term of the Option or SAR, or to provide for the exercise thereof in such installments, upon the occurrence of such events and at such times during the term of the Option or SAR as the Committee may determine. The Committee may provide, at or after grant, that the period of time over which an Option or SAR may be exercised shall be automatically extended if on the scheduled expiration of such Award, the Participant's exercise of such Award would violate applicable securities law; *provided, however*, that during the extended exercise period the Option or SAR may only be exercised to the extent such Award was exercisable in accordance with its terms immediately prior to such scheduled expiration date; *provided further*, however, that such extended exercise period shall end not later than thirty (30) days after the exercise of such Option or SAR first would no longer violate such laws.

(b) The Committee may impose such conditions with respect to the exercise of Options or SARs, including without limitation, any relating to the application of federal, state or foreign securities laws or the Code, as it may deem necessary or advisable. The exercise of any Option granted hereunder shall be effective only at such time as the sale of Shares pursuant to such exercise will not violate any state or federal securities or other laws.

(c) An Option or SAR may be exercised in whole or in part at any time, with respect to whole Shares only, within the period permitted thereunder for the exercise thereof, and shall be exercised by written notice of intent to exercise the Option or SAR, delivered to the Company at its principal office, and payment in full to the Company at the direction of the Committee of the amount of the Exercise Price for the number of Shares with respect to which the Option is then being exercised.

(d) Payment of the Exercise Price shall be made (i) in cash or cash equivalents, (ii) at the discretion of the Committee, by transfer, either actually or by attestation, to the Company of unencumbered Shares previously acquired by the Participant valued at the Fair Market Value of such Shares on the date of exercise (or next succeeding trading date, if the date of exercise is not a trading date), together with any applicable withholding taxes, such transfer to be upon such terms and conditions as determined by the Committee, (iii) by a combination of such cash (or cash equivalents) and such Shares, or (iv) at the discretion of the Committee and subject to applicable securities laws, by (A) delivering a notice of exercise of the Option and simultaneously selling the Shares thereby acquired, pursuant to a brokerage or similar agreement approved in advance by proper officers of the Company, using the proceeds of such sale as payment of the Exercise Price, together with any applicable withholding taxes or (B) withholding Shares otherwise deliverable to the Participant pursuant to the Option having an aggregate Fair Market Value at the time of exercise equal to the total Exercise Price together with any applicable withholding taxes. Until the optionee has been issued the Shares subject to such exercise, he or she shall possess no rights as a stockholder with respect to such Shares.

(e) Payment instruments will be received subject to collection. The transfer to the optionee on the records of the Company or of the transfer agent of the Shares to be purchased pursuant to the exercise of an Option will be contingent upon receipt from the optionee (or a purchaser acting in his stead in accordance with the provisions of the Award Agreement) by the Company of the full purchase price for such shares and the fulfillment of any other requirements.

contained in the Award Agreement or applicable provisions of laws (including the satisfaction of any withholding taxes that the Company is obligated to withhold with respect to the optionee). In the event an optionee chooses to pay the purchase price by previously-owned Shares through the attestation method, the number of Shares transferred to the optionee upon the exercise of the Option shall be net of the number of attested Shares. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the exercise of Options, such as a system using an internet website or interactive voice response, then the paperless exercise of Options may be permitted through the use of such an automated system.

(f) At the Committee's discretion, the amount payable as a result of the exercise of a SAR may be settled in cash, Shares or a combination of cash and Shares. A fractional Share shall not be deliverable upon the exercise of a SAR but a cash payment will be made in lieu thereof.

## **Section 7.     Restricted Stock and Restricted Stock Units.**

7.1 *General.* The Committee may grant Restricted Stock, or the right to purchase Restricted Stock, to any Participant, subject to the Company's right to repurchase all or part of such shares at their issue price or other stated or formula price from the Participant (or to require forfeiture of such shares) if conditions the Committee specifies in the Award Agreement are not satisfied before the end of the applicable restriction period or periods that the Committee establishes for such Award. In addition, the Committee may grant to Participants Restricted Stock Units, which may be subject to vesting and forfeiture conditions during the applicable restriction period or periods, as set forth in an Award Agreement. The Committee will determine and set forth in the Award Agreement the terms and conditions for each Restricted Stock and Restricted Stock Unit Award, subject to the conditions and limitations contained in the Plan.

### *7.2 Restricted Stock.*

i. Voting Rights; Dividends. Participants holding shares of Restricted Stock will be entitled to all voting rights to which holders of unrestricted Shares are entitled and all ordinary cash dividends paid with respect to such Shares, unless the Committee provides otherwise in the Award Agreement. In addition, unless the Committee provides otherwise, if any dividends or distributions are paid in Shares, or consist of a dividend or distribution to holders of Common Stock of property other than an ordinary cash dividend, the Shares or other property will be subject to the same restrictions on transferability and forfeitability as the shares of Restricted Stock with respect to which they were paid.

ii. Stock Certificates/Book Entry. At the time of a Restricted Share Award, a certificate representing the number of Shares awarded thereunder shall be registered in the name of the grantee. Such certificate shall be held by the Company or any custodian appointed by the Company for the account of the grantee subject to the terms and conditions of the Plan, and shall bear such a legend setting forth the restrictions imposed thereon as the Committee, in its discretion, may determine. The foregoing to the contrary notwithstanding, the Committee may, in its discretion, provide that a Participant's ownership of Restricted Stock prior to the lapse of

any transfer restrictions or any other applicable restrictions shall, in lieu of such certificates, be evidenced by a “book entry” (i.e., a computerized or manual entry) in the records of the Company or its designated agent in the name of the Participant who has received such Award, and confirmation and account statements sent to the Participant with respect to such book-entry Shares may bear the restrictive legend referenced in the preceding sentence. Such records of the Company or such agent shall, absent manifest error, be binding on all Participants who receive Restricted Share Awards evidenced in such manner. The holding of Restricted Stock by the Company or such agent, or the use of book entries to evidence the ownership of Restricted Stock, in accordance with this Section 7.2(b), shall not affect the rights of Participants as owners of the Restricted Stock awarded to them, nor affect the restrictions applicable to such shares under the Award Agreement or the Plan, including the transfer restrictions.

### *7.3 Restricted Stock Units.*

(a) Settlement. The Committee may provide that settlement of Restricted Stock Units will occur upon or as soon as reasonably practicable after the Restricted Stock Units vest or will instead be deferred, on a mandatory basis or at the Participant’s election, in a manner intended to comply with Section 409A.

(b) Stockholder Rights. A Participant will have no rights of a stockholder with respect to Shares subject to any Restricted Stock Unit unless and until the Shares are delivered in settlement of the Restricted Stock Unit.

(c) Dividend Equivalents. If the Committee provides, a grant of Restricted Stock Units may provide a Participant with the right to receive Dividend Equivalents. Dividend Equivalents may be paid currently or credited to an account for the Participant, settled in cash or Shares and subject to the same restrictions on transferability and forfeitability as the Restricted Stock Units with respect to which the Dividend Equivalents are granted and subject to other terms and conditions as set forth in the Award Agreement.

## **Section 8. Performance Awards.**

8.1 *Grant*. The Committee shall have sole and complete authority to determine the Participants who shall receive a Performance Award, which shall consist of a right that is (i) denominated in cash or Shares (including but not limited to Restricted Stock and Restricted Stock Units), (ii) valued, as determined by the Committee, in accordance with the achievement of such performance goals during such performance periods as the Committee shall establish, and (iii) payable at such time and in such form as the Committee shall determine.

8.2 *Terms and Conditions*. Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the performance goals to be achieved during any performance period, the length of any performance period, the amount of any Performance Award and the amount and kind of any payment or transfer to be made pursuant to any Performance Award, and may amend specific provisions of the Performance Award; provided, however, that such amendment may not adversely affect existing Performance Awards made.

within a performance period commencing prior to implementation of the amendment without the consent of the affected Participants. No Performance Award shall have a term in excess of ten (10) years.

*8.3 Payment of Performance Awards.* Performance Awards may be paid in a lump sum or in installments following the close of the performance period or, in accordance with the procedures established by the Committee, on a deferred basis. Notwithstanding the foregoing, the Committee may, in its discretion, waive or modify any performance goals and/or other terms and conditions relating to a Performance Award. A Participant's rights to any Performance Award may not be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of in any manner, except by will or the laws of descent and distribution, and/or except as the Committee may determine at or after grant, but no transfers for consideration shall be permitted.

## **Section 9. Other Stock-Based Awards.**

The Committee shall have the authority to determine the Participants who shall receive an Other Stock-Based Award, which shall consist of any right that is (i) not an Award described in Sections 6 or 7 above and (ii) an Award of Shares or an Award denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Shares (including, without limitation, securities convertible into Shares), as deemed by the Committee to be consistent with the purposes of the Plan. Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the terms and conditions of any such Other Stock-Based Award. No Other Stock-Based Award shall have a term in excess of ten (10) years.

## **Section 10. Termination of Employment.**

The Committee shall have the full power and authority to determine the terms and conditions that shall apply to any Award upon a termination of a Service Relationship with the Company, its Subsidiaries and Affiliates, including a termination by the Company with or without Cause, by a Participant voluntarily, or by reason of death, Disability or Retirement, and may provide such terms and conditions in the Award Agreement or in such rules and regulations as it may prescribe. Notwithstanding the above, if the Participant's employer ceases to be a Subsidiary, the Participant shall be deemed to have terminated their Service Relationship for purposes of the Plan.

## **Section 11. Change in Control.**

*11.1 Assumption or Replacement of Awards by Successor.* Except as otherwise provided in an Award Agreement or other contractual agreement between the Company (or an Affiliate) and the applicable Participant, in the event that the Company is subject to a Change in Control, outstanding Awards acquired under the Plan shall be subject to the agreement evidencing the Change in Control, which need not treat all outstanding Awards in an identical manner. Such

agreement, without the Participant's consent, shall provide for one or more of the following with respect to all outstanding Awards as of the effective date of such Change in Control:

- (a) the continuation or assumption of an outstanding Award by the successor or acquiring entity (if any) of such Change in Control (or by its parents, if any), which continuation or assumption, will be binding on all selected Participants; *provided* that the exercise price and the number and nature of shares issuable upon exercise of any such Option or SAR, or any Award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 409A of the Code; *provided further*, that, if, within twelve months after the Company obtains actual knowledge that a Change in Control has occurred, a Participant's Service Relationship is terminated by the Company or an Affiliate (or any of their successors) without Cause or by the Participant for Good Reason, all continued or assumed Awards of such Participant shall vest, become immediately exercisable and payable and have all restrictions lifted;
- (b) the substitution by the successor or acquiring entity in such Change in Control (or by its parents, if any) of equivalent awards with substantially the same terms for such outstanding Awards (except that the exercise price and the number and nature of shares issuable upon exercise of any such Option or SAR, or any Award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 409A of the Code); *provided*, that, if, within twelve months after the Company obtains actual knowledge that a Change in Control has occurred, a Participant's Service Relationship is terminated by the Company or an Affiliate (or any of their successors) without Cause or by the Participant for Good Reason, all substituted Awards of such Participant shall vest, become immediately exercisable and payable and have all restrictions lifted;
- (c) the full or partial acceleration of exercisability or vesting and accelerated expiration of an outstanding Award and lapse of the Company's right to repurchase or re-acquire shares acquired under an Award or lapse of forfeiture rights with respect to shares acquired under an Award; and
- (d) the settlement of the full value of such outstanding Award (whether or not then vested or exercisable) in cash, cash equivalents, or securities of the successor entity (or its parent, if any) with a Fair Market Value equal to the required amount, followed by the cancellation of such Awards; *provided however*, that such Award may be cancelled if such Award has no value, as determined by the Committee, in its discretion. Subject to Section 409A of the Code, such payment may be made in installments and may be deferred until the date or dates the Award would have become exercisable or vested. Such payment may be subject to vesting based on the Participant's continued service, provided that the vesting schedule shall not be less favorable to the Participant than the schedule under which the Award would have become vested or exercisable. For purposes of this Section 11.1(d), the Fair Market Value of any security shall be determined without regard to any vesting conditions that may apply to such security.

The Board shall have full power and authority to assign the Company's right to repurchase or re-acquire or forfeiture rights to such successor or acquiring corporation. In addition, in the event

such successor or acquiring corporation (if any) refuses to assume, convert, replace or substitute Awards, as provided above, pursuant to a Change in Control, the Committee will notify the Participant in writing or electronically that such Award will be exercisable for a period of time determined by the Committee in its sole discretion, and such Award will terminate upon the expiration of such period. Awards need not be treated similarly in a Change in Control.

**11.2 Assumption of Awards by the Company.** The Company, from time to time, also may substitute or assume outstanding awards granted by another company, whether in connection with an acquisition of such other company or otherwise, by either; (a) granting an Award under this Plan in substitution of such other company's award; or (b) assuming such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another company, the terms and conditions of such award will remain unchanged (except that the purchase price or the Exercise Price, as the case may be, and the number and nature of Shares issuable upon exercise or settlement of any such Award will be adjusted pursuant to Section 409A of the Code). In the event the Company elects to grant a new Option in substitution rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price.

## **Section 12. Amendment and Termination.**

**12.1 Amendments to the Plan.** The Board may amend, alter, suspend, discontinue or terminate the Plan or any portion thereof at any time (and in accordance with Section 409A of the Code with regard to Awards subject thereto); provided that no such amendment, alteration, suspension, discontinuation or termination shall be made without stockholder approval if such approval is necessary to comply with any tax or regulatory requirement (including the rules and regulations of the principal securities market or exchange on which the Shares are traded) for which or with which the Board deems it necessary or desirable to comply.

**12.2 Amendments to Awards.** Subject to the restrictions of Section 6.2, the Committee may waive any conditions or rights under, amend any terms of or alter, suspend, discontinue, cancel or terminate, any Award theretofore granted, prospectively or retroactively (and in accordance with Section 409A of the Code with regard to Awards subject thereto); provided that any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely affect the rights of any Participant or any holder or beneficiary of any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant, holder or beneficiary.

**12.3 Recoupment of Awards.** Any Award granted pursuant to this Plan shall be subject to mandatory repayment by the Participant to the Company (i) to the extent set forth in any Award Agreement, (ii) to the extent that such Participant is, or in the future becomes, subject to (a) any "clawback" or recoupment policy adopted by the Company or any Affiliate thereof to comply with the requirements of any applicable laws, rules or regulations, including pursuant to

final rules adopted by the SEC pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or otherwise, or (b) any applicable laws which impose mandatory recoupment, under circumstances set forth in such applicable laws, including the Sarbanes-Oxley Act of 2002.

### **Section 13. General Provisions.**

13.1 *Limited Transferability of Awards.* No Award shall be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Participant, except by will or the laws of descent and distribution and/or, in the case of Options or SARs only, as may be provided by the Committee in its discretion at or after grant in the Award Agreement, but in no event shall an Award be transferred to a third party for consideration. No transfer of an Award by will or by laws of descent and distribution shall be effective to bind the Company unless the Company shall have been furnished with written notice thereof and an authenticated copy of the will and/or such other evidence as the Committee may deem necessary or appropriate to establish the validity of the transfer.

13.2 *Dividend Equivalents.* Subject to Section 4.2, no dividend equivalent rights shall be granted with respect to Options or SARs, but in the sole and complete discretion of the Committee, any other Award may provide the Participant with dividends or dividend equivalents, payable in cash, Shares, other securities or other property on a current or deferred basis. All dividend or dividend equivalents which are not paid currently may, at the Committee's discretion, accrue interest, be reinvested into additional Shares or, in the case of dividends or dividend equivalents credited in connection with Performance Awards, be credited as additional Performance Awards and paid to the Participant if and when, and to the extent that, payment is made pursuant to such Award.

13.3. *Compliance with Section 409A of the Code.* No Award (or modification thereof) shall provide for deferral of compensation that does not comply with Section 409A of the Code unless the Committee, at the time of grant, specifically provides that the Award is not intended to comply with Section 409A of the Code. Notwithstanding any provision of this Plan to the contrary, if one or more of the payments or benefits received or to be received by a Participant pursuant to an Award would cause the Participant to incur any additional tax or interest under Section 409A of the Code, the Committee may reform such provision to maintain to the maximum extent practicable the original intent of the applicable provision without violating the provisions of section 409A of the Code. In the event that it is reasonably determined by the Board or Committee that, as a result of Section 409A of the Code, payments in respect of any Award under the Plan may not be made at the time contemplated by the terms of the Plan or the relevant Award agreement, as the case may be, without causing the Participant holding such Award to be subject to taxation under Section 409A of the Code, the Company will make such payment on the first day that would not result in the Participant incurring any tax liability under Section 409A of the Code; which, if the Participant is a "specified employee" within the meaning of the Section 409A, shall be the first day following the six-month period beginning on the date of Participant's termination of employment. Unless otherwise provided in an Award Agreement or other document governing the issuance of such Award, payment of any Performance Award intended to qualify as a "short term deferral" within the meaning of Section 1.409A-1(b)(4)(i) of

the U.S. Treasury Regulations shall be made between the first day following the close of the applicable Performance Period and the last day of the “applicable 2 ½ month period” as defined therein. Notwithstanding the foregoing, each Participant is solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on him or her, or in respect of any payment or benefit delivered in connection with the Plan (including any taxes and penalties under Section 409A of the Code), and the Corporation shall not have any obligation to indemnify or otherwise hold any Participant harmless from any of such taxes or penalties.

13.4 *No Rights to Awards.* No Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants or holders or beneficiaries of Awards. The terms and conditions of Awards need not be the same with respect to each Participant.

13.5 *Share Certificates.* All certificates for Shares or other securities of the Company or any Subsidiary or Affiliate delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan or the rules, regulations and other requirements of the SEC or any state securities commission or regulatory authority, any stock exchange or other market upon which such Shares or other securities are then listed, and any applicable Federal or state laws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

13.6 *Withholding.* A Participant may be required to pay to the Company or any Subsidiary or Affiliate and the Company or any Subsidiary or Affiliate shall have the right and is hereby authorized to withhold from any Award, from any payment due or transfer made under any Award or under the Plan, or from any compensation or other amount owing to a Participant, the amount (in cash, Shares, other securities, other Awards or other property) of any applicable withholding or other tax-related obligations in respect of an Award, its exercise or any other transaction involving an Award, or any payment or transfer under an Award or under the Plan and to take such other action as may be necessary in the opinion of the Company to satisfy all obligations for the payment of such taxes. Without limiting the generality of the foregoing, the Committee may in its discretion permit a Participant to satisfy or arrange to satisfy, in whole or in part, the tax obligations incident to an Award by: (a) electing to have the Company withhold Shares or other property otherwise deliverable to such Participant pursuant to the Award (provided, however, that the amount of any Shares so withheld shall not exceed the amount necessary to satisfy required federal, state local and foreign withholding obligations using the maximum or other applicable statutory withholding rates for federal, state, local and/or foreign tax purposes, including payroll taxes, that are applicable to supplemental taxable income) and/or (b) tendering to the Company Shares owned by such Participant (or by such Participant and his or her spouse jointly) and purchased or held for the requisite period of time, in each case (x) as may be required to avoid the Company’s or the Affiliates’ or Subsidiaries’ incurring an adverse accounting charge and (y) based on the Fair Market Value of the Shares on the wage payment date as determined by the Committee. All such elections shall be irrevocable, made in writing, signed by the Participant, and shall be subject to any restrictions or limitations that the Committee, in its sole discretion, deems appropriate.

**13.7 Award Agreements.** Each Award hereunder shall be evidenced by an Award Agreement that shall be delivered to the Participant and may specify the terms and conditions of the Award and any rules applicable thereto. In the event of a conflict between the terms of the Plan and any Award Agreement, the terms of the Plan shall prevail. The Committee shall, subject to applicable law, determine the date an Award is deemed to be granted. The Committee or, except to the extent prohibited under applicable law, its delegate(s) may establish the terms of agreements or other documents evidencing Awards under this Plan and may, but need not, require as a condition to any such agreement's or document's effectiveness that such agreement or document be executed by the Participant, including by electronic signature or other electronic indication of acceptance, and that such Participant agree to such further terms and conditions as specified in such agreement or document. The grant of an Award under this Plan shall not confer any rights upon the Participant holding such Award other than such terms, and subject to such conditions, as are specified in this Plan as being applicable to such type of Award (or to all Awards) or as are expressly set forth in the agreement or other document evidencing such Award.

**13.8 No Limit on Other Compensation Arrangements.** Nothing contained in the Plan shall prevent the Company or any Subsidiary or Affiliate from adopting or continuing in effect other compensation arrangements, which may, but need not, provide for the grant of Options, SARs, Restricted Stock, Restricted Stock Units, Other Stock-Based Awards or other types of Awards provided for hereunder.

**13.9 No Right to Employment.** The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ of the Company or any Subsidiary or Affiliate. Further, the Company or a Subsidiary or Affiliate may at any time dismiss a Participant from employment, free from any liability or any claim under the Plan, unless otherwise expressly provided in an Award Agreement.

**13.10 No Rights as Stockholder.** Subject to the provisions of the Plan and the applicable Award Agreement, no Participant or holder or beneficiary of any Award shall have any rights as a stockholder with respect to any Shares to be distributed under the Plan until such person has become a holder of such Shares. Notwithstanding the foregoing, in connection with each grant of Restricted Stock hereunder, the applicable Award Agreement shall specify if and to what extent the Participant shall not be entitled to the rights of a stockholder in respect of such Restricted Stock.

**13.11 Data Privacy.** As a condition for receiving any Award, each Participant explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of personal data as described in this section by and among the Company and its Subsidiaries and affiliates exclusively for implementing, administering and managing the Participant's participation in the Plan. The Company and its Subsidiaries and affiliates may hold certain personal information about a Participant, including the Participant's name, address and telephone number; birthdate; social security, insurance number or other identification number; salary; nationality; job title(s); any Shares held in the Company or its Subsidiaries and affiliates; and

Award details, to implement, manage and administer the Plan and Awards (the “Data”). The Company and its Subsidiaries and affiliates may transfer the Data amongst themselves as necessary to implement, administer and manage a Participant’s participation in the Plan, and the Company and its Subsidiaries and affiliates may transfer the Data to third parties assisting the Company with Plan implementation, administration and management. These recipients may be located in the Participant’s country, or elsewhere, and the Participant’s country may have different data privacy laws and protections than the recipients’ country. By accepting an Award, each Participant authorizes such recipients to receive, possess, use, retain and transfer the Data, in electronic or other form, to implement, administer and manage the Participant’s participation in the Plan, including any required Data transfer to a broker or other third party with whom the Company or the Participant may elect to deposit any Shares. The Data related to a Participant will be held only as long as necessary to implement, administer, and manage the Participant’s participation in the Plan. A Participant may, at any time, view the Data that the Company holds regarding such Participant, request additional information about the storage and processing of the Data regarding such Participant, recommend any necessary corrections to the Data regarding the Participant or refuse or withdraw the consents in this Section 13.11 in writing, without cost, by contacting the local human resources representative. The Company may cancel Participant’s ability to participate in the Plan and, in the Committee’s discretion, the Participant may forfeit any outstanding Awards if the Participant refuses or withdraws the consents in this Section 13.11. For more information on the consequences of refusing or withdrawing consent, Participants may contact their local human resources representative.

**13.12 Governing Law.** The validity, construction and effect of the Plan and any rules and regulations relating to the Plan and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to conflicts of laws principles.

**13.13 Severability.** If any provision of the Plan or any Award is, or becomes, or is deemed to be invalid, illegal or unenforceable in any jurisdiction or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

**13.14 Other Laws.** The Committee may refuse to issue or transfer any Shares or other consideration under an Award if, acting in its sole discretion, it determines that the issuance or transfer of such Shares or such other consideration might violate any applicable law or regulation (including applicable non-U.S. laws or regulations) or entitle the Company to recover the same under Exchange Act Section 16(b), and any payment tendered to the Company by a Participant, other holder or beneficiary in connection with the exercise of such Award shall be promptly refunded to the relevant Participant, holder or beneficiary.

**13.15 No Trust or Fund Created.** Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the

Company or any Subsidiary or Affiliate and a Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Subsidiary or Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Subsidiary or Affiliate.

13.16 *No Fractional Shares.* No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional Shares or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

13.17 *Headings.* Headings are given to the sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

#### **Section 14. Term of the Plan.**

14.1 *Effective Date.* The Plan shall be effective as of September 8, 2020 (the “Effective Date”).

14.2 *Expiration Date.* No new Awards shall be granted under the Plan after the tenth (10th) anniversary of the Effective Date. Unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award granted hereunder may, and the authority of the Board or the Committee to amend, alter, adjust, suspend, discontinue or terminate any such Award or to waive any conditions or rights under any such Award shall, continue after the tenth (10th) anniversary of the Effective Date.

**i3 VERTICALS, INC.**  
**2020 ACQUISITION EQUITY INCENTIVE PLAN**  
**RESTRICTED STOCK AWARD AGREEMENT**

**THIS RESTRICTED STOCK AWARD AGREEMENT** (this “Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the “Grant Date”), between i3 Verticals, Inc., a Delaware corporation (together with its Subsidiaries, the “Company”), and \_\_\_\_\_, (the “Grantee”). Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the i3 Verticals Inc. 2020 Acquisition Equity Incentive Plan (the “Plan”).

**WHEREAS**, the Company has adopted the Plan, which permits the issuance of Restricted Stock of the Company’s Class A common stock, par value \$0.0001 per share (the “Common Stock”) to Eligible Employees;

**WHEREAS**, pursuant to the Plan, the Committee responsible for administering the Plan has granted an award of Restricted Stock to the Grantee as provided herein; and

**WHEREAS**, the award has been granted as an inducement pursuant to Rule 5635(c)(4) of the listing standards of the Nasdaq Global Select Market.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

**1. Grant of Restricted Stock.**

(a) The Company hereby grants to the Grantee an award (the “Award”) of \_\_\_\_\_ shares of Common Stock of the Company (the “Shares” or the “Restricted Stock”) on the terms and conditions set forth in this Agreement and as otherwise provided in the Plan.

(b) The Grantee’s rights with respect to the Award shall remain forfeitable at all times prior to the dates on which the restrictions shall lapse in accordance with Sections 2 and 3 hereof.

**2. Terms and Rights as a Stockholder.**

(a) Except as provided herein and subject to such other exceptions as may be determined by the Committee in its discretion, the “Restricted Period” shall expire with respect to \_\_\_\_\_ percent (\_\_\_\_%) of the Shares granted herein on each of the first \_\_\_\_ anniversaries of the Grant Date.

(b) The Grantee shall have all rights of a stockholder with respect to the Restricted Stock, including the right to receive dividends and the right to vote such Shares, subject to the following restrictions:

(i) the Grantee shall not be entitled to the removal of the restricted legends or restricted account notices or to delivery of the stock certificate (if any) for any Shares until the expiration of the Restricted Period as to such Shares and the fulfillment of any other restrictive conditions set forth herein;

(ii) none of the shares of Restricted Stock may be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of during the Restricted Period as to such Shares and until the fulfillment of any other restrictive conditions set forth herein; and

(iii) except as otherwise determined by the Committee at or after the grant of the Award, any shares of Restricted Stock as to which the applicable "Restricted Period" has not expired (or other restrictive conditions have not been met) shall be forfeited, and all rights of the Grantee to such Shares shall terminate, without further obligation or action on the part of the Company, upon the termination of the Grantee's Service Relationship with the Company prior to the end of the Restricted Period applicable to such Shares.

(c) Notwithstanding the foregoing, the Restricted Period shall automatically terminate as to all shares of Restricted Stock awarded hereunder (as to which such Restricted Period has not previously terminated), and such Shares shall vest and become subject to Section 3 hereof, in the following circumstances:

(i) upon the termination of the Grantee's Service Relationship with the Company which results from the Grantee's death or Disability;

(ii) upon the termination of the Grantee's Service Relationship with the Company (or its successor) within one year following a Change in Control, if the Grantee's Service Relationship with the Company (or its successor) is terminated by (A) the Grantee for Good Reason, or (B) the Company (or its successor) for any reason other than for Cause; *provided*, that in the event this Award is not assumed by the Acquiror under the terms set forth in Section 10.1 of the Plan, the Restricted Period shall automatically terminate as to all shares of Restricted Stock awarded hereunder (to the extent not previously terminated or forfeited).

Any Shares, any other securities of the Company and any other property (except for cash dividends) distributed with respect to the Shares of Restricted Stock shall be subject to the same restrictions, terms and conditions as such of Restricted Stock.

3. Termination of Restrictions. Following the termination of the Restricted Period, and provided that all other restrictive conditions set forth herein have been met, all restrictions set forth in this Agreement or in the Plan relating to such portion or all, as applicable, of the shares of Restricted Stock shall lapse as to such portion or all, as applicable, of the Shares, and a

stock certificate for the appropriate number of Shares, free of the restrictions and restrictive stock legend, shall, upon request, be delivered to the Grantee or Grantee's beneficiary or estate, as the case may be, pursuant to the terms of this Agreement (or, in the case of book-entry Shares, such restrictions and restricted stock legend shall be removed from the confirmation and account statements delivered to the Grantee in book-entry form).

4. Delivery of Shares.

(a) As of the date hereof, certificates representing the Restricted Stock may be registered in the name of the Grantee and held by the Company or transferred to a custodian appointed by the Company for the account of the Grantee subject to the terms and conditions of the Plan and shall remain in the custody of the Company or such custodian until their delivery to the Grantee or Grantee's beneficiary or estate as set forth in Sections 4(b) and (c) hereof or their forfeiture or reversion to the Company as set forth in Section 2(b) hereof. The Committee may, in its discretion, provide that the Grantee's ownership of the Restricted Stock prior to the lapse of any transfer restrictions or any other applicable restrictions shall, in lieu of such certificates, be evidenced by a "book entry" (i.e. a computerized or manual entry) in the records of the Company or its designated agent in accordance with and subject to the applicable provisions of the Plan.

(b) If certificates shall have been issued as permitted in Section 4(a) above, certificates representing shares of Restricted Stock in respect of which the Restricted Period has lapsed pursuant to this Agreement shall be delivered to the Grantee upon request following the date on which the restrictions on such Shares lapse.

(c) If certificates shall have been issued as permitted in Section 4(a) above, certificates representing Shares in respect of which the Restricted Period lapsed upon the Grantee's death shall be delivered to the executors or administrators of the Grantee's estate as soon as practicable following the receipt of proof of the Grantee's death satisfactory to the Company.

(d) Any certificate representing shares of Restricted Stock shall bear (and confirmation and account statements sent to the Grantee with respect to book-entry Shares may bear) a legend in substantially the following form or substance:

THE SHARES OF STOCK REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND UNDER APPLICABLE BLUE SKY LAW OR UNLESS SUCH SALE, TRANSFER, PLEDGE OR OTHER DISPOSITION IS EXEMPT FROM REGISTRATION THEREUNDER.

THIS CERTIFICATE AND THE SHARES OF STOCK REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS (INCLUDING FORFEITURE AND RESTRICTIONS AGAINST TRANSFER) CONTAINED IN THE i3 VERTICALS INC. 2020 ACQUISITION EQUITY INCENTIVE

PLAN (THE “PLAN”) AND THE RESTRICTED STOCK AWARD AGREEMENT (THE “AGREEMENT”) BETWEEN THE OWNER OF THE RESTRICTED STOCK REPRESENTED HEREBY AND i3 VERTICALS, INC. (THE “COMPANY”). THE RELEASE OF SUCH SHARES FROM SUCH TERMS AND CONDITIONS SHALL BE MADE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE PLAN AND THE AGREEMENT AND ALL OTHER APPLICABLE POLICIES AND PROCEDURES OF THE COMPANY, COPIES OF WHICH ARE ON FILE AT THE COMPANY.

5. Effect of Lapse of Restrictions. To the extent that the Restricted Period applicable to any shares of Restricted Stock shall have lapsed, the Grantee may receive, hold, sell or otherwise dispose of such Shares free and clear of the restrictions imposed under the Plan and this Agreement upon compliance with applicable legal requirements.

6. No Right to Continued Employment. This Agreement shall not be construed as giving the Grantee the right to be retained in the employ of the Company, and subject to any other written contractual arrangement between the Company and the Grantee, the Company may at any time dismiss the Grantee from employment, free from any liability or any claim under the Plan.

7. Adjustments. The Committee may make equitable and proportionate adjustments in the terms and conditions of, and the criteria included in, this Award in recognition of unusual or nonrecurring events (and shall make adjustments for the events described in Section 4.2 of the Plan) affecting the Company or the financial statements of the Company or of changes in applicable laws, regulations, or accounting principles in accordance with the Plan whenever the Committee determines that such events affect the Shares. Any such adjustments shall be effected in a manner that precludes the material enlargement of rights and benefits under this Award.

8. Amendment to Award. Subject to the restrictions contained in the Plan, the Committee may waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate the Award, prospectively or retroactively; provided that any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely affect the rights of the Grantee or any holder or beneficiary of the Award shall not to that extent be effective without the consent of the Grantee, holder or beneficiary affected.

9. Withholding of Taxes. If the Grantee makes an election under Section 83(b) of the Code with respect to the Award, the Award made pursuant to this Agreement shall be conditioned upon the prompt payment to the Company of any applicable withholding obligations or withholding taxes by the Grantee (“Withholding Taxes”). Failure by the Grantee to pay such Withholding Taxes will render this Agreement and the Award granted hereunder null and void *ab initio* and the Restricted Stock granted hereunder will be immediately cancelled. If the Grantee does not make an election under Section 83(b) of the Code with respect to the Award, upon the lapse of the Restricted Period with respect to any portion of Restricted Stock (or property distributed with respect thereto), the Company may satisfy the required Withholding

Taxes as set forth by Internal Revenue Service guidelines for the employer's statutory withholding with respect to the Grantee and issue vested shares to the Grantee without restriction. The Company may satisfy the required Withholding Taxes by withholding from the Shares included in the Award that number of whole shares necessary to satisfy such taxes as of the date the restrictions lapse with respect to such Shares based on the Fair Market Value of the Shares, or by requiring the Grantee to remit to the Company the proper Withholding Taxes in cash.

10. Plan Governs. The Grantee hereby acknowledges receipt of a copy of (or electronic link to) the Plan and agrees to be bound by all the terms and provisions thereof. The terms of this Agreement are governed by the terms of the Plan, and in the case of any inconsistency between the terms of this Agreement and the terms of the Plan, the terms of the Plan shall govern.

11. Severability. If any provision of this Agreement is, or becomes, or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any Person or the Award, or would disqualify the Plan or Award under any laws deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Person or Award, and the remainder of the Plan and Award shall remain in full force and effect.

12. Notices. All notices required to be given under this Award shall be deemed to be received if delivered or mailed as provided for herein, to the parties at the following addresses, or to such other address as either party may provide in writing from time to time.

i3Verticals, Inc.  
40 Burton Hills Boulevard, Suite 415  
Nashville, Tennessee 37215  
Attn: Paul Maple, General Counsel  
E-mail: pmaple@i3verticals.com

*To the Company:*

The address then maintained with respect to the Grantee in the Company's records.

13. Governing Law. The validity, construction and effect of this Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to conflicts of laws principles.

14. Successors in Interest. This Agreement shall inure to the benefit of and be binding upon any successor to the Company. This Agreement shall inure to the benefit of the Grantee's legal representatives. All obligations imposed upon the Grantee and all rights granted to the

Company under this Agreement shall be binding upon the Grantee's heirs, executors, administrators and successors.

15. Resolution of Disputes. Any dispute or disagreement which may arise under, or as a result of, or in any way related to, the interpretation, construction or application of this Agreement shall be determined by the Committee. Any determination made hereunder shall be final, binding and conclusive on the Grantee and the Company for all purposes.

**IN WITNESS WHEREOF**, the parties have caused this Restricted Stock Award Agreement to be duly executed effective as of the day and year first above written.

**i3 VERTICALS, INC.**

By: \_\_\_\_\_

**GRANTEE:**

[Signature Page to Restricted Stock Award Agreement (2020 Acquisition Equity Incentive Plan)]

**i3 VERTICALS, INC.**  
**2020 ACQUISITION EQUITY INCENTIVE PLAN**  
**NOTICE OF STOCK OPTION GRANT**

i3 Verticals, Inc. (the “Company”), pursuant to its 2020 Acquisition Equity Incentive Plan, as amended from time to time (the “Plan”), hereby grants to the holder listed below (“Participant”) a non-qualified stock option (the “Option”) to purchase the number of shares of Class A common stock of the Company (“Shares”) set forth below. The Option is subject to the terms and conditions set forth in this Notice of Stock Option Grant (the “Grant Notice”), the Stock Option Award Agreement attached hereto as Exhibit A (the “Agreement”) and the Plan, which are incorporated herein by reference. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in the Grant Notice and the Agreement.

**Participant:**

**Grant Date:**

**Exercise Price per Share:** \$

**Total Number of Shares Subject to the Option:** shares

**Expiration Date:**

**Vesting Schedule:**

By accepting (whether in writing, electronically or otherwise) the Option, Participant acknowledges and agrees to be bound by the terms and conditions of the Plan, the Agreement and the Grant Notice. Participant has reviewed the Agreement, the Plan and the Grant Notice in their entirety and fully understands all provisions thereof. Participant understands that Participant’s employment with the Company (or an Affiliate) is for an unspecified duration, can be terminated at any time (i.e., is “at-will”), except where otherwise prohibited by applicable law, and that nothing in this Grant Notice, the Agreement or the Plan changes the nature of that employment relationship. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Plan, the Grant Notice or the Agreement.

i3 VERTICALS, INC.

PARTICIPANT

By:

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Its:

By:

Print Name:

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## EXHIBIT A

### **i3 VERTICALS, INC. 2020 ACQUISITION EQUITY INCENTIVE PLAN STOCK OPTION AWARD AGREEMENT**

Unless otherwise defined in this Stock Option Award Agreement (this “Agreement”), any capitalized terms used herein will have the meaning ascribed to them in the i3 Verticals, Inc. 2020 Acquisition Equity Incentive Plan (the “Plan”). Participant has been granted an option to purchase Shares (the “Option”) of i3 Verticals, Inc. (the “Company”), subject to the terms, restrictions and conditions of the Plan, the Notice of Stock Option Grant (the “Notice”) and this Agreement.

#### **ARTICLE I GENERAL**

The Option is subject to the terms and conditions set forth in this Agreement and in the Grant Notice and the Plan, which are incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan shall control.

#### **ARTICLE II GRANT OF OPTION**

2.1 Grant of Option. In order to induce the Participant to accept employment with the Company or a Subsidiary and for other good and valuable consideration, effective as of the grant date set forth in the Grant Notice (the “Grant Date”), the Company has granted to Participant the Option to purchase any part or all of an aggregate of the number of Shares set forth in the Grant Notice, upon the terms and conditions set forth in the Grant Notice, the Plan and this Agreement, subject to adjustments as provided in Section 4.2 of the Plan. The Option is a non-qualified stock option.

2.2 Exercise Price. The Exercise Price shall be as set forth in the Grant Notice.

2.3 Consideration to the Company. In consideration of the grant of the Option by the Company, Participant agrees to render faithful and efficient services to the Company or any Subsidiary. Nothing in the Plan, the Grant Notice or this Agreement shall confer upon Participant any right to continue in the employ or service of the Company or any Subsidiary or shall

interfere with or restrict in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of Participant at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between the Company or a Subsidiary and Participant.

## **ARTICLE III** **PERIOD OF EXERCISABILITY**

**3.1 Commencement of Exercisability.** Subject to the provisions of Article III, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the Grant Notice. The Option shall not be exercisable prior to the applicable vesting date.

(a) Participant acknowledges that the vesting of the Option pursuant to this Agreement and the Grant Notice is subject to Participant's continuing Service Relationship. Except as otherwise provided in this Section 3.1, Participant's right to vest in the Option will terminate as of the date on which Participant's Service Relationship is terminated.

(b) Notwithstanding Section 3.1(a), upon the termination of the Participant's Service Relationship with the Company on account of the Participant's death or Disability, one hundred percent (100%) of the Option that has not yet vested shall vest and be exercisable at such time as set forth in the Grant Notice and this Article III.

(c) Notwithstanding anything contained herein to the contrary, upon the occurrence of a Change in Control in which this Option is not continued or assumed, or with respect to which a substituted award is not issued to the Participant, in each case under the terms and conditions set forth in Section 10.1(a) or (b) of the Plan, this Option shall become vested with respect to one hundred percent of the Shares covered hereby (to the extent not previously forfeited or canceled) and to the extent not exercised prior to the effective time of the Change in Control transaction, shall be canceled in exchange for a payment with respect to each Share covered by this Option in (i) cash, (ii) stock of the Company or of a corporation or other business entity a party to the Change in Control, or (iii) other property which, in any such case, shall be in an amount having a Fair Market Value equal to the Fair Market Value of the consideration to be paid per Share in the Change in Control, reduced by the exercise price per Share covered by this Option (which payment may, for the avoidance of doubt, be \$0, in the event the per share exercise price of the Option is greater than the per share consideration in connection with the Change in Control). The Committee may provide that Options whose vesting will be accelerated pursuant to this Section 3.1(c) may be exercisable for a period of time determined by the Committee prior to the effective time of the Change in Control.

**3.2 Duration of Exercisability.** The Option shall remain vested and exercisable until it becomes unexercisable under Section 3.3 hereof. Participant is responsible for keeping track of these exercise periods following Participant's termination of its Service Relationship for any reason. The Company will not provide further notice of such periods.

**3.3 Expiration of Option**. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The expiration date set forth in the Grant Notice;

(b) Except as the Committee may otherwise approve, in the event the Participant's Service Relationship is terminated other than for Cause or by reason of Participant's death or Disability, the expiration of three (3) months from the date of the termination of the Participant's Service Relationship;

(c) Except as the Committee may otherwise approve, the expiration of one (1) year from the date of the termination of the Participant's Service Relationship by reason of Participant's death or Disability; or

(d) Except as the Committee may otherwise approve, on the date of the termination of the Participant's Service Relationship by the Company for Cause, or if earlier, the date on which the basis for a termination for Cause existed; or

(e) The Option is cancelled pursuant to Section 3.1(c).

In the case of (a) or (b) above, the period of time over which this Option may be exercised shall be automatically extended if on the scheduled expiration of the Option, the Participant's exercise of such Option would violate applicable securities law; provided, however, that during the extended exercise period the Option may only be exercised to the extent the Option was exercisable in accordance with its terms immediately prior to such scheduled expiration date; and provided further, that such extended exercise period shall end not later than thirty (30) days after the exercise of such Option first would no longer violate such laws.

## **ARTICLE IV EXERCISE OF OPTION**

**4.1 Person Eligible to Exercise**. Unless otherwise provided by the Committee in its sole discretion, during the lifetime of Participant, only Participant may exercise the Option or any portion thereof. After the death of Participant, the Option may, prior to the time when the Option becomes unexercisable under Section 3.3 hereof, be exercised by Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

**4.2 Manner of Exercise**. The Option may be exercised, in whole or in part, at the times set forth in Article III solely by delivery to the Secretary of the Company (or any other person or entity designated by the Company), during regular business hours in person, by mail, via electronic mail or facsimile or by other authorized method of all of the following prior to the time when the Option or such portion thereof becomes unexercisable under Section 3.3 hereof:

(a) An exercise notice in a form specified by the Committee, stating that the Option or portion thereof is thereby exercised and complying with all applicable rules established by the Committee;

(b) The receipt by the Company of full payment for the Shares with respect to which the Option or portion thereof is exercised, in such form of consideration permitted under Section 4.3 hereof that is acceptable to the Committee;

(c) The payment of any applicable withholding tax in accordance with Section 4.4;

(d) Any other written representations or documents as may be required in the Committee's sole discretion to effect compliance with applicable law; and

(e) In the event the Option or portion thereof shall be exercised pursuant to Section 4.1 hereof by any person or persons other than Participant, appropriate proof of the right of such person or persons to exercise the Option. Notwithstanding any of the foregoing, the Committee shall have the right to specify all conditions of the manner of exercise, which conditions may vary by Participant and which may be subject to change from time to time.

**4.3 Method of Payment.** Payment of the exercise price shall be by any of the following, or a combination thereof:

(a) Cash or check;

(b) With the consent of the Committee, surrender of Shares (including, without limitation, Shares otherwise issuable upon exercise of the Option that are withheld by the Company) held for such period of time as may be required by the Committee in order to avoid adverse accounting consequences and having a Fair Market Value on the date of delivery equal to the aggregate exercise price of the Option or exercised portion thereof;

(c) With the consent of the Committee and subject to Section 5.17, through the delivery of a notice that Participant has placed a market sell order with a broker designated by the Company with respect to the Shares then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option Exercise Price; provided that payment of such proceeds is then made to the Company at such time as may be required by the Committee, but in any event not later than the settlement of such sale; or

(d) Any other form of legal consideration acceptable to the Committee.

**4.4 Tax Withholding.** Notwithstanding any other provision of this Agreement:

(a) The Company and its Subsidiaries have the authority to deduct or withhold, or require Participant to remit to the Company or the applicable Subsidiary, an amount

sufficient to satisfy applicable federal, state, local and foreign taxes (including the employee portion of any FICA obligation) required by law to be withheld with respect to any taxable event arising pursuant to this Agreement. The Company and its Subsidiaries may withhold or Participant may make such payment in one or more of the forms specified below:

(i) by cash or check made payable to the Company or the Subsidiary with respect to which the withholding obligation arises;

(ii) by the deduction of such amount from other cash compensation payable to Participant;

(iii) with the consent of the Committee, by requesting that the Company withhold a net number of Shares issuable upon the exercise of the Option having a then current Fair Market Value not exceeding the amount necessary to satisfy the withholding obligation of the Company and its Subsidiaries based on a rate not to exceed the maximum applicable statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes;

(iv) with the consent of the Committee, by tendering to the Company Shares having a then current Fair Market Value not exceeding the amount necessary to satisfy the withholding obligation of the Company and its Subsidiaries due upon the exercise of the Option based on a rate not to exceed the maximum applicable statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes;

(v) with the consent of the Committee, through the delivery of a notice that Participant has placed a market sell order with a broker designated by the Company with respect to Shares then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company or the Subsidiary with respect to which the withholding obligation arises in satisfaction of such withholding taxes; provided that payment of such proceeds is then made to the Company or the applicable Subsidiary at such time as may be required by the Committee, but in any event not later than the settlement of such sale; or

(vi) in any combination of the foregoing.

(b) With respect to any withholding taxes arising in connection with the Option, in the event Participant fails to provide timely payment of all sums required pursuant to Section 4.4(a), the Company shall have the right and option, but not the obligation, to treat such failure as an election by Participant to satisfy all or any portion of Participant's required payment obligation pursuant to Section 4.4(a)(ii) or Section 4.4(a)(iii) above, or any combination of the foregoing as the Company may determine to be appropriate. The Company shall not be obligated to deliver any certificate representing Shares issuable with respect to the exercise of the Option to Participant or his or her legal representative unless and until Participant or his or her legal representative shall have paid or otherwise satisfied in full the amount of all federal, state, local

and foreign taxes applicable with respect to the taxable income of Participant resulting from the exercise of the Option or any other taxable event related to the Option.

(c) Participant is ultimately liable and responsible for all taxes owed in connection with the Option, regardless of any action the Company or any Subsidiary takes with respect to any tax withholding obligations that arise in connection with the Option. Neither the Company nor any Subsidiary makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or exercise of the Option or the subsequent sale of Shares. The Company and the Subsidiaries do not commit, and are under no obligation, to structure the Option to reduce or eliminate Participant's tax liability.

**4.5 Conditions to Issuance of Stock.** The Company shall not be required to issue or deliver any Shares purchased upon the exercise of the Option or portion thereof prior to fulfillment of all of the following conditions: (A) the admission of such Shares to listing on all stock exchanges on which such Shares are then listed, (B) the completion of any registration or other qualification of such Shares under any state or federal law or under rulings or regulations of the Securities and Exchange Commission or other governmental regulatory body, that the Committee shall, in its absolute discretion, deem necessary or advisable, (C) the obtaining of any approval or other clearance from any state or federal governmental agency that the Committee shall, in its absolute discretion, determine to be necessary or advisable, (D) the receipt by the Company of full payment for such shares of Stock, which may be in one or more of the forms of consideration permitted under Section 4.3 hereof, and (E) the receipt of full payment of any applicable withholding tax in accordance with Section 4.4 by the Company or its Subsidiary with respect to which the applicable withholding obligation arises.

**4.6 Rights as Stockholder.** Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company in respect of any shares of Stock purchasable upon the exercise of any part of the Option unless and until certificates representing such shares of Stock (which may be in book-entry form) will have been issued and recorded on the records of the Company or its transfer agents or registrars and delivered to Participant (including through electronic delivery to a brokerage account). No adjustment will be made for a dividend or other right for which the record date is prior to the date of such issuance, recordation and delivery, except as provided in Section 4.2 of the Plan.

## **ARTICLE V OTHER PROVISIONS**

**5.1 Administration.** The Committee shall have the power to interpret the Plan, the Grant Notice and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan, the Grant Notice and this Agreement as are consistent therewith and to interpret, amend or revoke any such rules. All actions taken and all interpretations and determinations made by the Committee will be final and binding upon Participant, the Company and all other interested persons. To the extent allowable pursuant to applicable law, no member of the Committee or the Board will be personally liable for any action, determination or interpretation made with respect to the Plan, the Grant Notice or this Agreement.

**5.2 Whole Shares.** The Option may be exercised only for whole shares of Stock.

**5.3 Option Not Transferable.** Subject to Section 4.1 hereof, the Option may not be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution, unless and until the shares of Stock underlying the Option have been issued, and all restrictions applicable to such shares of Stock have lapsed. Neither the Option nor any interest or right therein or part thereof shall be liable for the debts, contracts or engagements of Participant or his or her successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and any attempted disposition thereof shall be null and void and of no effect, except to the extent that such disposition is permitted by the preceding sentence.

**5.4 Adjustments.** Upon the occurrence of certain events relating to the Shares contemplated by Section 4.2 of the Plan (including, without limitation, an extraordinary cash dividend on such Shares), the Committee shall make such adjustments as the Committee deems appropriate in the number of Shares subject to the Option, the exercise price of the Option and the kind of securities that may be issued upon exercise of the Option. Participant acknowledges that the Option is subject to adjustment, modification and termination in certain events as provided in this Agreement and Section 4.2 of the Plan.

**5.5 Notices.** Any notice to be given under the terms of this Agreement to the Company shall be addressed to the Company in care of the Secretary of the Company at the Company's principal office, and any notice to be given to Participant shall be addressed to Participant at Participant's last address reflected on the Company's records. By a notice given pursuant to this Section 5.5, either party may hereafter designate a different address for notices to be given to that party. Any notice that is required to be given to Participant shall, if Participant is then deceased, be given to the person entitled to exercise the Option pursuant to Section 4.1 hereof by written notice under this Section 5.5. Any notice shall be deemed duly given when sent via email or when sent by certified mail (return receipt requested) and deposited (with postage prepaid) in a post office or branch post office regularly maintained by the United States Postal Service.

**5.6 Titles.** Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

**5.7 Governing Law.** The laws of the State of Delaware shall govern the interpretation, validity, administration, enforcement and performance of the terms of this Agreement regardless of the law that might be applied under principles of conflicts of laws.

**5.8 Conformity to Securities Laws.** Participant acknowledges that the Plan, the Grant Notice and this Agreement are intended to conform to the extent necessary with all applicable laws, including, without limitation, the provisions of the Securities Act and the Exchange Act.

and any and all regulations and rules promulgated thereunder by the Securities and Exchange Commission and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to applicable law. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to applicable law.

5.9 Amendment, Suspension and Termination. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Committee or the Board, provided that, except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall adversely affect the Option in any material way without the prior written consent of Participant.

5.10 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in Section 5.3 and the Plan, this Agreement shall be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

5.11 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Option, the Grant Notice and this Agreement shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, this Agreement shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

5.12 Entire Agreement. The Plan, the Grant Notice and this Agreement (including any exhibit hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof.

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

Section 409A. Nothing in the Plan or this Agreement shall be construed to make the Company liable to Participant for any tax, interest, or penalties that Participant might owe as a result of the grant, holding, vesting, exercise, or payment of this Option or any Stock related thereto.

**5.14 Agreement Severable.** In the event that any provision of the Grant Notice or this Agreement is held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of the Grant Notice or this Agreement.

**5.15 Limitation on Participant's Rights.** Participation in the Plan confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. Participant shall have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the Option, and rights no greater than the right to receive the Stock as a general unsecured creditor with respect to options, as and when exercised pursuant to the terms hereof.

**5.16 Counterparts.** The Grant Notice may be executed in one or more counterparts, including by way of any electronic signature, subject to applicable law, each of which shall be deemed an original and all of which together shall constitute one instrument.

**5.17 Broker-Assisted Sales.** In the event of any broker-assisted sale of shares of Stock in connection with the payment of the exercise price as provided in Section 4.4(c) or withholding taxes as provided in Section 4.4(a)(v) or Section 4.4(c): (A) any Shares to be sold through a broker-assisted sale will be sold on the day the tax withholding obligation or exercise of the Option, as applicable, occurs or arises, or as soon thereafter as practicable; (B) such Shares may be sold as part of a block trade with other participants in the Plan in which all participants receive an average price; (C) Participant will be responsible for all broker's fees and other costs of sale, and Participant agrees to indemnify and hold the Company harmless from any losses, costs, damages, or expenses relating to any such sale; (D) to the extent the proceeds of such sale exceed the applicable tax withholding obligation or exercise price, the Company agrees to pay such excess in cash to Participant as soon as reasonably practicable; (E) Participant acknowledges that the Company or its designee is under no obligation to arrange for such sale at any particular price, and that the proceeds of any such sale may not be sufficient to satisfy the applicable tax withholding obligation or exercise price; and (F) in the event the proceeds of such sale are insufficient to satisfy the applicable tax withholding obligation, Participant agrees to pay immediately upon demand to the Company or its Subsidiary with respect to which the withholding obligation arises, an amount sufficient to satisfy any remaining portion of the Company's or the applicable Subsidiary's withholding obligation.

**5.18 Award Subject to Company Clawback or Recoupment.** The Option shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant's Service Relationship that is applicable to Participant. In addition to any other remedies available under such policy,

applicable law may require the cancellation of Participant's Option (whether vested or unvested) and the recoupment of any gains realized with respect to Participant's Option.