

**TESLA MOTORS, INC.****DISCLOSURE CONTROLS AND PROCEDURES****May 20, 2010****PURPOSE**

The purpose of our disclosure controls and procedures is to ensure that information we are required to disclose in Exchange Act reports is recorded, processed, summarized and reported, within the time periods specified by the SEC's rules and forms.

**I. BACKGROUND****A. Definition of Disclosure Controls and Procedures.**

The SEC defines "disclosure controls and procedures" as those controls and procedures that are designed to ensure that information required to be disclosed in Exchange Act reports is recorded, processed, summarized and reported, within the time periods specified by the SEC's rules and forms.

Disclosure controls and procedures relate to both financial and non-financial information. "Internal controls," which relate only to accounting and financial information, are an important component of disclosure controls and procedures to the extent that financial statements and information are a component of Exchange Act reports. Internal controls are those processes that provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes.

**B. Certification Regarding Disclosure Controls and Procedures.**

SEC rules require our CEO and CFO to certify in quarterly and annual reports, among other things, that with respect to disclosure controls and procedures they:

- Are responsible for establishing and maintaining disclosure controls and procedures, including internal controls (pursuant to SEC Rules 13a-15 and 15d-15);
- Have designed the disclosure controls and procedures to ensure that material information relating to the company and its consolidated subsidiaries is made known to them, particularly during the preparation of periodic reports;

UNITED STATES DISTRICT COURT	
NORTHERN DISTRICT OF CALIFORNIA	
Case Number:	3:18-cv-04865-EMC
PLTF / DEFT Exhibit No.	<b>318</b>
Date Admitted:	
By:	
Angella Meuleman, Deputy Clerk	

- Have designed the internal controls to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP; and
- Have evaluated the disclosure controls and procedures as of the end of each fiscal period (pursuant to SEC Rules 13a-15 and 15d-15) and have disclosed the conclusions of their evaluation in the periodic report (pursuant to Regulation S-K Item 307).

Sub-Certifications:

In an effort to ensure that key personnel exercise care and discipline, we receive sub-certifications from certain personnel involved in the preparation of reports. Our internal sub-certifications provide confirmation of compliance with our policies, applicable laws and regulations, and include questions regarding noncompliance, theft, fraud or dishonest acts, and other job specific queries. The sub-certification process also addresses transactions, commitments, settlements, receivables, related party transactions, contingent liabilities and subsequent events which might require disclosure. Any non-conforming responses are reviewed and evaluated by our CFO and Controller. Any significant matters are referred to Legal and our Disclosure Committee for further review and evaluation.

**C. Code of Business Conduct and Ethics.**

Our Code of Business Conduct and Ethics requires that employees support our disclosure controls and processes, and outlines consequences for failure to comply with our Code of Business Conduct and Ethics. The code further provides that management, the finance department and other selected employees comply with our disclosure controls and procedures, and outlines consequences for failure to comply with our Code of Business Conduct and Ethics. In addition to consequences directly impacting an employee, failure to comply with these requirements could result in an SEC enforcement action as well as civil and criminal liability, even where the failure did not lead to flawed disclosure.

**D. Auditor Testing of Internal Control Structure.**

As required by Sections 103(a)(2) and 404(b) of the Sarbanes-Oxley Act of 2002, the Public Company Accounting Oversight Board has established rules pertaining to testing by the independent auditors of internal control structure and procedures. Our disclosure controls and procedures are designed to assist our independent auditors in their review and audit of our financial statements and internal controls.

**II. DISCLOSURE COMMITTEE**

**A. Composition of Disclosure Committee.**

Our Disclosure Committee is a management committee appointed by the CEO and CFO, consisting of such officers and other employees as they shall deem best suited

to meet the requirements of subsection B, below. The Disclosure Committee shall include the director or equivalent of internal audit, members of the finance and legal organizations, and such other individuals as the CEO and CFO deem suitable based on their substantive area(s) of responsibility and potential contribution to the Disclosure Committee.

**B. Responsibilities of Disclosure Committee.**

The Disclosure Committee reports to our CEO and CFO, who maintain ultimate decision making authority regarding our disclosure controls and procedures as well as our external disclosures. The purpose of the Disclosure Committee is to assist in our efforts to maintain effective disclosure controls and procedures, recognizing that every employee has an obligation to help maintain effective disclosure controls and procedures. The Disclosure Committee's responsibilities are to assist to:

- Oversee our disclosure controls and procedures and report any observed deficiencies to our CEO and CFO;
- Consult with and review reports from our controller and internal audit functions regarding our internal controls;
- Review our quarterly, annual and current reports and proxy statements, and provide input to those who prepare and file such documents;
- Provide information to and answer questions raised by our CEO and CFO as they prepare to certify our quarterly and annual reports;
- Provide advice to our reporting group on potential matters requiring disclosure as the rules for disclosure change; and
- Evaluate our disclosure controls and procedures as of the end of each fiscal period prior to filing a quarterly or annual report.

**C. Operation of the Disclosure Committee.**

The Disclosure Committee shall be chaired by a representative of the Legal Department. The chair's responsibilities shall be to coordinate the activities and internal communication of the Disclosure Committee, to call meetings of the Disclosure Committee as appropriate, to coordinate communication with outside legal counsel in a manner consistent with preserving the attorney-client privilege, and to serve as the principal liaison between the Disclosure Committee and the CEO and CFO.

**III. INTERNAL INFORMATION FLOW**

**A. Financial Information.**

With respect to accounting and financial information, our current internal controls and financial information evaluation process includes the following:



- regular business meetings with the CEO and/or CFO in which business and operating information is reviewed and discussed;
- reviewing reports from our finance and internal audit functions responsible for maintaining and testing our internal controls;
- consistent quarterly close process, including a schedule of key events and meetings;
- financial review and approval, including internal and external auditor reviews, CFO review, CEO review, auditor's SAS 100 review, audit committee review and legal counsel consultation; and
- consideration of key financial information, such as reserves, possible impairments, significant matters involving management judgments, and other areas included in critical accounting policies.

As a result of such process, the CEO and CFO, and the Disclosure Committee, have access to the following:

- current information regarding our operations and operational metrics;
- information regarding our subsidiaries, divisions and geographies;
- sufficient financial information to observe consistency with other internal information;
- access to individuals that contribute to our disclosure controls and procedures; and
- whistleblowing channels.

**B. Non-Financial Information.**

In addition to the formal processes for control of financial reporting information noted above in Section A, the CEO and CFO and the Disclosure Committee also maintain processes for accumulating and communicating non-financial information and developments in our business so that such developments can be evaluated for disclosure. Such information is accessed through our internal audit function, our finance department, our legal department, our business unit heads and from other Disclosure Committee members. Non-financial information that the SEC may require to be disclosed includes information, among other things, regarding:

- material contracts;
- material operational developments;
- legal proceedings;



- regulatory proceedings;
- material acquisitions or divestitures;
- submission of matters to vote of security holders;
- corporate governance matters, including changes to charter documents;
- information regarding directors and officers, including executive compensation programs;
- business trends and risks; and
- real property and plant equipment.

#### **IV. EXTERNAL REPORTING AND DISCLOSURE**

##### **A. General; Responsibilities.**

Changes in SEC reporting requirements and accounting standards are routinely monitored by our senior finance, audit and legal staff to help ensure that all applicable accounting and reporting requirements are reported correctly in all periodic filings and reports, with all material developments relating thereto being reported to the Disclosure Committee. The finance and legal departments, respectively, follow enacted and proposed changes in these regulations on an ongoing basis in their respective areas, and the legal department follows enacted and proposed changes in the listing standards of the Nasdaq Stock Market (the “Nasdaq”) on an ongoing basis in the legal department’s area, supplemented in each case by monitoring by our internal auditors, independent accountants and internal and external legal counsel.

Finance is responsible for the implementation of new or revised SEC financial reporting and disclosure requirements as they relate to SEC reports and for the dissemination of such new or revised requirements to the appropriate individuals. Legal is responsible for the implementation of new or revised SEC financial reporting and disclosure requirements and Nasdaq listing standards as they relate to proxy materials and for the dissemination of such new or revised requirements to the appropriate individuals.

Periodic meetings chaired by the head of financial accounting include representatives from our centralized finance functions, including finance and the business units and provide a forum to discuss accounting and disclosure matters with appropriate referral of such matters to senior management.

Based on the type of information required to be disclosed, different functions within the finance and legal departments will coordinate and oversee the compiling, preparing and filing of the appropriate disclosures with the SEC and communications with the investing community, regardless of whether such disclosures are Exchange Act filings subject to the SEC rules relating to disclosure controls and procedures. The

various parties responsible for the SEC filings and other public disclosures are set forth in the below referenced exhibits.

**B. Maintenance of Records.**

Records indicating how each covered report was prepared shall be maintained as part of the formal records. Finance shall maintain a catalog of policies, procedures and controls relative to the accounting/reporting processes. These materials shall include documentation describing controls over the centralized financial process and data received from remote affiliates and general ledger subsystem interfaces. Decentralized units shall maintain appropriate controls over their particular processes. These financial controls shall be reviewed on a regular basis by internal audit and the external auditors and by the CFO to help ensure that they are designed to ensure timely and accurate financial reporting. Additionally, the information shall be made available for review by the Audit Committee and Disclosure Committee. The resolution of any disagreements between or among the members of the Disclosure Committee, the Audit Committee, internal auditors, external auditors, management and others that may arise in connection with the certification and review procedures shall be appropriately documented.

**C. Forms 8-K.**

Our policies and procedures for preparing a current report on Form 8-K are set forth on Exhibit A.

**D. Forms 10-Q.**

Our policies and procedures for preparing a quarterly report on Form 10-Q are set forth on

EXHIBIT B.

**E. Forms 10-K.**

Our policies and procedures for preparing an annual report on Form 10-K are set forth on Exhibit C.

**F. Proxy Statements and Other Soliciting Materials.**

Our policies and procedures for preparing proxy statements and other soliciting materials are set forth on Exhibit D.

**G. Financial Press Releases and Investor Presentations.**

Our policies and procedures for issuing financial press releases and delivering investor presentations are set forth on EXHIBIT E.

**H. Section 16 Disclosure Procedures.**

Our policies and procedures for our officers' and directors' Section 16 reports are set forth on Exhibit F.

**V. RECOMMENDED PROCEDURES FOR EVALUATING DISCLOSURE CONTROLS AND PROCEDURES**

**A. Background.**

SEC rules require us to evaluate, under the supervision of our CEO and CFO, the effectiveness of our disclosure controls and procedures as of the date of the end of each fiscal period. The overall purpose of the evaluation is to determine whether our disclosure controls and procedures, as defined in SEC rules, are "effective."

**B. Evaluation Procedures.**

The evaluation includes the following:

- Interviews of participants in the internal information flow and external disclosure processes, including auditors and outside counsel.
- Review of relevant documents, including back-up documentation of previous periodic reports filed with the SEC.

The evaluation is broad and asks at least the following questions:

- What, if any, changes have occurred since the last evaluation that might affect the functioning of our disclosure controls and procedures?
- What, if any, issues arose in our prior external disclosures that might have been avoided through changes in our disclosure controls and procedures?



- What changes in the legal requirements for disclosure have occurred since our last evaluation?
- Is our internal information flow and process adequate to produce consistent, accurate information and reduce the risk of fraud?
- Have any parties identified irregularities or deficiencies in our disclosure procedures and controls?
- Are sufficient procedures in place to test the accuracy of our financial and non-financial information?
- For periodic filings with the SEC, and considering our SEC form and Regulations S-K and S-X checklists, are the appropriate personnel still involved?
- Are the appropriate personnel participating in the drafting of MD&A and risk factors?
- Are the appropriate internal and external personnel reviewing our external disclosures, and is adequate time provided for their review and the incorporation of their comments?
- Do all participants understand their responsibilities in the process?

If any potential material errors or omissions are uncovered in the evaluation process, those errors or omissions will be pursued under the supervision of the CEO and CFO, with input from the Legal Department and outside counsel, if necessary.

Our disclosure controls and procedures will be updated based on the results of the evaluation, as necessary or advisable.

## **VI. PROCEDURES REGARDING CEO AND CFO CERTIFICATIONS OF PERIODIC REPORTS**

### **A. Background.**

Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, as well as SEC rules, require our CEO and CFO to certify each quarterly and annual report. Among other things, the certifications require certain statements regarding our disclosure controls and procedures, as well as our evaluation of those controls and procedures. At a minimum, the CEO and CFO should follow the following procedures as part of their “due diligence” preparation to make the required certifications.

### **B. Review.**

Review the report to be certified, allowing sufficient time in the report preparation process for this review and any comments.

**C. Meeting with Involved Parties.**

Meet with the Disclosure Committee, outside auditors, legal counsel, internal accounting and auditing staff and other personnel who are involved in the preparation of the report to confirm their understanding that the report contains no material misstatements or omissions, complies with SEC rules as required and fairly presents, in all material respects, our business, financial condition and results of operations as it relates to their areas of oversight. Review the level of involvement of senior management and other key employees (such as business unit heads), auditors, outside counsel and the Audit Committee in preparing the report. Review reports of any sub-certifications obtained.

**D. Discussion of Processes.**

Discuss with internal accounting and auditing staff and outside auditors the processes used for preparing the financial statements (and other financial information) included in the report, paying particular attention to:

- Our financial reporting system employed to prepare the financial information, with particular focus on the adequacy of internal controls as well as the size and expertise of financial and auditing staff;
- The critical accounting policies employed, such as revenue recognition and capitalization policies, with particular focus on any variations from customary industry accounting practices and any changes in accounting practices;
- The important assumptions and estimates underlying the financial statements and other financial information;
- Business trends and significant developments;
- Issues raised in past SEC comment letters, analyst reports or other external documents regarding our accounting or financial reporting;
- Any off-balance sheet, pro forma or other information not set forth in GAAP financials that may be material to an investor's understanding of our business;
- Any goodwill impairment or other write-offs;
- Any related party transactions; and
- Any disagreements concerning accounting issues and their resolution.

**E. Discussion of trends and risks.**

Discuss the text of the report with those responsible for preparing the report, paying particular attention to:

- Our major risk exposures, including any pending litigation, the steps taken to monitor these risks, and the related disclosures in the report;
- Our major contractual obligations and the related disclosures in the report, including a review of which contracts will be filed as exhibits;
- Our disclosures under MD&A, including the important trends and risks potentially affecting our business, financial performance and liquidity, with particular focus on any inconsistencies in the report with concurrent internal communications; and
- Any disagreements concerning disclosure issues and their resolution.

**F. Compliance Check.**

Have appropriate personnel perform a thorough compliance check on the report against the requirements of Regulations S-K and S-X and discuss the results of this check with such personnel.

**G. Audit Committee.**

Review the steps taken and conclusions reached with the Audit Committee.

**H. Documentation.**

Document the steps taken in such review. This documentation should describe the process undertaken, but should not be a transcript of the conversations held. Consider limiting access to this documentation solely to the certifying officers and legal counsel so as to preserve any attorney-client privilege protection that may be available.

**I. Problem Resolution.**

If any potential material errors or omissions are uncovered in the diligence process, stop and pursue them. At the first indication of a problem, involve the Legal Department. Promptly thereafter, inform the Audit Committee. Depending on what is found, an internal investigation may need to be undertaken.



## **EXHIBIT A**

### **Form 8-K Procedures**

#### **Preparation of Forms 8-K:**

From time to time, the SEC has amended the events required to be reported on Form 8-K and the length of time following such events in which reports are required to be filed. Legal routinely monitors SEC actions with respect to pending and final rule changes relating to Form 8-K filings, and will institute procedures designed to ensure that the appropriate information is collected and analyzed to enable timely review and filing.

Depending upon the nature of the event being reported on Form 8-K, primary responsibility for the preparation, review and filing of the Form 8-K report may rest with either Finance or Legal. A Form 8-K may also be filed for Regulation FD disclosure, in such case Legal would be primarily responsible for preparing such report.

Drafts of Form 8-K filings are reviewed as necessary by our independent accountants, CFO, and internal and external legal counsel. Additional reviews by management and the Board are dependent upon the nature of the disclosure contained in each report. If applicable, workpapers are prepared and provided to our independent accountants on a timely basis for review prior to filing.

In the event that any document or agreement to be filed as an exhibit to a Form 8-K requires confidential treatment, the appropriate parties responsible for preparation of the Form 8-K will advise and work with Legal to prepare and file a confidential treatment request with the SEC.

#### **Filing of Forms 8-K:**

Once reviewed by all required parties, the draft of the reviewed Form 8-K is sent to an external financial printing firm to be converted (along with any exhibits) into a format suitable for submission to the SEC via the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") filing system. Following conversion of the draft Form 8-K and exhibits into an EDGAR-suitable format, Legal proofreads the EDGAR draft for accuracy and Finance proofs any financial statements.

Following final review, the financial printer provides Legal with an "EDGAR submission proof" representing the final draft of the EDGAR filing and any exhibits prior to submission to the SEC. Following review by Legal, the EDGAR submission proof of the Form 8-K report is executed by the appropriate officer: typically, the CEO will execute all general Forms 8-K and the CFO will execute all financial Forms 8-K; subject to availability of each officer, any of our executive officers are authorized to execute Forms 8-K. Manually executed signature pages are maintained in Legal records in accordance with SEC regulations.

After Legal receives the manually executed Form 8-K filing, Legal authorizes the financial printer to file the Form 8-K electronically via EDGAR with the SEC. Once

filed, a confirmation from the SEC is sent via email from the financial printer and retained by Legal as a component of the supporting documentation of the Form 8-K.

Subsequent to filing, Legal initiates a process with the investor relations department to create a hypertext link to the filed Form 8-K via our Internet web site.

## **EXHIBIT B**

### **Form 10-Q Procedures**

#### **Preparation of Forms 10-Q:**

Certain employees within Accounting and Tax, among others, assist Finance and Legal with the preparation of specific sections of the Form 10-Q. In addition, inquiries are made of others (including business unit executives) regarding any material business developments or trends and other potential disclosure matters.

Prior to each quarter-end other than the end of the fiscal year, Finance, in conjunction with Legal, prepares and distributes assignment sheets and/or other memoranda to employees responsible for the preparation or review of one or more portions of the Form 10-Q and their respective supporting schedules that outline key dates and individual responsibilities for supporting documentation.

Each Form 10-Q is reconciled to the consolidated general ledger. Workpapers are maintained to support each page and/or supplemental schedule of the Form 10-Q and include the signatures of both the preparer and reviewer/approver of each workpaper. Supporting documentation is maintained by Finance for each section of the Form 10-Q and includes the signatures of both the preparer and reviewer/approver of each. A financial disclosure checklist is prepared by Finance to help ensure that all required covered disclosures have been made.

Finance solicits information from appropriate employees, including internal legal counsel, regarding possible nonrecurring exhibits to the Form 10-Q pursuant to Item 601 of Regulation S-K.

In the event that any disclosure contained in the Form 10-Q, or exhibits to be filed therewith, requires confidential treatment, Finance will advise and work with Legal to prepare and file a confidential treatment request with the SEC.

Our internal audit function performs a quarterly review of significant transactions which may impact the consolidated financial statements and related disclosures contained in the Form 10-Q.

For the period covered by the Form 10-Q and through the filing date, Finance and Legal review corporate press releases and perform a review to determine if any Forms 8-K have been filed on behalf of the Corporation which would require disclosure in the Form 10-Q. Finance and Legal also review the risk factors, trends and uncertainties, forward looking statements and any non-GAAP measures contained in the draft Form 10-Q to determine whether any update from the previous quarter's periodic report are required.



### Review of Forms 10-Q:

The Form 10-Q is reviewed by our independent accountants, internal auditors, appropriate corporate and business unit management personnel, and in-house legal counsel (with the assistance of external legal counsel as appropriate). The internal management distribution of drafts includes, but is not limited to, the Disclosure and Audit Committees and such additional management personnel as is customary and appropriate. A complete copy of the Form 10-Q workpapers and other supporting documentation is provided on a timely basis to our independent accountants for review prior to filing.

As necessary, comments or questions raising significant disclosure issues will be raised with the Disclosure Committee for further review and discussion. As necessary, the Disclosure Committee will discuss among its members, and communicates with the Audit Committee, with respect to significant disclosure issues considered by the Disclosure Committee.

Prior to filing, Finance, our independent accountants, Legal and external legal counsel perform a “rules check” on the Form 10-Q to verify that it complies as to form with the technical requirements of the applicable securities laws and regulations pursuant to which it is being filed, including Regulations S-K and S-X, and GAAP. Finance and Legal review all prior SEC comment letters relating to accounting and disclosure matters and our responses to the SEC prior to filing of a Form 10-Q to ensure compliance with comments and undertakings. We seek to resolve outstanding SEC comments relating to accounting and disclosure matters prior to filing.

Prior to filing, the Form 10-Q is reviewed by the Disclosure Committee. The CEO and CFO together with the Disclosure Committee make appropriate inquiries (including with the internal and external auditors, the General Counsel or the Legal Department and risk management officers as appropriate in the view of the Disclosure Committee) into the quality and timeliness of our controls and reporting systems. In particular, they review any issues that are raised regarding weaknesses in the disclosure and control systems or internal controls, and how they have been addressed. They also discuss any changes that have been made to the nature and scope of procedures relating to internal controls.

In connection with the review by the Disclosure Committee and the CEO/CFO certifications, selected corporate and business unit management meet with the CEO and CFO (and with the other members of the Disclosure Committee if so desired), as requested by the CEO and CFO (or the Disclosure Committee as the case may be) to discuss the content of the filing and provide internal sub-certifications or other affirmations tailored to the areas of responsibilities of the individuals making the certifications of the information contained in the filing in support of the CEO/CFO certifications, and reasonable disagreements between individuals providing internal sub-certifications or affirmations are resolved (with appropriate documentation of such resolutions). The CEO and CFO, together with the Disclosure Committee, confirm with our internal auditors and independent accountants that neither is aware of material misstatements or omissions in any Form 10-Q prior to filing.

Drafts of the Form 10-Q are provided to the Board and/or Audit Committee in advance of the related meetings at which such drafts are reviewed with our management. The Audit Committee reviews a draft of the Form 10-Q with management and the outside auditors after all internal review procedures have been completed and prior to filing. The Audit Committee discusses with management the material issues which arose in connection with the preparation of the Form 10-Q. In addition, the Audit Committee reviews the material issues that relate to the design and implementation of our internal and disclosure controls. In particular, the Audit Committee should confirm with the CEO and CFO whether there are any deficiencies in the internal controls or alleged fraud (whether material or not) involving management or other employees with significant roles in internal controls. The Audit Committee also discusses with the CEO and the CFO the certifications that they are providing and understand the procedures they undertook.

The independent accountants provide a report addressed to the Audit Committee regarding the quarterly reviews performed by our independent accountants, which includes review of the Form 10-Q and an SAS 100 letter. This report and letter is dated as of or within a few days prior to the filing of the Form 10-Q.

The Form 10-Q is certified by the CEO and the CFO in connection with the certification requirements established in 2002 under SEC Release No. 33 8124 and Section 906 of the Sarbanes-Oxley Act of 2002. The CEO/CFO certifications required pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 accompany the Form 10-Q as Exhibits thereto.

#### Filing of Forms 10-Q:

Once reviewed by all required parties, the electronic draft of the reviewed Form 10-Q is sent to the financial printer to be converted (along with exhibits, including the XBRL financial statements) into an EDGAR draft. The process for the EDGAR draft conversion, proofreading and subsequent modification or revision of the draft Form 10-Q generally follows those procedures set forth with regard to Forms 8-K above with Finance primarily responsible.

Exhibits to the Form 10-Q are provided to the financial printer for EDGAR conversion as far in advance of submission of the text of the Form 10-Q as possible, assuming such exhibits are unlikely to change (e.g., conformed copies of contracts, etc.).

Following final review, the financial printer provides Finance and Legal with an "EDGAR submission proof" representing the final draft version of the Form 10-Q and any exhibits prior to submission to the SEC. Following review, the EDGAR submission proof of the Form 10-Q report is executed by the CFO. Manually executed signature pages for the Form 10-Q and for the required CEO/CFO certifications are maintained by Legal for at least five years in accordance with SEC regulations.

After Legal receives the manually executed Form 10-Q filing, Legal authorizes the financial printer to file the Form 10-Q electronically via EDGAR with the SEC. Once

filed, a confirmation from the SEC is sent via email from the financial printer and retained by Legal as a component of the supporting documentation of the Form 10-Q.

Subsequent to filing, Legal initiates a process with the investor relations department to create a hypertext link to the filed Form 10-Q via our Internet web site.



## **EXHIBIT C**

### **Form 10-K Procedures**

#### **Preparation of Forms 10-K:**

Certain employees within Accounting and Tax, among others, assist Finance and Legal with the preparation of specific sections of the Form 10-K. In addition, inquiries are made of others (including business unit executives) regarding any material business developments or trends and other potential disclosure matters.

Prior to each fiscal year-end, Finance, in conjunction with Legal, prepares and distributes assignment sheets and/or other memoranda to employees responsible for the preparation or review of one or more portions of the Form 10-K and their respective supporting schedules that outlines key dates and individual responsibilities for supporting documentation.

Supporting documentation is maintained by Finance for each section of the Form 10-K and includes the signatures of both the preparer and reviewer/approver of each. A financial disclosure checklist is prepared by Finance to help ensure that all required covered disclosures have been made.

Finance solicits information from appropriate employees, including internal legal counsel, regarding possible nonrecurring exhibits to the Form 10-K pursuant to Item 601 of Regulation S-K.

In the event that any disclosure contained in the Form 10-K, or exhibits to be filed therewith, requires confidential treatment, Finance will advise and work with Legal to prepare and file a confidential treatment request with the SEC.

For the period covered by the Form 10-K and through the filing date, Finance and Legal review corporate press releases and performs a review to determine if any Forms 8-K have been filed on behalf of us which would require disclosure in the Form 10-K. Finance and Legal also review the risk factors, trends and uncertainties, forward looking statements and any non-GAAP measures contained in the draft Form 10-K to determine whether any update from the previous quarter's periodic report are required.

Our internal audit function performs a quarterly review of significant transactions which may impact the consolidated financial statements and related disclosures contained in the Form 10-K.

#### **Review of Forms 10-K:**

Once a draft Form 10-K is prepared, the review of the process for the review of the draft Form 10-K generally follows those procedures set forth with regard to Forms 10-Q above.

The Board of Directors, including the Audit Committee, reviews a draft of the “Financials” section of the Annual Report to Stockholders at the [Month] board meeting. The Financials section consists of selected consolidated financial data, management’s discussion and analysis of financial condition and results of operations, reports from management and the independent accountants on the consolidated financial statements, consolidated financial statements, notes to consolidated financial statements and statistical information.

At a meeting held in early [Month], the Audit Committee reviews a draft of the entire Annual Report prior to printing.

The Financials section is also included in the Form 10-K. The Board reviews a draft of the body of the Form 10-K prior to filing. Together with a draft of the Form 10-K, our directors are furnished with and asked to sign a power of attorney after they have reviewed the Form 10-K in accordance with the SEC’s signature requirements. The manually-signed powers of attorney are kept on file by Finance in accordance with SEC regulations.

Drafts of the Financials, Annual Report, and Form 10-K are provided to the Board and/or Audit Committee in advance of the related meetings at which such drafts are reviewed with our management.

Our independent accountants provide a report addressed to our Board regarding their review of the Form 10-K. This report is separate from the report of independent accountants resulting from their audit of the consolidated financial statements which is included in the Financials referred to above. The Form 10-K review report is dated as of or within a few days prior to the filing of the Form 10-K. The signed audit letter is also received prior to the filing of the Form 10-K.

The Form 10-K is certified by the CEO and the CFO in connection with the certification requirements established in 2002 under SEC Release No. 33 8124 and Section 906 of the Sarbanes-Oxley Act of 2002. The CEO/CFO certifications required pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 accompany the filings as Exhibits thereto.

#### Filing of Forms 10-K:

Once reviewed by all required parties, the electronic draft of the reviewed Form 10-K is sent to the financial printer to be converted (along with exhibits, including the XBRL financial statements) into an EDGAR draft. The process for the EDGAR draft conversion, proofreading and subsequent modification or revision of the draft Form 10-K generally follows those procedures set forth with regard to Forms 8-K and 10-Q above.

Following final review, the financial printer provides Finance and Legal with an “EDGAR submission proof” representing the final draft version of the Form 10-K and any exhibits prior to submission to the SEC. Following review, the EDGAR submission proof of the Form 10-K report is executed by the CEO. Manually executed signature

pages for the Form 10-K and for the required CEO/CFO certifications are maintained by Legal for at least five years in accordance with SEC regulations.

After Legal receives the manually executed Form 10-K filing, Legal will authorize the financial printer to file the Form 10-K electronically via EDGAR with the SEC. Once filed, a confirmation from the SEC is sent via email from the financial printer and retained by Legal as a component of the supporting documentation of the Form 10-K.

Subsequent to filing, Legal initiates a process with the investor relations department to create a hypertext link to the filed Form 10-K via our Internet web site.

## **EXHIBIT D**

### **Proxy Statement and Other Soliciting Materials Procedures**

#### **Preparation of Proxy Statement and Other Soliciting Materials:**

Certain employees within Accounting, Human Resources, and Tax, among others, assist Finance and Legal with the preparation of specific sections of the Proxy Materials. In addition, inquiries are made of others (including business unit executives) regarding any material business developments or trends and other potential disclosure matters.

At the beginning of each [Month], Legal distributes Director & Officer Questionnaires to all persons who served as either directors or executive officers during the prior fiscal year and prepares and distributes memoranda and worksheets to employees responsible for the preparation or review of one or more portions of the Proxy Materials that outlines key dates and individual responsibilities for supporting documentation. The form of Director & Officer Questionnaire is reviewed annually for adequacy and compliance with any proxy rule changes since the preceding proxy season.

Supporting documentation, including worksheets, D&O questionnaires and computer reports, are maintained by Legal for each section of the Proxy Materials and includes the signatures of both the preparer and reviewer/approver of each.

The Board, in consultation with Legal, determines which shareholder proposals are required to be included in our Proxy Materials.

Legal, in consultation with internal and external counsel, and independent and internal auditors, performs a “rules check” on the Proxy Materials to verify that they comply as to form with the technical requirements of the applicable securities laws and regulations pursuant to which they are being filed and with applicable Nasdaq listing standards.

Legal reviews any SEC comment letters on our filings relating to Proxy disclosure matters and our responses to the SEC prior to filing of the Proxy materials to help ensure compliance with any applicable comments and undertakings.

Legal solicits information from appropriate employees, including internal legal counsel, regarding possible nonrecurring disclosure items required to be included in the Proxy Materials pursuant to Regulations 14A and S-K.

#### **Review of Proxy Materials:**

Prior to filing, the Proxy Materials are reviewed by our independent accountants, appropriate corporate and business unit management, and in-house and external legal counsel. The internal management distribution of drafts includes, but is not limited to, the Disclosure Committee and such additional management personnel as is customary and



appropriate. Copies of all supporting documentation are made available on a timely basis to our independent accountants for review prior to filing.

As necessary, comments or questions raising significant disclosure issues will be raised with the Disclosure Committee for further review and discussion. As necessary, the Disclosure Committee will discuss among its members, and communicate with the Audit Committee, with respect to significant disclosure issues considered by the Disclosure Committee.

Our Board of Directors, including the Audit Committee and Compensation Committee, reviews a draft of the Proxy materials during [Month] meetings.

At meetings held in early [Month], the Audit Committee reviews a draft of the Proxy Materials and the Disclosure committee reviews a draft of the compensation discussion and analysis section each prior to printing the Proxy materials.

Each director receives a draft of the Proxy Materials prior to printing and is contacted by Legal prior to printing to determine whether the director has any final comments.

#### Filing of Proxy Materials:

Once reviewed by all required parties, the electronic draft of the reviewed Proxy Materials is sent to the financial printer to be converted (along with exhibits, including the Proxy voting card) into an EDGAR draft. The process for the EDGAR draft conversion, proofreading and subsequent modification or revision of the draft Proxy materials generally follows those procedures set forth with regard to Forms 8-K, 10-Q and 10-K above.

#### Other Soliciting Materials:

From time to time we may issue other soliciting materials required to be filed with the SEC. Examples of such other soliciting materials that we have filed in the past include letters to our employees and letters to our stockholders. The processes for the preparation, review and filing of such other soliciting materials are similar to the processes for the preparation, review and filing of proxy materials as described above.

## **EXHIBIT E**

### **Financial Press Releases and Investor Presentations Procedures**

#### **Non-Quarterly Financial Press Releases and Investor Presentations Procedures**

From time to time we issue press releases reporting our results of operations or financial condition and engage in investor and industry presentations. Preparation of financial press releases and related conference call announcements are primarily overseen by Investor Relations based upon information provided by Finance. Prior to publication, all financial press releases are reviewed by our CEO, CFO, Vice President of Finance, Vice President of Investor Relations, Controller, Audit Committee, legal department, finance department and public relations department and independent registered public accounting firm. All conference call announcements are reviewed by Legal, Finance and Investor Relations. Once the press release is distributed to Nasdaq and BusinessWire, Investor Relations will create a hypertext link to the press release and announcement via our Investor Relations web site.

Investor and industry presentations are primarily overseen by Investor Relations based upon information provided by Finance. Prior to use, presentations are reviewed by our CEO, CFO, legal department and finance department. Investor and industry presentations are further reviewed by external legal counsel as appropriate.

As part of their review Legal and external legal counsel, as necessary, review all financial press releases, announcements and presentations for disclosures of material non-public information, forward looking guidance, non-GAAP financial measures or events which may require disclosure on Form 8-K and ensure compliance with the requirements of Regulation FD, Regulation G, Regulation S-K and our Investor Relations Disclosure Policy.

Records of the preparation of financial press releases, announcements and presentations are maintained in accordance with the same procedures relating to covered reports.

**EXHIBIT F**

**Section 16 Procedures**

## **STOCK REPORTING BY EXECUTIVE OFFICERS & DIRECTORS**

For 16(b) reporting purposes, the following information is required for each stock transaction by a Company officer or director:

### **Stock Option Grants:**

- ❖ The Director of HR provides to Legal a list of option grants which have been approved by the Compensation Committee of the Board of Directors for all executive officers and/or directors. Based on HR's list, Legal provides an Option Grant Report which includes name, option grant number, number of options, date of grant, price per share and vesting.

### **Stock Option Exercises:**

- ❖ Legal provides individual Option Summary Reports for the particular option grant number under which they exercised (no need to provide their entire Option Summary history). This Option Summary Report includes option grant number, grant price, exercise date, sale type (Same-Day-Sale or cash), number of shares, sale price (value).

### **ESPP Purchases:**

- ❖ Legal provides a report showing the number of shares purchased and date of purchase.

### **ESPP Sales:**

- ❖ Legal provides a report that includes purchase date, purchase price, number of shares sold, date of sale, and sale price.

### **Annual Option Grants to Board of Directors:**

- ❖ Shortly following the Company's Annual Stockholder Meeting in [Month], each director receives an annual option grant of 50,000 shares. Options vest on the earlier of (i) the one year anniversary of the vesting commencement date or (ii) the day prior to the next annual meeting, subject to the director's continued service through such vesting date. Legal provides price per share as of the close of market for the day of grant.



## **Officer / Director Stock Options or ESPP Transaction Guidelines**

You must notify Legal and your Broker in advance of your transaction date in order to ensure that the correct forms and communications are in order prior to actually processing a stock option or ESPP transaction. If you have any questions about whether the trading window is open (either because of the normal black-out period or as the result of a special transaction), you should contact [ ] for clearance.

### **Transaction Process**

(Steps 1-3 can be completed in advance of your transaction date)

1. Call or email Legal of intention to trade, preferably 24 hours prior to processing a transaction. Provide Legal your Broker contact information.
  - a. Legal will contact your Broker to confirm that your trading window is open and confirm your exercisable options (if applicable).
2. Call Broker
  - a. Confirm that your account is active for trading.
  - b. Broker will fax or email you the FORM 144.
3. Fax the signed and completed forms to Broker (Broker will assist in the completion of the forms). This must be done before your transaction can be completed. **If the Form 144 is not completed you cannot trade.**
4. Call Broker to execute transaction.
5. Broker will process transaction and submit FORM 144 to the SEC on the day of your transaction.
6. Prior to the end of the month in which you sell any Company shares, including stock options or ESPP shares, email Legal the details of your transaction: date of sale, number of shares, sale price and specify if ESPP, options or open market sales and purchases.

Note: It is important that your Broker is able to reach you during this time. A trade cannot be processed if there is ANY missing information.

### **Contacts**

[LIST]