

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 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): December 5, 2022

Pineapple Energy Inc.

(Exact name of Registrant as Specified in its Charter)

Minnesota

(State Or Other Jurisdiction Of Incorporation)

001-31588

(Commission File Number)

41-0957999

(I.R.S. Employer Identification No.)

10900 Red Circle Drive
Minnetonka, MN

(Address of Principal Executive Offices)

55343

(Zip Code)

(952) 996-1674

Registrant's Telephone Number, Including Area Code

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

Title of Each Class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value, \$.05 per share	PEGY	The Nasdaq Stock Market, LLC

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

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company

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

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

Employee Stock Purchase Plan and Amendment to Equity Plan

As reported below in Item 5.07, on December 7, 2022, the shareholders of Pineapple Energy Inc. (the “Company”) approved the Company’s 2022 Employee Stock Purchase Plan (the “ESPP”). Approval of the ESPP was included as Proposal 4 in the Company’s definitive proxy statement for its Annual Meeting of Shareholders filed with the Securities and Exchange Commission on October 24, 2022 (the “Proxy Statement”). A copy of the ESPP is attached as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

As reported below in Item 5.07, on December 7, 2022, the shareholders of the Company also approved amendments to the Company’s 2022 Equity Incentive Plan (the “2022 Equity Plan”) to increase the number of shares of the Company’s common stock, par value \$0.05 per share (the “Common Stock”), authorized for issuance under the 2022 Equity Plan, and the number of shares that can be issued as incentive stock options under the 2022 Equity Plan, from 750,000 to 1,250,000 shares (the “Plan Amendments”). The Plan Amendments were included as Proposal 5 in the Proxy Statement. A copy of the 2022 Equity Plan, as amended to reflect the Plan Amendments, is attached as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Employment and Change in Control Agreements

The Company entered into an Employment Agreement (the “Udseth Employment Agreement”) and a Change in Control Agreement (the “Udseth Change in Control Agreement”), each dated as of December 5, 2022, with Kyle Udseth, the Company’s Chief Executive Officer. The Company also entered into an Employment Agreement (the “Ingvaldson Employment Agreement” and, together with the Udseth Employment Agreement, the “Employment Agreements”) and a Change in Control Agreement (the “Ingvaldson Change in Control Agreement” and, together with the Udseth Change in Control Agreement, the “Change in Control Agreements”), each dated as of December 5, 2022, with Eric Ingvaldson, the Company’s Chief Financial Officer.

The Udseth Employment Agreement provides for, among other things, an annual base salary of \$300,000, Mr. Udseth’s participation in the Company’s employee bonus program with a potential bonus opportunity of up to 50% of his base salary, and Mr. Udseth’s participation in the Company’s employee benefit plans and programs. The Ingvaldson Employment Agreement provides for, among other things, an annual base salary of \$250,000, Mr. Ingvaldson’s participation in the Company’s employee bonus program with a potential bonus opportunity of up to 40% of his base salary, and Mr. Ingvaldson’s participation in the Company’s employee benefit plans and programs.

Each of the Employment Agreements provides that upon termination of the executive’s employment, he is entitled to receive any base salary owed through his termination date and reimbursement of reasonable expenses incurred as of his termination date. If the executive’s employment is terminated by the Company for any reason other than Cause (as defined in the Employment Agreements) or disability, or by the executive for Good Reason (as defined in the Employment Agreements), in each case prior to a Change in Control (as defined in the Change in Control Agreements), the executive would also be entitled to receive an amount equal to 50% of his annual base salary at that time, payable in equal installments over a six-month period. The Employment Agreements also contain certain other customary terms and conditions, including non-competition, non-solicitation, and non-interference provisions.

The Udseth Employment Agreement supersedes and replaces the employment agreement, dated as of February 10, 2021, between Mr. Udseth and the Company, other than with respect to certain provisions as provided in the Udseth Employment Agreement. The Ingvaldson Employment Agreement supersedes and replaces the offer letter, dated as of September 16, 2022, between Mr. Ingvaldson and the Company.

Each of the Change in Control Agreements provides that if, within 24 months following a Change in Control, the executive’s employment is terminated by the Company for any reason other than Cause (as defined in the Change in Control Agreement), death or disability, or by the executive for Good Reason (as defined in the Change in Control Agreement), then the Company shall pay the executive an amount equal to one times his annual base salary as of the date of the Change in Control or his termination date, whichever is greater, payable in a lump sum within 75 days following the termination date. Each of the Change in Control Agreements also provides that upon such a termination, for a period of 12 months following the termination date, the executive will receive medical and dental insurance and life insurance, substantially in the form and expense to him as received by him on his termination date. Each of the Change in Control Agreements also provides that the payments made to the executive under the agreement shall be one dollar less than the amount which would cause all payments to him to be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code.

The foregoing descriptions of the Udseth Employment Agreement, the Udseth Change in Control Agreement, the Ingvaldson Employment Agreement and the Ingvaldson Change in Control Agreement are summaries, do not purport to be complete and are qualified in their entirety by reference to the full text of such documents, which are attached hereto as Exhibits 10.3, 10.4, 10.5 and 10.6, respectively, and incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

As reported below in Item 5.07, on December 7, 2022, the shareholders of the Company approved an amendment to the Company's Second Amended and Restated Articles of Incorporation (the "Articles of Incorporation") to increase the number of authorized shares of Common Stock to a total of 75,000,000 shares (the "Amendment"). The Amendment, which was included as Proposal 3 in the Company's Proxy Statement, became effective on December 9, 2022 upon filing of Articles of Amendment to the Articles of Incorporation with the Secretary of State of the State of Minnesota.

A copy of the Articles of Amendment as filed with the Secretary of State of the State of Minnesota is attached as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference. A copy of the Company's Third Amended and Restated Articles of Incorporation reflecting the Amendments is attached as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders

On December 7, 2022, the Company held its 2022 Annual Meeting of Shareholders (the "Annual Meeting"). At the Annual Meeting, the Company's shareholders voted on the nine proposals described below. The proposals presented at the Annual Meeting are described in detail in the Proxy Statement.

Of the 7,435,586 shares of Common Stock outstanding and entitled to vote at the Annual Meeting, 5,434,664, or 73.08% of the outstanding shares, were present either in person or by proxy.

The final results for each of the proposals submitted to a vote of shareholders at the Annual Meeting are as follows:

Proposal 1: Election of Directors

The following nominees were elected to serve as directors for a term that will last until the Company's 2023 Annual Meeting of Shareholders or until his or her successor is duly elected and qualified. The voting with respect to the election of directors was as follows:

Nominee	Votes For	Withheld	Broker Non-Votes
Marilyn Adler	4,083,985	260,979	1,089,700
Thomas Holland	4,251,502	93,462	1,089,700
Scott Honour	4,224,569	120,395	1,089,700
Roger Lacey	4,249,222	95,742	1,089,700
Randall Sampson	4,251,920	93,044	1,089,700
Kyle Udseth	4,225,303	119,661	1,089,700
Michael Zapata	4,249,025	95,939	1,089,700

Proposal 2: Ratification of the Appointment of Baker Tilly US, LLP as the Company's Independent Registered Public Accounting Firm for 2022

The Company's shareholders ratified the appointment of Baker Tilly US, LLP as the Company's independent registered public accounting firm for the year ending December 31, 2022 by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>
5,388,096	33,195	13,373

Proposal 3: Approval of the Increase in the Number of Authorized Shares of the Company's Common Stock

The Company's shareholders approved the amendment of the Company's Amended and Restated Articles of Incorporation to increase the number of authorized shares of Common Stock from 37,500,000 to 75,000,000 by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>
4,965,622	453,979	15,061

Proposal 4: Approval of the Company's 2022 Employee Stock Purchase Plan

The Company's shareholders approved the Company's 2022 Employee Stock Purchase Plan by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
4,103,337	227,056	14,571	1,089,700

Proposal 5: Approval to Amend the Company's 2022 Equity Incentive Plan

The Company's shareholders approved the amendments to the Company's 2022 Equity Plan to increase the number of shares of Common Stock authorized for issuance under the 2022 Equity Plan and the number of shares that can be issued as incentive stock options under the 2022 Equity Plan from 750,000 to 1,250,000 shares by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
3,933,627	402,167	9,170	1,089,700

Proposal 6: Approval of the Issuance of Securities in One or More Non-Public Offerings

The Company's shareholders approved the potential approve the issuance of up to \$20.0 million of securities in one or more non-public offerings where the maximum discount at which securities will be offered will be equivalent to a discount of up to 20% below the market price of the Common Stock in accordance with Nasdaq Listing Rule 5635(d) by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
3,933,663	405,221	6,080	1,089,700

Proposal 7: Approval of the Removal of Supermajority Voting Requirements in the Company's Articles of Incorporation

The Company's shareholders did not approve an amendment to the Company's Amended and Restated Articles of Incorporation to eliminate the requirement that any reclassification of securities or recapitalization or reorganization of the Company be approved by at least two-thirds of the votes entitled to be cast by the holders of all then outstanding shares of voting stock by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
3,933,018	399,423	12,522	1,089,701

Proposal 8: Approval of the Adjournment of the Annual Meeting to Solicit Additional Proxies

The Company's shareholders approved the one or more adjournments of the Annual Meeting to a later date or dates to solicit additional proxies if there are insufficient votes to approve any of the proposals at the time of the Annual Meeting by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>
4,974,233	427,330	33,098

Proposal 9: Election of Scott Maskin as a Director

Scott Maskin was elected to serve as director for a term that will last until the Company's 2023 Annual Meeting of Shareholders or until his or her successor is duly elected and qualified by voting as follows:

<u>For</u>	<u>Withhold</u>	<u>Broker Non-Votes</u>
3,751,937	118,513	1,561,782

Item 9.01. Financial Statements and Exhibits.

The following exhibits are being filed with this Current Report on Form 8-K:

Exhibit No.	Description
3.1	Articles of Amendment to the Articles of Incorporation, dated December 9, 2022
3.2	Third Amended and Restated Articles of Incorporation, as amended through December 9, 2022
10.1	Pineapple Energy Inc. 2022 Employee Stock Purchase Plan
10.2	Pineapple Energy Inc. 2022 Equity Incentive Plan, as amended through December 7, 2022
10.3	Employment Agreement, dated as of December 5, 2022, between Pineapple Energy Inc. and Kyle Udseth
10.4	Change in Control Agreement, dated as of December 5, 2022, between Pineapple Energy Inc. and Kyle Udseth
10.5	Employment Agreement, dated as of December 5, 2022, between Pineapple Energy Inc. and Eric Ingvaldson
10.6	Change in Control Agreement, dated as of December 5, 2022, between Pineapple Energy Inc. and Eric Ingvaldson
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, thereunto duly authorized.

PINEAPPLE ENERGY INC

By: /s/ Kyle J. Udseth

Kyle J. Udseth, Chief Executive Officer

Date: December 9, 2022

**ARTICLES OF AMENDMENT
OF
ARTICLES OF INCORPORATION
OF
PINEAPPLE ENERGY INC.**

The undersigned, Eric Ingvaldson, in his capacity as Chief Financial Officer and Secretary of Pineapple Energy Inc., a Minnesota corporation (the "Corporation"), hereby certifies that:

1. The name of the Corporation is Pineapple Energy Inc.

2. The first paragraph of Article V of the Corporation's Third Amended and Restated Articles of Incorporation has been amended to read in its entirety as follows:

"The authorized capital stock of this corporation shall be Seventy-Five Million (75,000,000) shares of Common Stock of the par value of five cents (\$.05) per share (the "Common Stock") and Three Million (3,000,000) shares of Preferred Stock of the par value of One Dollar (\$1.00) per share (the "Preferred Stock")."

That the foregoing amendment has been adopted in accordance with the requirements of, and pursuant to, Chapter 302A of the Minnesota Statutes.

IN WITNESS WHEREOF, I have subscribed my name this 9th day of December, 2022.

/s/ Eric Ingvaldson
Eric Ingvaldson
Chief Financial Officer and Secretary

**THIRD AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
PINEAPPLE ENERGY INC.**

I, the undersigned, Kyle Udseth, the Chief Executive Officer of Pineapple Energy Inc., a Minnesota corporation (the "Company"), subject to the provisions of Chapter 302A, Minnesota Statutes, does hereby certify that:

1. The Third Amended and Restated Articles of Incorporation of the Company attached hereto as Exhibit A were duly adopted pursuant to Chapter 302A of the Minnesota Statutes, by resolutions duly adopted by the Board of Directors of the Company on October 14, 2022, and approved by the requisite vote of the Company's shareholders on December 7, 2022.
2. The Third Amended and Restated Articles of Incorporation of the Company, to be effective on December 9, 2022, supersedes the Second Amended and Restated Articles of Incorporation of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of December, 2022.

PINEAPPLE ENERGY INC.

/s/ Kyle Udseth

Kyle Udseth, Chief Executive Officer

THIRD AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
PINEAPPLE ENERGY INC.

RESOLVED, that the Articles of Incorporation of Pineapple Energy Inc. be and the same hereby are amended and restated to read as follows:

ARTICLE I.

The name of this corporation is Pineapple Energy Inc.

ARTICLE II.

The corporation has general business purposes.

ARTICLE III.

The duration of this corporation shall be perpetual.

ARTICLE IV.

The location and post office address of its registered office in this state is 10900 Red Circle Drive, Minnetonka, Minnesota 55343.

ARTICLE V.

Capital Stock

The authorized capital stock of this corporation shall be Seventy-Five Million (75,000,000) shares of Common Stock of the par value of five cents (\$.05) per share (the "Common Stock") and Three Million (3,000,000) shares of Preferred Stock of the par value of One Dollar (\$1.00) per share (the "Preferred Stock").

The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions of the shares of each class of stock shall be as follows:

SECTION 1. *Preferred Stock.* The Preferred Stock may be issued from time to time by the Board of Directors as shares of one or more series. Subject to the provisions hereof and the limitations prescribed by law, the Board of Directors is expressly authorized, by adopting resolutions providing for the issuance of shares of any particular series and, if and to the extent from time to time required by law, by filing with the Minnesota Secretary of State a statement with respect to the adoption of the resolutions pursuant to the Minnesota Business Corporation Act (or other law hereafter in effect relating to the same or substantially similar subject matter), to establish the number of shares to be included in each such series and to fix the designation and relative powers, preferences and rights and the qualifications and limitations or restrictions thereof relating to the shares of each such series. The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

(a) the distinctive serial designation of such series and the number of shares constituting such series, provided that the aggregate number of shares constituting all series of Preferred Stock shall not exceed Three Million (3,000,000);

(b) the annual dividend rate on shares of such series, if any, whether dividends shall be cumulative and, if so, from which date or dates;

(c) whether the shares of such series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon and after which such shares shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(d) the obligation, if any, of the corporation to retire shares of such series pursuant to a sinking fund;

(e) whether shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes and, if so, the terms and conditions of such conversion or exchange, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;

(f) whether the shares of such series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;

(g) the rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the corporation; and

(h) any other relative rights, powers, preferences, qualifications, limitations or restrictions thereof relating to such series.

The shares of Preferred Stock of any one series shall be identical with each other in all respects except as to the dates from and after which dividends thereon shall cumulate, if cumulative.

SECTION 2. *Common Stock.* Subject to all of the rights of the Preferred Stock, and except as may be expressly provided with respect to the Preferred stock herein, by law or by the Board of Directors pursuant to this Article V:

(a) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the corporation legally available for the payment of dividends;

(b) the holders of Common Stock shall have the exclusive right to vote for the election of directors and on all other matters requiring stockholder action, each share being entitled to one vote; and

(c) upon the voluntary or involuntary liquidation, dissolution or winding up of the corporation, the net assets of the corporation shall be distributed pro rata to the holders of the Common Stock in accordance with their respective share ownership.

ARTICLE VI.

Rights of Shareholders

(a) Pre-emptive Rights. No holder of any stock of the corporation shall have any pre-emptive right to subscribe for or purchase his proportionate share of any stock of the corporation, now or hereafter authorized, issued or reissued.

(b) Voting Rights. At each meeting of the shareholders, and with respect to any matter upon which the shareholders have a right to vote, each holder of record of shares of common stock shall be entitled to one vote for each share of common

stock so held. No shareholder shall have the right to cumulate his voting for any purpose whatsoever.

ARTICLE VII.

Board of Directors

SECTION 1. The business and affairs of this corporation will be managed by or under the direction of a Board of Directors consisting of not less than three or more than twelve directors, the exact number of directors to be fixed from time to time by or pursuant to the Bylaws. Each director will serve until his or her successor has been duly elected and qualified, unless he or she retires, resigns, dies or is removed.

SECTION 2. Any vacancies occurring in the Board of Directors for any reason, and any newly created directorships resulting from an increase in the number of directors, may be filled by a majority of the directors then in office. Any directors so chosen will hold office until the next election of directors and until their successors are elected and qualified, subject, however, to prior retirement, resignation, death or removal from office.

SECTION 3. A majority of the directors then in office will constitute a quorum for the transaction of business, and if at any meeting of the Board of Directors there is less a quorum, a majority of those present may adjourn the meeting from time to time.

SECTION 4. Advance notice of nominations for the election of directors, other than by the Board of Directors or a committee thereof, must be given within the time and in the manner provided in the Bylaws.

ARTICLE VIII.

(a) Directors Action by Consent. An action required or permitted to be taken at a meeting of the Board of Directors may be taken by written action signed by the number of directors that would be required to take the same action at a meeting of the Board of Directors at which all Directors were present.

(b) Ratification by Shareholders. Any contract, act or transaction of the corporation or of the Directors may be ratified by a vote of a majority of the shares having voting powers at any meeting of shareholders, and such ratification shall, so far as permitted by law and by these Articles of Incorporation, be as valid and as binding as though ratified by every shareholder of the corporation.

ARTICLE IX.

Business Combination

SECTION 1. In addition to any affirmative vote required by law or these Articles of Incorporation, and except as otherwise expressly provided in Section 2 of this Article IX, a Business Combination (as hereinafter defined) shall require the affirmative vote of not less than eighty percent (80%) of the votes entitled to be cast by the holders of all then outstanding shares of Voting Stock (as hereinafter defined), voting together as a single class. Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage or separate class vote may be specified, by law or by any other provision of these Articles of Incorporation or in any agreement with any national securities exchange or otherwise.

SECTION 2. The provisions of Section 1 of this Article IX shall not be applicable to any particular Business Combination, and such Business Combination shall require only such affirmative vote, if any, as is required by law or by any other provision of these Articles of

Incorporation or in any agreement with any national securities exchange or otherwise, if the conditions specified in either of the following paragraphs A or B are met:

A. The Business Combination shall have been approved by a majority of the Continuing Directors (as hereinafter defined).

B. All of the following conditions shall have been met:

(1) The aggregate amount of cash and the Fair Market Value (as hereinafter defined) as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of Common Stock in such Business Combination shall be at least equal to the higher amount determined under clauses (a) and (b) below:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by or on behalf of the Interested Shareholder (as hereinafter defined) for any share of Common Stock in connection with the acquisition by the Interested Shareholder of beneficial ownership of shares of Common Stock (i) within the two-year period immediately prior to the date of the first public announcement of the proposed Business Combination (the "Announcement Date") or (ii) in the transaction in which it became an Interested Shareholder, whichever is higher; and

(b) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Shareholder became an Interested Shareholder (such latter date being referred to herein as the "Determination Date"), whichever is higher.

(2) The aggregate amount of cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any class or series of outstanding Capital Stock (as hereinafter defined), other than Common Stock, shall be at least equal to the highest amount determined under clauses (a), (b) and (c) below:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by or on behalf of the Interested Shareholder for any share of such class or series of Capital Stock in connection with the acquisition by the Interested Shareholder of beneficial ownership of shares of such class or series of Capital Stock (i) within the two-year period immediately prior to the Announcement Date or (ii) in the transaction in which it became an Interested Shareholder, whichever is higher;

(b) the Fair Market Value per share of such class or series of Capital Stock on the Announcement Date or on the Determination Date, whichever is higher; and

(c) (if applicable) the highest preferential amount per share to which the holders of stock would be entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the corporation, regardless of whether the Business Combination to be consummated constitutes such an event.

The provisions of this paragraph B(2) shall be required to be met with respect to every class or series of outstanding Capital Stock, whether or not the Interested

Shareholder has previously acquired beneficial ownership of any shares of a particular class or series of Capital Stock.

(3) The consideration to be received by holders of a particular class or series of outstanding Capital Stock shall be in cash or in the same form as previously has been paid by or on behalf of the Interested Shareholder in connection with its direct or indirect acquisition of beneficial ownership of shares of such class or series of Capital Stock. If the consideration so paid for shares of any class or series of Capital Stock varied as to form, the form of consideration for such class or series of Capital Stock shall be either cash or the form used to acquire beneficial ownership of the largest number of shares of such class or series of Capital Stock previously acquired by the Interested Shareholder. The price determined in accordance with paragraphs B(1) and B(2) of Section 2 of this Article IX shall be subject to appropriate adjustment in the event of any stock dividend, stock split, combination of shares or similar event.

(4) After such Interested Shareholder has become an Interested Shareholder and prior to the consummation of such Business Combination: (a) there shall have been no failures to declare and pay at the regular date therefore any full quarterly dividends (whether or not cumulative) payable in accordance with the terms of any outstanding Capital Stock having a preference over the Common Stock as to dividends, or upon liquidation, except as approved by a majority of the Continuing Directors; (b) there shall have been no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any stock dividend, stock split, combination of shares or similar event), except as approved by a majority of the Continuing Directors; (c) there shall have been an increase in the annual rate of dividends paid on the Common Stock as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction that has the effect of reducing the number of outstanding shares of Common Stock, unless the failure to increase such annual rate is approved by a majority of the Continuing Directors; and (iv) except as approved by a majority of the Continuing Directors, such Interested Shareholder shall not have become the beneficial owner of any additional shares of Capital Stock except as part of the transaction that results in such Interested Shareholder becoming an Interested Shareholder and except in the transaction that, after giving effect thereto, would not result in any increase in the Interested Shareholder's percentage beneficial ownership of any class or series of Capital Stock.

(5) After such Interested Shareholder has become an Interested Shareholder, such Interested Shareholder shall not have received the benefit, directly or indirectly (except proportionately as a shareholder of the corporation), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the corporation, whether in anticipation of or in connection with such Business Combination or otherwise.

(6) A proxy or information statement describing the proposed Business Combination and complying with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to all shareholders of the corporation at least 30 days prior to the consummation of such Business Combination (whether or not such proxy or information statement is required to be mailed pursuant to the Act or subsequent provisions). The proxy or information statement shall contain on the first page thereof, in a prominent place, any statement as to the advisability (or inadvisability) of the

Business Combination that a majority of the Continuing Directors may choose to make and, if deemed advisable by a majority of the Continuing Directors as to the fairness (or lack of fairness) of the terms of the Business Combination from a financial point of view to the holders of the outstanding shares of Capital Stock other than the Interested Shareholder and its Affiliates (as hereinafter defined) or Associates (as hereinafter defined).

(7) Such Interested Shareholder shall not have made or caused to be made any major change in the corporation's business or equity capital structure without the approval of a majority of the Continuing Directors.

SECTION 3. In addition to any affirmative vote required by law or these Articles of Incorporation, the following shall require the affirmative vote of not less than two thirds (2/3) of the votes entitled to be cast by the holders of all then outstanding shares of Voting Stock, voting together as a single class: (a) any sale, lease, mortgage, pledge, transfer, exchange or other disposition of all or substantially all of the property and assets of the corporation to any person; (b) any reclassification of securities (including any combination of shares or reverse stock split) or recapitalization or reorganization of the corporation, or any merger, consolidation or statutory exchange of shares of the corporation or any Subsidiary with any other corporation (other than a merger of a wholly owned Subsidiary of the corporation into the corporation or the merger of two or more wholly owned Subsidiaries of the corporation); (c) the adoption of plan or proposal for the liquidation or dissolution of the corporation; and (d) any agreement, contract or other arrangement or understanding providing for one or more of the foregoing."

SECTION 4. For the purpose of this Article IX:

A. The term "Business Combination" shall mean:

(1) any merger; consolidation or statutory exchange of shares of the corporation or any Subsidiary (as hereinafter defined) with (a) any Interested Shareholder of (b) any other corporation (whether or not itself an Interested Shareholder) which is, or after such merger, consolidation or statutory share exchange would be, an Affiliate or Associate of an Interested Shareholder; provided, however, that the foregoing shall not include the merger of a wholly owned Subsidiary of the corporation into the corporation or the merger of two or more wholly owned Subsidiaries of the corporation; or

(2) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with an Interested Shareholder or any Affiliate or Associate of any Interested Shareholder of any assets of the corporation or any Subsidiary equal to or greater than ten percent (10%) of the book value of the consolidated assets of the corporation; or

(3) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with the corporation or any Subsidiary of any assets of any Interested Shareholder or any Affiliate or Associate of any Interested Shareholder equal to or greater than ten percent (10%) of the book value of the consolidated assets of the corporation; or

(4) the issuance or transfer by the corporation or any Subsidiary (in one transaction or a series of transactions) to any Interested Shareholder or any Affiliate or Associate of any Interested Shareholder of any securities of the corporation (except pursuant to stock dividends, stock splits, or similar transactions which would not have the effect, directly or indirectly, of increasing

the proportionate share of any class or series of Capital Stock, or any securities convertible into Capital Stock or into equity securities of any Subsidiary, that is beneficially owned by any Interested Shareholder or any Affiliate or Associate of any Interested Shareholder) or of any securities of a Subsidiary (except pursuant to a pro rata distribution to all holders of Common Stock of the corporation); or

(5) the adoption of any plan or proposal for the liquidation or dissolution of the corporation proposed by or on behalf of an Interested Shareholder or any Affiliate or Associate of any Interested Shareholder; or

(6) any transaction (whether or not with or otherwise involving an Interested Shareholder) that has the effect, directly or indirectly, of increasing the proportionate share of any class or series of Capital Stock, or any securities convertible into Capital Stock or into equity securities of any Subsidiary, that is beneficially owned by any Interested Shareholder or any Affiliate or Associate of any Interested Shareholder, including, without limitation, any reclassification of securities (including any reverse stock split), or recapitalization of the corporation, or any merger, consolidation or statutory exchange of shares of the corporation with any of its Subsidiaries; or

(7) any agreement, contract or other arrangement or understanding providing for any one or more of the actions specified in the foregoing clauses (1) to (6).

B. The term "Capital Stock" shall mean all capital stock of the corporation authorized to be issued from time to time under Article V of these Articles of Incorporation. The term "Voting Stock" shall mean all Capital Stock of the corporation entitled to vote generally in the election of directors of the corporation.

C. The term "person" shall mean any individual, firm, corporation or other entity and shall include any group comprised of any person and any other person or persons with whom such person or any Affiliate or Associate of such person has any agreement, arrangement or understanding, directly or indirectly, for the purpose of acquiring, holding, voting or disposing of Capital Stock.

D. The term "Interested Shareholder" shall mean any person (other than the corporation or any Subsidiary and other than any profit sharing, employee stock ownership or other employee benefit plan of the corporation or any Subsidiary or any trustee of or fiduciary with respect to any such plan when acting in such capacity) who (1) is the beneficial owner of Voting Stock representing ten percent (10%) or more of the votes entitled to be cast by the holders of all then outstanding shares of Voting Stock; or (2) is an Affiliate or Associate of the corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner of Voting Stock representing ten percent (10%) or more of the votes entitled to be cast by the holders of all then outstanding shares of Voting Stock; or (3) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question beneficially owned by an Interested Shareholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

E. A person shall be a "beneficial owner" of any Capital Stock (1) which such person or any of its Affiliates or Associates beneficially owns, directly or indirectly; (2) which such person or any of its Affiliates or Associates has, directly or indirectly, (a) the right to acquire (whether such right is exercisable immediately or subject only to the

passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (b) the right to vote pursuant to any agreement, arrangement or understanding, or (c) the right to dispose or direct the disposition of, pursuant to any agreement, arrangement or understanding; or (3) which are beneficially owned, directly or indirectly, by any other person with which such person or any of its Affiliates or Associates has any agreement, of acquiring, holding, voting or disposing of any shares of Capital Stock. For the purposes of determining whether a person is an Interested Shareholder pursuant to paragraph D of this Section 4, the number of shares of Capital Stock deemed to be outstanding shall include shares deemed beneficially owned by such person through application of this paragraph E, but shall not include any other shares of Capital Stock that may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, exchange rights, warrants or options, or otherwise.

F. The term "Affiliate," used to indicate a relationship with a specified person, shall mean a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified person. The term "Associate," used to indicate a relationship with a specified person, shall mean (1) any person (other than the corporation or a Subsidiary) of whom such specified person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (2) any trust or other estate in which such specified person has a substantial beneficial interest or as to which such specified person serves as trustee or in a similar fiduciary capacity, (3) any relative or spouse of such specified person or any relative of such spouse, who has the same home as such specified person or who is a director or officer of the corporation or any Subsidiary, and (4) any person who is a director or officer of such specified person or any of its parents or subsidiaries (other than the corporation or a Subsidiary).

G. The term "Subsidiary" shall mean any corporation of which a majority of any class of equity security is beneficially owned, directly or indirectly, by the corporation; provided, however, that for the purposes of paragraph D of this Section 4, the term "Subsidiary" shall mean only a corporation of which a majority of each class of equity security is beneficially owned, directly or indirectly, by the corporation.

H. The term "Continuing Director" shall mean any member of the Board of Directors of the corporation, while such person is a member of the Board of Directors, who was a member of the Board of Directors prior to the time that the Interested Shareholder involved in the Business Combination in question became an Interested Shareholder, and any member of the Board of Directors, while such person is a member of the Board of Directors, whose election, or nomination for election by the corporation's shareholders was approved by a vote of a majority of the Continuing Directors; provided, however, that in no event shall an Interested Shareholder involved in the Business Combination in question or any Affiliate, Associate or representative of such Interested Shareholder, be deemed to be a Continuing Director.

I. The term "Fair Market Value" shall mean (1) in the case of cash, the amount of such cash; (2) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange-Listed Stocks, of if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, or if such stock is not listed on such exchange, on the principal United States securities exchange registered under the Act on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing sale or closing bid quotation (whichever is applicable) with respect to a share of such stock during the 30-day period immediately preceding the date in question of a share of such stock on the National Association of Securities Dealers, Inc. Automated Quotations System or any similar system then in use, or if no such quotations are available, the Fair

Market Value on the date in question of a share of such stock as determined by a majority of the Continuing Directors in good faith; and (3) in the case of property other than cash or stock, the Fair Market Value of such property on the date in question as determined in good faith by a majority of the Continuing Directors.

J. In the event of any Business Combination in which the corporation survives, the phrase “consideration other than cash to be received” as used in paragraphs B(1) and B(2) of Section 2 of this Article IX shall include the shares of Common Stock and/or the shares of any other class or series of Capital Stock retained by the holders of such shares.

SECTION 5. The Continuing Directors by majority vote shall have the power to determine for the purposes of this Article IX, on the basis of information known to them after reasonable inquiry, (a) whether a person is an Interested Shareholder, (b) the number of shares of Capital Stock (including Voting Stock) or other securities beneficially owned by any person, (c) whether a person is an Affiliate or Associate of another, (d) whether the assets which are the subject of any Business Combination equal or exceed ten percent (10%) of the book value of the consolidated assets of the corporation, (e) whether a proposed plan of dissolution or liquidation is proposed by or on behalf of an Interested Shareholder or any Affiliate or Associate of any Interested Shareholder, (f) whether any transaction has the effect, directly or indirectly, of increasing the proportionate share of any class or series of Capital Stock, or any securities convertible into Capital Stock or into equity securities of any Subsidiary, that is beneficially owned by an Interested Shareholder or any Affiliate or Associate of an Interested Shareholder, (g) whether any Business Combination satisfies the conditions set forth in paragraph B of Section 2 of this Article IX, and (h) such other matters with respect to which a determination is required under this Article IX. Any such determination made in good faith shall be binding and conclusive on all parties.

SECTION 6. Nothing contained in this Article IX shall be construed to relieve any Interested Shareholder from any fiduciary obligation imposed by law.

SECTION 7. The fact that any Business Combination complies with the provisions of Section 2 of this Article IX shall not be construed to impose any fiduciary duty, obligation or responsibility on the Board of Directors, or any member thereof, or the Continuing Directors, or any of them, to approve such Business Combination or recommend its adoption or approval to the shareholders of the corporation, nor shall such compliance limit, or otherwise restrict in any manner the Board of Directors, or any member thereof, or the Continuing Directors, or any of them, with respect to evaluations of or actions and responses taken with respect to such Business Combination.

SECTION 8. Notwithstanding anything to the contrary in these Articles of Incorporation (and notwithstanding the fact that a lesser percentage or separate class vote may be specified by law or these Articles of Incorporation), the affirmative vote of the holders of at least two-thirds ($\frac{2}{3}$) of the voting power of all shares of Capital Stock of this corporation entitled to vote generally in the election of directors shall be required to alter, amend, repeal or adopt any provision inconsistent with Section 3 of this Article IX and the affirmative vote of the holders of at least eighty percent (80%) of the voting power of all shares of Capital Stock of this corporation entitled to vote generally in the election of directors shall be required to alter, amend, repeal or adopt any provision inconsistent with the remaining sections of this Article IX.

ARTICLE X.

Bylaws

SECTION 1. Except as otherwise provided in Section 2 of this Article X, Bylaws may be adopted, altered, amended or repealed or new Bylaws enacted by the affirmative vote of a majority of the entire Board of Directors (if notice thereof is contained in the notice of the meeting at which such vote is taken or if all directors are present) or at any regular meeting of the shareholders (or at any special meeting thereof duly called for that purpose) by the affirmative vote of a majority of

the shares represented and entitled to vote at such meeting (if notice thereof is contained in the notice of such meeting.)

SECTION 2. Notwithstanding anything contained in Section 1 of this Article X to the contrary, either (i) the affirmative vote of the holders of at least eighty percent (80%) of the votes entitled to be cast by the holders of all shares of the corporation entitled to vote generally in the election of directors, voting together as a single class, or (ii) the affirmative vote of a majority of the Board of Directors with the concurring vote of a majority of the Continuing Directors, voting separately and as a subclass of directors, shall be required to alter, amend or repeal, or adopt any Bylaw provision inconsistent with any Bylaw relating to procedures for advance notice of nominations for election to the Board of Directors (other than by the Board of Directors or committee thereof) or procedures for advance notice to the Board of Directors of business to be brought before an annual meeting of shareholders of the Company. For purposes of this Article X, the term "Continuing Director" shall mean any member of the Board of Directors who was a member of the Board of Directors on February 24, 1986 or who is elected to the Board of Directors after February 24, 1986 upon the recommendation of a majority of Continuing Directors, voting separately and as a subclass of directors on such recommendation.

SECTION 3. Notwithstanding anything to the contrary in these Articles of Incorporation (and notwithstanding the fact that a lesser percentage or separate class vote may be specified by law or these Articles of Incorporation), the affirmative vote of the holders of at least eighty percent (80%) of the voting power of all shares of Capital Stock of this corporation entitled to vote generally in the election of directors shall be required to alter, amend or repeal Section 2 or this Section 3 of this Article X or to adopt as part of these Articles of Incorporation any provision inconsistent with Section 2 or this Section 3 of this Article X.

ARTICLE XI.

Amendment of Articles of Incorporation

Except as otherwise provided in Articles VII, IX and X, the Articles of Incorporation of this corporation may be amended, altered, changed or repealed by the affirmative vote of the holders of at least a majority of the voting power of all shares of Capital Stock of this corporation entitled to vote generally in the election of directors, or such greater percentage as may otherwise be prescribed by the laws of Minnesota.

ARTICLE XII.

No director of this Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for a breach of fiduciary duty as a director; provided, however, that this Article XII shall not limit or eliminate the liability of a director to the extent provided by applicable law (i) for breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (iii) for violations of sections 302A.559 or 80A.23 of the Minnesota Statutes; (iv) for any transaction from which the director derived any improper personal benefit; or (v) for any act or omission occurring prior to the date when this provision becomes effective.

The provisions of this Article shall not be deemed to limit or preclude indemnification of a director by the corporation for any liability of a director which has not been eliminated by the provisions of this Article.

If the Minnesota Statutes hereafter are amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the corporation, in addition to the limitation on personal liability provided herein, shall be eliminated or limited to the fullest extent permitted by the Minnesota Statutes as so amended.

Any amendment or repeal of this Article XII shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

COMMUNICATIONS SYSTEMS, INC.
CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES A CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 302A.401 AND 302A.133 OF THE
MINNESOTA BUSINESS CORPORATION LAW

The undersigned, Mark D. Fandrich, does hereby certify that:

1. I am the Chief Financial Officer and Secretary of Communications Systems, Inc., a Minnesota corporation (the "Corporation").
2. The Corporation is authorized to issue three million shares of preferred stock, none of which have been issued.
3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors") on February 17, 2022:

WHEREAS, the articles of incorporation of the Corporation provide for a class of its authorized stock known as preferred stock, consisting of three million shares, \$1.00 par value per share, issuable from time to time in one or more series;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, restrictions and other matters relating to a series of the preferred stock, which shall consist of, except as otherwise set forth in the Purchase Agreement, up to 32,000 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF PREFERRED STOCK

Section 1. Definitions. For the purposes hereof, the following terms shall have the following meanings:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

“Alternate Consideration” shall have the meaning set forth in Section 6(e).

“Attribution Parties” shall have the meaning set forth in Section 5(d).

“Base Conversion Price” shall have the meaning set forth in Section 6(b).

“Beneficial Ownership Limitation” shall have the meaning set forth in Section 5(d).

“Bloomberg” means Bloomberg Financial Markets.

“Business Day” means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

“Buy-In” shall have the meaning set forth in Section 5(c)(iv).

“Change of Control Transaction” means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or “group” (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Corporation, by contract or otherwise) of in excess of 33% of the voting securities of the Corporation (other than by means of conversion or exercise of Preferred Stock and the Securities issued together with the Preferred Stock), (b) the Corporation merges into or consolidates with any other Person, or any Person merges into or consolidates with the Corporation and, after giving effect to such transaction, the stockholders of the Corporation immediately prior to such transaction own less than 67% of the aggregate voting power of the Corporation or the successor entity of such transaction, (c) the Corporation (and all of its Subsidiaries, taken as a whole), directly or indirectly, sells or transfers all or substantially all of its assets to another Person and the stockholders of the Corporation immediately prior to such transaction own less than 67% of the aggregate voting power of the acquiring Person immediately after the transaction, (d) a replacement at one time or within a one year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the Original Issue Date), or (e) the execution by the Corporation of an agreement to which the Corporation is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

“Closing” means the closing of the purchase and sale of the Preferred Stock and Warrants pursuant to Section 2.1 of the Purchase Agreement.

“Closing Date” means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto and all conditions precedent to (i) the Holders’ obligations to pay the Subscription Amount and (ii) the Corporation’s obligations to deliver the Preferred Stock and the Warrants, in each case, have been satisfied or waived.

“Closing Sale Price” means, for any security as of any date, the last closing trade price for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing trade price, then the last trade price of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last trade price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no last trade price is reported for such security by Bloomberg, the average of the ask prices of any market makers for such security as reported in the OTC Link or on the Pink Open Market. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Corporation and the Holders. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or other similar transaction during the applicable calculation period.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the Corporation’s common stock, par value \$0.05 per share, and any other class of securities into which such common stock may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Conversion Amount” means the sum of the Stated Value at issue.

“Conversion Date” shall have the meaning set forth in Section 5(a).

“Conversion Price” shall have the meaning set forth in Section 5(b).

“Conversion Shares” means, collectively, the shares of Common Stock issuable upon conversion of the shares of Preferred Stock in accordance with the terms hereof.

“Convertible Securities” means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

“Dilutive Issuance” shall have the meaning set forth in Section 6(b).

“Dilutive Issuance Conversion Price” shall have the meaning set forth in Section 6(b).

“Dilutive Issuance Notice” shall have the meaning set forth in Section 6(b).

“Distribution” shall have the meaning set forth in Section 6(d).

“Effective Date” means the date that the Registration Statement filed by the Corporation pursuant to the Registration Rights Agreement is first declared effective by the Commission.

“Equity Conditions” means, during the period in question, (a) the Corporation shall have duly honored all conversions scheduled to occur or occurring by virtue of one or more Notices of Conversion of the applicable Holder on or prior to the dates so requested or required, if any, (b) the Corporation shall have paid all liquidated damages and other amounts owing to the applicable Holder in respect of the Preferred Stock, (c)(i) there is an effective Registration Statement pursuant to which the Holders are permitted to utilize the prospectus thereunder to resell all of the shares of Common Stock issuable pursuant to the Transaction Documents (and the Corporation believes, in good faith, that such effectiveness will continue uninterrupted for the foreseeable future) or (ii) all of the Conversion Shares issuable pursuant to the Transaction Documents may be resold pursuant to Rule 144 without volume or manner-of-sale restrictions or current public information requirements as determined by the counsel to the Corporation as set forth in a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders, (d) the Common Stock is trading on a Trading Market and all of the shares issuable pursuant to the Transaction Documents are listed or quoted for trading on such Trading Market (and the Corporation believes, in good faith, that trading of the Common Stock on a Trading Market will continue uninterrupted for the foreseeable future), (e) there is a sufficient number of authorized, but unissued and otherwise unreserved, shares of Common Stock for the issuance of all of the shares then issuable pursuant to the Transaction Documents, (f) the issuance of the shares in question to the applicable Holder would not violate the limitations set forth in Section 5(d) herein, (g) there has been no public announcement of a pending or proposed Fundamental Transaction or Change of Control Transaction that has not been consummated, (h) the applicable Holder is not in possession of any information provided by the Corporation, any of its Subsidiaries, or any of their officers, directors, employees, agents or Affiliates, that constitutes, or may constitute, material, non-public information, and (i) for each Trading Day in a period of 10 consecutive Trading Days prior to the applicable date in question (but following the Effective Date), the daily dollar trading volume for the Common Stock on the principal Trading Market exceeds \$5 million per Trading Day.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means the issuance of (a) shares of Common Stock, restricted stock or restricted stock units, or options to employees, officers or directors of the Corporation pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors of the Corporation or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Corporation, (b) securities upon the exercise or exchange of or conversion of any Securities issued under the Purchase Agreement, Warrants to the Placement Agent in connection with the transactions pursuant to the Purchase Agreement and any securities upon exercise of Warrants to the Placement Agent and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of the Purchase Agreement, provided that such securities have not been amended since the date of the Purchase Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities, and (c) shares of Common Stock or Common Stock Equivalents issued in connection with any merger or consolidation of the Corporation or any Subsidiary with or into another Person or other similar business combination involving the Corporation or any Subsidiary or any acquisitions or strategic transactions involving the Corporation or any Subsidiary, in each case, approved by a majority of the disinterested directors of the Corporation, provided, that (i) such securities are issued at a price per share no less than the average of the VWAP for the twenty (20) consecutive Trading Days immediately following the public announcement of the execution of definitive documents for such transaction, and (ii) except with respect to the issuances of securities set forth on Schedule 1.1 of the Purchase Agreement, such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.13(a) of the Purchase Agreement, and provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Corporation and shall provide to the Corporation additional benefits in addition to the investment of funds, but shall not include a transaction in which the Corporation is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities. Notwithstanding anything herein to the contrary, a Variable Rate Transaction shall not be an Exempt Issuance.

“Forced Conversion Date” shall have the meaning set forth in Section 7.

“Forced Conversion Notice” shall have the meaning set forth in Section 7.

“Forced Conversion Notice Date” shall have the meaning set forth in Section 7.

“Fundamental Transaction” shall have the meaning set forth in Section 6(e).

“GAAP” means United States generally accepted accounting principles.

“Holder” means a holder of the Preferred Stock.

“Junior Securities” means the Common Stock and all other Common Stock Equivalents of the Corporation other than those securities which are explicitly senior or pari passu to the Preferred Stock in dividend rights or liquidation preference.

“Lock-Up Agreements” means the Lock-Up Agreements, dated as of the date of the Purchase Agreement, by and between the Corporation and each of the directors of the Corporation, officers of the Corporation, and beneficial owners of 10% or more of the Common Stock, in the form of Exhibit D attached to the Purchase Agreement.

“Merger Agreement” means that certain Agreement and Plan of Merger by and among the Corporation, Helios Merger Co., Pineapple Energy LLC, Lake Street Solar LLC, and Randall D. Sampson, dated as of March 1, 2021, as amended.

“New York Courts” shall have the meaning set forth in Section 10(d).

“Notice of Conversion” shall have the meaning set forth in Section 5(a).

“Options” means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

“Original Issue Date” means the date of the first issuance of any shares of the Preferred Stock regardless of the number of transfers of any particular shares of Preferred Stock and regardless of the number of certificates which may be issued to evidence such Preferred Stock.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Placement Agent” shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

“Preferred Stock” shall have the meaning set forth in Section 2.

“Principal Market” means The Nasdaq Capital Market.

“Purchase Agreement” means the Amended and Restated Securities Purchase Agreement, dated as of September 15, 2021, among the Corporation and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

“Purchase Rights” shall have the meaning set forth in Section 6(c).

“Registration Rights Agreement” means the Registration Rights Agreement, dated as of the date of the Purchase Agreement, among the Corporation and the original Holders, in the form of Exhibit B attached to the Purchase Agreement.

“Registration Statement” means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale of the Underlying Shares by each Holder as provided for in the Registration Rights Agreement.

“Repurchase Date” shall have the meaning set forth in Section 7.

“Repurchase Notice” shall have the meaning set forth in Section 7.

“Repurchase Price Per Share” shall have the meaning set forth in Section 7.

“Required Holders” shall have the meaning set forth in Section 4.

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purposes and effect as such Rule.

“Securities” means the Preferred Stock, the Warrants and the Underlying Shares.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Share Delivery Date” shall have the meaning set forth in Section 5(c).

“Shareholder Approval” means such approval as may be required by the applicable rules and regulations of the primary Trading Market from the shareholders of the Corporation with respect to the transactions contemplated by the Transaction Documents, including, without limitation, the issuance of all of the Underlying Shares in excess of 19.99% of the issued and outstanding Common Stock on the Closing Date.

“Standard Settlement Period” shall have the meaning set forth in Section 5(c).

“Stated Value” shall have the meaning set forth in Section 2.

“Subscription Amount” means, as to each original Holder, the aggregate amount to be paid for the Preferred Stock and Warrants purchased pursuant to the Purchase Agreement as specified below such original Holder’s name on the signature page of the Purchase Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds.

“Subsidiary” means any direct or indirect subsidiary of the Corporation and shall, where applicable, also include any direct or indirect subsidiary of the Corporation formed or acquired after the date of the Purchase Agreement. For the avoidance of doubt, the term Subsidiary as of the Closing Date includes Pineapple Energy LLC and its Subsidiaries.

“Successor Entity” shall have the meaning set forth in Section 6(e).

“Threshold Period” shall have the meaning set forth in Section 7.

“Trading Day” means a day on which the principal Trading Market is open for business.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, or the New York Stock Exchange (or any successors to any of the foregoing).

“Transaction Documents” means this Certificate of Designation, the Purchase Agreement, the Warrants, the Registration Rights Agreement, the Lock-Up Agreements, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated pursuant to the Purchase Agreement.

“Transfer Agent” means Equiniti Trust Company, the current transfer agent of the Corporation, and any successor transfer agent of the Corporation.

“Underlying Shares” means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock and upon exercise of the Warrants.

“Unconverted Shares” shall have the meaning set forth in Section 7.

“Valuation Event” shall have the meaning set forth in Section 6(b)(iv).

“Variable Rate Transaction” shall have the meaning ascribed to such term in Section 4.13(b) of the Purchase Agreement.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers (as defined in the Purchase Agreement) of a majority in interest of the Securities then outstanding and reasonably acceptable to the Corporation, the fees and expenses of which shall be paid by the Corporation.

“Warrants” means, collectively, the Common Stock purchase warrants delivered to the original Holders at the Closing in accordance with Section 2.2(a) of the Purchase Agreement, which Warrants shall be exercisable immediately and have a term of exercise equal to five (5) years, in the form of Exhibit C attached to the Purchase Agreement.

“Warrant Shares” means the shares of Common Stock issuable upon exercise of the Warrants.

Section 2. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series A Convertible Preferred Stock (the “Preferred Stock”) and the number of shares so designated shall be up to 32,000 (which shall not be subject to increase without the written consent of the Holders of a majority of the then outstanding shares of the Preferred Stock). Each share of Preferred Stock shall have a par value of \$1.00 per share and a stated value equal to \$1,000 (the “Stated Value”).

Section 3. Dividends. If the Corporation declares, pays or sets aside any dividends on shares of Common Stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock), the Holders of the Preferred Stock then outstanding shall be entitled to participate in such dividend on each outstanding share of Preferred Stock in an amount at least equal to that dividend per share of Preferred Stock as would equal the product of (A) the dividend payable on each share of Common Stock determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend.

Section 4. Voting Rights. Except as otherwise provided herein or as otherwise required by law, the Preferred Stock shall have no voting rights. However, as long as any shares of Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote of the Holders of a majority of the then outstanding shares of the Preferred Stock (the “Required Holders”), (a) alter or change adversely the powers, preferences or rights given to the Preferred Stock or alter or amend this Certificate of Designation, (b) authorize or create any class of stock ranking as to redemption senior to the Preferred Stock, (c) amend its articles of incorporation or other charter documents in any manner that adversely affects any rights of the Holders, (d) increase the number of authorized shares of Preferred Stock, or (e) enter into any agreement with respect to any of the foregoing.

Section 5. Conversion.

a) Conversions at Option of Holder. Each share of Preferred Stock shall be convertible, at any time and from time to time from and after the Original Issue Date at the option of the Holder thereof, into that number of shares of Common Stock (subject to the limitations set forth in Section 5(d)) determined by dividing the Stated Value of such share of Preferred Stock by the Conversion Price. Holders shall effect conversions by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Preferred Stock to be converted, the number of shares of Preferred Stock owned prior to the conversion at issue, the number of shares of Preferred Stock owned subsequent to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of shares of Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Preferred Stock to the Corporation unless all of the shares of Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Preferred Stock promptly following the Conversion Date at issue. Shares of Preferred Stock converted into Common Stock in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Preferred Stock shall equal \$13.60, subject to adjustment herein (the "Conversion Price").

c) Mechanics of Conversion.

i. Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder the number of Conversion Shares being acquired upon the conversion of the Preferred Stock which shall be free of restrictive legends and trading restrictions (other than those which may then be required by the Purchase Agreement). The Corporation shall deliver the Conversion Shares required to be delivered by the Corporation under this Section 5 electronically through the Depository Trust Company or another established clearing corporation performing similar functions. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion.

ii. Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Corporation at any time on or before its receipt of such Conversion Shares, to rescind such Conversion, in which event the Corporation shall promptly return to the Holder any original Preferred Stock certificate delivered to the Corporation and the Holder shall promptly return to the Corporation the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion.

iii. Obligation Absolute; Partial Liquidated Damages. The Corporation's obligation to issue and deliver the Conversion Shares upon conversion of Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by such Holder or any other Person of any obligation to the Corporation or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Corporation to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Corporation of any such action that the Corporation may have against such Holder. In the event a Holder shall elect to convert any or all of the Stated Value of its Preferred Stock, the Corporation may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Preferred Stock of such Holder shall have been sought and obtained, and the Corporation posts a surety bond for the benefit of such Holder in the amount of 150% of the Stated Value of Preferred Stock which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to such Holder to the extent it obtains judgment. In the absence of such injunction, the Corporation shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. If the Corporation fails to deliver to a Holder such Conversion Shares pursuant to Section 5(c)(i) by the Share Delivery Date applicable to such conversion, the Corporation shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each \$5,000 of Stated Value of Preferred Stock being converted, \$50 per Trading Day (increasing to \$100 per Trading Day on the third Trading Day and increasing to \$200 per Trading Day on the sixth Trading Day after such damages begin to accrue) for each Trading Day after the Share Delivery Date until such Conversion Shares are delivered or Holder rescinds such conversion. Nothing herein shall limit a Holder's right to pursue actual damages for the Corporation's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

i v . Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion In addition to any other rights available to the Holder, if the Corporation fails for any reason to deliver to a Holder the applicable Conversion Shares by the Share Delivery Date pursuant to Section 5(c)(i), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or such Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Corporation shall (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) at the option of such Holder, either reissue (if surrendered) the shares of Preferred Stock equal to the number of shares of Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or deliver to such Holder the number of shares of Common Stock that would have been issued if the Corporation had timely complied with its delivery requirements under Section 5(c)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted conversion of shares of Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of \$10,000 under clause (A) of the immediately preceding sentence, the Corporation shall be required to pay such Holder \$1,000. The Holder shall provide the Corporation written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Corporation, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation's failure to timely deliver the Conversion Shares upon conversion of the shares of Preferred Stock as required pursuant to the terms hereof.

v . Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Preferred Stock, as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other Holders of the Preferred Stock), not less than such aggregate number of shares of the Common Stock as shall (subject to the terms and conditions set forth in the Purchase Agreement) be issuable (taking into account the adjustments and restrictions of Section 6) upon the conversion of the then outstanding shares of Preferred Stock. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable and, if the Registration Statement is then effective under the Securities Act, shall be registered for public resale in accordance with such Registration Statement (subject to such Holder's compliance with its obligations under the Registration Rights Agreement).

vi. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share. Notwithstanding anything to the contrary contained herein, but consistent with the provisions of this subsection with respect to fractional Conversion Shares, nothing shall prevent any Holder from converting fractional shares of Preferred Stock.

vii. Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of the Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

d) Beneficial Ownership Limitation. The Corporation shall not effect any conversion of the Preferred Stock, and a Holder shall not have the right to convert any portion of the Preferred Stock, to the extent that, after giving effect to the conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Stated Value of Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Preferred Stock or the Warrants) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 5(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 5(d) applies, the determination of whether the Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many shares of the Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Corporation each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Corporation shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 5(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Corporation's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Corporation or (iii) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request (which may be via email) of a Holder, the Corporation shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Corporation, including the Preferred Stock, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% (or, upon election by a Holder prior to the issuance of any shares of Preferred Stock, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Preferred Stock held by the applicable Holder. A Holder, upon notice to the Corporation, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 5(d) applicable to its Preferred Stock provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Preferred Stock held by the Holder and the provisions of this Section 5(d) shall continue to apply. Any such increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Corporation and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 5(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor Holder of Preferred Stock. Notwithstanding anything in this Certificate of Designation to the contrary, upon the election of a Holder made prior to the issuance of any shares of Preferred Stock, the Beneficial Ownership Limitation and this Section 5(d) shall not apply to any conversion of Preferred Stock in connection with a Change of Control Transaction.

Section 6. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of this Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 6(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Equity Sales. If, at any time while this Preferred Stock is outstanding, the Corporation or any Subsidiary, as applicable sells, enters into an agreement to sell or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the then Conversion Price (such lower price, the "Base Conversion Price" and such issuances, collectively, a "Dilutive Issuance") (it being understood and agreed that if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or

exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price, such issuance shall be deemed to have occurred for less than the Conversion Price on such date of the Dilutive Issuance at such effective price), then simultaneously with the consummation (or, if earlier, the announcement) of each Dilutive Issuance the Conversion Price shall be reduced to equal the lower of (i) the Base Conversion Price and (ii) the lowest VWAP during the five (5) consecutive Trading Days immediately following the public announcement of the execution of the Dilutive Issuance (such lower price, the “Dilutive Issuance Conversion Price”) (for the avoidance of doubt, if such public announcement is released prior to the opening of the Principal Market on a Trading Day, such Trading Day shall be the first Trading Day in such five (5) Trading Day period and if the Preferred Stock is converted pursuant to Section 5(a), on any given Conversion Date during any such five (5) Trading Day period, solely with respect to such portion of the Preferred Stock converted on such applicable Conversion Date, such applicable five (5) Trading Day period shall be deemed to have ended on, and included, the Trading Day immediately prior to such Conversion Date). Notwithstanding anything herein to the contrary, no adjustment will be made under this Section 6(b) in respect of an Exempt Issuance. If the Corporation enters into a Variable Rate Transaction, despite the prohibition set forth in the Purchase Agreement, the Corporation shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible price, conversion price or exercise price at which such securities may be issued, converted or exercised. The Corporation shall notify the Holders in writing, no later than the Trading Day following the issuance or deemed issuance of any Common Stock or Common Stock Equivalents subject to this Section 6(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the “Dilutive Issuance Notice”). For purposes of clarification, whether or not the Corporation provides a Dilutive Issuance Notice pursuant to this Section 6(b), upon the occurrence of any Dilutive Issuance, the Holders are entitled to receive a number of Conversion Shares based upon the Dilutive Issuance Conversion Price on or after the date of such Dilutive Issuance, regardless of whether a Holder accurately refers to the Dilutive Issuance Conversion Price in the Notice of Conversion. For purposes of determining the adjusted Conversion Price under this Section 6(b), the following shall be applicable:

i . Issuance of Options. If the Corporation in any manner grants or sells, or the Corporation publicly announces the issuance or sale of, any Options and the lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Options is less than the then Conversion Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Options for such price per share. For purposes of this Section 6(b)(i), the “lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Options” shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock

upon the granting or sale of the Options, upon exercise of the Options and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Options less any consideration paid or payable by the Corporation with respect to such one share of Common Stock upon the granting or sale of such Options, upon exercise of such Options and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Options. No further adjustment of the Conversion Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

ii. Issuance of Convertible Securities. If the Corporation in any manner issues or sells, or the Corporation publicly announces the issuance or sale of, any Convertible Securities and the lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof is less than the then Conversion Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 6(b)(ii), the “lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof” shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security less any consideration paid or payable by the Corporation with respect to such one share of Common Stock upon the issuance or sale of such Convertible Security and upon conversion, exercise or exchange of such Convertible Security. No further adjustment of the Conversion Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of the Conversion Price has been or is to be made pursuant to other provisions of this Section 6(b), no further adjustment of the Conversion Price shall be made by reason of such issuance or sale.

iii. Change in Option Price or Rate of Conversion. If the purchase price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time, the Conversion Price in effect at the time of such increase or decrease shall be adjusted to the Conversion Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 6(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the date of the Purchase Agreement are increased or decreased in

the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 6(b) shall be made if such adjustment would result in an increase of the Conversion Price then in effect.

i v. Calculation of Consideration Received. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount received by the Corporation therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Corporation will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Corporation will be the Closing Sale Price of such publicly traded securities on the date of receipt of such publicly traded securities. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Corporation and the Required Holders. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five (5) Business Days after the tenth (10th) day following the Valuation Event by an independent, reputable appraiser jointly selected by the Corporation and the Required Holders. The determination of such appraiser shall be final and binding upon all parties absent manifest error and the fees and expenses of such appraiser shall be borne by the Corporation.

v. Record Date. In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them (i) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (ii) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

vi. Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof) shall be considered an issue or sale of Common Stock for the purpose of this paragraph (b).

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 6(a) and/or Section 6(b) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Preferred Stock (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Preferred Stock is outstanding, (A) the Corporation shall, directly or indirectly, including through subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Corporation is the surviving corporation) another Person, Affiliate or group (as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder) (“Subject Entity”), or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Corporation or any of its “significant subsidiaries” (as defined in Rule 1-02 of Regulation S-X) to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Corporation to be subject to or have its shares of Common Stock be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of at least either (x) 50% of the outstanding shares of Common Stock, (y) 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of shares of Common Stock such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of at least 50% of the outstanding shares of Common Stock, or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby all such Subject Entities, individually or in the aggregate, acquire, either (x) at least 50% of the outstanding shares of Common Stock, (y) at least 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of shares of Common Stock such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of at least 50% of the outstanding shares of Common Stock, or (v) reorganize, recapitalize or reclassify its shares of Common Stock, (B) the Corporation shall, directly or indirectly, including through subsidiaries, Affiliates or otherwise, in one or more related transactions, allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding shares of Common Stock, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) at least 50% of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock, (y) at least 50% of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock not held by all such Subject Entities as of the date of the Purchase Agreement calculated as if any shares of Common Stock held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock or other equity securities of the Corporation sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other shareholders of the Corporation to

surrender their Common Stock without approval of the shareholders of the Corporation or (C) directly or indirectly, including through subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 5(d) on the conversion of this Preferred Stock), the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Preferred Stock is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 5(d) on the conversion of this Preferred Stock). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents (as defined in the Purchase Agreement) in accordance with the provisions of this Section 6(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder of this Preferred Stock, deliver to the Holder in exchange for this Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Preferred Stock (without regard to any limitations on the conversion of this Preferred Stock) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price

hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Preferred Stock immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation and the other Transaction Documents referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Corporation herein. Notwithstanding anything above to the contrary, the consummation of the transactions contemplated by the Merger Agreement shall not be deemed a Fundamental Transaction.

f) Calculations. All calculations under this Section 6 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 6, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

g) Notice to the Holders.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 6, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

i i . Notice to Allow Conversion by Holder. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation (and all of its Subsidiaries, taken as a whole), or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of this Preferred Stock, and shall cause to be delivered by facsimile or email to each Holder at its last facsimile number or email address as it shall appear upon the stock books of the Corporation, at least twenty (20)

calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Corporation or any of the Subsidiaries, the Corporation shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert the Conversion Amount of the Preferred Stock (or any part hereof) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 7. Forced Conversion. Notwithstanding anything herein to the contrary, if after the 10th Trading Day following the Effective Date, the VWAP for each Trading Day during any 10 consecutive Trading Day period, which 10 consecutive Trading Day period shall have commenced only after the Effective Date ("Threshold Period"), exceeds 200% of the then effective Conversion Price and the daily dollar trading volume for the Common Stock exceeds \$5 million on each Trading Day during the Threshold Period, the Corporation may, within 1 Trading Day after the end of any such Threshold Period, deliver a written notice to all Holders (a "Forced Conversion Notice" and the date such notice is delivered to all Holders, the "Forced Conversion Notice Date") to cause each Holder to convert all or part of such Holder's Preferred Stock (as specified in such Forced Conversion Notice) plus all accrued but unpaid dividends thereon and all liquidated damages and other amounts due in respect of the Preferred Stock pursuant to Section 6, it being agreed that the "Conversion Date" for purposes of Section 5 shall be deemed to occur no later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following the Forced Conversion Notice Date (such date, the "Forced Conversion Date"). The Corporation may not deliver a Forced Conversion Notice, and any Forced Conversion Notice delivered by the Corporation shall not be effective, unless all of the Equity Conditions have been met on each Trading Day during the applicable Threshold Period through and including the later of the Forced Conversion Date and the Trading Day after the date that the Conversion Shares issuable pursuant to such conversion are actually delivered to the Holders pursuant to the Forced Conversion Notice. Any Forced Conversion Notices shall be applied ratably to all of the Holders based on each Holder's initial purchases of Preferred Stock under the Purchase Agreement, provided that any voluntary conversions by a Holder shall be applied against such Holder's pro rata allocation, thereby decreasing the aggregate amount forcibly converted hereunder if less than all shares of the Preferred Stock are forcibly converted. For purposes of clarification, a Forced Conversion shall

be subject to all of the provisions of Section 5, including, without limitation, the provisions requiring payment of liquidated damages and limitations on conversions, it being understood and agreed that any Preferred Stock that cannot be converted pursuant to this Section 7 because of the Beneficial Ownership Limitation set forth in Section 5(d) shall remain outstanding (such shares of Preferred Stock that remain outstanding, the "Unconverted Shares"). The Corporation may elect, upon delivery of written notice to any Holder holding Unconverted Shares (a "Repurchase Notice"), to repurchase all or a portion of such Unconverted Shares from each such Holder at a price per Unconverted Share equal to the quotient obtained by dividing the Stated Value by the then-current Conversion Price and then multiplying such quotient by the greater of (i) the Closing Sale Price on the Forced Conversion Date and (ii) the then-current Closing Sale Price of the Common Stock as of the Trading Day immediately prior to the date of such Repurchase Notice (the "Repurchase Price Per Share"). The Repurchase Notice shall set forth the date on which the closing of such repurchase shall occur (which date shall be no sooner than three (3) Trading Days from the date of the Repurchase Notice) (the "Repurchase Date"). The Repurchase Price Per Share shall be paid in cash by wire transfer of immediately available funds at the closing of such repurchase. Each such Holder agrees to execute and deliver all documents reasonably requested by the Corporation in order to effect and evidence such repurchase and, with regard to any Unconverted Shares held in certificated form, surrender such certificates to the Corporation. On the Repurchase Date, the Unconverted Shares subject to such repurchase shall automatically be converted into the right to receive the Repurchase Price Per Share without interest and without any further act or action of the Holders and whether or not the certificates representing such shares are surrendered or instruments of transfer are delivered to the Corporation; provided, that the Corporation shall not be obligated to pay the Repurchase Price Per Share for such Unconverted Shares unless and until all certificates representing such shares have been surrendered to the Corporation and all reasonably requested instruments of transfer have been executed by each such Holder and delivered to the Corporation. From and after the Repurchase Date, unless there shall have been any default in the payment of the Repurchase Price Per Share, all rights of the holders of Unconverted Shares subject to repurchase (other than the right to receive the Repurchase Price Per Share in accordance with this Section 7) shall cease and be of no further force or effect with respect to such shares on such Repurchase Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

Section 8. Negative Covenants. As long as any shares of Preferred Stock are outstanding, unless the Holders of at least 67% in Stated Value of the then outstanding shares of Preferred Stock shall have otherwise given prior written consent, the Corporation shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

- a) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder;
- b) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of shares of its Common Stock, Common Stock Equivalents or Junior Securities, other than as to (i) the Conversion Shares or Warrant Shares as permitted or required under the Transaction Documents and (ii) repurchases of Common Stock or Common Stock Equivalents of departing officers and directors of the Corporation,

provided that such repurchases shall not exceed an aggregate of \$100,000 for all officers and directors for so long as the Preferred Stock is outstanding;

c) enter into any transaction with any Affiliate of the Corporation which would be required to be disclosed in any public filing with the Commission, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Corporation (even if less than a quorum otherwise required for board approval); or

d) enter into any agreement with respect to any of the foregoing.

Section 9. [RESERVED]

Section 10. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile or e-mail attachment, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Chief Financial Officer, facsimile number 651-925-0445, e-mail address mark.fandrich@commsysinc.com, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 10. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or e-mail attachment, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, e-mail address or address of such Holder appearing on the books of the Corporation, or if no such facsimile number, e-mail address or address appears on the books of the Corporation, at the principal place of business of such Holder, as set forth in the Purchase Agreement. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or e-mail attachment at the e-mail address set forth or referenced in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or e-mail attachment at the e-mail address set forth or referenced in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay liquidated damages, accrued dividends and accrued interest, as applicable, on the shares of Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Preferred Stock Certificate. If a Holder's Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership thereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Minnesota, without regard to the principles of conflict of laws thereof. All legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If the Corporation or any Holder shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other

Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment or other obligation shall be made or performed on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Reacquired Preferred Stock. Shares of Preferred Stock may only be issued pursuant to the Purchase Agreement. If any shares of Preferred Stock shall be converted or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as its Series A class of Preferred Stock.

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Minnesota law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 25th day of March 2022.

/s/ Mark D. Fandrich

Name: Mark D. Fandrich

Title: Chief Financial Officer and Secretary

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series A Convertible Preferred Stock indicated below into shares of common stock, par value \$0.05 per share (the "Common Stock"), of Communications Systems, Inc., a Minnesota corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as may be required by the Corporation in accordance with the Purchase Agreement. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Preferred Stock owned prior to Conversion: _____

Number of shares of Preferred Stock to be Converted: _____

Stated Value of shares of Preferred Stock to be Converted: _____

Number of shares of Common Stock to be Issued: _____

Applicable Conversion Price: _____

Number of shares of Preferred Stock subsequent to Conversion: _____

Address for Delivery: _____

or

DWAC Instructions:

Broker no: _____

Account no: _____

[HOLDER]

By: _____

Name:

Title:

PINEAPPLE ENERGY INC.

2022 EMPLOYEE STOCK PURCHASE PLAN

1. *Purpose of Plan.* The purpose of this Pineapple Energy Inc. (hereinafter referred to as the “Company”) 2022 Employee Stock Purchase Plan (the “Plan”) is to encourage stock ownership by all eligible Employees of the Company and by eligible Employees of any Subsidiaries authorized by the Board of Directors to participate hereunder. The Plan is further intended to incent Employees to remain in employment, improve operations, increase profits, and contribute more significantly to the Company’s success by providing the employees of the Company and its participating Subsidiaries with a convenient means of purchasing shares of Company common stock from time to time at a discount to market prices through the use of payroll deductions. The Company intends that the Plan shall qualify as an “Employee Stock Purchase Plan” under Section 423 of the Internal Revenue Code of 1986, as amended (the “Code”), and shall be construed in a manner consistent with the requirements of Code § 423 and the regulations thereunder.

2. *Administration.*

(a) The Plan shall be administered by a stock purchase committee (hereinafter referred to as the “Committee”) consisting of not less than three directors or employees of the Company, as designated by the Board of Directors of the Company (hereinafter referred to as the “Board of Directors”). The Board of Directors shall fill all vacancies in the Committee and may remove any member of the Committee at any time, with or without cause.

(b) Unless the Board of Directors limits the authority of the Committee, the Committee shall be vested with full authority to adopt, amend and rescind any rules deemed desirable and appropriate for the administration of the Plan, to construe and interpret the Plan, and to make all other determinations necessary or advisable for the administration of the Plan. Decisions of the Committee will be final and binding on all parties who have an interest in the Plan. The Committee may delegate ministerial duties to such of the Company’s employees, outside entities and outside professionals as the Committee so determines. For all purposes of this Plan other than the Plan’s Section 2(b), references to the Committee shall also refer to the Board of Directors.

(c) The Company shall pay all expenses of administering the Plan, other than costs associated with either any required tax withholding or the sale or other disposition of shares purchased under the Plan.

(d) No member of the Board of Directors or the Committee shall be liable for any action or determination made in good faith with respect to the Plan or any option granted under it.

3. *Duration and Phases of the Plan.*

(a) The Plan will become effective on the date it is approved by the shareholders of the Company, which approval must be within twelve (12) months of the date the Plan is adopted by the Board, and will terminate when all shares authorized for issuance under Section 9 of this Plan, are issued or at such earlier date as shall be determined by the Company’s Board of Directors, except that any Phase commenced prior to such termination shall, if necessary, be allowed to continue beyond such termination until completion. Notwithstanding the foregoing, any amendment of this Plan to increase the number of shares authorized for issuance under Section 9 of this Plan shall be considered of no force or effect and any options granted thereafter shall be considered null and void unless the holders of a majority of all the issued and outstanding shares of the common stock of the Company approve such amendment of the Plan within twelve (12) months after the date Section 9 is amended by the Board of Directors to increase the number of shares authorized for issuance.

(b) The Plan shall be carried out in one or more phases, as determined by the Board of Directors or Committee, provided that no phase shall be for a period of longer than twenty-seven (27) months (“Phases”). Phases may run concurrently or overlap with any other Phase. The existence and date of commencement of a Phase (the “Commencement Date”) shall be determined by the Committee and shall terminate on a date (the “Termination

Date”) determined by the Committee consistent with the limitations specified above. In the event all of the stock reserved for grant of options hereunder is issued pursuant to the terms hereof prior to the commencement of one or more Phases scheduled by the Committee or the number of shares remaining is so small, in the opinion of the Committee, as to render administration of any succeeding Phase impracticable, such Phase or Phases shall be cancelled. Phases shall be numbered successively as Phase 1, Phase 2, Phase 3, etc.

(c) In the event of (i) any consolidation or merger of the Company in which the Company is not the continuing or surviving corporation or pursuant to which shares would be converted into cash, securities or other property, other than a merger of the Company in which shareholders immediately prior to the merger have the same proportionate ownership of stock in the surviving corporation immediately after the merger; or (ii) any sale, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company, each option pursuant to a Phase with a Termination Date that is scheduled to occur after the date of the consummation of such transaction may be continued or assumed or an equivalent right may be substituted by the surviving or successor corporation or a parent or subsidiary of such corporation, or the Board of Directors may elect to accelerate the Termination Date of any Phase. Subject to any required action by the shareholders, if the Company shall be involved in any merger or consolidation, in which it is not the surviving corporation, and if the Board of Directors does not accelerate the Termination Date of the Phase, each outstanding option shall pertain to and apply to the securities or other rights to which a holder of the number of shares subject to the option would have been entitled.

(d) A dissolution or liquidation of the Company shall cause each outstanding option to terminate, provided that in such event, immediately prior to such dissolution or liquidation, each Participant shall be repaid the payroll deductions credited to the Participant’s account without interest.

4. *Eligibility.* All Employees, as defined in Section 17 hereof, who are employed by the Company at least one day prior to the Commencement Date of a Phase shall be eligible to participate in such Phase. For any Phase, the Company may choose to further exclude one or more of the following categories of employees, so long as the exclusions are applied in an identical manner:

- (a) Employees employed less than two years.
- (b) Employees whose customary employment is not more than five months a calendar year.
- (c) Highly compensated employees (as defined in Treasury Reg. § 1.423-2(e)).
- (d) Employees who are citizens or residents of a foreign jurisdiction (without regard to whether they are also citizens of the United States or resident aliens).

5. *Participation.*

(a) Participation in the Plan is voluntary. An eligible Employee may elect to participate in any Phase of the Plan, and thereby become a “Participant” in the Plan, by completing the Plan payroll deduction form provided by the Company and delivering it to the Company or its designated representative during the enrollment period specified by the Committee, and no later than the day prior to the Commencement Date of that Phase.

(b) Once enrolled in the Plan, a Participant will continue to participate in the Plan until the Participant withdraws from the Plan pursuant to Section 8(a), or until contributions are discontinued, or the Participant is no longer an eligible Employee pursuant to Section 8(e). A Participant who withdraws from the Plan pursuant to Section 8(a) or is no longer an eligible Employee pursuant to Section 8(e) may again become a Participant, if the Participant is then an eligible Employee, by proceeding as provided in Section 5(a) above, which shall be effective as of the next Commencement Date. A Participant whose payroll deductions were discontinued because of Section 7(a)(v)(A) will automatically resume participation at the Commencement Date of the next Phase of the Plan that ends in the next calendar year, if the Participant is then an eligible Employee at the same level as in effect at the time of the discontinuation.

6. *Payroll Deductions.*

(a) Upon enrollment, a Participant shall elect to make contributions to the Plan by payroll deductions in increments based on a dollar amount or percentage of Base Pay (rounded to whole dollar amounts and in amounts calculated to be as uniform as practicable throughout the period of the Phase), in the aggregate amount not in excess of 20% of such Participant's Base Pay for the term of the Phase (or such other maximum percentage as the Committee may establish from time to time prior to the commencement of a Phase), nor in excess of the limit specified in Section 7(a)(v)(A) below. Payroll deductions for a Participant shall commence on the first payday after the Commencement Date of the Phase and shall terminate on the last payday immediately prior to or coinciding with the Termination Date of that Phase unless sooner terminated by the Participant as provided in Section 8 hereof. Except for payroll deductions, a Participant may not make any separate cash payments into the Participant's account under the Plan. The minimum authorized payroll deduction is \$10 per payroll period. Any election submitted shall remain in effect for subsequent Phases until the Plan is terminated or such Participant withdraws from the Plan, modifies his or her authorization, or ceases to be an Employee eligible to participate in the Plan.

(b) In the event that the Participant's Base Pay for any pay period is terminated or reduced from the Base Pay for such a period as of the Commencement Date of the Phase for any reason so that the amount actually withheld on behalf of the Participant as of the Termination Date of the Phase is less than the amount anticipated to be withheld over the Phase as determined on the Commencement Date of the Phase, then the extent to which the Participant may exercise the Participant's option shall be based on the amount actually withheld on the Participant's behalf. In the event of a change in the pay period of any Participant, such as from bi-weekly to monthly, an appropriate adjustment shall be made to the deduction in each new pay period so as to ensure the deduction of the proper amount authorized by the Participant.

(c) A Participant may withdraw from participation in the Phase and terminate the Participant's payroll deduction authorized at such times as determined by the Committee and shall have the rights provided in Section 8.

(d) All payroll deductions made for Participants shall be credited to their respective accounts under the Plan.

(e) Except for the Participant's right to discontinue participation in the Plan as provided in Paragraph 8, no Participant shall be entitled to increase or decrease the amount to be deducted in a given Phase after the Commencement Date unless the Committee in its discretion allows all Participants to increase or decrease their deductions during a particular Phase as communicated to Employees prior to the Commencement Date of a Phase.

7. *Options.*

(a) Grant of Option.

- (i) A Participant who is employed by the Company as of the Commencement Date of a Phase shall be granted an option as of such date to purchase a number of full shares of Company common stock to be determined by dividing the total amount to be credited to that Participant's account under Section 6 hereof by the applicable option price set forth in Section 7(a)(ii) hereof, subject to the limitations of Sections 7(a)(v)(A), 7(a)(v)(B), 7(a)(v)(C) and 9 hereof.
 - (ii) Prior to the commencement of a Phase, the Board or Committee shall determine the option price for shares of common stock to be purchased during that Phase, as a percentage of (i) the fair market value of such shares of common stock on the Termination Date of the Phase, which shall not be less than eighty-five percent (85%) of such fair market value, or (ii) the lower of (A) the fair market value of such shares of common stock on the Termination Date of the Phase, or (B) the fair market value of such shares of common stock on the on the Commencement Date, which shall not be less than eighty-five percent (85%) of the fair market values on the relevant date.
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- (iii) The fair market value of a share of common stock of the Company means, as of any date, the closing sale price for a share on the principal securities market on which the shares trade on said date. In the absence of an established market for the shares, the fair market value shall be determined in good faith by the Committee and such determination shall be conclusive and binding on all persons.
 - (iv) All Employees granted options pursuant to the Plan shall have the same rights and privileges, except as may be provided for in this Plan and pursuant to Treas. Reg. § 1.423-2(f). The Committee may impose uniform additional conditions and restrictions not inconsistent with Code § 423 with respect to all options granted during a Phase, including but not limited to restrictions on the hold and resale of shares received upon exercise of the option.
 - (v) Anything herein to the contrary notwithstanding, no Employee shall be granted an option hereunder:
 - A. Which permits the Participant's rights to purchase shares of stock under all employee stock purchase plans of the Company, its Subsidiaries or its parent, if any, to accrue at a rate which exceeds Twenty-Five Thousand Dollars (\$25,000) of the fair market value of such stock (determined at the time such option is granted) for each calendar year in which such option is outstanding at any time. In the case of shares purchased during a Phase that commenced in the current calendar year, the limit shall be equal to \$25,000 minus the fair market value of the shares that the Participant previously purchased in the current calendar year under the Plan and all other employee stock purchase plans of the Company.
 - B. Which permits the Participant's rights to purchase the number of shares of stock under all employee stock purchase plans of the Company, its Subsidiaries or its parent, if any, that per Phase exceed the number of shares equal to Twenty-Five Thousand Dollars (\$25,000) divided by the fair market value of the stock on the Commencement Date.
 - C. If immediately after the grant such Participant would own and/or hold outstanding options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company, its parent, if any, or of any Subsidiary of the Company. For purposes of determining stock ownership under this Section, the rules of Code § 424(d) shall apply.
 - (vi) The grant of an option pursuant to this Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure or to merge or to consolidate or to dissolve, liquidate or sell, or transfer all or any part of its business or assets.
- (b) *Exercise of Option.*
- (i) Unless a Participant gives written notice to the Company pursuant to Section 7(b)(ii) or Section 8 prior to the Termination Date of a Phase, the Participant's option for the purchase of shares will be exercised automatically for the Participant as of such Termination Date for the purchase of the number of full shares of Company common stock which the accumulated payroll deductions in the Participant's account at that time will purchase at the applicable option price set forth in Section 7(a)(ii), and subject to the limitations set forth in Sections 7(a)(v)(A), 7(a)(v)(B) and 9 hereof.
 - (ii) A Participant may, by written notice to the Company at any time during the thirty (30) day period immediately preceding the Termination Date of a Phase, elect, effective as of the Termination Date of that Phase, to exercise the Participant's option for a specified number of full shares less than the maximum number which may be purchased under the Participant's option.
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- (iii) As promptly as practicable after the Termination Date of any Phase, the Company will deliver to each Participant herein the common stock purchased upon the exercise of the Participant's option. Any balance in Participant's account not used for the purchase of common stock as of the Termination Date of a Phase shall be carried over (without interest) and credited to Participant's account for the next Phase of the Plan, subject to Participant's right to be paid such amount (without interest) in the event Participant subsequently withdraws from or terminates participation in the Plan as provided in Section 8.
- (iv) The Committee may appoint a registered broker dealer to act as agent for the Company in holding and performing ministerial duties in connection with the Plan, including, but not limited to, maintaining records of stock ownership by Participants and holding stock in its own name for the benefit of the Participants. No trust or escrow arrangement shall be expressed or implied by the exercise of such duties by the agent. A Participant may, at any time, request of the agent that any shares allocated to the Participant be registered in the name of the Participant, in which event the agent shall issue a certificate for the whole number of shares in the name of the Participant.

8. *Withdrawal or Termination of Participation.*

(a) A Participant may, at any time prior to the Termination Date of a Phase, discontinue making contributions and withdraw all payroll deductions then credited to the Participant's account by giving written notice to the Company. Promptly upon receipt of such notice of withdrawal, all payroll deductions credited to the Participant's account will be paid to the Participant without interest and no further payroll deductions will be made during that Phase. In such event, the option granted the Participant under that Phase of the Plan shall lapse immediately. Partial withdrawals of payroll deductions hereunder may not be made. A Participant who withdraws his or her payroll deductions pursuant to this Section 8(a) will no longer be a Participant in the Plan unless and until the individual, if he or she is then an eligible Employee, again becomes a Participant in the Plan by proceeding as provided in Section 5(a) above, which shall be effective as of the next Commencement Date. A Participant's withdrawal of payroll deductions will not have any effect upon the Participant's eligibility to participate in any succeeding Phase of the Plan or in any similar plan that may hereafter be adopted by the Company.

(b) Notwithstanding the provisions of Section 8(a) above, if a Participant is obligated to file reports pursuant to Section 16 of the Securities Exchange Act of 1934 (whether at the commencement of a Phase or during a Phase) then such a Participant shall not have the right to withdraw all or a portion of the accumulated deductions except in accordance with Section 8(c) and (d) below.

(c) In the event of the death of a Participant, the person or persons specified in Section 13 may give notice to the Company within sixty (60) days of the death of the Participant electing to purchase the number of full shares which the accumulated payroll deductions in the account of such deceased Participant will purchase at the option price specified in Section 7(a)(ii) and have the balance in the account distributed in cash without interest to the person or persons specified in Section 13. If no such notice is received by the Company within said sixty (60) days, the accumulated payroll deductions will be distributed in full in cash without interest to the person or persons specified in Section 13.

(d) Upon termination of Participant's employment for any reason other than death of the Participant, the payroll deductions credited to the Participant's account without interest shall be returned to the Participant.

(e) In the event the Participant ceases to be an eligible Employee, although still employed by the Company, the Participant shall be deemed to have discontinued participation in the Plan and all payroll deductions shall be discontinued. Participant shall have the right to purchase the number of full shares, which the accumulated payroll deductions in the Participant's account as of the date the employee ceases to be an eligible Employee will purchase at the option price and time specified in Section 7 above. The balance remaining in Participant's account after such purchase shall be distributed to Participant without interest.

(f) The Committee shall be entitled to make such rules, regulations and determination as it deems appropriate under the Plan in respect of any leave of absence taken by or disability of any Participant. Without limiting the generality of the foregoing, the Committee shall be entitled to determine:

- (i) Whether or not any such leave of absence shall constitute a termination of employment for purposes of the Plan; and
- (ii) The impact, if any, of any such leave of absence on options under the Plan theretofore granted to any Participant who takes such leave of absence.

9 . *Stock Reserved for Options.* Two Hundred Thousand (200,000) shares of the Company's \$.05 par value common stock are reserved for issuance upon the exercise of options to be granted under the Plan. Shares subject to the unexercised portion of any lapsed or expired option may again be subject to options under the Plan.

(b) If the total number of shares of Company common stock for which options are to be granted for a given Phase as specified in Section 7 exceeds the number of shares then remaining available under the Plan (after deduction of all shares for which options have been exercised or are then outstanding) and if the Committee does not elect to cancel such Phase pursuant to Section 3, the Committee shall make a pro rata allocation of the shares remaining available in as uniform and equitable a manner as it shall consider practicable. In such event, the options to be granted and the payroll deductions to be made pursuant to the Plan which would otherwise be effected may, in the discretion of the Committee, be reduced accordingly. The Committee shall give written notice of such reduction to each Participant affected.

(c) The Participant (or a joint tenant named pursuant to Section 9(d) hereof) shall have no rights as a shareholder with respect to any shares subject to the Participant's option until the date until the Company delivers the shares of common stock purchased upon the exercise of the Participant's option as provided in Section 7(b)(3). No adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property), distributions or other rights for which the record date is prior to the date such stock certificate is actually issued, except as otherwise provided in Section 11 hereof.

(d) The shares of Company common stock to be delivered to a Participant pursuant to the exercise of an option under the Plan will be registered in the name of the Participant or, if the Participant so directs by written notice to the Committee prior to the Termination Date of that Phase of the Plan, in the names of the Participant and one other person the Participant may designate as the Participant's joint tenant with rights of survivorship, to the extent permitted by law.

10. *Accounting and Use of Funds.* Payroll deductions for each Participant shall be credited to an account established for the Participant under the Plan. Such account shall be solely for bookkeeping purposes and no separate fund or trust shall be established hereunder and the Company shall not be obligated to segregate such funds. All funds from payroll deductions received or held by the Company under the Plan may be used, without limitation, for any corporate purpose by the Company.

11. *Adjustment Provisions.*

(a) Subject to any required action by the shareholders of the Company, the number of shares covered by each outstanding option, and the price per share thereof in each such option, shall be proportionately adjusted for any increase or decrease in the number of issued shares of the Company common stock resulting from a subdivision or consolidation of shares or the payment of a share dividend (but only on the shares) or any other increase or decrease in the number of such shares effected without receipt of consideration by the Company.

(b) In the event of a change in the shares of the Company as presently constituted, which is limited to a change of all its authorized shares with par value into the same number of shares with a different par value or without par value, the shares resulting from any such change shall be deemed to be the shares within the meaning of this Plan.

(c) To the extent that the foregoing adjustments relate to shares or securities of the Company, such adjustments shall be made by the Committee, and its determination in that respect shall be final, binding and conclusive, provided that each option granted pursuant to this Plan shall not be adjusted in a manner that causes the option to fail to continue to qualify as an option issued pursuant to an “employee stock purchase plan” within the meaning of Code § 423.

(d) Except as hereinbefore expressly provided in this Section 11, no Participant shall have any right by reason of any subdivision or consolidation of shares of any class or the payment of any stock dividend or any other increase or decrease in the number of shares of any class or by reason of any dissolution, liquidation, merger, or consolidation or spin-off of assets or stock of another corporation, and any issue by the Company of shares of any class, or securities convertible into shares of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares subject to the option.

12. *Non-Transferability of Options.*

(a) Options granted under any Phase of the Plan shall not be transferable except under the laws of descent and distribution and shall be exercisable only by the Participant during the Participant’s lifetime and after the Participant’s death only by the Participant’s beneficiary or the representative of the Participant’s estate as provided in Section 8(c) hereof.

(b) Neither payroll deductions credited to a Participant’s account, nor any rights with regard to the exercise of an option or to receive common stock under any Phase of the Plan may be assigned, transferred, pledged or otherwise disposed of in any way by the Participant. Any such attempted assignment, transfer, pledge or other disposition shall be null and void and without effect, except that the Company may, at its option, treat such act as an election to withdraw funds in accordance with Section 8.

13. *Designation of Beneficiary.*

(a) A Participant may file a written (or if available electronic) designation of a beneficiary who is to receive any cash credited to the Participant’s account under any Phase of the Plan in the event of such Participant’s death prior to exercise of the Participant’s option pursuant to Section 9 hereof, or to exercise the Participant’s option and become entitled to any stock and/or cash upon such exercise in the event of the Participant’s death prior to exercise of the option pursuant to Section 7 hereof. The beneficiary designation may be changed by the Participant at any time by written notice (or if available electronic) to the Company.

(b) Upon the death of a Participant and upon receipt by the Company of proof deemed adequate by it of the identity and existence at the Participant’s death of a beneficiary validly designated under the Plan, the Company shall in the event of the Participant’s death under the circumstances described in Section 8(c) hereof, allow such beneficiary to exercise the Participant’s option pursuant to Section 8(c) if such beneficiary is living on the Termination Date of the Phase and deliver to such beneficiary the appropriate stock and/or cash after exercise of the option. In the event there is no validly designated beneficiary under the Plan who is living at the time of the Participant’s death under the circumstances described in Section 8(c) or in the event the option lapses, the Company shall deliver the cash credited to the account of the Participant without interest to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed to the knowledge of the Company, it may, in its discretion, deliver such cash to the spouse (or, if no surviving spouse, to any one or more children of the Participant). If no spouse or child is known to the Company, then to such relatives of the Participant known to the Company as would be entitled to such amounts, under the laws of intestacy in the deceased Participant’s domicile as though named as the designated beneficiary hereunder. The Company will not be responsible for or be required to give effect to the disposition of any cash or stock or the exercise of any option in accordance with any will or other testamentary disposition made by such Participant or in accordance with the provision of any law concerning intestacy, or otherwise. No designated beneficiary shall, prior to the death of a Participant by whom the beneficiary has been designated, acquire any interest in any stock or in any option or in the cash credited to the Participant’s account under any Phase of the Plan.

14. *Amendment and Termination.* The Plan may be terminated at any time by the Board of Directors provided that, except as permitted in Section 3(c) with respect to an acceleration of the Termination Date of any

Phase, no such termination will take effect with respect to any options then outstanding. Also, the Board may, from time to time, amend the Plan as it may deem proper and in the best interests of the Company or as may be necessary to comply with Code § 423, or other applicable laws or regulations; provided, however, that no such amendment shall, without prior approval of the shareholders of the Company (1) increase the total number of shares for which options may be granted under the Plan (except as provided in Section 11 herein), (2) permit aggregate payroll deductions in excess of ten percent (10%) of a Participant's compensation as of the Commencement Date of a Phase, (3) impair any outstanding option, (4) materially expand the class of individuals eligible to become Participants and receive options under the Plan, (5) materially increase the benefits accruing to Participants under the Plan or materially reduce the price at which shares of Common Stock may be purchased under the Plan, (6) expand the types of awards available for issuance under the Plan, or (7) change the sponsoring corporation or the stock available for purchase under the Plan; but only to the extent that shareholder approval is required by applicable law or listing requirements

15 . *Notices.* All notices or other communications in connection with the Plan or any Phase thereof shall be in the form specified by the Committee and shall be deemed to have been duly given when received by the Participant or the Participant's designated personal representative or beneficiary or by the Company or its designated representative, as the case may be.

16 . *Participation of Subsidiaries.* The Board of Directors may from time to time, by written resolution, authorize the employees of any of its Subsidiaries to participate hereunder. Effective as of the date of coverage of any such Subsidiary, any references herein to the "Company" shall be interpreted as referring to such Subsidiary as well as to Pineapple Energy Inc. In the event that any Subsidiary which is covered under the Plan ceases to be a Subsidiary of Pineapple Energy Inc., the employees of such Subsidiary shall be considered to have terminated their employment for purposes of Section 8 hereof as of the date such Subsidiary ceases to be such a Subsidiary.

17. *Definitions.*

(a) "Base Pay" is the regular base pay for employment for each employee as annualized for a twelve (12) month period, excluding overtime, commissions, bonuses, disability payments, shift differentials, employer contributions to a 401(k) or other retirement plan, amounts deferred to a non-qualified deferred compensation plan, incentives, equity awards, reimbursements, expense allowances, fringe benefits and other similar payments, and including contributions made by the Participant to a cafeteria plan maintained by the Company or a Subsidiary, or under any qualified transportation fringe benefit plan, determined as of the Commencement Date of each Phase.

(b) "Employee" shall mean any employee, including an officer, of the Company who as of the first day of the month immediately preceding the Commencement Date of a Phase is customarily employed by the Company for at least twenty (20) hours per week.

(c) "Subsidiary" shall include any corporation defined as a subsidiary of the Company in Code § 424(f).

18. *Miscellaneous.*

(a) The Plan shall not, directly or indirectly, create any right for the benefit of any Employee or class of Employees to purchase any shares of stock under the Plan, or create in any Employee or class of Employees any right with respect to continuation of employment by the Company, and it shall not be deemed to interfere in any way with the Company's right to terminate, or otherwise modify, an Employee's employment at any time.

(b) The provisions of the Plan shall, in accordance with its terms, be binding upon, and inure to the benefit of, all successors of each Employee participating in the Plan, including, without limitation, such Employee's estate and the executors, administrators or trustees thereof, heirs and legatees, and any receiver, trustee in bankruptcy, or representative of creditors of such Employee.

(c) As a condition of the obligations of the Company under this Plan, each Participant must, no later than the date as of which any part of the value of an option under this Plan first becomes includable as compensation in the gross income of the Participant for federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any federal, state, or local taxes of any kind required by law to be

withheld with respect to such value. The Company or any Subsidiary, to the extent permitted by law, may deduct any such taxes from any payment of any kind otherwise due to the Participant. If the Committee permits, a Participant may elect by written notice to the Company to satisfy part or all of the withholding tax requirements under this Section by (i) authorizing the Company to retain from the number of shares of Stock that would otherwise be deliverable to the Participant, or (ii) delivering (including by attestation) to the Company from shares of stock already owned by the Participant, that number of shares having an aggregate fair market value equal to part or all of the tax payable by the Participant under the this Section, and in the event shares of stock are withheld, the amount withheld will not exceed the minimum required federal, state and FICA withholding amount. Any such election will be in accordance with, and subject to, applicable tax and securities laws, regulations and rulings.

(d) The law of the State of Minnesota will govern all matters relating to this Plan except to the extent it is superseded by the laws of the United States.

(e) The offering of the shares hereunder shall be subject to the effecting by the Company of any registration or qualification of the shares under any federal or state law or the obtaining of the consent or approval of any governmental regulatory body which the Company shall determine, in its sole discretion, is necessary or desirable as a condition to or in connection with, the offering or the issue or purchase of the shares covered thereby. The Company shall make every reasonable effort to effect such registration or qualification or to obtain such consent or approval.

(f) It is intended that the Plan and any option granted under the Plan made to a person subject to Section 16 of the Securities Exchange Act of 1934 meet all requirements of Rule 16b-3. If any provisions of the Plan or any option granted under the Plan would disqualify the Plan or such option, or would otherwise not comply with Rule 16b-3, such provision or option shall be construed or deemed amended to conform to Rule 16b-3.

(g) Notwithstanding any provision in this Plan to the contrary, payroll deduction elections and cancellations or amendments thereto, withdrawals decisions, beneficiary designations, and any other decision or election by a Participant under this Plan may be accomplished by electronic or telephonic means, which includes but is not limited to the Internet, and which are not otherwise prohibited by law and which are in accordance with procedures and/or systems approved or arranged by the Employer or its delegates.

**PINEAPPLE ENERGY INC.
2022 EQUITY INCENTIVE PLAN**

(As amended December 7, 2022)

1. **Purpose.** The purpose of the Plan is to assist the Company in attracting, retaining, motivating and rewarding certain key employees, officers, directors, and consultants of the Company and its Affiliates, promoting the creation of long-term value for shareholders of the Company by closely aligning the interests of such individuals with those of such shareholders. The Plan authorizes the award of stock based incentives to selected Service Providers to encourage such persons to expend the maximum effort in the creation of shareholder value.

2. **Definitions.** In this Plan, the following definitions will apply.

(a) "Affiliate" means any entity that is a Subsidiary of the Company, or any other entity in which the Company owns, directly or indirectly, at least 20% of combined voting power of the entity's Voting Securities and which is designated by the Committee as covered by the Plan.

(b) "Award" means a grant made under the Plan in the form of Options, Stock Appreciation Rights, Restricted Stock, Stock Units, or an Other Stock-Based Award.

(c) "Award Agreement" means the written or electronic agreement, notice or other document containing the terms and conditions applicable to each Award granted under the Plan, including all amendments thereto. An Award Agreement is subject to the terms and conditions of the Plan.

(d) "Board" means the Board of Directors of the Company.

(e) "Cause" means, unless otherwise defined in a then-effective written agreement (including an Award Agreement) between a Participant and the Company or any Affiliate, (i) the Participant's failure or refusal to perform satisfactorily the duties reasonably required of the Participant by the Company (other than by reason of Disability) in any material respect; (ii) the Participant's material violation of any law, rule, regulation, or court order, including any commission of, indictment for or conviction of any crime that constitutes a felony or other similar category of crime outside the United States (whether or not involving the Company or any of its Affiliates); (iii) conduct of the Participant, in connection with their employment or service, that has resulted, or could reasonably be expected to result, in material injury to the business or reputation of the Company or any of its Affiliates; (iv) a material violation of the policies of the Company or any of its Affiliates applicable to the Participant, including but not limited to, those relating to sexual harassment, the disclosure or misuse of confidential information, or those set forth in the manuals or policy statements of the Company or any of its Affiliates or any breach of any fiduciary duty or non-solicitation, non-competition or similar obligation owed to the Company or any of its Affiliates; (v) the Participant's act(s) of gross negligence or willful misconduct in the course of their employment or service with the Company and its Affiliates; or (vi) misappropriation by the Participant of any assets or business opportunities of the Company or any of its Affiliates. If, subsequent to the Participant's termination of Services for any reason other than Cause it is discovered that the Participant's Services could have been terminated for Cause, such Participant's Services shall, at the discretion of the Committee, be deemed to have been terminated for Cause for all purposes under this Plan, and the Participant shall be required to repay to the Company all amounts they received in connection with Awards following such termination of Services that would have been forfeited under the Plan had such termination of Services been by the Company or its Affiliates for Cause. In the event that there is an Award Agreement or other then-effective written agreement between the Company or an Affiliate and a Participant otherwise defining Cause, "Cause" shall have the meaning provided in such agreement, and a termination of Services for Cause hereunder shall not be deemed to have occurred unless all applicable notice and cure periods in such other agreement are complied with.

(f) "Change in Control" means:

(1) An Exchange Act Person becomes the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company representing 50% or more of the combined voting power of the Company's then outstanding Voting Securities, except that the following will not constitute a Change in Control:

- (A) any acquisition of securities of the Company by an Exchange Act Person from the Company for the purpose of providing financing to the Company;
- (B) any formation of a Group consisting solely of beneficial owners of the Company's Voting Securities as of the effective date of this Plan;
- (C) any repurchase or other acquisition by the Company of its Voting Securities that causes any Exchange Act Person to become the beneficial owner of 50% or more of the Company's Voting Securities; or
- (D) with respect to any particular Participant, any acquisition of securities of the Company by the Participant, any Group including the Participant, or any entity controlled by the Participant or a Group including the Participant.

If, however, an Exchange Act Person or Group referenced in clause (A), (B) or (C) above acquires beneficial ownership of additional Company Voting Securities after initially becoming the beneficial owner of 50% or more of the combined voting power of the Company's Voting Securities by one of the means described in those clauses, then a Change in Control will be deemed to have occurred. Furthermore, a Change in Control will occur if a Person becomes the beneficial owner of more than 50% of the Company's Voting Securities as the result of a Corporate Transaction only if the Corporate Transaction is itself a Change in Control pursuant to subsection (f)(3) of this definition.

(2) Individuals who are Continuing Directors cease for any reason to constitute at least a majority of the members of the Board.

(3) A Corporate Transaction is consummated, unless, immediately following such Corporate Transaction, all or substantially all of the individuals and entities who were the beneficial owners of the Company's Voting Securities immediately prior to such Corporate Transaction beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding Voting Securities of the surviving or acquiring entity resulting from such Corporate Transaction (including beneficial ownership through any Parent of such entity) in substantially the same proportions as their ownership, immediately prior to such Corporate Transaction, of the Company's Voting Securities.

Notwithstanding the foregoing, to the extent that any Award constitutes a deferral of compensation subject to Code Section 409A, and if that Award provides for a change in the time or form of payment upon a Change in Control, then no Change in Control shall be deemed to have occurred upon an event described herein unless the event would also constitute a change in ownership or effective control of, or a change in the ownership of a substantial portion of the assets of, the Company under Code Section 409A.

(g) "Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time. For purposes of the Plan, references to sections of the Code shall be deemed to include any applicable regulations thereunder and any successor or similar statutory provisions.

(h) "Committee" means the Compensation Committee of the Board or any other committee appointed by the Board to administer the Plan, or, in the absence of any such committee, the Board. To the extent necessary to comply with applicable law (including any then-applicable stock exchange rules and regulations), any committee appointed by the Board to administer the Plan shall consist of two or more Non-Employee Directors designated by the Board, each member of which shall be (i) an independent director within the meaning of applicable stock exchange rules and regulations and (ii) a non-employee director within the meaning of Exchange Act Rule 16b-3.

(i) "Company" means Pineapple Holdings, Inc. (formerly known as Communications Systems, Inc.), a Minnesota corporation, and any successor thereto.

(j) “Continuing Director” means an individual (i) who is, as of the effective date of the Plan, a director of the Company, or (ii) who becomes a director of the Company after the effective date hereof and whose initial election, or nomination for election by the Company’s shareholders, was approved by at least a majority of the then Continuing Directors but excluding, for purposes of this clause (ii), an individual whose initial assumption of office occurs as the result of a proxy contest involving the solicitation of proxies or consents by a person or Group other than the Board, or by reason of an agreement intended to avoid or settle a proxy contest.

(k) “Corporate Transaction” means (i) a sale or other disposition of all or substantially all of the assets of the Company, or (ii) a merger, consolidation, share exchange or similar transaction involving the Company, regardless of whether the Company is the surviving entity.

(l) “Disability” means (A) any permanent and total disability under any long-term disability plan or policy of the Company or its Affiliates that covers the Participant, or (B) if there is no such long-term disability plan or policy, “total and permanent disability” within the meaning of Code Section 22(e)(3).

(m) “Employee” means an employee of the Company or an Affiliate; provided that, for purposes of an Award that is intended to qualify as an Incentive Stock Option, “Employee” shall mean an employee of the Company or a Subsidiary.

(n) “Exchange Act” means the Securities Exchange Act of 1934, as amended and in effect from time to time.

(o) “Exchange Act Person” means any natural person, entity or Group other than (i) the Company or any Affiliate; (ii) any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliate; (iii) an underwriter temporarily holding securities in connection with a registered public offering of such securities; or (iv) an entity whose Voting Securities are beneficially owned by the beneficial owners of the Company’s Voting Securities in substantially the same proportions as their beneficial ownership of the Company’s Voting Securities.

(p) “Fair Market Value” means the fair market value of a Share determined as follows:

(i) If the Shares are readily tradable on an established securities market (as determined under Code Section 409A), then Fair Market Value will be the closing sales price for a Share on the principal securities market in the United States on which it trades on the date for which it is being determined, or if no sale of Shares occurred on that date, on the next preceding date on which a sale of Shares occurred, as reported by such principal securities market; or

(ii) If the Shares are not then readily tradable on an established securities market (as determined under Code Section 409A), then Fair Market Value will be determined by the Committee as the result of a reasonable application of a reasonable valuation method that satisfies the requirements of Code Section 409A.

(q) “Grant Date” means the date on which the Committee approves the grant of an Award under the Plan, or such later date as may be specified by the Committee on the date the Committee approves the Award.

(r) “Group” means two or more persons who act, or agree to act together, as a partnership, limited partnership, syndicate or other group for the purpose of acquiring, holding, voting or disposing of securities of the Company.

(s) “Non-Employee Director” means a member of the Board who is not an Employee.

(t) “Option” means a right granted under the Plan to purchase a specified number of Shares at a specified price. An “Incentive Stock Option” or “ISO” means any Option designated as such and granted in accordance with the requirements of Code Section 422. A “Non-Qualified Stock Option” or “NQSO” means an Option other than an Incentive Stock Option.

- (u) "Other Stock-Based Award" means an Award described in Section 11 of this Plan.
- (v) "Participant" means a Service Provider to whom a then-outstanding Award has been granted under the Plan.
- (w) "Plan" means this Pineapple Holdings, Inc. 2022 Equity Incentive Plan, as amended and in effect from time to time.
- (x) "Restricted Stock" means Shares issued to a Participant that are subject to such restrictions on transfer, vesting conditions and other restrictions or limitations as may be set forth in this Plan and the applicable Award Agreement.

(y) "Service" means the provision of services by a Participant to the Company or any Affiliate in any Service Provider capacity. A Service Provider's Service shall be deemed to have terminated either upon an actual cessation of providing services to the Company or any Affiliate or upon the entity to which the Service Provider provides services ceasing to be an Affiliate. Unless otherwise determined by the Committee, in the event that a Subsidiary to whom the Participant provides Services ceases for any reason to be an Affiliate of the Company, the Participant shall be deemed to have had a termination of Services for purposes of the Plan effective as of the date of such cessation. Except as otherwise provided in this Plan or any Award Agreement, Service shall not be deemed terminated in the case of (i) any approved leave of absence; (ii) transfers among the Company and any Affiliate in any Service Provider capacity; or (iii) any change in status so long as the individual remains in the service of the Company or any Affiliate in any Service Provider capacity.

(z) "Service Provider" means an Employee, a Non-Employee Director, or any natural person who is a consultant or advisor, or is employed by a consultant or advisor retained by the Company or any Affiliate, and who provides services to the Company or any Affiliate.

(aa) "Share" means a share of Stock.

(bb) "Stock" means the common stock, \$0.05 par value per Share, of the Company.

(cc) "Stock Appreciation Right" or "SAR" means the right to receive, in cash and/or Shares as determined by the Committee, an amount equal to the appreciation in value of a specified number of Shares between the Grant Date of the SAR and its exercise date.

(dd) "Stock Unit" means a right to receive, in cash and/or Shares as determined by the Committee, the Fair Market Value of a Share, subject to such restrictions on transfer, vesting conditions and other restrictions or limitations as may be set forth in this Plan and the applicable Award Agreement.

(ee) "Subsidiary" means a "subsidiary corporation," as defined in Code Section 424(f), of the Company.

(ff) "Substitute Award" means an Award granted upon the assumption of, or in substitution or exchange for, outstanding awards granted by a company or other entity acquired by the Company or any Affiliate or with which the Company or any Affiliate combines. The terms and conditions of a Substitute Award may vary from the terms and conditions set forth in the Plan to the extent that the Committee at the time of the grant may deem appropriate to conform, in whole or in part, to the provisions of the award in substitution for which it has been granted.

(gg) "Voting Securities" of an entity means the outstanding equity securities (or comparable equity interests) entitled to vote generally in the election of directors of such entity.

3. Administration of the Plan.

(a) Administration. The authority to control and manage the operations and administration of the Plan shall be vested in the Committee in accordance with this Section 3.

(b) Scope of Authority. Subject to the terms of the Plan, the Committee shall have the authority, in its discretion, to take such actions as it deems necessary or advisable to administer the Plan, including:

- (1) determining the Service Providers to whom Awards will be granted, the timing of each such Award, the type of and the number of Shares covered by each Award, the terms, conditions, performance criteria, restrictions and other provisions of Awards, and the manner in which Awards are paid or settled;
- (2) cancelling or suspending an Award, accelerating the vesting or extending the exercise period of an Award, or otherwise amending the terms and conditions of any outstanding Award, subject to the requirements of Sections 6(b), 15(d) and 15(e);
- (3) adopting sub-plans or special provisions applicable to Awards, establishing, amending or rescinding rules to administer the Plan, interpreting the Plan and any Award or Award Agreement, reconciling any inconsistency, correcting any defect or supplying an omission in the Plan or any Award Agreement, and making all other determinations necessary or desirable for the administration of the Plan;
- (4) granting Substitute Awards under the Plan;
- (5) taking such actions as are provided in Section 3(c) with respect to Awards to foreign Service Providers; and
- (6) requiring or permitting the deferral of the settlement of an Award, and establishing the terms and conditions of any such deferral.

(c) Awards to Foreign Service Providers. The Committee may grant Awards to Service Providers who are located outside of the United States, who are not United States citizens, who are not compensated from a payroll maintained in the United States, or who are otherwise subject to (or could cause the Company to be subject to) legal or regulatory requirements of countries outside of the United States, on such terms and conditions different from those specified in the Plan as may, in the judgment of the Committee, be necessary or desirable to comply with applicable foreign laws and regulatory requirements and to promote achievement of the purposes of the Plan. In connection therewith, the Committee may establish such subplans and modify exercise procedures and other Plan rules and procedures to the extent such actions are deemed necessary or desirable, and may take any other action that it deems advisable to obtain local regulatory approvals or to comply with any necessary local governmental regulatory exemptions.

(d) Acts of the Committee: Delegation. A majority of the members of the Committee shall constitute a quorum for any meeting of the Committee, and any act of a majority of the members present at any meeting at which a quorum is present or any act in writing by a majority of the members of the Committee shall be the act of the Committee. Any such action of the Committee shall be valid and effective even if one or more members of the Committee at the time of such action are later determined not to have satisfied all of the criteria for membership in clauses (i) and (ii) of Section 2(h). To the extent not inconsistent with applicable law or stock exchange rules, the Committee may delegate all or any portion of its authority under the Plan to any one or more of its members or, as to Awards to Participants who are not subject to Section 16 of the Exchange Act, to one or more directors or executive officers of the Company or to a committee of the Board comprised of one or more directors of the Company. The Committee may also delegate non-discretionary administrative responsibilities in connection with the Plan to such other persons as it deems advisable.

(e) Finality of Decisions. The Committee's interpretation of the Plan and of any Award or Award Agreement made under the Plan and all related decisions or resolutions of the Board or Committee shall be final and binding on all parties with an interest therein.

(f) Indemnification. Each person who is or has been a member of the Committee or of the Board, and any other person to whom the Committee delegates authority under the Plan, shall be indemnified by the Company, to the maximum extent permitted by law, against liabilities and expenses imposed upon or reasonably incurred by such person in connection with or resulting from any claims against such person by reason of the performance of the

individual's duties under the Plan. This right to indemnification is conditioned upon such person providing the Company an opportunity, at the Company's expense, to handle and defend the claims before such person undertakes to handle and defend them on such person's own behalf. The Company will not be required to indemnify any person for any amount paid in settlement of a claim unless the Company has first consented in writing to the settlement. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such person or persons may be entitled under the Company's Articles of Incorporation or Bylaws, as a matter of law, or otherwise.

4. Shares Available Under the Plan.

(a) Maximum Shares Available. Subject to Sections 4(b), 4(c) and 4(d) and to adjustment as provided in Section 12(a), the number of Shares that may be the subject of Awards and issued under the Plan shall be 1,250,000. Shares issued under the Plan may come from authorized and unissued shares. In determining the number of Shares to be counted against this share reserve in connection with any Award, the following rules shall apply:

(i) Where the number of Shares subject to an Award is variable on the Grant Date, the number of Shares to be counted against the share reserve shall be the maximum number of Shares that could be received under that particular Award, until such time as it can be determined that only a lesser number of Shares could be received.

(ii) Shares subject to Substitute Awards shall not be counted against the share reserve, nor shall they reduce the Shares authorized for grant to a Participant in any calendar year.

(iii) Awards that may be settled solely in cash shall not be counted against the share reserve, nor shall they reduce the Shares authorized for grant to a Participant in any calendar year.

(b) Effect of Forfeitures and Other Actions. Any Shares subject to an Award that expires, is cancelled or forfeited, is settled for cash or otherwise does not result in the issuance of all of the Shares subject to such Award shall, to the extent of such cancellation, forfeiture, expiration, cash settlement or non-issuance, again become available for Awards under this Plan, and the share reserve under Section 4(a) shall be correspondingly replenished as provided in Section 4(c) below. The following Shares shall not, however, again become available for Awards or replenish the share reserve under Section 4(a): (i) Shares tendered (either actually or by attestation) by the Participant or withheld by the Company in payment of the exercise price of a stock option issued under this Plan, (ii) Shares tendered (either actually or by attestation) by the Participant or withheld by the Company to satisfy any tax withholding obligation with respect to an award under this Plan, (iii) Shares repurchased by the Company with proceeds received from the exercise of a stock option issued under this Plan, and (iv) Shares subject to a stock appreciation right award issued under this Plan that are not issued in connection with the stock settlement of that award upon its exercise.

(c) Counting Shares Again Available. Each Share that again becomes available for Awards as provided in Section 4(b) shall correspondingly increase the share reserve under Section 4(a).

(d) Effect of Plans Operated by Acquired Companies. If a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines has shares available under a pre-existing plan approved by shareholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall supplement the Share reserve under Section 4(a). Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan absent the acquisition or combination, and shall only be made to individuals of such acquired company who were not Employees or Non-Employee Directors prior to such acquisition or combination.

(e) No Fractional Shares. Unless otherwise determined by the Committee, the number of Shares subject to an Award shall always be a whole number. No fractional Shares may be issued under the Plan, but the

Committee may, in its discretion, adopt any rounding convention it deems suitable or pay cash in lieu of any fractional Share in settlement of an Award.

(f) Limits on Awards to Non-Employee Directors

(i) The aggregate value of Awards granted under the Plan to any Participant who is a Non-Employee Director in any calendar year, solely with respect to his or her service as a Non-Employee Director on the Board, may not exceed \$500,000 (based on the Fair Market Value of the Shares underlying the Award as of the Grant Date for Restricted Stock and Other Stock-Based Awards, and based on the Grant Date fair value for accounting purposes for Stock Options and Stock Appreciation Rights); and

(ii) the aggregate value of Awards granted under the Plan to any Non-Employee Director in connection with their initial appointment as a Non-Employee Director on the Board may not exceed \$500,000 (based on the Fair Market Value of the Shares underlying the Award as of the Grant Date for Restricted Stock and Other Stock-Based Awards, and based on the Grant Date fair value for accounting purposes of Stock Options and Stock Appreciation Rights), which, for the avoidance of doubt, may be in addition to any Awards granted to such Participant under Sections 4(f)(i).

5. Eligibility. Participation in the Plan is limited to Service Providers or prospective Service Providers conditioned upon such individual actually becoming an Employee, Non-Employee Director, or consultant eligible to be a Service Provider, respectively. Incentive Stock Options may only be granted to individuals who are Employees as of the Grant Date of the Incentive Stock Option.

6. General Terms of Awards.

(a) Award Agreement. Each Award shall be evidenced by an Award Agreement setting forth the amount of the Award together with such other terms and conditions applicable to the Award (and not inconsistent with the Plan) as determined by the Committee. If an Award Agreement calls for acceptance by the Participant, the Award evidenced by the Award Agreement will not become effective unless acceptance of the Award Agreement in a manner permitted by the Committee is received by the Company within thirty (30) days of the date the Award Agreement is delivered to the Participant. An Award to a Participant may be made singly or in combination with any form of Award. Two types of Awards may be made in tandem with each other such that the exercise of one type of Award with respect to a number of Shares reduces the number of Shares subject to the related Award by at least an equal amount.

(b) Vesting and Term. Each Award Agreement shall set forth the period until the applicable Award is scheduled to vest and, if applicable, expire (which shall not be more than ten years from the Grant Date), and, consistent with the requirements of this Section 6(b), the applicable vesting conditions and any applicable performance period. Awards that vest based solely on the satisfaction by the Participant of service-based vesting conditions shall be subject to a vesting period of not less than one year from the applicable Grant Date (during which no portion of the award may be scheduled to vest), and Awards whose grant or vesting is subject to the satisfaction of performance goals over a performance period shall be subject to a performance period of not less than one year. The foregoing minimum vesting and performance periods will not, however, apply in connection with: (i) a Change in Control as provided in Section 12(b)(2), 12(b)(4) or 12(c), (ii) a termination of Service due to death or Disability, (iii) to a Substitute Award that does not reduce the vesting period of the award being replaced, (iv) Awards made in payment of or exchange for other compensation already earned and payable, and (v) outstanding, exercised and settled Awards involving an aggregate number of Shares not in excess of 5% of the Plan's share reserve specified in Section 4(a). For purposes of Awards to Non-Employee Directors, a vesting period will be deemed to be one year if runs from the date of one annual meeting of the Company's shareholders to the date of the next annual meeting of the Company's shareholders.

(c) Transferability. Except as provided in this Section 6(c), (i) during the lifetime of a Participant, only the Participant or the Participant's guardian or legal representative may exercise an Option or SAR, or receive payment with respect to any other Award; and (ii) no Award may be sold, assigned, transferred, exchanged or encumbered, voluntarily or involuntarily, other than by will or the laws of descent and distribution. Any attempted transfer in violation of this Section 6(c) shall be of no effect. The Committee may, however, provide in an Award

Agreement or otherwise that an Award (other than an Incentive Stock Option) may be transferred pursuant to a domestic relations order or may be transferable by gift to any "family member" (as defined in General Instruction A.1(a)(5) to Form S-8 under the Securities Act of 1933) of the Participant. Any Award held by a transferee shall continue to be subject to the same terms and conditions that were applicable to that Award immediately before the transfer thereof. For purposes of any provision of the Plan relating to notice to a Participant or to acceleration or termination of an Award upon the death or termination of Service of a Participant, the references to "Participant" shall mean the original grantee of an Award and not any transferee.

(d) Designation of Beneficiary. To the extent permitted by the Committee, a Participant may designate a beneficiary or beneficiaries to exercise any Award or receive a payment under any Award that is exercisable or payable on or after the Participant's death. Any such designation shall be on a form approved by the Company and shall be effective upon its receipt by the Company.

(e) Termination of Service. Unless otherwise provided in an applicable Award Agreement or another then-effective written agreement between a Participant and the Company, and subject to Section 12 of this Plan, if a Participant's Service with the Company and all of its Affiliates terminates, the following provisions shall apply (in all cases subject to the stated expiration of an Option or SAR Award, as applicable):

(1) Upon termination of Service for Cause, or upon conduct during a post-termination exercise period that would constitute Cause, all unexercised Option and SAR Awards and all invested portions of any other outstanding Awards shall be immediately forfeited without consideration.

(2) Upon termination of Service for any other reason, all unvested and unexercisable portions of any outstanding Awards shall be immediately forfeited without consideration.

(3) Upon termination of Service for any reason other than Cause, death or Disability, the currently vested and exercisable portions of Option and SAR Awards may be exercised for a period of three months after the date of such termination. However, if a Participant thereafter dies during such three-month period, the vested and exercisable portions of the Option and SAR Awards may be exercised for a period of one year after the date of such termination.

(4) Upon termination of Service due to death or Disability, the currently vested and exercisable portions of Option and SAR Awards may be exercised for a period of one year after the date of such termination.

(f) Rights as Shareholder. No Participant shall have any rights as a shareholder with respect to any Shares covered by an Award unless and until the date the Participant becomes the holder of record of the Shares, if any, to which the Award relates.

(g) Performance-Based Awards. Any Award may be granted as a performance-based Award if the Committee establishes one or more measures of corporate, business unit or individual performance which must be attained, and the performance period over which the specified performance is to be attained, as a condition to the grant, vesting, exercisability, lapse of restrictions and/or settlement in cash or Shares of such Award. In connection with any such Award, the Committee shall determine the extent to which performance measures have been attained and other applicable terms and conditions have been satisfied, and the degree to which the grant, vesting, exercisability, lapse of restrictions and/or settlement of such Award has been earned. The Committee shall also have the authority to provide, in an Award Agreement or otherwise, for the modification of a performance period and/or adjustments to or waivers of the achievement of performance goals under specified circumstances such as (i) the occurrence of events that are unusual in nature or infrequently occurring, such as a Change in Control, an equity restructuring (as described in Section 12(a)), acquisitions, divestitures, restructuring activities, recapitalizations, or asset write-downs, (ii) a change in applicable tax laws or accounting principles, or (iii) the Participant's death or Disability.

(h) Dividends and Dividend Equivalents. No dividends, dividend equivalents or distributions will be paid with respect to Shares subject to an Option or SAR Award. Any dividends or distributions payable with respect to Shares that are subject to the unvested portion of a Restricted Stock Award will be subject to the same restrictions and risk of forfeiture as the Shares to which such dividends or distributions relate. In its discretion, the Committee

may provide in an Award Agreement for a Stock Unit Award or an Other Stock-Based Award that the Participant will be entitled to receive dividend equivalents, based on dividends actually declared and paid on outstanding Shares, on the units or other Share equivalents subject to the Stock Unit Award or Other Stock-Based Award, and such dividend equivalents will be subject to the same restrictions and risk of forfeiture as the units or other Share equivalents to which such dividend equivalents relate. For the avoidance of doubt, no dividends or dividend equivalents that are accrued with respect to Shares that are subject to the unvested portion of a Restricted Stock Award or units or other Share equivalents subject to a Stock Unit Award or Other Stock-Based Award will be payable unless and until the corresponding portion of the Restricted Stock Award, Stock Unit Award or Other Stock-Based Award vests, unless expressly provided to the contrary by the Committee. The additional terms of any such dividend equivalents will be as set forth in the applicable Award Agreement, including the time and form of payment and whether such dividend equivalents will be credited with interest or deemed to be reinvested in additional units or Share equivalents. Any Shares issued or issuable during the term of this Plan as the result of the reinvestment of dividends or the deemed reinvestment of dividend equivalents in connection with an Award shall be counted against, and replenish upon any subsequent forfeiture, the Plan's share reserve as provided in Section 4.

(i) Deferrals of Full Value Awards. The Committee may, in its discretion, permit or require the deferral by a Participant of the issuance of Shares or payment of cash in settlement of any Award, subject to such terms, conditions, rules and procedures as it may establish or prescribe for such purpose and with the intention of complying with the applicable requirements of Code Section 409A. The terms, conditions, rules and procedures for any such deferral shall be set forth in writing in the relevant Award Agreement or in such other agreement, plan or document as the Committee may determine. The terms, conditions, rules and procedures for any such deferral shall address, to the extent relevant, matters such as: (i) the amount of compensation that may or must be deferred (or the method for calculating the amount); (ii) the permissible time(s) and form(s) of payment of deferred amounts; (iii) the terms and conditions of any deferral elections by a Participant or of any deferral required by the Company; and (iv) the crediting of interest or dividend equivalents on deferred amounts. Unless otherwise determined by the Committee, to the extent that any such deferral is effected in accordance with a nonqualified deferred compensation plan, the Share equivalents credited to any such plan account of a Participant shall be deemed Stock Units for purposes of this Plan, and, if settled in Shares, such Shares shall be drawn from and charged against this Plan's share reserve.

7. Stock Option Awards

(a) Type and Exercise Price. The Award Agreement pursuant to which an Option Award is granted shall specify whether the Option is an Incentive Stock Option or a Non-Qualified Stock Option. The exercise price at which each Share subject to an Option Award may be purchased shall be determined by the Committee and set forth in the Award Agreement, and shall not be less than the Fair Market Value of a Share on the Grant Date, except in the case of Substitute Awards (to the extent consistent with Code Section 409A and, in the case of Incentive Stock Options, Code Section 424).

(b) Payment of Exercise Price. The purchase price of the Shares with respect to which an Option Award is exercised shall be payable in full at the time of exercise. The purchase price may be paid in cash or in such other manner as the Committee may permit, including by payment under a broker-assisted sale and remittance program, by withholding Shares otherwise issuable to the Participant upon exercise of the Option or by delivery to the Company of Shares (by actual delivery or attestation) already owned by the Participant (in either case, such Shares having a Fair Market Value as of the date the Option is exercised equal to the purchase price of the Shares being purchased).

(c) Exercisability and Expiration. Each Option Award shall be exercisable in whole or in part on the terms provided in the Award Agreement. No Option Award shall be exercisable at any time after its stated expiration. When an Option Award is no longer exercisable, it shall be deemed to have terminated.

(d) Incentive Stock Options

(1) An Option Award will constitute an Incentive Stock Option Award only if the Participant receiving the Option Award is an Employee, and only to the extent that (i) it is so designated in the applicable Award Agreement and (ii) the aggregate Fair Market Value (determined as of the Option Award's Grant Date) of

the Shares with respect to which Incentive Stock Option Awards held by the Participant first become exercisable in any calendar year (under the Plan and all other plans of the Company and its Affiliates) does not exceed \$100,000 or such other amount specified by the Code. To the extent an Option Award granted to a Participant exceeds this limit, the Option Award shall be treated as a Non-Qualified Stock Option Award. The maximum number of Shares that may be issued as Incentive Stock Option Awards under the Plan shall be 1,250,000, subject to adjustment as provided in Section 12(a). No Incentive Stock Option Awards may be granted more than ten years following the earlier to occur of (a) the date on which the Plan was adopted by the Board and (b) the Effective Date of the Plan.

(2) No Participant may receive an Incentive Stock Option Award under the Plan if, immediately after the grant of such Award, the Participant would own (after application of the rules contained in Code Section 424(d)) Shares possessing more than 10% of the total combined voting power of all classes of stock of the Company or a Subsidiary, unless (i) the per Share exercise price for such Award is at least 110% of the Fair Market Value of a Share on the Grant Date and (ii) such Award will expire no later than five years after its Grant Date.

(3) For purposes of continued Service by a Participant who has been granted an Incentive Stock Option Award, no approved leave of absence may exceed three months unless reemployment upon expiration of such leave is provided by statute or contract. If reemployment is not so provided, then on the date six months following the first day of such leave, any Incentive Stock Option held by the Participant shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Non-Qualified Stock Option.

(4) No Incentive Stock Option Award may have a term of more than ten years following the Grant Date. If an Incentive Stock Option Award is exercised after the expiration of the exercise periods that apply for purposes of Code Section 422 (including, without limitation, the exercise periods that apply following the termination of a Participant's Service), such Option shall thereafter be treated as a Non-Qualified Stock Option.

(5) The Award Agreement covering an Incentive Stock Option Award shall contain such other terms and provisions that the Committee determines necessary to qualify the Option Award as an Incentive Stock Option Award.

8. Stock Appreciation Right Awards

(a) Nature of Award. An Award of Stock Appreciation Rights shall be subject to such terms and conditions as are determined by the Committee, and shall provide a Participant the right to receive upon exercise of the SAR Award, an amount in cash and/or Shares equal to all or a portion of the excess of (i) the Fair Market Value as of the date of exercise of the SAR Award of the number of Shares as to which the SAR Award is being exercised, over (ii) the aggregate exercise price for such number of Shares. The per Share exercise price for any SAR Award shall be determined by the Committee and set forth in the applicable Award Agreement, and shall not be less than the Fair Market Value of a Share on the Grant Date, except in the case of Substitute Awards (to the extent consistent with Code Section 409A and, in the case of an SAR issued in tandem with an Incentive Stock Option, Code Section 424).

(b) Exercise of SAR. Each SAR Award may be exercisable in whole or in part at the times, on the terms and in the manner provided in the Award Agreement. No SAR Award shall be exercisable at any time after its stated expiration. When a SAR Award is no longer exercisable, it shall be deemed to have terminated. Upon exercise of a SAR Award, payment to the Participant shall be made at such time or times as shall be provided in the Award Agreement in the form of cash, Shares or a combination of cash and Shares as determined by the Committee. The Award Agreement may provide for a limitation upon the amount or percentage of the total appreciation on which payment (whether in cash and/or Shares) may be made in the event of the exercise of a SAR Award.

9. Restricted Stock Awards

(a) Vesting and Consideration. Shares subject to a Restricted Stock Award shall be subject to vesting and the lapse of applicable restrictions based on such conditions or factors and occurring over such period of time as the Committee may determine in its discretion, subject to the requirements of Section 6(b). The Committee may provide whether any consideration other than Services must be received by the Company or any Affiliate as a condition precedent to the grant of a Restricted Stock Award, and may correspondingly provide for Company

reacquisition or repurchase rights if such additional consideration has been required and some or all of a Restricted Stock Award does not vest.

(b) Shares Subject to Restricted Stock Awards. Unvested Shares subject to a Restricted Stock Award shall be evidenced by a book-entry in the name of the Participant with the Company's transfer agent or by one or more Stock certificates issued in the name of the Participant. Any such Stock certificate shall be deposited with the Company or its designee, together with an assignment separate from the certificate, in blank, signed by the Participant, and bear an appropriate legend referring to the restricted nature of the Restricted Stock evidenced thereby. Any book-entry shall be subject to comparable restrictions and corresponding stop transfer instructions. Upon the vesting of Shares of Restricted Stock, and the Company's determination that any necessary conditions precedent to the release of vested Shares (such as satisfaction of tax withholding obligations and compliance with applicable legal requirements) have been satisfied, such vested Shares shall be made available to the Participant in such manner as may be prescribed or permitted by the Committee. Except as otherwise provided in the Plan or an applicable Award Agreement, a Participant with a Restricted Stock Award shall have all the rights of a shareholder, including the right to vote the Shares of Restricted Stock.

10. Stock Unit Awards.

(a) Vesting and Consideration. A Stock Unit Award shall be subject to vesting and the lapse of applicable restrictions based on such conditions or factors and occurring over such period of time as the Committee may determine in its discretion, subject to the requirements of Section 6(b). If vesting of a Stock Unit Award is conditioned on the achievement of specified performance goals, the extent to which they are achieved over the specified performance period shall determine the number of Stock Units that will be earned and eligible to vest, which may be greater or less than the target number of Stock Units stated in the Award Agreement. The Committee may provide whether any consideration other than Services must be received by the Company or any Affiliate as a condition precedent to the settlement of a Stock Unit Award.

(b) Settlement of Award. Following the vesting of a Stock Unit Award, and the Company's determination that any necessary conditions precedent to the settlement of the Award (such as satisfaction of tax withholding obligations and compliance with applicable legal requirements) have been satisfied, settlement of the Award and payment to the Participant shall be made at such time or times in the form of cash, Shares (which may themselves be subject to additional vesting and forfeiture provisions, if so provided by the Committee in the applicable Award Agreement or otherwise) or a combination of cash and Shares as determined by the Committee.

11. Other Stock-Based Awards. The Committee may from time to time grant Shares and other Awards that are valued by reference to and/or payable in whole or in part in Shares under the Plan. The Committee shall determine the terms and conditions of such Awards, which shall be consistent with the terms and purposes of the Plan. The Committee may direct the Company to issue Shares subject to restrictive legends and/or stop transfer instructions that are consistent with the terms and conditions of the Award to which the Shares relate.

12. Changes in Capitalization, Corporate Transactions, Change in Control.

(a) Adjustments for Changes in Capitalization. In the event of any equity restructuring (within the meaning of FASB ASC Topic 718) that causes the per share value of Shares to change, such as a stock dividend, stock split, spinoff, rights offering or recapitalization through an extraordinary dividend, the Committee shall make such adjustments as it deems equitable and appropriate to (i) the aggregate number and kind of Shares or other securities issued or reserved for issuance under the Plan, (ii) the number and kind of Shares or other securities subject to outstanding Awards, (iii) the exercise price of outstanding Options and SARs, and (iv) any maximum limitations prescribed by the Plan with respect to certain types of Awards or the grants to individuals of certain types of Awards. In the event of any other change in corporate capitalization, including a merger, consolidation, reorganization, or partial or complete liquidation of the Company, such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights of Participants. In either case, any such adjustment shall be conclusive and binding for all purposes of the Plan. No adjustment shall be made pursuant to this Section 12(a) in connection with the conversion of any convertible securities of the Company, or in a manner that would cause Incentive Stock Options to violate

Section 422(b) of the Code or cause an Award to be subject to adverse tax consequences under Section 409A of the Code.

(b) Corporate Transactions. Unless otherwise provided in an applicable Award Agreement or another written agreement between a Participant and the Company, the following provisions shall apply to outstanding Awards in the event of a Change in Control that involves a Corporate Transaction.

(1) Continuation, Assumption or Replacement of Awards. In the event of a Corporate Transaction, then the surviving or successor entity (or its Parent) may continue, assume or replace Awards outstanding as of the date of the Corporate Transaction (with such adjustments as may be required or permitted by Section 12(a)), and such Awards or replacements thereof shall remain outstanding and be governed by their respective terms, subject to Section 12(b)(4) below. A surviving or successor entity may elect to continue, assume or replace only some Awards or portions of Awards. For purposes of this Section 12(b)(1), an Award shall be considered assumed or replaced if, in connection with the Corporate Transaction and in a manner consistent with Code Section 409A (and Code Section 424 if the Award is an ISO), either (i) the contractual obligations represented by the Award are expressly assumed by the surviving or successor entity (or its Parent) with appropriate adjustments to the number and type of securities subject to the Award and the exercise price thereof that preserves the intrinsic value of the Award existing at the time of the Corporate Transaction, or (ii) the Participant has received a comparable award that preserves the intrinsic value of the Award existing at the time of the Corporate Transaction and contains terms and conditions that are substantially similar to those of the Award.

(2) Acceleration. If and to the extent that outstanding Awards under the Plan are not continued, assumed or replaced in connection with a Corporate Transaction, then (i) all outstanding Option and SAR Awards shall become fully vested and exercisable for such period of time prior to the effective time of the Corporate Transaction as is deemed fair and equitable by the Committee, and shall terminate at the effective time of the Corporate Transaction, and (ii) all outstanding Awards (other than Options and SAR Awards) shall fully vest immediately prior to the effective time of the Corporate Transaction, and (iii) to the extent vesting of any Award is subject to satisfaction of specified performance goals, such Award shall be deemed "fully vested" for purposes of this Section 12(b)(2) if the performance goals are deemed to have been satisfied at the target level of performance and the vested portion of the Award at that level of performance is proportionate to the portion of the performance period that has elapsed as of the effective time of the Corporate Transaction. The Committee shall provide written notice of the period of accelerated exercisability of Option and SAR Awards to all affected Participants. The exercise of any Option or SAR Award whose exercisability is accelerated as provided in this Section 12(b)(2) shall be conditioned upon the consummation of the Corporate Transaction and shall be effective only immediately before such consummation.

(3) Payment for Awards. If and to the extent that outstanding Awards under the Plan are not continued, assumed or replaced in connection with a Corporate Transaction, then the Committee may provide that some or all of such outstanding Awards shall be canceled at or immediately prior to the effective time of the Corporate Transaction in exchange for payments to the holders as provided in this Section 12(b)(3). The Committee will not be required to treat all Awards similarly for purposes of this Section 12(b)(3). The payment for any Award canceled shall be in an amount equal to the difference, if any, between (i) the fair market value (as determined in good faith by the Committee) of the consideration that would otherwise be received in the Corporate Transaction for the number of Shares subject to the Award, and (ii) the aggregate exercise price (if any) for the Shares subject to such Award. If the amount determined pursuant to the preceding sentence is not a positive number with respect to any Award, such Award may be canceled pursuant to this Section 12(b)(3) without payment of any kind to the affected Participant. With respect to an Award whose vesting is subject to the satisfaction of specified performance goals, the number of Shares subject to such an Award for purposes of this Section 12(b)(3) shall be the number of Shares as to which the Award would have been deemed "fully vested" for purposes of Section 12(b)(2). Payment of any amount under this Section 12(b)(3) shall be made in such form, on such terms and subject to such conditions as the Committee determines in its discretion, which may or may not be the same as the form, terms and conditions applicable to payments to the Company's shareholders in connection with the Corporate Transaction, and may, in the Committee's discretion, include subjecting such payments to escrow or holdback terms comparable to those imposed upon the Company's shareholders under the Corporate Transaction, or calculating and paying the present value of payments that would otherwise be subject to escrow or holdback terms.

(4) Termination after a Corporate Transaction. If and to the extent that Awards that are outstanding as of immediately prior to a Corporate Transaction that constitutes a Change in Control are continued, assumed or replaced under the circumstances described in Section 12(b)(1), and if within twenty-four months after such Corporate Transaction that constituted a Change in Control a Participant experiences an involuntary termination of Service for reasons other than Cause, then (i) such outstanding Option and SAR Awards issued to the Participant that are not yet fully exercisable shall immediately become exercisable in full and shall remain exercisable for one year following the Participant's termination of employment, and (ii) any such equity-based awards other than Options and SAR Awards that are not yet fully vested shall immediately vest in full (with vesting in full for a performance-based award determined as provided in Section 12(b)(2), except that the proportionate vesting amount will be determined with respect to the portion of the performance period during which the Participant was a Service Provider).

(c) Other Change in Control. Unless otherwise provided in an applicable Award Agreement or another written agreement between a Participant and the Company, in the event of a Change in Control that does not involve a Corporate Transaction, if within twenty-four months after the Change in Control a Participant experiences an involuntary termination of Service for reasons other than Cause, then (i) outstanding Option and SAR Awards issued to the Participant that are not yet fully exercisable shall immediately become exercisable in full and shall remain exercisable for one year following the Participant's termination of employment, (ii) subject to clause (iii) below, any Awards (other than Options or Stock Appreciation Rights) that are not yet fully vested shall immediately vest in full, and (iii) to the extent vesting of any Award is subject to satisfaction of specified performance goals, such Award shall be deemed "fully vested" for purposes of this Section 12(c) if the performance goals are deemed to have been satisfied at the target level of performance and the vested portion of the Award at that level of performance is proportionate to the portion of the performance period that has occurred up to the date of such Participant's termination of Service.

(d) Dissolution or Liquidation. Unless otherwise provided in an applicable Award Agreement, in the event of a proposed dissolution or liquidation of the Company, an Award will terminate immediately prior to the consummation of such proposed action.

(e) Parachute Payment Limitation.

(1) Notwithstanding any other provision of this Plan or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided by the Company or its Affiliates to a Participant or for the Participant's benefit pursuant to the terms of this Plan or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Code, and would, but for this Section 12(e) be subject to the excise tax imposed under Section 4999 of the Code (or any successor provision thereto) or any similar tax imposed by state or local law and any interest or penalties with respect to such taxes (collectively, the "Excise Tax"), then the Covered Payments shall be payable either (i) in full or (ii) reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax, whichever of the foregoing clauses (i) or (ii) results in the Participant's receipt on an after-tax basis of the greatest amount of payments and benefits after taking into account the applicable federal, state, local and foreign income, employment and excise taxes (including the Excise Tax).

(2) Any such reduction shall be made in accordance with Section 409A of the Code and the following: (i) the Covered Payments which do not constitute deferred compensation subject to Section 409A of the Code shall be reduced first, and (ii) Covered Payments that are cash payments shall be reduced before non-cash payments, and Covered Payments to be made on a later payment date shall be reduced before payments to be made on an earlier payment date.

(3) If, notwithstanding the initial application of this Section 12(e), the Internal Revenue Service determines that any Covered Payment constitutes an "excess parachute payment" (as defined by Section 280G(b) of the Code), this Section 12(e) will be reapplied based on the Internal Revenue Service's determination, and the Participant will be required to promptly repay the portion of the Covered Payments required to avoid imposition of the Excise Tax, if applicable after the reapplication of Section 12(e), together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date of the Participant's receipt of the excess payments until the date of repayment).

(4) Any determination required under this Section 12(e) shall be made in writing in good faith by the accounting firm which was the Company's independent auditor immediately before the Change in Control (the "Accountants"), which shall provide detailed supporting calculations to the Company and the Participant as requested by the Company or the Participant. The Company and the Participant shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 12(e). The Company shall be responsible for all fees and expenses of the Accountants.

13. Plan Participation and Service Provider Status. Status as a Service Provider shall not be construed as a commitment that any Award will be made under the Plan to that Service Provider or to eligible Service Providers generally. Nothing in the Plan or in any Award Agreement or related documents shall confer upon any Service Provider or Participant any right to continued Service with the Company or any Affiliate, nor shall it interfere with or limit in any way any right of the Company or any Affiliate to terminate the person's Service at any time with or without Cause or change such person's compensation, other benefits, job responsibilities or title.

14. Tax Withholding. The Company or any Affiliate, as applicable, shall have the right to (i) withhold from any cash payment under the Plan or any other compensation owed to a Participant an amount sufficient to cover any required withholding taxes related to the grant, vesting, exercise or settlement of an Award, and (ii) require a Participant or other person receiving Shares under the Plan to pay a cash amount sufficient to cover any required withholding taxes before actual receipt of those Shares. In lieu of all or any part of a cash payment from a person receiving Shares under the Plan, the Committee may permit the Participant to satisfy all or any part of the required tax withholding obligations (but not to exceed the maximum individual statutory tax rate in each applicable jurisdiction) by authorizing the Company to withhold a number of the Shares that would otherwise be delivered to the Participant pursuant to the Award, or by transferring to the Company Shares already owned by the Participant, with the Shares so withheld or delivered having a Fair Market Value on the date the taxes are required to be withheld equal to the amount of taxes to be withheld.

15. Effective Date, Duration, Amendment and Termination of the Plan.

(a) Effective Date. As long as the Company's shareholders have previously approved the Plan, the Plan shall become effective on the date of the closing of the merger between the Company's subsidiary and Pineapple Energy LLC, a Delaware limited liability company, subject to such closing (the "Effective Date"). No Awards shall be made under the Plan prior to the Effective Date.

(b) Duration of the Plan. The Plan shall remain in effect until all Shares subject to it are issued, all Awards have expired or terminated, the Plan is terminated pursuant to Section 15(c), or the tenth anniversary of the Effective Date of the Plan, whichever occurs first (the "Termination Date"). Awards made before the Termination Date shall continue to be outstanding in accordance with their terms and the terms of the Plan unless otherwise provided in the applicable Award Agreements.

(c) Amendment and Termination of the Plan. The Board may at any time terminate, suspend or amend the Plan. The Company shall submit any amendment of the Plan to its shareholders for approval only to the extent required by applicable laws or regulations or the rules of any securities exchange on which the Shares may then be listed. No termination, suspension, or amendment of the Plan may materially impair the rights of any Participant under a previously granted Award without the Participant's consent, unless such action is necessary to comply with applicable law or stock exchange rules.

(d) Amendment of Awards. Subject to Section 15(e), the Committee may unilaterally amend the terms of any Award Agreement evidencing an Award previously granted, except that no such amendment may materially impair the rights of any Participant under the applicable Award without the Participant's consent, unless such amendment is necessary to comply with applicable law or stock exchange rules or any compensation recovery policy as provided in Section 16(i).

(e) No Option or SAR Repricing. Except as provided in Section 12(a), no Option or Stock Appreciation Right Award granted under the Plan may be (i) amended to decrease the exercise price thereof, (ii) cancelled in conjunction with the grant of any new Option or Stock Appreciation Right Award with a lower exercise

price, (iii) cancelled in exchange for cash, other property or the grant of any Award (other than an Option or Stock Appreciation Right) at a time when the per share exercise price of the Option or Stock Appreciation Right Award is greater than the current Fair Market Value of a Share, or (iv) otherwise subject to any action that would be treated under accounting rules as a “repricing” of such Option or Stock Appreciation Right Award, unless such action is first approved by the Company’s shareholders.

16. Other Provisions.

(a) Unfunded Plan. The Plan shall be unfunded and the Company shall not be required to segregate any assets that may at any time be represented by Awards under the Plan. Neither the Company, its Affiliates, the Committee, nor the Board shall be deemed to be a trustee of any amounts to be paid under the Plan nor shall anything contained in the Plan or any action taken pursuant to its provisions create or be construed to create a fiduciary relationship between the Company and/or its Affiliates, and a Participant. To the extent any person has or acquires a right to receive a payment in connection with an Award under the Plan, this right shall be no greater than the right of an unsecured general creditor of the Company.

(b) Limits of Liability. Except as may be required by law, neither the Company nor any member of the Board or of the Committee, nor any other person participating (including participation pursuant to a delegation of authority under Section 3(c) of the Plan) in any determination of any question under the Plan, or in the interpretation, administration or application of the Plan, shall have any liability to any party for any action taken, or not taken, in good faith under the Plan.

(c) Compliance with Applicable Legal Requirements and Company Policies. No Shares distributable pursuant to the Plan shall be issued and delivered unless and until the issuance of the Shares complies with all applicable legal requirements, including compliance with the provisions of applicable state and federal securities laws, and the requirements of any securities exchanges on which the Company’s Shares may, at the time, be listed. During any period in which the offering and issuance of Shares under the Plan is not registered under federal or state securities laws, Participants shall acknowledge that they are acquiring Shares under the Plan for investment purposes and not for resale, and that Shares may not be transferred except pursuant to an effective registration statement under, or an exemption from the registration requirements of, such securities laws. Any stock certificate or book-entry evidencing Shares issued under the Plan that are subject to securities law restrictions shall bear or be accompanied by an appropriate restrictive legend or stop transfer instruction. Notwithstanding any other provision of this Plan, the acquisition, holding or disposition of Shares acquired pursuant to the Plan shall in all events be subject to compliance with applicable Company policies, including those relating to insider trading, pledging or hedging transactions, minimum post-vesting holding periods and stock ownership guidelines, and to forfeiture or recovery of compensation as provided in Section 16(i).

(d) Other Benefit and Compensation Programs. Payments and other benefits received by a Participant under an Award made pursuant to the Plan shall not be deemed a part of a Participant’s regular, recurring compensation for purposes of the termination, indemnity or severance pay laws of any country and shall not be included in, nor have any effect on, the determination of benefits under any other employee benefit plan, contract or similar arrangement provided by the Company or an Affiliate unless expressly so provided by such other plan, contract or arrangement, or unless the Committee expressly determines that an Award or portion of an Award should be included to accurately reflect competitive compensation practices or to recognize that an Award has been made in lieu of a portion of competitive cash compensation.

(e) Governing Law. To the extent that federal laws do not otherwise control, the Plan and all determinations made and actions taken pursuant to the Plan shall be governed by the laws of the State of Minnesota without regard to its conflicts-of-law principles and shall be construed accordingly.

(f) Severability. If any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

(g) Code Section 409A. It is intended that (i) all Awards of Options, SARs and Restricted Stock under the Plan will not provide for the deferral of compensation within the meaning of Code Section 409A and thereby be

exempt from Code Section 409A, and (ii) all other Awards under the Plan will either not provide for the deferral of compensation within the meaning of Code Section 409A, or will comply with the requirements of Code Section 409A, and Awards shall be structured and the Plan administered and interpreted in accordance with this intent. The Plan and any Award Agreement may be unilaterally amended by the Company in any manner deemed necessary or advisable by the Committee or Board in order to maintain such exemption from or compliance with Code Section 409A, and any such amendment shall conclusively be presumed to be necessary to comply with applicable law. Notwithstanding anything to the contrary in the Plan or any Award Agreement, with respect to any Award that constitutes a deferral of compensation subject to Code Section 409A:

(1) If any amount is payable under such Award upon a termination of Service, a termination of Service will be deemed to have occurred only at such time as the Participant has experienced a “separation from service” as such term is defined for purposes of Code Section 409A;

(2) If any amount shall be payable with respect to any such Award as a result of a Participant’s “separation from service” at such time as the Participant is a “specified employee” within the meaning of Code Section 409A, then no payment shall be made, except as permitted under Code Section 409A, prior to the first business day after the earlier of (i) the date that is six months after the Participant’s separation from service or (ii) the Participant’s death. Unless the Committee has adopted a specified employee identification policy as contemplated by Code Section 409A, specified employees will be identified in accordance with the default provisions specified under Code Section 409A.

None of the Company, the Board, the Committee nor any other person involved with the administration of this Plan shall (i) in any way be responsible for ensuring the exemption of any Award from, or compliance by any Award with, the requirements of Code Section 409A, (ii) have any obligation to design or administer the Plan or Awards granted thereunder in a manner that minimizes a Participant’s tax liabilities, including the avoidance of any additional tax liabilities under Code Section 409A, and (iii) shall have any liability to any Participant for any such tax liabilities.

(h) Rule 16b-3. It is intended that the Plan and all Awards granted pursuant to it shall be administered by the Committee so as to permit the Plan and Awards to comply with Exchange Act Rule 16b-3. If any provision of the Plan or of any Award would otherwise frustrate or conflict with the intent expressed in this Section 16(h), that provision to the extent possible shall be interpreted and deemed amended in the manner determined by the Committee so as to avoid the conflict. To the extent of any remaining irreconcilable conflict with this intent, the provision shall be deemed void as applied to Participants subject to Section 16 of the Exchange Act to the extent permitted by law and in the manner deemed advisable by the Committee.

(i) Forfeiture and Compensation Recovery. Notwithstanding anything to the contrary contained herein, unless otherwise determined by the Committee or provided in an Award Agreement, all Awards granted under the Plan shall be and remain subject to any incentive compensation or clawback or recoupment policy currently in effect, as may be adopted by the Board or as may be required by applicable law, and, in each case, as may be amended from time to time. No such policy, adoption or amendment shall in any event require the prior consent of any Participant, and any Award Agreement may be unilaterally amended by the Committee to comply with any such compensation, clawback or recoupment policy. No recovery of compensation under such a clawback policy will be an event giving rise to a right to resign for “good reason” or “constructive termination” (or similar term) under any agreement with the Company or any of its Affiliates.

(j) Data Privacy. As a condition of receipt of 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 subsection by and among, as applicable, the Company and its Affiliates for the exclusive purpose of implementing, administering, and managing the Plan and Awards and the Participant’s participation in the Plan. In furtherance of such implementation, administration, and management, the Company and its Affiliates may hold certain personal information about a Participant, including, but not limited to, the Participant’s name, home address, telephone number, date of birth, social security or insurance number or other identification number, salary, nationality, job title(s), information regarding any securities of the Company and its Affiliates held by such Participant, and details of all Awards (the “Data”). In addition to transferring the Data amongst themselves as necessary for the purpose of implementation, administration, and management of a Participant’s participation in the

Plan, the Company and each of its Affiliates may transfer the Data to any third parties assisting the Company in the implementation, administration, and management of the Plan and Awards and the Participant's participation in the Plan. Recipients of the Data may be located in the Participant's country or elsewhere, and the Participant's country and any given recipient's country may have different data privacy laws and protections. By accepting an Award, each Participant authorizes such recipients to receive, possess, use, retain, and transfer the Data, in electronic or other form, for the purposes of assisting the Company in the implementation, administration, and management of the Plan and Awards and such Participant's participation in the Plan, including any requisite transfer of such Data as may be required to a broker or other third party with whom the Company or the Participant may elect to deposit any shares of Stock. The Data related to a Participant will be held only as long as is necessary to implement, administer, and manage the Plan and Awards and the Participant's participation in the Plan. A Participant may, at any time, view the Data held by the Company with respect to such Participant, request additional information about the storage and processing of the Data with respect to such Participant, recommend any necessary corrections to the Data with respect to the Participant, or refuse or withdraw the consents herein in writing, in any case without cost, by contacting his or her local human resources representative. The Company may cancel the Participant's eligibility 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 described herein. For more information on the consequences of refusal to consent or withdrawal of consent, Participants may contact their local human resources representative.

Approved by the Board of Directors: January 24, 2022

Approved by Shareholders: March 16, 2022

Effective Date: March 28, 2022



EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is effective as of the 5th day of December, 2022 (“Effective Date”), by and between Pineapple Energy Inc., a Minnesota corporation (the “Company”) and Kyle Udseth (the “Employee”).

A. Employee has been employed by the Company.

B. The Company desires to continue to employ Employee as detailed below. Employee has thoroughly reviewed and considered the terms of this Employment Agreement, and accepts all terms set forth below.

C. During his employment, Employee has had access to, and will continue to have access to, extremely sensitive confidential, proprietary and trade secret information relating to the Company, its employees, and its customers. As a result, Employee’s continued employment with the Company and the Company’s commitments in this Agreement are strictly conditioned on Employee agreeing to the confidentiality provisions and post-employment restrictions in this Agreement.

In consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Company and Employee, the parties agree as follows:

1. Employment Duties; No Conflict; Contingency. The Company hereby agrees to continue to employ Employee pursuant to the terms and conditions of this Agreement and Employee accepts such employment. Employee agrees to perform the duties consistent with his position and other duties as may be requested by the Company from time to time. Employee will perform his duties with a high level of professionalism and integrity. Employment pursuant to this Agreement is subject to all Company policies in effect throughout Employee’s employment. During the term of Employee’s employment with the Company, Employee will not render or perform services for any other corporation, firm, entity or person that are inconsistent with the provisions of this Agreement except as expressly permitted by the Company in writing.
2. Employment at Will. Employee’s employment with the Company is at-will and continues until terminated by the Company or Employee for any reason. The “Termination Date” shall mean the date of cessation of the Employee’s employment with the Company (whether voluntarily or involuntarily) without regard to any notice of termination or pay in lieu of notice of termination. For purposes of Section 4(e), with respect to any severance payments payable to Employee thereunder, the “Termination Date” means the date on which a “separation from service” occurs under Section 409A.

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3. Compensation.

- (a) Base Salary. The Company shall pay Employee base salary in the annualized amount of \$300,000 (“Base Salary”), less applicable taxes and withholding, payable in accordance with the Company’s standard payroll practices.
- (b) Employee Bonus Program. Employee shall be eligible for the Company’s Employee Bonus Program. Employee’s potential bonus shall be up to fifty percent (50%) of Employee’s Base Salary. Any bonus payable under this Section 3(b) shall be paid as a lump sum by March 15 of the calendar year following the year for which the bonus was calculated. Employee must be employed by the Company on the date of the payment of any bonus to earn any bonus under the Company’s Employee Bonus Program. The Company’s Employee Bonus Program is discretionary based on goals established by the Company’s Board of Directors (the “Board”) and may be changed from time to time.
- (c) Benefits. Employee shall be entitled to participate in all employee benefit plans or programs offered by the Company to all its employees, subject to the eligibility requirements and terms of such plans or programs, including, as of the Effective Date, cellphone reimbursement, medical, dental, vision, life, and critical illness/accident insurance; the Company 401(k) plan, Employee Stock Purchase Plan, and Health Savings Account.

4. Termination. Employee’s employment with the Company may be terminated at any time upon sixty (60) days’ written notice by (a) the Company to Employee in person or by certified mail to Employee’s address on record at the Company, or (b) Employee to the then-current Chair of the Board in person or by certified mail to the Company.

- (a) Upon termination of Employee’s employment with the Company, Employee shall be entitled to receive (i) Base Salary owed through the Termination Date, (ii) reimbursement of reasonable expenses incurred as of the Termination Date. Such amounts shall be paid within fourteen (14) days of the Termination Date. Employee acknowledges and agrees that said payments, as applicable, shall be in full satisfaction of any amount due to Employee by the Company, and Employee shall not be entitled to any further payment, severance, benefits continuation, damages, or any additional compensation whatsoever except as set forth in this Agreement or in the Change in Control Agreement (as defined below).
- (b) For purposes of this Agreement, “Cause” means: (i) gross negligence or gross neglect of duties; (ii) commission of any felony, or a gross misdemeanor involving moral turpitude that in the reasonable determination of the Board is materially and demonstrably injurious to the Company or that impairs Employee’s ability to substantially perform Employee’s duties with the Company or any of its affiliates; (iii) fraud, disloyalty, dishonesty or willful violation of any law or a willful violation of a Company policy that, after warning, remains a continuing violation, committed in connection with the Employee’s employment; (iv) conduct that, in the judgment of the Board, results in damage to the Company’s business, property, reputation, or goodwill, including allegations of sexual harassment or discrimination; (v) breach of or inability to perform Employee’s obligations under this Agreement other than by reason of disability or death; or (vi)

failure to follow a directive of the Board.

- (c) For purposes of this Agreement, "Good Reason" means: an initial occurrence of any of the following without the Employee's consent: (i) a substantial adverse change in the nature or scope of the Employee's responsibilities, authorities, powers, functions or duties such that the Employee would no longer be considered to be a member of senior management of the Company; (ii) a reduction in the Employee's annual Base Salary except for across the board salary reductions similarly affecting all or substantially all management employees; or (iii) the relocation of offices at which the Employee is principally employed to a location more than fifty (50) miles from such offices; provided, however, that "Good Reason" shall not exist unless the Employee has first provided written notice to the Company of the initial occurrence of one or more of the conditions under clauses (i) through (iii) above within thirty (30) days of the condition's occurrence, such condition is not fully remedied by the Company within thirty (30) days after the Company's receipt of written notice from the Employee, and the Termination Date as a result of such event occurs within ninety (90) days after the initial occurrence of such event.
- (d) Termination by the Company for Cause prior to a Change In Control, or Termination by the Employee for any reason other than Good Reason prior to a Change In Control: If the Employee's employment is terminated (i) by the Company for Cause or (ii) by the Employee for any reason other than Good Reason, in either case with the Termination Date is prior to a Change in Control (as defined in the Change in Control Agreement entered into by and between the Company and Employee effective as of the same date as the Effective Date (the "Change in Control Agreement"), then the Company shall pay or provide the Employee only with the benefits itemized in Section 4(a).
- (e) Termination by the Company other than for Cause or Disability prior to a Change In Control; or resignation by the Employee for Good Reason prior to a Change In Control: If the Employee's employment is terminated by the Company for any reason other than Cause or Disability, or the Employee's employment is terminated by the Employee for Good Reason, in either case with the Termination Date occurring prior to a Change in Control, then the Company shall: (i) pay or provide the Employee the benefits itemized in Section 4(a) and (ii) subject to the Employee signing and not rescinding a release of claims in a form acceptable to Employee and the Company and the Employee strictly complying with the terms of this Agreement and any other written agreement between the Employee and the Company or any of its affiliates as of the date each of the installments described below is to be paid, the Company shall pay to the Employee as severance pay a total amount equal to fifty percent (50%) of the annual Base Salary as of the Termination Date, subject to applicable tax withholdings, payable in substantially equal installments in accordance with the Company's regular payroll during the period from the Termination Date through and the six (6) month anniversary of the Termination Date; provided, however, that any installments that otherwise would be payable on the Company's regular payroll dates between the Termination Date and the sixtieth (60th) calendar day after the Termination Date will be delayed until the Company's first regular

payroll date that is more than sixty (60) days after the Termination Date and included with the installment payable on such payroll date.

(f) Termination due to Disability or death: If the Employee's employment is terminated due to Disability or the Employee's death, then the Company shall pay or provide the Employee (or the Employee's estate, if applicable) only with the benefits itemized in Section 4(a). For purposes of this Agreement, "Disability" means: the inability of the Employee to perform the Employee's material duties hereunder after reasonable accommodation due to a physical or mental injury, infirmity or incapacity which has lasted or can reasonably be expected to last for one hundred eighty (180) days (including weekends and holidays) in any three hundred sixty-five (365) day period as determined by the Board in its reasonable discretion.

5. Proprietary Information. During the course of employment with the Company Employee has had, and will continue to have, access to the Company's proprietary and trade secret information. Maintaining the confidentiality of such information is important to the Company's competitive position in the industry and ultimately to the Company's ability to achieve financial success and provide employment opportunities. Employee will not discuss the business affairs and operations of the Company with anyone outside of the Company except when required in the normal course of business. To the extent Employee has access to proprietary and/or trade secret information, he is responsible for the security of that information. Extreme care must be exercised to insure that such information is safeguarded to protect the Company, its suppliers, clients, and employees.
6. Confidential Information. Employee recognizes and acknowledges that Employee has had, and will continue to have, access to certain information of the Company and that such information is confidential and constitutes valuable, special and unique property of the Company. Employee shall not at any time, either during or after termination of employment, directly or indirectly disclose to others, use, copy or permit to be copied, except as directed by law or in accordance with Employee's duties for or on behalf of the Company, its successors, assigns or nominees, any Confidential Information of the Company (regardless of whether developed by the Employee), without the prior written consent of the Company. The term "Confidential Information" means any secret or non-public information or know-how relating to the Company and its business, and shall include but not be limited to information relating to the Company's plans, customers, costs, prices, personnel, business relationships, uses and applications of products and services, results of investigations, studies owned or used by the Company, and all products, processes, compositions, computer programs, and servicing, marketing or operational methods and techniques at any time used, developed, investigated, made or sold by the Company, before or during the term of Employee's employment with the Company, that are not readily available to the public or that are maintained as confidential by the Company. Employee shall maintain in confidence any Confidential Information of third parties, received as a result of the Employee's employment, in accordance with the Company's obligations to such third parties and the policies established by the Company.

Consistent with state and federal law, nothing in this Agreement (a) is intended to limit Employee's right to discuss the terms, wages, and working conditions of his employment; or (b)

prohibits Employee from reporting possible violations of law to a government agency or attorney, including information about trade secrets in a document filed in a lawsuit if the disclosure is made in confidence, good faith, solely for the purpose of reporting or investigating a suspected violation of law and is done only as permitted by law.

7. Non-Solicitation, Non-Interference and Non-Competition. As a result of employment with the Company, Employee has acquired, and will continue to acquire, considerable knowledge about, and expertise in, certain areas of the Company's business. Employee also has gained, and will continue to gain, knowledge of, and have contact with, customers and suppliers of the Company. Employee acknowledges that he may be able to utilize such knowledge and expertise following termination of service with the Company, to the serious detriment of the Company if he solicits business from customers of the Company or interferes with the Company's relationships with its customers, business partners or employees. Accordingly, Employee agrees that:
- (a) Non-Solicitation, Non-Interference with Customers. During employment with the Company and for one (1) year after termination of employment, Employee will not directly or indirectly (i) solicit any customer or business partner of the Company, (ii) take any action intended to, or that has the effect of, interfering with the Company's relationship with any customer or business partner or otherwise resulting in a customer or business partner reducing or ceasing their business relationship with the Company; or (iii) provide, to any customer with whom Employee had contact during employment or about whom Employee had access to Confidential Information, any products or services that are competitive with those that were offered by the Company during Employee's employment with the Company.
 - (b) Non-Solicitation of Employees. During employment with the Company and for one (1) year after termination of employment, Employee will not directly or indirectly approach, solicit, entice, hire or attempt to approach, solicit entice or hire any employee of the Company to leave the employment of the Company.
 - (c) Non-Competition. During employment with the Company and for six (6) months after termination of employment, Employee will not directly or indirectly engage in any business that is the same as or substantially similar to the business in which the Company engages during the term of Employee's employment; provided, however, that this restriction shall apply only to the geographic market of the Company. Employee shall be deemed to engage in a business if he directly or indirectly engages or invests in, owns, manages, operates, controls or participates in the ownership, management, operation or control of, is employed by, associated or in any manner connected with, or renders services or advice to, any business that provides products or services that are the same as or substantially similar to the products and/or services provided by the Company during Employee's employment with the Company. Provided, however, that Employee may invest in the securities of any enterprise (but without otherwise participating in the activities of such enterprise) if two conditions are met: (a) such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934 and (b) Employee does not beneficially own (as

defined Rule 13d-3 promulgated under the Securities Exchange Act of 1934) in excess of one percent of the outstanding capital stock of such enterprise.

- (d) Tolling of Restrictive Period. In the event Employee breaches any provision of this Section 7, the applicable restrictive period herein shall be tolled during the time of Employee's breach. Upon cessation of any such breach, the restrictive period shall continue and shall be extended by the time period of the applicable breach.
- (e) Presentment to any New Employer. For one (1) year after termination of employment, Employee will give a copy of this Agreement to any subsequent employer prior to Employee's first day of work so that the new employer can evaluate whether Employee's work for that employer may be in violation of this Agreement.

8. Inventions; Works Made for Hire. For purposes of this Agreement, "Inventions" means all ideas, improvements, discoveries, concepts, original works of authorship, modifications, formulations, software programs, product development or ideas (whether patentable or not) relating to the business of the Company that have been or are generated, conceived or reduced to practice by Employee during employment with the Company (including Employee's period of employment with the Company prior to the Effective Date) either alone or in conjunction with others, during or outside of working hours. Any patent application (including provisional applications, international applications, and the like) on which Employee is named as an inventor that is both: (a) filed within one (1) year after termination of employment; and (b) relates to the business of Company; shall be presumed to cover an Invention conceived by Employee during employment with the Company, subject to proof to the contrary by good faith, written and duly collaborated records establishing that such Invention was conceived and made following termination of employment. Employee agrees to document all Inventions in writing and promptly disclose such Inventions to the Company. All original works of authorship made by Employee (solely or jointly with others) within the scope of employment with the Company (or his prior employment) and that are protectable by copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101).

- (a) Ownership and Assignment of Inventions. Subject to the limitations of Minnesota Statute §181.78 set forth below, all Inventions are the exclusive property of the Company (whether any Invention was generated, conceived or reduced to practice prior to the execution of this Agreement). Employee hereby assigns and agrees to assign in the future (when any such Inventions are first reduced to practice or first fixed in a tangible medium, as applicable, or are otherwise assignable) to the Company all of Employee's right, title and interest in and to any and all Inventions, whether or not patentable or registrable under copyright or similar statutes, made or conceived or reduced to practice or learned by Employee, either alone or jointly with others, during Employee's employment with the Company. Employee hereby waives and agrees not to assert any proprietary rights in or with respect to any Invention. Employee will sign and deliver any documents necessary to fully assign ownership of any Invention to the Company. Employee will, at the Company's expense, provide all assistance reasonably required for the Company to perfect, protect and use rights to Inventions. Employee will maintain appropriate documentation relating to Inventions and sign all documents and do all things the Company deems necessary or desirable to document and record the

transfer of Employee's right, title and interest in Inventions to the Company or a third party designated by the Company, and enable the Company to obtain patent protection for Inventions anywhere in the world.

- (b) Exclusions. The terms of this Section 8 do not apply to any invention for which no equipment, supplies, facilities or trade secret information of the Company was used and that was developed entirely on Employee's own time and that (i) does not relate directly to the business of the Company or to the Company's actual or demonstrably anticipated research or development; or (ii) does not result from any work performed by Employee for the Company.
 - (c) Continuing Obligations. The obligations of this Section 8 continue beyond the termination of employment with the Company as to Inventions conceived or made by Employee during Employee's employment and are binding upon Employee's assigns, executors, administrators and other legal representatives.
9. Conflict of Interests. The Company expects all employees to conduct business according to the highest ethical standards of conduct. Employee is expected to devote his best efforts to the interests and business of the Company. Business dealings that create, or appear to create, a conflict between the interests of the Company and Employee are prohibited. The Company recognizes the right of employees to engage in activities outside of their employment that are of a private nature and unrelated to the Company's business. However, Employee must disclose any possible conflicts so that the Company may assess and prevent potential conflicts of interest from arising. A potential or actual conflict of interest may occur when an employee is in a position to influence a business decision that may result in personal gain to the employee, a family member, or personal acquaintance. It is not possible to specify every action that might create a conflict of interest. Any question regarding whether an action or proposed course of conduct could create, or appear to create, a conflict of interest should immediately be presented to the Board Chair or the Human Resources Department for review.
10. Restrictions Reasonable. Employee acknowledges that the restrictions in this Agreement are reasonable under the circumstances. Employee hereby waives all defenses to the enforcement thereof by the Company. If any provision of this Agreement is deemed void or invalid by a court, the remaining provisions shall remain in full force and effect and Employee agrees that the court has the power to replace such void or invalid provisions with such other enforceable and valid provisions as are as close as possible to the original in form and effect.
11. Section 409A Compliance. The parties intend that the benefits and rights described in this Agreement be exempt from or comply with Section 409A of the Internal Revenue Code and the Treasury Regulations and other guidance promulgated or issued thereunder ("Section 409A") to the extent that the requirements of Section 409A are applicable hereto, and the provisions of this Agreement will be construed in a manner consistent with that intention. If Employee or the Company believes at any time that any such benefit or right subject to Section 409A does not so comply, it will promptly advise the other and will negotiate reasonably and in good faith to amend the terms of such benefits and rights such that they comply with Section 409A (with the most limited possible economic effect on Employee and on the Company). Each payment under this Agreement is intended to be treated as one of a series of separate payments for purposes of

Code Section 409A and Treasury Regulation §1.409A-2(b)(2)(iii) (or any similar or successor provisions).

Notwithstanding the foregoing, the Company does not make any representation that the payments or benefits under this Agreement are exempt from, or satisfy, the requirements of Section 409A and the Company shall have no liability or other obligation to indemnify or hold harmless Employee or any beneficiary for any tax, additional tax, interest or penalties if any provision of this Agreement or any action taken with respect thereto is deemed to violate any of the requirements of Section 409A.

12. Severability. Any provision of this Agreement that is prohibited or unenforceable under Minnesota law shall be ineffective to the extent of the prohibition or unenforceability and shall be severed from the balance of this Agreement, without affecting the remaining provisions of this Agreement.
13. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.
14. Entire Agreement. This Agreement constitutes the entire agreement between Employee and the Company with respect to the subject matter of this Agreement and supersedes all previous understandings, communications, representations and agreements, whether verbal or written, with respect to the subject matter hereof (including without limitation the Prior Agreements (as defined below)); provided, however, the Change in Control Agreement shall remain in effect in accordance with its terms. This Agreement may not be modified except by subsequent agreement in writing signed by the Company and Employee.
15. Post-Employment Cooperation. Employee agrees to cooperate and assist the Company in the handling or investigation of any administrative charges, government inquiries, claims, threats or lawsuits involving the Company that relate to matters that arose while the Employee was an employee of the Company. The Company will reimburse Employee for out-of-pocket expenses incurred in connection with such cooperation.
16. Notice. Unless otherwise provided herein, any notice required or given under the terms of this Agreement shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, or sent by nationally recognized overnight carrier, postage prepaid, or sent by facsimile transmission to the Company at the Company's principal office and facsimile number in Minnetonka, Minnesota, or to Employee at the address set forth below. Notice shall be deemed given (a) when delivered if personally delivered; (b) three business days after having been placed in the mail, if delivered by registered or certified mail; (c) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (d) the business day after transmittal when transmitted with electronic confirmation of receipt, if transmitted by facsimile. Until changed by notice pursuant to this Section 16, the following shall be the address and facsimile number to which notices shall be sent:

If to the Company, to:
Attn: Chair of the Board
Pineapple Holdings Inc.
10900 Red Circle Drive
Minnetonka, MN 55343
Fax: (952) 946-1835

If to Employee, to:

Attn: Kyle Udseth


17. Governing Law; Breach. This Agreement shall be governed by and construed in accordance with the laws of Minnesota, without reference to conflicts of laws. In the event either party is deemed by a court of appropriate jurisdiction to have breached this Agreement, the nonbreaching party shall be entitled to recover all costs, expenses and attorney's fees incurred in enforcing the terms of this Agreement.
18. Survival. The provisions of Sections 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18 and 19 survive termination of Employee's employment with the Company).
19. Termination of Prior Agreements. By signing below, Employee acknowledges and agree that: (b) all prior employment or similar agreements (whether written or verbal) between Employee and Transition Networks/CSI (collectively, the "Prior Agreements"), together with all of Employee's rights under the Prior Agreements, are hereby terminated as of the Effective Date hereof; (c) any notice that may be required in connection with the termination of the Prior Agreements is hereby waived; (d) notwithstanding the termination of the Prior Agreements or any other provision of this Agreement, the provisions of the Prior Agreements that impose confidentiality, non-disclosure, non-solicitation, non-competition and other similar obligations on Employee (the "Existing Restrictive Covenants") shall continue in full force and effect in accordance with their respective terms and Employee agrees to strictly abide by such provisions; and (e) the other provisions of the Prior Agreements shall continue in effect to the extent necessary to permit the Company or its successors or assigns to enforce the Existing Restrictive Covenants.

[Signature page follows]

Accordingly, this Employment Agreement is effective as of the Effective Date.

Pineapple Energy, Inc.

By: /s/ Roger H.D. Lacey

/s/ Kyle Udseth

Kyle Udseth

Its: Chairman

**PINEAPPLE ENERGY INC.
CHANGE IN CONTROL AGREEMENT**

This CHANGE IN CONTROL Agreement is entered into effective as of the 5th day of December, 2022 (the "Effective Date") by and between PINEAPPLE ENERGY INC., a Minnesota corporation (the "Company"), and Kyle Udseth (the "Executive").

The Board of Directors of the Company (the "Board") has determined that it is in the best interests of the Company to retain the Executive's services and to reinforce and encourage the continued attention and dedication of the Executive to his or her assigned duties, without distraction in potentially disturbing circumstances arising from the possibility of a change in control of the Company.

The Company and the Executive agree as provided herein.

**Article 1
Definitions**

Whenever used in this Agreement, the following words and phrases shall have the meanings specified:

- 1.1 "Agreement" means this Pineapple Energy Inc. Change in Control Agreement, as it may be amended from time to time.
- 1.2 "Cause" means
- (a) Gross negligence or gross neglect of duties; or
 - (b) Commission of a felony or of a gross misdemeanor involving moral turpitude which in the reasonable determination of the Board is materially and demonstrably injurious to the Company or which impairs the Executive's ability to perform substantially the Executive's duties with the Company or a Subsidiary; or
 - (c) Fraud, disloyalty, dishonesty or willful violation of any law or a willful violation of a material Company or Subsidiary policy which, after warning, remains a continuing violation, committed in connection with the Executive's employment.
- 1.3 "Change in Control" shall occur on the earliest date that:
- (a) A "person" or "group" acquires ownership of stock of the Company that, together with stock held by such person or group, constitutes more than fifty
-

percent (50%) of the total fair market value or total voting power of the stock of the Company;

(b) any person or group acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or group) ownership of stock of the Company possessing thirty percent (30%) or more of the total voting power of the stock of the Company;

(c) a majority of the members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date that such appointments or elections are made; or

(d) any person or group acquires (or has acquired) during the twelve (12) month period ending on the date of the most recent acquisition by such person or group, assets from the Company that have a total gross fair market value equal to or more than forty percent (40%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

1.4 “**Code**” means the Internal Revenue Code of 1986, as amended and including the Treasury Regulations and other guidance promulgated or issued thereunder.

1.5 “**Disability**” means the Executive’s suffering a sickness, accident or injury which has been determined by the insurance carrier of any individual or group disability insurance policy covering the Executive, or by the Social Security Administration, to be a disability rendering the Executive totally and permanently disabled. The Executive must submit proof to the Plan Administrator of the insurance carrier’s or Social Security Administration’s determination upon the request of the Plan Administrator.

1.6 “**Good Reason**” means the existence of any of the following without the Executive’s written consent:

(a) A material diminution by the Company in the Executive’s annual base salary.

(b) A material diminution in the Executive’s authority, duties or responsibilities as in effect in the three (3) month period immediately preceding a Change in Control.

(c) A material diminution in the authority, duties or responsibilities as in effect in the three (3) month period immediately preceding a Change in Control, of the person to whom the Executive is required to report, including a requirement that the Executive report to a corporate officer or employee instead of reporting directly to the Board, if the Executive otherwise reported directly to the Board;

- (d) A material diminution in the budget over which the Executive retains authority as in effect in the three (3) month period immediately preceding a Change in Control;
- (e) the Company requiring the Executive to be based more than fifty (50) miles from where the Executive's office is located immediately prior to a Change in Control, except for required travel on the Company's business, and then only to the extent substantially consistent with the business travel obligations which the Executive undertook on behalf of the Company during the 90-day period ending on the date of the Change in Control (without regard to travel related to or in anticipation of the Change in Control); or
- (f) any other action or inaction that constitutes a material breach by the Company of this Agreement.

The Executive will have Good Reason to terminate employment only if within ninety (90) days following the Executive's actual knowledge of the event which the Executive determines constitutes Good Reason, the Executive notifies the Company in writing that the Executive has determined a Good Reason exists and specifies the event creating Good Reason; following receipt of the notice, the Company fails to remedy the event within thirty (30) days; and the Executive's resignation for Good Reason is effective within ninety (90) days following the Company's period for remedy. If such conditions are not met, the Executive will not have a Good Reason to terminated employment.

- 1.7 "**Subsidiary**" means any entity that, along with the Company, would be treated as a single employer under Sections 414(b) and (c) of the Code.
- 1.8 "**Successor**" means any entity that assumes the rights and the obligations of the Company by merger, acquisition, or other valid legal succession.
- 1.9 "**Termination Date**" shall mean the date of the Executive's Termination of Employment.
- 1.10 "**Termination of Employment**" shall mean Executive's "separation from service" under Code Section 409A with the Company or one of its Subsidiaries.

Article 2
Change in Control Benefit

2.1 **Change in Control Benefit.** Subject to the terms and conditions of this Agreement, if within twenty-four (24) months following a Change in Control, the Executive shall be subject to an involuntary Termination of Employment by the Company other than for Cause, death, or Disability, or Executive shall initiate a voluntary Termination of Employment for Good Reason, the Company shall pay to the Executive the benefit specified in this Section 2.1. If a Change in Control occurs, this Agreement

shall expire on the second anniversary of such Change in Control; provided, however, that any benefits provided under this Section 2.1 shall continue in effect until fully paid or satisfied.

2.1.1 **Amount of Benefit.** The benefit under this Section 2.1 is one (1.0) times the Executive's annual base salary as of the date of the Change in Control or the Termination Date (whichever is greater).

2.1.2 **Payment of Benefit.** The Company shall pay the benefit under this Section 2.1 to the Executive in a lump sum seventy-five (75) days following the Termination Date provided that, prior to such date the Executive has executed a release of all claims against the Company, its officers and Directors.

2.1.3 **Insurance Benefits.** If a benefit is payable under Section 2.1, then for a period of twelve (12) months following the Termination Date the Executive shall receive, in addition to the benefit provided in Section 2.1.1 of this Agreement the following benefits substantially in the form and expense to the Executive as received by the Executive on the Termination Date: (a) medical and dental insurance; and (b) life insurance. The provision of medical and dental insurance and the provision of life insurance benefits pursuant to this Section 2.1.3 shall, however, be subject to the following limitations: (i) the benefits provided during Executive's taxable year may not affect the benefits to be provided to Executive in any other taxable year, (ii) reimbursements or payments must be made on or before the last day of Executive's taxable year following the taxable year in which the expense being paid or reimbursed was incurred, and (iii) the right to continued coverage is not subject to liquidation or exchange for another benefit.

It is understood and agreed that any rights and privileges of the Executive provided by the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), amending the Employee Retirement Income Security Act, the Internal Revenue Code and the Public Health Services Act, as amended, shall begin immediately following the Termination Date.

2.2 **Excess Parachute Payment.** Notwithstanding anything to the contrary in this Agreement, the payments made to the Executive under this Section 2 shall be one dollar (\$1.00) less than the amount which would cause the payments to the Executive (including payments to the Executive which are not included in this Agreement) to be subject to the excise tax imposed by Section 4999 of the Code. Any reductions in payments under this section will come first from payments under Section 2.1.1 and then from payments under Section 2.1.3

2.3 **Withholding & Payroll Taxes.** To the extent required by law, the Company shall withhold from other amounts owed to the Executive or require the Executive to remit to the Company an amount sufficient to satisfy federal, state and local withholding tax requirements on any payments made to the Executive under this Agreement. Determinations by the Company as to withholding shall be binding on the Executive.

Article 3
Miscellaneous

3.1 **Confidential Information.** The Executive recognizes and acknowledges that the Executive has had, and will continue to have, access to certain information of the Company and that such information is confidential and constitutes valuable, special and unique property of the Company. The Executive shall not at any time, either during or subsequent to the Executive's employment with the Company, disclose to others, use, copy or permit to be copied, except as directed by law or in pursuance of the Executive's duties for or on behalf of the Company, its Successors, assigns or nominees, any Confidential Information of the Company (regardless of whether developed by the Executive), without the prior written consent of the Company. The term "Confidential Information" with respect to any person means any secret or confidential information or know-how and shall include, but shall not be limited to, the plans, customers, costs, prices, uses, and applications of products and services, results of investigations, studies owned or used by such person, and all products, processes, compositions, computer programs, and servicing, marketing or operational methods and techniques at any time used, developed, investigated, made or sold by such person, before or during the term of the Executive's employment with the Company, that are not readily available to the public or that are maintained as confidential by such person. The Executive shall maintain in confidence any Confidential Information of third parties received as a result of the Executive's employment with the Company in accordance with the Company's obligations to such third parties and the policies established by the Company.

3.2 **No Competition.** If within the twenty-four (24) months following a Change in Control of the Company, the Executive shall have an involuntary Termination of Employment by the Company other than for Cause, death, or Disability, or shall have a voluntary Termination of Employment for Good Reason, then and for a period of one (1) year immediately following the Termination Date, the Executive shall not directly or indirectly engage in any business in which the Company directly or indirectly engages during the term of the Executive's employment with the Company; provided, however, that this restriction shall apply only to the geographic market of the Company. The Executive shall be deemed to engage in a business if the Executive directly or indirectly, engages or invests in, owns, manages, operates, controls or participates in the ownership, management, operation or control of, is employed by, associated or in any manner connected with, or renders services or advice to, any business in which the Company directly or indirectly engages, provided, however, that the Executive may invest in the securities of any enterprise (but without otherwise participating in the activities of such enterprise) if two conditions are met: (a) such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934 and (b) the Executive does not beneficially own (as defined Rule 13d-3 promulgated under the Securities Exchange Act of 1934) in excess of one percent of the outstanding capital stock of such enterprise. In the event the Executive is eligible for and receives a payment under this Agreement, for the twelve (12) months after termination of employment, the Executive will not, directly or indirectly, solicit, induce

or attempt to solicit or induce any of the Company's employees or independent contractors for the purpose of hiring them to work for the Executive or another individual, entity or employer, or for the purpose of inducing them to leave their employment with the Company, except with the Company's written consent. In the event the Executive violates this Section 3.2 or Section 3.1, any and all rights of the Executive under this Agreement shall terminate and no further payment shall be due the Executive, which shall be in addition to, and not in lieu of, any other rights or remedies of the Company under this Agreement.

3.3 Termination of Agreement Prior to Change in Control. At any time after the Effective Date and prior to a Change in Control, the Board may amend or terminate this Agreement: provided that no such amendment or termination shall be effective until at least sixty (60) days following written notification of Executive of such termination or amendment of this Agreement. Further, this Agreement shall automatically terminate if, prior to a Change in Control, Company terminates Executive, whether with or without Cause, or Executive voluntarily terminates his employment with the Company, whether with or without Good Reason. For avoidance of doubt, the terms of the Employment Agreement entered into by and between the Company effective as of the same date as of the Effective Date (the "Employment Agreement") shall remain in effect in accordance with its terms.

3.4 Delivery of Documents Upon Termination of Employment The Executive shall deliver to the Company or its designee at the Executive's Termination of Employment all correspondence, memoranda, notes, records, drawings, sketches, plans, customer lists, product compositions, and other documents and all copies thereof, made, composed or received by the Executive, solely or jointly with others, that are in the Executive's possession, custody, or control at such Termination of Employment and that are related in any manner to the past, present, or anticipated business of the Company.

3.5 Remedies. The Executive acknowledges that a remedy at law for any breach or attempted breach of the Executive's obligations under Sections 3.1, 3.2 and 3.3 may be inadequate, agrees that the Company may be entitled to specific performance and injunctive and other equitable remedies in case of any such breach or attempted breach and further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief. The Company shall have the right to offset against amounts to be paid to the Executive pursuant to the terms hereof any amounts owed by the Executive to the Company at the time of payment.

The termination of the Agreement shall not be deemed to be a waiver by the Company of any breach by the Executive of this Agreement or any other obligation owed the Company, and notwithstanding such a termination the Executive shall be liable for all damages attributable to such a breach.

3.6 Dispute Resolution. Subject to the Company's right to seek injunctive relief in court as provided in Section 3.4 of this Agreement, any dispute, controversy or claim

arising out of or in relation to or connection to this Agreement, including without limitation any dispute as to the construction, validity, interpretation, enforceability or breach of this Agreement, shall be settled by arbitration administered by the American Arbitration Association under its National Rules for the Resolution of Employment Disputes and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Any such Arbitration will be conducted: (i) by a neutral arbitrator appointed by mutual agreement of the parties; or (ii) failing such agreement, by a neutral arbitrator appointed in accordance with said AAA rules; the Company shall pay the fees and reasonable expenses of the arbitrator; the parties will be permitted reasonable discovery in accordance with the provisions of the Minnesota Rules of Civil Procedure, including the production of relevant documents by the other party, the exchange of witness lists, and a limited number of depositions, including depositions of any expert who will testify at the arbitration; the arbitrator's award will include findings of fact and conclusions of law showing the legal and factual bases for the arbitrator's decision; the arbitrator will have the authority to award to the prevailing party any remedy or relief that a United States District Court or court of the State of Minnesota could order or grant if the Dispute had first been brought in that judicial forum, including costs and attorney's fees; and unless otherwise agreed by the parties, the place of any arbitration proceeding will be Minneapolis, Minnesota.

3.7 **Acknowledgement of Parties.** The Company and the Executive understand and acknowledge that this Agreement means that neither can pursue an action against the other in a court of law regarding any employment dispute, except for claims involving workers' compensation benefits or unemployment benefits, and except as set forth elsewhere in this Agreement, in the event that either party notifies the other of its demand for arbitration under this Agreement. The Company and the Executive understand and agree that this Section 3.7, concerning arbitration, shall not include any controversies or claims related to any agreements or provisions (including provisions in this Agreement) respecting confidentiality, proprietary information, non-competition, non-solicitation, trade secrets, or breaches of fiduciary obligations by the Executive, which shall not be subject to arbitration.

3.8 **Right to Consult Counsel.** Executive has been advised of the Executive's right to consult with an attorney prior to entering into this Agreement.

3.9 **Successors of the Company.** The Company will require any Successor by agreement in form and substance satisfactory to the Executive, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. The failure of the Company to obtain such agreement prior to the effectiveness of any such succession shall be a breach of this Agreement and shall entitle the Executive to terminate the Agreement and receive compensation from the Company in the same amount and on the same terms as the Executive would be entitled hereunder if the Executive terminated the Executive's employment for Good Reason. As used in this

Agreement, "Company" as hereinbefore defined shall include any Successor to its business and/or assets as aforesaid which executes and delivers the agreement provided for in this Section 3.8 or which otherwise becomes bound by all the terms and provisions of this Agreement by operation of law.

3.10 **Executive's Heirs, etc.** The Executive may not assign the Executive's rights or delegate the Executive's duties or obligations hereunder without the written consent of the Company. This Agreement shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive should die while any amounts would still be payable to the Executive hereunder if the Executive had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the Executive's designee or, if there be no such designee, to the Executive's estate.

3.11 **Notices.** Any notice or communication required or permitted under the terms of this Agreement shall be in writing and shall be delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, or sent by nationally recognized overnight carrier, postage prepaid, or sent by facsimile transmission to the Company at the Company's principal office and facsimile number in Minnetonka, Minnesota, or to the Executive at the address and facsimile number, if any, appearing on the books and records of the Company. Such notice or communication shall be deemed given (a) when delivered if personally delivered; (b) five mailing days after having been placed in the mail, if delivered by registered or certified mail; (c) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (d) the business day after transmittal when transmitted with electronic confirmation of receipt, if transmitted by facsimile. Any party may change the address or facsimile number to which notices or communications are to be sent to such party by giving notice of such change in the manner herein provided for giving notice. Until changed by notice, the following shall be the address and facsimile number to which notices shall be sent:

If to the Company, to:

Attn: Chair of the Board

PINEAPPLE ENERGY INC.
10900 Red Circle Drive
Minnetonka, MN 55343
Fax: (952) 946-1835

If to the Executive, to:

Kyle Udseth



3.12 **Amendment or Waiver.** No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing signed by the Executive and such officer as may be specifically designated by the

Board (which shall not include the Executive). No waiver by either party hereto at any time of any breach by the other party hereto of or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party, which are not set forth expressly in this Agreement. This Agreement constitutes the entire agreement between the Company and the Executive as to the subject matter hereof; provided, however, the Employment Agreement shall remain in effect in accordance with its terms. No rights are granted to the Executive by virtue of this Agreement other than those specifically set forth herein.

3.13 **Invalid Provisions.** Should any portion of this Agreement be adjudged or held to be invalid, unenforceable or void, such holding shall not have the effect of invalidating or voiding the remainder of this Agreement and the parties hereby agree that the portion so held invalid, unenforceable or void shall if possible, be deemed amended or reduced in scope, or otherwise be stricken from this Agreement to the extent required for the purposes of validity and enforcement thereof. In this regard, the parties hereto hereby agree that any judicial authority construing this Agreement shall be empowered to sever any portion of the geographic area or any prohibited business activity from the coverage of this Agreement, and to reduce the duration of the non-compete period and to apply the provisions of this Agreement to the remaining portion of the geographic area or the remaining business activities not to be severed by such judicial authority and to the duration of the non-compete period as reduced by judicial determination.

3.14 **Survival of the Executive's Obligations** The Executive's obligations under this Agreement shall survive regardless of whether the Executive incurs a Termination of Employment, voluntarily or involuntarily, by the Company or the Executive, with or without Cause.

3.15 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

3.16 **Governing Law.** This Agreement and any action or proceeding related to it shall be governed by and construed under the laws of the State of Minnesota.

3.17 **Captions and Gender.** The use of Captions and Section headings herein is for purposes of convenience only and shall not affect the interpretation or substance of any provisions contained herein. Similarly, the use of the masculine gender with respect to pronouns in this Agreement is for purposes of convenience and includes either sex who may be a signatory.

3.18 **No guarantee of tax treatment.** Nothing herein shall be construed as an entitlement to or guarantee of any particular tax treatment to the Executive. This

Agreement is drafted and shall be interpreted to provide for payments that are exempt from, or that comply with, Code Section 409A.

IN WITNESS WHEREOF, the Executive and a duly authorized representative of the Company have signed this Agreement.

EXECUTIVE:

COMPANY:

PINEAPPLE ENERGY INC.

Kyle Udseth

By:

/s/ Kyle Udseth

/s/ Roger H.D. Lacey

Its:

Chair of the Board



EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is effective as of the 5th day of December, 2022 (“Effective Date”), by and between Pineapple Energy Inc., a Minnesota corporation (the “Company”) and Eric Ingvaldson (the “Employee”).

A. Employee has been employed by the Company.

B. The Company desires to continue to employ Employee as detailed below. Employee has thoroughly reviewed and considered the terms of this Employment Agreement, and accepts all terms set forth below.

C. During his employment, Employee has had access to, and will continue to have access to, extremely sensitive confidential, proprietary and trade secret information relating to the Company, its employees, and its customers. As a result, Employee’s continued employment with the Company and the Company’s commitments in this Agreement are strictly conditioned on Employee agreeing to the confidentiality provisions and post-employment restrictions in this Agreement.

In consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Company and Employee, the parties agree as follows:

1. Employment Duties; No Conflict; Contingency. The Company hereby agrees to continue to employ Employee pursuant to the terms and conditions of this Agreement and Employee accepts such employment. Employee agrees to perform the duties consistent with his position and other duties as may be requested by the Company from time to time. Employee will perform his duties with a high level of professionalism and integrity. Employment pursuant to this Agreement is subject to all Company policies in effect throughout Employee’s employment. During the term of Employee’s employment with the Company, Employee will not render or perform services for any other corporation, firm, entity or person that are inconsistent with the provisions of this Agreement except as expressly permitted by the Company in writing.
2. Employment at Will. Employee’s employment with the Company is at-will and continues until terminated by the Company or Employee for any reason. The “Termination Date” shall mean the date of cessation of the Employee’s employment with the Company (whether voluntarily or involuntarily) without regard to any notice of termination or pay in lieu of notice of termination. For purposes of Section 4(e), with respect to any severance payments payable to Employee thereunder, the “Termination Date” means the date on which a “separation from service” occurs under Section 409A.

3. Compensation.

- (a) Base Salary. The Company shall pay Employee base salary in the annualized amount of \$250,000 (“Base Salary”), less applicable taxes and withholding, payable in accordance with the Company’s standard payroll practices.
- (b) Employee Bonus Program. Employee shall be eligible for the Company’s Employee Bonus Program. Employee’s potential bonus shall be up to fifty percent (40%) of Employee’s Base Salary. Any bonus payable under this Section 3(b) shall be paid as a lump sum by March 15 of the calendar year following the year for which the bonus was calculated. Employee must be employed by the Company on the date of the payment of any bonus to earn any bonus under the Company’s Employee Bonus Program. The Company’s Employee Bonus Program is discretionary based on goals established by the Company’s Board of Directors (the “Board”) and may be changed from time to time.
- (c) Benefits. Employee shall be entitled to participate in all employee benefit plans or programs offered by the Company to all its employees, subject to the eligibility requirements and terms of such plans or programs, including, as of the Effective Date, cellphone reimbursement, medical, dental, vision, life, and critical illness/accident insurance; the Company 401(k) plan, Employee Stock Purchase Plan, and Health Savings Account.

4. Termination. Employee’s employment with the Company may be terminated at any time upon sixty (60) days’ written notice by (a) the Company to Employee in person or by certified mail to Employee’s address on record at the Company, or (b) Employee to the then-current Chair of the Board in person or by certified mail to the Company.

- (a) Upon termination of Employee’s employment with the Company, Employee shall be entitled to receive (i) Base Salary owed through the Termination Date, (ii) reimbursement of reasonable expenses incurred as of the Termination Date. Such amounts shall be paid within fourteen (14) days of the Termination Date. Employee acknowledges and agrees that said payments, as applicable, shall be in full satisfaction of any amount due to Employee by the Company, and Employee shall not be entitled to any further payment, severance, benefits continuation, damages, or any additional compensation whatsoever except as set forth in this Agreement or in the Change in Control Agreement (as defined below).
- (b) For purposes of this Agreement, “Cause” means: (i) gross negligence or gross neglect of duties; (ii) commission of any felony, or a gross misdemeanor involving moral turpitude that in the reasonable determination of the Board is materially and demonstrably injurious to the Company or that impairs Employee’s ability to substantially perform Employee’s duties with the Company or any of its affiliates; (iii) fraud, disloyalty, dishonesty or willful violation of any law or a willful violation of a Company policy that, after warning, remains a continuing violation, committed in connection with the Employee’s employment; (iv) conduct that, in the judgment of the Board, results in damage to the Company’s business, property, reputation, or goodwill, including allegations of sexual harassment or discrimination; (v) breach of or inability to perform Employee’s obligations under this Agreement other than by reason of disability or death; or (vi)

failure to follow a directive of the Board.

- (c) For purposes of this Agreement, "Good Reason" means: an initial occurrence of any of the following without the Employee's consent: (i) a substantial adverse change in the nature or scope of the Employee's responsibilities, authorities, powers, functions or duties such that the Employee would no longer be considered to be a member of senior management of the Company; (ii) a reduction in the Employee's annual Base Salary except for across the board salary reductions similarly affecting all or substantially all management employees; or (iii) the relocation of offices at which the Employee is principally employed to a location more than fifty (50) miles from such offices; provided, however, that "Good Reason" shall not exist unless the Employee has first provided written notice to the Company of the initial occurrence of one or more of the conditions under clauses (i) through (iii) above within thirty (30) days of the condition's occurrence, such condition is not fully remedied by the Company within thirty (30) days after the Company's receipt of written notice from the Employee, and the Termination Date as a result of such event occurs within ninety (90) days after the initial occurrence of such event.
- (d) Termination by the Company for Cause prior to a Change In Control, or Termination by the Employee for any reason other than Good Reason prior to a Change In Control: If the Employee's employment is terminated (i) by the Company for Cause or (ii) by the Employee for any reason other than Good Reason, in either case with the Termination Date is prior to a Change in Control (as defined in the Change in Control Agreement entered into by and between the Company and Employee effective as of the same date as the Effective Date (the "Change in Control Agreement"), then the Company shall pay or provide the Employee only with the benefits itemized in Section 4(a).
- (e) Termination by the Company other than for Cause or Disability prior to a Change In Control; or resignation by the Employee for Good Reason prior to a Change In Control: If the Employee's employment is terminated by the Company for any reason other than Cause or Disability, or the Employee's employment is terminated by the Employee for Good Reason, in either case with the Termination Date occurring prior to a Change in Control, then the Company shall: (i) pay or provide the Employee the benefits itemized in Section 4(a) and (ii) subject to the Employee signing and not rescinding a release of claims in a form acceptable to Employee and the Company and the Employee strictly complying with the terms of this Agreement and any other written agreement between the Employee and the Company or any of its affiliates as of the date each of the installments described below is to be paid, the Company shall pay to the Employee as severance pay a total amount equal to fifty percent (50%) of the annual Base Salary as of the Termination Date, subject to applicable tax withholdings, payable in substantially equal installments in accordance with the Company's regular payroll during the period from the Termination Date through and the six (6) month anniversary of the Termination Date; provided, however, that any installments that otherwise would be payable on the Company's regular payroll dates between the Termination Date and the sixtieth (60th) calendar day after the Termination Date will be delayed until the Company's first regular

payroll date that is more than sixty (60) days after the Termination Date and included with the installment payable on such payroll date.

(f) Termination due to Disability or death: If the Employee's employment is terminated due to Disability or the Employee's death, then the Company shall pay or provide the Employee (or the Employee's estate, if applicable) only with the benefits itemized in Section 4(a). For purposes of this Agreement, "Disability" means: the inability of the Employee to perform the Employee's material duties hereunder after reasonable accommodation due to a physical or mental injury, infirmity or incapacity which has lasted or can reasonably be expected to last for one hundred eighty (180) days (including weekends and holidays) in any three hundred sixty-five (365) day period as determined by the Board in its reasonable discretion.

5. Proprietary Information. During the course of employment with the Company Employee has had, and will continue to have, access to the Company's proprietary and trade secret information. Maintaining the confidentiality of such information is important to the Company's competitive position in the industry and ultimately to the Company's ability to achieve financial success and provide employment opportunities. Employee will not discuss the business affairs and operations of the Company with anyone outside of the Company except when required in the normal course of business. To the extent Employee has access to proprietary and/or trade secret information, he is responsible for the security of that information. Extreme care must be exercised to insure that such information is safeguarded to protect the Company, its suppliers, clients, and employees.
6. Confidential Information. Employee recognizes and acknowledges that Employee has had, and will continue to have, access to certain information of the Company and that such information is confidential and constitutes valuable, special and unique property of the Company. Employee shall not at any time, either during or after termination of employment, directly or indirectly disclose to others, use, copy or permit to be copied, except as directed by law or in accordance with Employee's duties for or on behalf of the Company, its successors, assigns or nominees, any Confidential Information of the Company (regardless of whether developed by the Employee), without the prior written consent of the Company. The term "Confidential Information" means any secret or non-public information or know-how relating to the Company and its business, and shall include but not be limited to information relating to the Company's plans, customers, costs, prices, personnel, business relationships, uses and applications of products and services, results of investigations, studies owned or used by the Company, and all products, processes, compositions, computer programs, and servicing, marketing or operational methods and techniques at any time used, developed, investigated, made or sold by the Company, before or during the term of Employee's employment with the Company, that are not readily available to the public or that are maintained as confidential by the Company. Employee shall maintain in confidence any Confidential Information of third parties, received as a result of the Employee's employment, in accordance with the Company's obligations to such third parties and the policies established by the Company.

Consistent with state and federal law, nothing in this Agreement (a) is intended to limit Employee's right to discuss the terms, wages, and working conditions of his employment; or (b)

prohibits Employee from reporting possible violations of law to a government agency or attorney, including information about trade secrets in a document filed in a lawsuit if the disclosure is made in confidence, good faith, solely for the purpose of reporting or investigating a suspected violation of law and is done only as permitted by law.

7. Non-Solicitation, Non-Interference and Non-Competition. As a result of employment with the Company, Employee has acquired, and will continue to acquire, considerable knowledge about, and expertise in, certain areas of the Company's business. Employee also has gained, and will continue to gain, knowledge of, and have contact with, customers and suppliers of the Company. Employee acknowledges that he may be able to utilize such knowledge and expertise following termination of service with the Company, to the serious detriment of the Company if he solicits business from customers of the Company or interferes with the Company's relationships with its customers, business partners or employees. Accordingly, Employee agrees that:
- (a) Non-Solicitation, Non-Interference with Customers. During employment with the Company and for one (1) year after termination of employment, Employee will not directly or indirectly (i) solicit any customer or business partner of the Company, (ii) take any action intended to, or that has the effect of, interfering with the Company's relationship with any customer or business partner or otherwise resulting in a customer or business partner reducing or ceasing their business relationship with the Company; or (iii) provide, to any customer with whom Employee had contact during employment or about whom Employee had access to Confidential Information, any products or services that are competitive with those that were offered by the Company during Employee's employment with the Company.
 - (b) Non-Solicitation of Employees. During employment with the Company and for one (1) year after termination of employment, Employee will not directly or indirectly approach, solicit, entice, hire or attempt to approach, solicit entice or hire any employee of the Company to leave the employment of the Company.
 - (c) Non-Competition. During employment with the Company and for six (6) months after termination of employment, Employee will not directly or indirectly engage in any business that is the same as or substantially similar to the business in which the Company engages during the term of Employee's employment; provided, however, that this restriction shall apply only to the geographic market of the Company. Employee shall be deemed to engage in a business if he directly or indirectly engages or invests in, owns, manages, operates, controls or participates in the ownership, management, operation or control of, is employed by, associated or in any manner connected with, or renders services or advice to, any business that provides products or services that are the same as or substantially similar to the products and/or services provided by the Company during Employee's employment with the Company. Provided, however, that Employee may invest in the securities of any enterprise (but without otherwise participating in the activities of such enterprise) if two conditions are met: (a) such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934 and (b) Employee does not beneficially own (as

defined Rule 13d-3 promulgated under the Securities Exchange Act of 1934) in excess of one percent of the outstanding capital stock of such enterprise.

- (d) Tolling of Restrictive Period. In the event Employee breaches any provision of this Section 7, the applicable restrictive period herein shall be tolled during the time of Employee's breach. Upon cessation of any such breach, the restrictive period shall continue and shall be extended by the time period of the applicable breach.
 - (e) Presentment to any New Employer. For one (1) year after termination of employment, Employee will give a copy of this Agreement to any subsequent employer prior to Employee's first day of work so that the new employer can evaluate whether Employee's work for that employer may be in violation of this Agreement.
8. Inventions; Works Made for Hire. For purposes of this Agreement, "Inventions" means all ideas, improvements, discoveries, concepts, original works of authorship, modifications, formulations, software programs, product development or ideas (whether patentable or not) relating to the business of the Company that have been or are generated, conceived or reduced to practice by Employee during employment with the Company (including Employee's period of employment with the Company prior to the Effective Date) either alone or in conjunction with others, during or outside of working hours. Any patent application (including provisional applications, international applications, and the like) on which Employee is named as an inventor that is both: (a) filed within one (1) year after termination of employment; and (b) relates to the business of Company; shall be presumed to cover an Invention conceived by Employee during employment with the Company, subject to proof to the contrary by good faith, written and duly collaborated records establishing that such Invention was conceived and made following termination of employment. Employee agrees to document all Inventions in writing and promptly disclose such Inventions to the Company. All original works of authorship made by Employee (solely or jointly with others) within the scope of employment with the Company (or his prior employment) and that are protectable by copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101).
- (a) Ownership and Assignment of Inventions. Subject to the limitations of Minnesota Statute §181.78 set forth below, all Inventions are the exclusive property of the Company (whether any Invention was generated, conceived or reduced to practice prior to the execution of this Agreement). Employee hereby assigns and agrees to assign in the future (when any such Inventions are first reduced to practice or first fixed in a tangible medium, as applicable, or are otherwise assignable) to the Company all of Employee's right, title and interest in and to any and all Inventions, whether or not patentable or registrable under copyright or similar statutes, made or conceived or reduced to practice or learned by Employee, either alone or jointly with others, during Employee's employment with the Company. Employee hereby waives and agrees not to assert any proprietary rights in or with respect to any Invention. Employee will sign and deliver any documents necessary to fully assign ownership of any Invention to the Company. Employee will, at the Company's expense, provide all assistance reasonably required for the Company to perfect, protect and use rights to Inventions. Employee will maintain appropriate documentation relating to Inventions and sign all documents and do all things the Company deems necessary or desirable to document and record the

transfer of Employee's right, title and interest in Inventions to the Company or a third party designated by the Company, and enable the Company to obtain patent protection for Inventions anywhere in the world.

- (b) Exclusions. The terms of this Section 8 do not apply to any invention for which no equipment, supplies, facilities or trade secret information of the Company was used and that was developed entirely on Employee's own time and that (i) does not relate directly to the business of the Company or to the Company's actual or demonstrably anticipated research or development; or (ii) does not result from any work performed by Employee for the Company.
 - (c) Continuing Obligations. The obligations of this Section 8 continue beyond the termination of employment with the Company as to Inventions conceived or made by Employee during Employee's employment and are binding upon Employee's assigns, executors, administrators and other legal representatives.
9. Conflict of Interests. The Company expects all employees to conduct business according to the highest ethical standards of conduct. Employee is expected to devote his best efforts to the interests and business of the Company. Business dealings that create, or appear to create, a conflict between the interests of the Company and Employee are prohibited. The Company recognizes the right of employees to engage in activities outside of their employment that are of a private nature and unrelated to the Company's business. However, Employee must disclose any possible conflicts so that the Company may assess and prevent potential conflicts of interest from arising. A potential or actual conflict of interest may occur when an employee is in a position to influence a business decision that may result in personal gain to the employee, a family member, or personal acquaintance. It is not possible to specify every action that might create a conflict of interest. Any question regarding whether an action or proposed course of conduct could create, or appear to create, a conflict of interest should immediately be presented to the Board Chair or the Human Resources Department for review.
10. Restrictions Reasonable. Employee acknowledges that the restrictions in this Agreement are reasonable under the circumstances. Employee hereby waives all defenses to the enforcement thereof by the Company. If any provision of this Agreement is deemed void or invalid by a court, the remaining provisions shall remain in full force and effect and Employee agrees that the court has the power to replace such void or invalid provisions with such other enforceable and valid provisions as are as close as possible to the original in form and effect.
11. Section 409A Compliance. The parties intend that the benefits and rights described in this Agreement be exempt from or comply with Section 409A of the Internal Revenue Code and the Treasury Regulations and other guidance promulgated or issued thereunder ("Section 409A") to the extent that the requirements of Section 409A are applicable hereto, and the provisions of this Agreement will be construed in a manner consistent with that intention. If Employee or the Company believes at any time that any such benefit or right subject to Section 409A does not so comply, it will promptly advise the other and will negotiate reasonably and in good faith to amend the terms of such benefits and rights such that they comply with Section 409A (with the most limited possible economic effect on Employee and on the Company). Each payment under this Agreement is intended to be treated as one of a series of separate payments for purposes of

Code Section 409A and Treasury Regulation §1.409A-2(b)(2)(iii) (or any similar or successor provisions).

Notwithstanding the foregoing, the Company does not make any representation that the payments or benefits under this Agreement are exempt from, or satisfy, the requirements of Section 409A and the Company shall have no liability or other obligation to indemnify or hold harmless Employee or any beneficiary for any tax, additional tax, interest or penalties if any provision of this Agreement or any action taken with respect thereto is deemed to violate any of the requirements of Section 409A.

12. Severability. Any provision of this Agreement that is prohibited or unenforceable under Minnesota law shall be ineffective to the extent of the prohibition or unenforceability and shall be severed from the balance of this Agreement, without affecting the remaining provisions of this Agreement.
13. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.
14. Entire Agreement. This Agreement constitutes the entire agreement between Employee and the Company with respect to the subject matter of this Agreement and supersedes all previous understandings, communications, representations and agreements, whether verbal or written, with respect to the subject matter hereof (including without limitation the Prior Agreements (as defined below)); provided, however, the Change in Control Agreement shall remain in effect in accordance with its terms. This Agreement may not be modified except by subsequent agreement in writing signed by the Company and Employee.
15. Post-Employment Cooperation. Employee agrees to cooperate and assist the Company in the handling or investigation of any administrative charges, government inquiries, claims, threats or lawsuits involving the Company that relate to matters that arose while the Employee was an employee of the Company. The Company will reimburse Employee for out-of-pocket expenses incurred in connection with such cooperation.
16. Notice. Unless otherwise provided herein, any notice required or given under the terms of this Agreement shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, or sent by nationally recognized overnight carrier, postage prepaid, or sent by facsimile transmission to the Company at the Company's principal office and facsimile number in Minnetonka, Minnesota, or to Employee at the address set forth below. Notice shall be deemed given (a) when delivered if personally delivered; (b) three business days after having been placed in the mail, if delivered by registered or certified mail; (c) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (d) the business day after transmittal when transmitted with electronic confirmation of receipt, if transmitted by facsimile. Until changed by notice pursuant to this Section 16, the following shall be the address and facsimile number to which notices shall be sent:

If to the Company, to:

Attn: Chief Executive Officer
Pineapple Holdings Inc.
10900 Red Circle Drive
Minnetonka, MN 55343
Fax: (952) 946-1835

If to Employee, to:

Attn: Eric Ingvaldson


17. Governing Law; Breach. This Agreement shall be governed by and construed in accordance with the laws of Minnesota, without reference to conflicts of laws. In the event either party is deemed by a court of appropriate jurisdiction to have breached this Agreement, the nonbreaching party shall be entitled to recover all costs, expenses and attorney's fees incurred in enforcing the terms of this Agreement.
18. Survival. The provisions of Sections 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18 and 19 survive termination of Employee's employment with the Company).
19. Termination of Prior Agreements. By signing below, Employee acknowledges and agree that: (b) all prior employment or similar agreements (whether written or verbal) between Employee and Transition Networks/CSI (collectively, the "Prior Agreements"), together with all of Employee's rights under the Prior Agreements, are hereby terminated as of the Effective Date hereof; (c) any notice that may be required in connection with the termination of the Prior Agreements is hereby waived; (d) notwithstanding the termination of the Prior Agreements or any other provision of this Agreement, the provisions of the Prior Agreements that impose confidentiality, non-disclosure, non-solicitation, non-competition and other similar obligations on Employee (the "Existing Restrictive Covenants") shall continue in full force and effect in accordance with their respective terms and Employee agrees to strictly abide by such provisions; and (e) the other provisions of the Prior Agreements shall continue in effect to the extent necessary to permit the Company or its successors or assigns to enforce the Existing Restrictive Covenants.

[Signature page follows]

Accordingly, this Employment Agreement is effective as of the Effective Date.

Pineapple Energy, Inc.

By: /s/ Roger H.D. Lacey

/s/ Eric Ingvaldson

Eric Ingvaldson

Its: /s/ Chairman

**PINEAPPLE ENERGY INC.
CHANGE IN CONTROL AGREEMENT**

This CHANGE IN CONTROL Agreement is entered into effective as of the 5th day of December, 2022 (the “Effective Date”) by and between PINEAPPLE ENERGY INC., a Minnesota corporation (the “Company”), and Eric Ingvaldson (the “Executive”).

The Board of Directors of the Company (the “Board”) has determined that it is in the best interests of the Company to retain the Executive’s services and to reinforce and encourage the continued attention and dedication of the Executive to his or her assigned duties, without distraction in potentially disturbing circumstances arising from the possibility of a change in control of the Company.

The Company and the Executive agree as provided herein.

**Article 1
Definitions**

Whenever used in this Agreement, the following words and phrases shall have the meanings specified:

- 1.1 “**Agreement**” means this Pineapple Energy Inc. Change in Control Agreement, as it may be amended from time to time.
 - 1.2 “**Cause**” means
 - (a) Gross negligence or gross neglect of duties; or
 - (b) Commission of a felony or of a gross misdemeanor involving moral turpitude which in the reasonable determination of the Board is materially and demonstrably injurious to the Company or which impairs the Executive’s ability to perform substantially the Executive’s duties with the Company or a Subsidiary; or
 - (c) Fraud, disloyalty, dishonesty or willful violation of any law or a willful violation of a material Company or Subsidiary policy which, after warning, remains a continuing violation, committed in connection with the Executive’s employment.
 - 1.3 “**Change in Control**” shall occur on the earliest date that:
 - (a) A “person” or “group” acquires ownership of stock of the Company that, together with stock held by such person or group, constitutes more than fifty
-

percent (50%) of the total fair market value or total voting power of the stock of the Company;

(b) any person or group acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or group) ownership of stock of the Company possessing thirty percent (30%) or more of the total voting power of the stock of the Company;

(c) a majority of the members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date that such appointments or elections are made; or

(d) any person or group acquires (or has acquired) during the twelve (12) month period ending on the date of the most recent acquisition by such person or group, assets from the Company that have a total gross fair market value equal to or more than forty percent (40%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

1.4 “**Code**” means the Internal Revenue Code of 1986, as amended and including the Treasury Regulations and other guidance promulgated or issued thereunder.

1.5 “**Disability**” means the Executive’s suffering a sickness, accident or injury which has been determined by the insurance carrier of any individual or group disability insurance policy covering the Executive, or by the Social Security Administration, to be a disability rendering the Executive totally and permanently disabled. The Executive must submit proof to the Plan Administrator of the insurance carrier’s or Social Security Administration’s determination upon the request of the Plan Administrator.

1.6 “**Good Reason**” means the existence of any of the following without the Executive’s written consent:

(a) A material diminution by the Company in the Executive’s annual base salary.

(b) A material diminution in the Executive’s authority, duties or responsibilities as in effect in the three (3) month period immediately preceding a Change in Control.

(c) A material diminution in the authority, duties or responsibilities as in effect in the three (3) month period immediately preceding a Change in Control, of the person to whom the Executive is required to report, including a requirement that the Executive report to a corporate officer or employee instead of reporting directly to the Board, if the Executive otherwise reported directly to the Board;

- (d) A material diminution in the budget over which the Executive retains authority as in effect in the three (3) month period immediately preceding a Change in Control;
- (e) the Company requiring the Executive to be based more than fifty (50) miles from where the Executive's office is located immediately prior to a Change in Control, except for required travel on the Company's business, and then only to the extent substantially consistent with the business travel obligations which the Executive undertook on behalf of the Company during the 90-day period ending on the date of the Change in Control (without regard to travel related to or in anticipation of the Change in Control); or
- (f) any other action or inaction that constitutes a material breach by the Company of this Agreement.

The Executive will have Good Reason to terminate employment only if within ninety (90) days following the Executive's actual knowledge of the event which the Executive determines constitutes Good Reason, the Executive notifies the Company in writing that the Executive has determined a Good Reason exists and specifies the event creating Good Reason; following receipt of the notice, the Company fails to remedy the event within thirty (30) days; and the Executive's resignation for Good Reason is effective within ninety (90) days following the Company's period for remedy. If such conditions are not met, the Executive will not have a Good Reason to terminated employment.

- 1.7 "**Subsidiary**" means any entity that, along with the Company, would be treated as a single employer under Sections 414(b) and (c) of the Code.
- 1.8 "**Successor**" means any entity that assumes the rights and the obligations of the Company by merger, acquisition, or other valid legal succession.
- 1.9 "**Termination Date**" shall mean the date of the Executive's Termination of Employment.
- 1.10 "**Termination of Employment**" shall mean Executive's "separation from service" under Code Section 409A with the Company or one of its Subsidiaries.

Article 2
Change in Control Benefit

2.1 **Change in Control Benefit.** Subject to the terms and conditions of this Agreement, if within twenty-four (24) months following a Change in Control, the Executive shall be subject to an involuntary Termination of Employment by the Company other than for Cause, death, or Disability, or Executive shall initiate a voluntary Termination of Employment for Good Reason, the Company shall pay to the Executive the benefit specified in this Section 2.1. If a Change in Control occurs, this Agreement

shall expire on the second anniversary of such Change in Control; provided, however, that any benefits provided under this Section 2.1 shall continue in effect until fully paid or satisfied.

2.1.1 **Amount of Benefit.** The benefit under this Section 2.1 is one (1.0) times the Executive's annual base salary as of the date of the Change in Control or the Termination Date (whichever is greater).

2.1.2 **Payment of Benefit.** The Company shall pay the benefit under this Section 2.1 to the Executive in a lump sum seventy-five (75) days following the Termination Date provided that, prior to such date the Executive has executed a release of all claims against the Company, its officers and Directors.

2.1.3 **Insurance Benefits.** If a benefit is payable under Section 2.1, then for a period of twelve (12) months following the Termination Date the Executive shall receive, in addition to the benefit provided in Section 2.1.1 of this Agreement the following benefits substantially in the form and expense to the Executive as received by the Executive on the Termination Date: (a) medical and dental insurance; and (b) life insurance. The provision of medical and dental insurance and the provision of life insurance benefits pursuant to this Section 2.1.3 shall, however, be subject to the following limitations: (i) the benefits provided during Executive's taxable year may not affect the benefits to be provided to Executive in any other taxable year, (ii) reimbursements or payments must be made on or before the last day of Executive's taxable year following the taxable year in which the expense being paid or reimbursed was incurred, and (iii) the right to continued coverage is not subject to liquidation or exchange for another benefit.

It is understood and agreed that any rights and privileges of the Executive provided by the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), amending the Employee Retirement Income Security Act, the Internal Revenue Code and the Public Health Services Act, as amended, shall begin immediately following the Termination Date.

2.2 **Excess Parachute Payment.** Notwithstanding anything to the contrary in this Agreement, the payments made to the Executive under this Section 2 shall be one dollar (\$1.00) less than the amount which would cause the payments to the Executive (including payments to the Executive which are not included in this Agreement) to be subject to the excise tax imposed by Section 4999 of the Code. Any reductions in payments under this section will come first from payments under Section 2.1.1 and then from payments under Section 2.1.3

2.3 **Withholding & Payroll Taxes.** To the extent required by law, the Company shall withhold from other amounts owed to the Executive or require the Executive to remit to the Company an amount sufficient to satisfy federal, state and local withholding tax requirements on any payments made to the Executive under this Agreement. Determinations by the Company as to withholding shall be binding on the Executive.

Article 3
Miscellaneous

3.1 **Confidential Information.** The Executive recognizes and acknowledges that the Executive has had, and will continue to have, access to certain information of the Company and that such information is confidential and constitutes valuable, special and unique property of the Company. The Executive shall not at any time, either during or subsequent to the Executive's employment with the Company, disclose to others, use, copy or permit to be copied, except as directed by law or in pursuance of the Executive's duties for or on behalf of the Company, its Successors, assigns or nominees, any Confidential Information of the Company (regardless of whether developed by the Executive), without the prior written consent of the Company. The term "Confidential Information" with respect to any person means any secret or confidential information or know-how and shall include, but shall not be limited to, the plans, customers, costs, prices, uses, and applications of products and services, results of investigations, studies owned or used by such person, and all products, processes, compositions, computer programs, and servicing, marketing or operational methods and techniques at any time used, developed, investigated, made or sold by such person, before or during the term of the Executive's employment with the Company, that are not readily available to the public or that are maintained as confidential by such person. The Executive shall maintain in confidence any Confidential Information of third parties received as a result of the Executive's employment with the Company in accordance with the Company's obligations to such third parties and the policies established by the Company.

3.2 **No Competition.** If within the twenty-four (24) months following a Change in Control of the Company, the Executive shall have an involuntary Termination of Employment by the Company other than for Cause, death, or Disability, or shall have a voluntary Termination of Employment for Good Reason, then and for a period of one (1) year immediately following the Termination Date, the Executive shall not directly or indirectly engage in any business in which the Company directly or indirectly engages during the term of the Executive's employment with the Company; provided, however, that this restriction shall apply only to the geographic market of the Company. The Executive shall be deemed to engage in a business if the Executive directly or indirectly, engages or invests in, owns, manages, operates, controls or participates in the ownership, management, operation or control of, is employed by, associated or in any manner connected with, or renders services or advice to, any business in which the Company directly or indirectly engages, provided, however, that the Executive may invest in the securities of any enterprise (but without otherwise participating in the activities of such enterprise) if two conditions are met: (a) such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934 and (b) the Executive does not beneficially own (as defined Rule 13d-3 promulgated under the Securities Exchange Act of 1934) in excess of one percent of the outstanding capital stock of such enterprise. In the event the Executive is eligible for and receives a payment under this Agreement, for the twelve (12) months after termination of employment, the Executive will not, directly or indirectly, solicit, induce

or attempt to solicit or induce any of the Company's employees or independent contractors for the purpose of hiring them to work for the Executive or another individual, entity or employer, or for the purpose of inducing them to leave their employment with the Company, except with the Company's written consent. In the event the Executive violates this Section 3.2 or Section 3.1, any and all rights of the Executive under this Agreement shall terminate and no further payment shall be due the Executive, which shall be in addition to, and not in lieu of, any other rights or remedies of the Company under this Agreement.

3.3 Termination of Agreement Prior to Change in Control. At any time after the Effective Date and prior to a Change in Control, the Board may amend or terminate this Agreement: provided that no such amendment or termination shall be effective until at least sixty (60) days following written notification of Executive of such termination or amendment of this Agreement. Further, this Agreement shall automatically terminate if, prior to a Change in Control, Company terminates Executive, whether with or without Cause, or Executive voluntarily terminates his employment with the Company, whether with or without Good Reason. For avoidance of doubt, the terms of the Employment Agreement entered into by and between the Company effective as of the same date as of the Effective Date (the "Employment Agreement") shall remain in effect in accordance with its terms.

3.4 Delivery of Documents Upon Termination of Employment The Executive shall deliver to the Company or its designee at the Executive's Termination of Employment all correspondence, memoranda, notes, records, drawings, sketches, plans, customer lists, product compositions, and other documents and all copies thereof, made, composed or received by the Executive, solely or jointly with others, that are in the Executive's possession, custody, or control at such Termination of Employment and that are related in any manner to the past, present, or anticipated business of the Company.

3.5 Remedies. The Executive acknowledges that a remedy at law for any breach or attempted breach of the Executive's obligations under Sections 3.1, 3.2 and 3.3 may be inadequate, agrees that the Company may be entitled to specific performance and injunctive and other equitable remedies in case of any such breach or attempted breach and further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief. The Company shall have the right to offset against amounts to be paid to the Executive pursuant to the terms hereof any amounts owed by the Executive to the Company at the time of payment.

The termination of the Agreement shall not be deemed to be a waiver by the Company of any breach by the Executive of this Agreement or any other obligation owed the Company, and notwithstanding such a termination the Executive shall be liable for all damages attributable to such a breach.

3.6 Dispute Resolution. Subject to the Company's right to seek injunctive relief in court as provided in Section 3.4 of this Agreement, any dispute, controversy or claim

arising out of or in relation to or connection to this Agreement, including without limitation any dispute as to the construction, validity, interpretation, enforceability or breach of this Agreement, shall be settled by arbitration administered by the American Arbitration Association under its National Rules for the Resolution of Employment Disputes and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Any such Arbitration will be conducted: (i) by a neutral arbitrator appointed by mutual agreement of the parties; or (ii) failing such agreement, by a neutral arbitrator appointed in accordance with said AAA rules; the Company shall pay the fees and reasonable expenses of the arbitrator; the parties will be permitted reasonable discovery in accordance with the provisions of the Minnesota Rules of Civil Procedure, including the production of relevant documents by the other party, the exchange of witness lists, and a limited number of depositions, including depositions of any expert who will testify at the arbitration; the arbitrator's award will include findings of fact and conclusions of law showing the legal and factual bases for the arbitrator's decision; the arbitrator will have the authority to award to the prevailing party any remedy or relief that a United States District Court or court of the State of Minnesota could order or grant if the Dispute had first been brought in that judicial forum, including costs and attorney's fees; and unless otherwise agreed by the parties, the place of any arbitration proceeding will be Minneapolis, Minnesota.

3.7 Acknowledgement of Parties. The Company and the Executive understand and acknowledge that this Agreement means that neither can pursue an action against the other in a court of law regarding any employment dispute, except for claims involving workers' compensation benefits or unemployment benefits, and except as set forth elsewhere in this Agreement, in the event that either party notifies the other of its demand for arbitration under this Agreement. The Company and the Executive understand and agree that this Section 3.7, concerning arbitration, shall not include any controversies or claims related to any agreements or provisions (including provisions in this Agreement) respecting confidentiality, proprietary information, non-competition, non-solicitation, trade secrets, or breaches of fiduciary obligations by the Executive, which shall not be subject to arbitration.

3.8 Right to Consult Counsel. Executive has been advised of the Executive's right to consult with an attorney prior to entering into this Agreement.

3.9 Successors of the Company. The Company will require any Successor by agreement in form and substance satisfactory to the Executive, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. The failure of the Company to obtain such agreement prior to the effectiveness of any such succession shall be a breach of this Agreement and shall entitle the Executive to terminate the Agreement and receive compensation from the Company in the same amount and on the same terms as the Executive would be entitled hereunder if the Executive terminated the Executive's employment for Good Reason. As used in this

Agreement, "Company" as hereinbefore defined shall include any Successor to its business and/or assets as aforesaid which executes and delivers the agreement provided for in this Section 3.8 or which otherwise becomes bound by all the terms and provisions of this Agreement by operation of law.

3.10 **Executive's Heirs, etc.** The Executive may not assign the Executive's rights or delegate the Executive's duties or obligations hereunder without the written consent of the Company. This Agreement shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive should die while any amounts would still be payable to the Executive hereunder if the Executive had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the Executive's designee or, if there be no such designee, to the Executive's estate.

3.11 **Notices.** Any notice or communication required or permitted under the terms of this Agreement shall be in writing and shall be delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, or sent by nationally recognized overnight carrier, postage prepaid, or sent by facsimile transmission to the Company at the Company's principal office and facsimile number in Minnetonka, Minnesota, or to the Executive at the address and facsimile number, if any, appearing on the books and records of the Company. Such notice or communication shall be deemed given (a) when delivered if personally delivered; (b) five mailing days after having been placed in the mail, if delivered by registered or certified mail; (c) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (d) the business day after transmittal when transmitted with electronic confirmation of receipt, if transmitted by facsimile. Any party may change the address or facsimile number to which notices or communications are to be sent to such party by giving notice of such change in the manner herein provided for giving notice. Until changed by notice, the following shall be the address and facsimile number to which notices shall be sent:

If to the Company, to:

Attn: Chief Executive Officer

PINEAPPLE ENERGY INC.
10900 Red Circle Drive
Minnetonka, MN 55343
Fax: (952) 946-1835

If to the Executive, to:

Attn: Eric Ingvaldson



3.12 **Amendment or Waiver.** No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing signed by the Executive and such officer as may be specifically designated by the

Board (which shall not include the Executive). No waiver by either party hereto at any time of any breach by the other party hereto of or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party, which are not set forth expressly in this Agreement. This Agreement constitutes the entire agreement between the Company and the Executive as to the subject matter hereof; provided, however, the Employment Agreement shall remain in effect in accordance with its terms. No rights are granted to the Executive by virtue of this Agreement other than those specifically set forth herein.

3.13 **Invalid Provisions.** Should any portion of this Agreement be adjudged or held to be invalid, unenforceable or void, such holding shall not have the effect of invalidating or voiding the remainder of this Agreement and the parties hereby agree that the portion so held invalid, unenforceable or void shall if possible, be deemed amended or reduced in scope, or otherwise be stricken from this Agreement to the extent required for the purposes of validity and enforcement thereof. In this regard, the parties hereto hereby agree that any judicial authority construing this Agreement shall be empowered to sever any portion of the geographic area or any prohibited business activity from the coverage of this Agreement, and to reduce the duration of the non-compete period and to apply the provisions of this Agreement to the remaining portion of the geographic area or the remaining business activities not to be severed by such judicial authority and to the duration of the non-compete period as reduced by judicial determination.

3.14 **Survival of the Executive's Obligations** The Executive's obligations under this Agreement shall survive regardless of whether the Executive incurs a Termination of Employment, voluntarily or involuntarily, by the Company or the Executive, with or without Cause.

3.15 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

3.16 **Governing Law.** This Agreement and any action or proceeding related to it shall be governed by and construed under the laws of the State of Minnesota.

3.17 **Captions and Gender.** The use of Captions and Section headings herein is for purposes of convenience only and shall not affect the interpretation or substance of any provisions contained herein. Similarly, the use of the masculine gender with respect to pronouns in this Agreement is for purposes of convenience and includes either sex who may be a signatory.

3.18 **No guarantee of tax treatment.** Nothing herein shall be construed as an entitlement to or guarantee of any particular tax treatment to the Executive. This

Agreement is drafted and shall be interpreted to provide for payments that are exempt from, or that comply with, Code Section 409A.

IN WITNESS WHEREOF, the Executive and a duly authorized representative of the Company have signed this Agreement.

EXECUTIVE:

COMPANY:

Eric Ingvaldson

PINEAPPLE ENERGY INC.

/s/ Eric Ingvaldson

By:

/s/ Roger H.D. Lacey

Its:

Chairman

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