

PROPOSAL NO. 4—APPROVAL OF AMENDMENT AND RESTATEMENT OF OUR RESTATED CERTIFICATE OF INCORPORATION (THE “CHARTER”) TO PROVIDE FOR THE EXCULPATION OF OFFICERS

Background

Article NINTH of our Charter currently provides that a director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty to the fullest extent permitted by law. Effective August 1, 2022, the State of Delaware, which is the Company’s state of incorporation, amended Section 102(b)(7) of the Delaware General Corporation Law (the “DGCL”) to authorize exculpation of officers of Delaware corporations. Specifically, the amendments extend the opportunity for Delaware corporations to exculpate their officers, in addition to their directors, for personal liability for breach of the duty of care in certain circumstances. This provision would only permit exculpation of officers for direct claims, as opposed to derivative claims made by stockholders on behalf of the Company, and would not exculpate officers from liability for breach of the duty of loyalty, acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, or any transaction in which the officer derived an improper personal benefit. The rationale for limiting the scope of liability is to strike a balance between stockholders’ interest in accountability and their interest in the Company being able to attract and retain quality officers to work on its behalf.

The board of directors believes it is necessary to provide protection to officers to the fullest extent permitted by law in order to attract and retain top talent. Similar protection has long been afforded to directors. Accordingly, the board of directors has determined that the proposal to amend and restate the Charter in order to extend exculpation to officers is fair and in the best interests of the Company and our stockholders, pursuant to Section 102(b)(7) of the DGCL.

This description of the proposed amendment and restatement of the Charter (the “Restated Certificate of Incorporation”) is a summary and is qualified in its entirety by the full text of the Restated Certificate of Incorporation, which is attached to this proxy statement as Appendix A and is marked to show the proposed changes described above. If this Proposal 4 is approved, we intend to file a corresponding Restated Certificate of Incorporation, reflecting the approved amendment, with the Delaware Secretary of State as soon as practicable following the Annual Meeting. If our stockholders do not approve the Restated Certificate of Incorporation, then the proposed changes shown in Appendix A will not be adopted.

Recommendation of Board of Directors

Our board of directors recommends a vote “FOR” the amendment and restatement of our Charter to provide for the exculpation of officers.

Vote Required

Approval of Proposal No. 4 requires the affirmative vote of the holders of a majority of the voting power of the outstanding shares of stock of the Company entitled to vote at the Annual Meeting. Abstentions and broker non-votes will have the same effect as a vote against this proposal.