

G III APPAREL GROUP LTD /DE/
Form SC 13G/A
February 14, 2019

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13G/A

Under the Securities Exchange Act of 1934

(Amendment No. 21)*

G-III Apparel Group, Ltd.

(Name of Issuer)

Common stock, \$0.01 par value per share

(Title of Class of Securities)

36237 H 101

(CUSIP Number)

December 31, 2018

(Date of Event Which Requires Filing of this Statement)

Check the appropriate box to designate the rule pursuant to which this Schedule is filed:

Rule 13d-1(b)

Rule 13d-1(c)

Rule 13d-1(d)

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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1 Names of reporting persons.

I.R.S. IDENTIFICATION NOS. OF
ABOVE PERSONS (ENTITIES
ONLY).

2 Morris Goldfarb
Check the appropriate box if a
member of a group

(a) (b)

3 SEC use only

4 Citizenship or place of organization

Number of ^{United States} 5 Sole voting power
shares
beneficially 2,580,569
owned by
each
reporting
person

with

6 Shared voting power

1,312,266

7 Sole dispositive power

2,580,569

8 Shared dispositive power

1,312,266

9 Aggregate amount beneficially owned by each reporting person

3,892,835 shares, which includes (i) 166,750 shares owned by Goldfarb Family Partners L.L.C., of which the reporting person is the sole Manager, (ii) 72,802 shares owned by The Morris and Arlene Goldfarb Family Foundation, Inc., of which the reporting person is the President and Treasurer, (iii) 882,600 shares owned jointly with the reporting person's spouse, (iv) 29,666 shares owned by the reporting person's spouse, (v) 200,000 shares held by The Morris Goldfarb 2012 Delaware Trust (the reporting person serves as a member of the Trust Committee of the Trust, which directs the Trustee's decisions as to voting and disposition of the shares held in the Trust), (vi) 200,000 shares held by The Arlene Goldfarb 2012 Delaware Trust (the reporting person's spouse serves as a member of the Trust Committee of the Trust, which directs the Trustee's decisions as to voting and disposition of the shares held in the Trust) and (vii) 494,915 shares issuable upon vesting of restricted stock units, which are subject to various vesting conditions.

10 Check if the aggregate amount in
Row (9) excludes certain shares (see
instructions)

11 Percent of class represented by
amount in Row 9

7.9%
12 Type of reporting person (see
instructions)

IN

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Note: This Schedule 13G/A reflects a statement of beneficial ownership of securities of the reporting person as of December 31, 2018.

Item 1(a) Name of Issuer :

G-III Apparel Group, Ltd.

Item 1(b) Address of Issuer's Principal Executive Offices :

512 Seventh Avenue

New York, New York 10018

Item 2(a) Name of Person Filing :

See Item 1 of the cover page attached hereto

Item 2(b) Address of Principal Business Office,
or if none, Residence:

c/o G-III Apparel Group, Ltd.

512 Seventh Avenue

New York, New York 10018

Item 2(c) Citizenship :

See Item 4 of the cover page attached hereto

Item 2(d) Title of Class of Securities :

Common stock, par value \$0.01 ("Common Stock")

Item 2(e) CUSIP Number :

36237 H 101

Item 3 If this statement is filed pursuant to §§240.13d-1(b) or 240.13d-2(b) or (c), check whether the person filing is a:

- (a) Broker or dealer registered under Section 15 of the Act;
 - (b) Bank as defined in Section 3(a)(6) of the Act;
 - (c) Insurance company as defined in Section 3(a)(19) of the Act;
 - (d) Investment company registered under Section 8 of the Investment Company Act of 1940;
 - (e) An investment adviser in accordance with Rule 13d-1(b)(1)(ii)(E);
 - (f) An employee benefit plan or endowment fund in accordance with Rule 13d-1(b)(1)(ii)(F);
 - (g) A parent holding company or control person in accordance with Rule 13d-1(b)(1)(ii)(G);
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	(h)	22,078	27,4900	3/1/23		
Gretchen W. McClain (5)	3/3/11		59,598	32.3818	12/16/15	
	11/7/11		102,533	24.6000	12/16/15	
	3/2/12		172,975	26.6000	12/16/15	
Michael L. Kuchenbrod (5)	2/2/04	19,593		21.0302	2/2/14	
	3/7/07	6,599		32.5558	3/7/14	
	3/10/08	8,220		29.8050	3/10/15	
	3/5/09	15,906		18.6330	1/28/16	
	3/5/10	13,555		30.0295	1/28/16	
	3/3/11	8,799	4,400	32.3818	1/28/16	
	11/7/11	18,296	9,147	24.6000	1/28/16	
	3/2/12	11,193	22,385	26.6000	1/28/16	

(1) Vesting information for vested stock options (vesting occurs on the applicable anniversary of the grant date):

Mr. Speetzen: 2009 award vested one-third in 2010 and two-thirds in 2012. All other awards vested in three equal installments over the three-year period following the grant date.

Mr. Napolitano and Mr. Kuchenbrod: 2004 award vested 100% on the grant date. All other awards vested in three equal installments over the three-year period following the grant date.

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(2) The following table provides the vesting schedule for unvested stock options (vesting occurs on the applicable anniversary of the grant date).

Name	Grant	Vesting Schedule (#)		
	Date	2014	2015	2016
Michael T. Speetzen	3/3/11	4,535		
	11/7/11	22,477		
	3/2/12	20,350	20,350	
Kenneth Napolitano	3/1/13	19,135	19,134	19,134
	3/3/11	5,842		
	11/7/11	15,380		
Christopher R. McIntire	3/2/12	10,887	10,887	
	3/1/13	10,303	10,303	10,303
	3/3/11	1,926		
Colin R. Sabol	11/7/11	9,047		
	3/2/12	7,123	7,122	
	3/1/13	8,832	8,831	8,831
Gretchen W. McClain	3/3/11	4,812		
	11/7/11	13,570		
	3/2/12	9,158	9,157	
Michael L. Kuchenbrod	3/1/13	7,360	7,359	7,359
	3/3/11	59,598		
	11/7/11	102,533		
Michael L. Kuchenbrod	3/2/12	86,488	86,487	
	3/3/11	4,400		
	11/7/11	9,147		
	3/2/12	11,193	11,192	

(3) The following tables provides the vesting schedule for unvested Restricted Stock, PSUs, and RSUs:

Name	Grant	Vesting Schedule (#)		
	Date	2014	2015	2016
Michael T. Speetzen	3/5/10		9,975	
	3/3/11	3,346		
	11/7/11	22,724		
	3/2/12		18,797	
Kenneth Napolitano	3/1/13			31,212
	3/3/11	4,310		
	11/7/11	15,549		
Christopher R. McIntire	3/2/12		10,056	
	3/1/13			16,806
	3/3/11	1,419		
Colin R. Sabol	11/7/11	9,146		
	3/2/12		6,579	
	3/1/13			14,406
Colin R. Sabol	3/3/11	3,550		
	11/7/11	13,720		
	3/2/12		8,459	
	3/1/13			12,004

(4) Market values were determined based on the Company's closing stock price of \$34.60 on December 31, 2013.

(5) Ms. McClain and Mr. Kuchenbrod resigned from the Company during fiscal year 2013. In connection with their respective departures, Ms. McClain and Mr. Kuchenbrod received certain severance benefits (as described in Potential Post Employment Compensation Separation and Release Agreement for NEOs in 2013) and in exchange for these benefits, released the Company from all claims and agreed not to disclose the Company's confidential information,

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compete against the Company or solicit the Company's employees for a two-year period (the Restrictions). LTIP awards for Ms. McClain and Mr. Kuchenbrod were treated as following (valued amounts

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were calculated based on gain in stock price from the grant date to the termination date for vested and unvested stock options, the stock price on the termination date for the forfeited RSU and PSU awards, and the stock price on the release date for the vested RSU awards):

- a. All LTIP awards granted in 2013, valued at \$2.9 million for Ms. McClain and \$0.6 million for Mr. Kuchenbrod, were forfeited.
- b. Prior Xylem LTIP awards and historical ITT awards that were converted into Xylem stock were treated per the original award agreements so that for grants made prior to 2013: vested stock option awards will expire the earlier of the original expiration date or three months after the Severance Pay Period (as defined in Potential Post Employment Compensation Separation and Release Agreement for NEOs in 2013), unvested stock options will continue to vest throughout the Severance Pay Period and remain exercisable three months after the Severance Pay Period and outstanding unvested RSU awards were prorated based on additional credit for the Severance Pay Period and immediately vested. The total value of these awards were \$9.1 million for Ms. McClain and \$1.0 million for Mr. Kuchenbrod and consisted of:
 - \$3.5 million for Ms. McClain and \$0.2 million for Mr. Kuchenbrod related to historical ITT awards, including the value of unvested stock options and unvested RSU awards;
 - \$2.9 million for Ms. McClain and \$0.4 million for Mr. Kuchenbrod related to Xylem awards, representing the value of unvested stock options and unvested RSU awards with vesting prorated based on service through the termination date;
 - \$2.7 million for Ms. McClain and \$0.4 million for Mr. Kuchenbrod related to Xylem awards, representing the incremental value of unvested stock options and unvested RSU awards based on incremental vesting through the Severance Pay Period and contingent upon Ms. McClain's and Mr. Kuchenbrod's continued compliance with their respective Restrictions during the Severance Pay Period.

OPTION EXERCISES AND STOCK VESTED IN 2013

The following table provides the values realized by our NEOs upon the exercise of Xylem stock options and the vesting of restricted stock awards in 2013.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise\$(1)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting\$(2)
Steven R. Loranger			3,443	94,373
Michael T. Speetzen			11,216	336,078
Kenneth Napolitano	9,975	123,328	9,420	291,689
Christopher R. McIntire			8,000	228,707
Colin R. Sabol	10,981	7,109	7,758	240,225
Gretchen W. McClain	444,748	3,589,677	322,791	8,781,085
Michael L. Kuchenbrod			29,923	993,076

(1) This amount reflects number of shares acquired upon exercise of stock options times the difference between the Xylem stock price on the date of exercise and the exercise price of stock options.

(2) These amounts reflect the value realized upon the vesting of RSUs based upon the closing price of Xylem stock on the date of vesting. For Mr. Loranger, this represents the value realized upon the vesting of RSUs granted to him as part of his 2012 director compensation.

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NON-QUALIFIED DEFERRED COMPENSATION FOR 2013

Xylem Deferred Compensation Plan

The Xylem Deferred Compensation Plan is a deferred compensation plan that permits eligible executives with a base salary of at least \$200,000 to defer between 2% and 90% of their AIP payments. The AIP amount deferred is included in the Summary Compensation Table under Non-Equity Incentive Plan Compensation. Withdrawals under the plan are available on payment dates elected by participants at the time of the deferral election. The withdrawal election is irrevocable except in cases of demonstrated hardship due to an unforeseeable emergency as provided by the Xylem Deferred Compensation Plan. Amounts deferred will be unsecured general obligations of the Company to pay in the future and will rank with other unsecured and unsubordinated indebtedness of the Company.

As of January 1, 2013, the Xylem Deferred Compensation Plan includes the deferral of Company contributions that would have been made under the Xylem Plan or the Xylem Supplemental Plan. The Company contributions are as defined under the provisions of the Xylem Plan for a particular plan year and include core, match and transition credit contributions, if applicable.

Xylem Supplemental Retirement Savings Plan

The Xylem Supplemental Plan was established to provide retirement benefits that cannot be paid from the Xylem Plan due to the federal limits on the amount of benefits that can be paid and the amount of compensation that can be recognized under a tax-qualified retirement plan as described on page 52. These benefits are generally paid directly by Xylem. The Xylem Supplemental Plan extends retirement savings benefits above the IRS limit. The same company contributions for core, match and transition credits apply as in the Xylem Plan. Employees are not eligible to make contributions in the Xylem Supplemental Plan. The Xylem Supplemental Plan is a non-qualified and unfunded plan. All amounts in the Xylem Supplemental Plan constitute a general unsecured obligation of the Company. Such amounts, as well as any administrative costs relating to the plan, are paid out of the general assets of the Company.

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The table below shows the activity within the Xylem Deferred Compensation Plan and the Xylem Supplemental Plan (Non-Qualified Savings) for the NEOs for 2013.

2013 Non-Qualified Deferred Compensation

Name	Executive Contributions in Last Fiscal Year (\$)	Registrant Contributions in Last Fiscal Year (\$)(1)	Aggregate Earnings in Last Fiscal Year (\$)(2)	Aggregate Withdrawals/Distributions (\$)(3)	Aggregate Balance at Last Fiscal Year End (\$)(4)
Steven R. Loranger					
Deferred Compensation					
Non-Qualified Savings		3,346	0		2,343
<i>Total</i>		3,346	0		2,343
Michael T. Speetzen					
Deferred Compensation			3,885		77,892
Non-Qualified Savings		32,422	1,076		91,114
<i>Total</i>		32,422	4,961		169,006
Kenneth Napolitano					
Deferred Compensation					
Non-Qualified Savings		40,154	893		74,631
<i>Total</i>		40,154	893		74,631
Christopher R. McIntire					
Deferred Compensation					
Non-Qualified Savings		18,140	504		46,673
<i>Total</i>		18,140	504		46,673
Colin R. Sabol					
Deferred Compensation					
Non-Qualified Savings		21,498	1,175		93,963
<i>Total</i>		21,498	1,175		93,963
Gretchen W. McClain					
Deferred Compensation			36,122	(152,722)	657,114
Non-Qualified Savings		30,921	4,266		317,870
<i>Total</i>		30,921	40,388	(152,722)	974,984
Michael L. Kuchenbrod					
Deferred Compensation					
Non-Qualified Savings		13,525	1,063		94,589
<i>Total</i>		13,525	1,063		94,589

(1) Amounts in the Registrant Contributions in Last Fiscal Year column include the aggregate of core, match and transition credit contributions to the participants under the Xylem Deferred Compensation Plan and the Xylem Supplemental Plan for the 2013 AIP, which were credited to the executives' accounts in 2014. These amounts are reflected in the Supplemental Plan Contributions column in the All Other Compensation Table and are included in the Summary Compensation Table.

(2) The Company does not provide preferential or above-market rates. As a result, the aggregate earnings are not included in the Summary Compensation Table.

(3) Distribution reflects payments from Special Purpose Accounts with specified payment commencement date of March 1, 2013 based on pre-set distribution election.

(4) The amounts represent account balances at 2013 Fiscal Year End and exclude the executive and registrant contributions that were credited in 2014. The table below shows the funds available under the Xylem Deferred Compensation Plan, as reported by the administrator, and their annual rate of return for the calendar year ended December 31, 2013.

Fund	Rate of Return 1/1/13-12/31/13	Fund	Rate of Return 1/1/13-12/31/13
Dodge & Cox Stock - DODGX	40.55%	Model Portfolio - Moderate	14.75%
First Eagle Overseas Fund - Class A - SGOVX	11.57%	Model Portfolio - Moderate/Aggressive	19.62%
Fixed Rate Option(1)	5.30%	Vanguard Total Bond Market Index Inv -VBMFX	-2.26%
Harbor International Inv - HIINX	16.40%		

(1) The Fixed Rate Option rate is based on guaranteed contractual returns from a third-party insurance provider.

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POTENTIAL POST-EMPLOYMENT COMPENSATION

The Potential Post-Employment Compensation table included in this section reflects the amounts of compensation payable to each of the NEOs in the event of employment termination under several different circumstances, including death, disability, termination without cause or termination in connection with a change of control. The NEOs are covered under the Xylem Senior Executive Severance Pay Plan or the Xylem Special Senior Executive Severance Pay Plan.

The Xylem Senior Executive Severance Pay Plan and the Xylem Special Senior Executive Severance Pay Plan do not allow for excise tax gross-ups and include a cap on severance benefits. The severance plans apply to the Company's key employees, including NEOs, as defined by Section 409A of the Internal Revenue Code. Xylem's severance plan arrangements are not considered in determining other elements of compensation.

The amounts shown in the Potential Post-Employment Compensation tables are estimates, assuming that the triggering event was effective as of December 31, 2013, and including amounts which would be earned through such date (or that would be earned during a period of severance).

Payments and Benefits Provided Generally to Salaried Employees

The amounts shown in the tables below do not include payments and benefits to the extent these payments and benefits are provided on a non-discriminatory basis to salaried employees generally upon termination of employment. These include:

accrued salary and vacation pay;

regular retirement benefits under the Xylem Plan;

continued benefits under COBRA; and

distributions of balances under the Xylem Plan and amounts currently vested under the Xylem Supplemental Plan.

Xylem Senior Executive Severance Pay Plan

The purpose of this plan is to provide a period of transition for senior executives who are U.S. citizens or employed in the U.S., including our NEOs. The plan generally provides for severance payments if Xylem terminates a senior executive's employment without cause.

Severance payments are not payable in the event that:

the executive terminates his or her own employment;

the executive's employment is terminated for cause;

termination occurs after the executive's normal retirement date (i.e., after the first day of the month that coincides with the executive's 65th birthday);

termination occurs in certain divestiture instances if the executive accepts employment or refuses comparable employment; and

employment is terminated as a result of a death or disability.

The amount of severance pay under this plan depends on the executive's salary and years of service. The plan provides 12 months of salary for up to three years of service and one additional month of salary for each additional year of service. The amount will not exceed 24 months of salary or be greater than two times the executive's total annual compensation during the year immediately preceding termination. The Company considers these severance pay provisions appropriate transitional provisions given the job responsibilities and competitive market in which senior executives function. The Company's obligation to continue severance payments stops if the executive does not comply with the Xylem Code of Conduct. Xylem considers this cessation provision to be critical to its emphasis on ethical behavior. The Company's obligation to continue severance payments also stops if the executive does not comply with non-competition provisions of the Xylem Severance Policy or Xylem Senior Executive Severance Pay Plan. These provisions protect the integrity of our businesses and are consistent with typical commercial arrangements.

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If a covered executive receives or is entitled to receive other compensation from another company, the amount of that other compensation could be used to offset amounts otherwise payable under the Xylem Senior Executive Severance Pay Plan. During the severance payment period, the executive will have a limited right to continue to be eligible for participation in certain benefit plans. Severance pay will start within sixty days following the covered executive's scheduled termination date.

Xylem Special Senior Executive Severance Pay Plan

The purpose of this plan is to provide compensation in the case of termination of employment in connection with an acceleration event (defined in Potential Post-Employment Compensation - Change of Control Arrangements) including termination following a change of control. The plan is designed to put the executive in a comparable position, from a total rewards standpoint, as he or she would have been in without the acceleration event. The provisions of this plan are specifically designed to address the inability of senior executives to influence the Company's future performance after certain change of control events. The plan is structured to encourage executives to act in the best interests of shareowners by providing for certain compensation and retention benefits and payments, including change of control provisions, in the case of an acceleration event.

The purposes of these provisions are to:

provide for continuing cohesive operations as executives evaluate a transaction, which, without change of control protection, could be personally adverse to the executive;

keep executives focused on preserving value for shareowners;

retain key talent in the face of potential transactions; and

aid in attracting talented employees in the competitive marketplace.

This plan provides two levels of benefits for covered executives, including NEOs, based on their positions within the Company. The LDCC considered two levels of benefits appropriate, based on the relative ability of each level of executives to influence future performance of the Company. NEOs participate at the higher level of benefits and the LDCC assesses severance plans for competitiveness and appropriateness annually.

Under the Xylem Special Senior Executive Severance Pay Plan, if a covered executive is terminated within two years after an acceleration event including a change of control, in contemplation of a change of control that ultimately occurs or if the covered executive terminates his or her employment for good reason within two years after an acceleration event including a change of control, he or she would be entitled to:

any accrued but unpaid salary, AIP payment, unreimbursed expenses and employee benefits, including vacation;

three times (two times for the lower benefit level) the current annual base salary and three times (two times for the lower benefit level) the current AIP payment paid or awarded (Severance Pay);

continuation of health and life insurance benefits at the same levels for three years (two years for the lower benefit level);

Severance Pay times the current eligible percentage rate of Xylem's contributions to the Xylem Plan and the Xylem Supplemental Plan (such payment will not exceed 12%);

in the event severance payments would constitute an excess parachute payment within the definition of Section 280G of the Internal Revenue Code, the aggregate of all severance payments should be reduced so the present value of payments does not exceed the Safe Harbor Amount as defined by the Internal Revenue Code; and

one year of outplacement services.

Change of Control Arrangements

The payment or vesting of awards or benefits under each of the plans listed below would generally be accelerated upon the occurrence of a change of control of Xylem. The reason for the change of control provisions in these plans is to put the executive in the same position he or she would have been in had the change of control not

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occurred. Executives can then focus on preserving value for shareowners when evaluating transactions that, without change of control provisions, could be personally adverse to the executive. There would be a change of control of Xylem if one of the following acceleration events occurred:

Acquisition of 20% or more of Xylem's outstanding stock by another entity or group excluding the following:

- Xylem or a subsidiary; or
- an employee benefit plan that is sponsored by Xylem or a subsidiary.

The shareowners of Xylem approved:

- any consolidation, business combination or merger of Xylem other than such transactions in which the shareowners of Xylem would hold 50% or more of the combined voting power of the surviving corporation immediately prior to and after the merger; or
- any sale, lease, exchange or other transfer of all or substantially all of the assets of Xylem.

A majority of the members of the Board changed within a 12-month period unless the election or nomination for election or each of the new Directors was recommended or approved by a majority of Directors who were Directors at the beginning of such 12-month period. For awards or benefits earned since January 1, 2005, payment of awards or benefits would be made if a person other than Xylem, one of its subsidiaries or any employment benefit plan sponsored by Xylem becomes the beneficial owner of 30% or more of Xylem's outstanding stock.

The following Company plans have change of control provisions:

the Xylem 2011 Omnibus Incentive Plan;

the Xylem 1997 Annual Incentive Plan;

the Xylem Annual Incentive Plan for Executive Officers;

the Xylem 1997 Long-Term Incentive Plan;

the Xylem Special Senior Executive Severance Pay Plan;

the Xylem Enhanced Severance Pay Plan;

the Xylem Deferred Compensation Plan;

the Xylem Supplemental Retirement Savings Plan; and

the Xylem Retirement Savings Plan.

Potential post-employment and change of control compensation for the NEOs are summarized below.

Potential Post-Employment and Change of Control Compensation

Name	Death/ Disability (\$ in millions)(1)	Termination Not For Cause (\$ in millions)(2)	Change of Control Termination Not for Cause/ With Good Reason (\$ in millions)(3)
Steven R. Loranger			
Michael T. Speetzen	3.6	1.9	6.3
Kenneth Napolitano	1.6	1.6	3.7
Christopher R. McIntire	1.0	1.0	2.8
Colin R. Sabol	1.4	1.2	3.3

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- (1) This is a potential lump-sum payment related to unvested equity awards if an NEO has died or become disabled as of December 31, 2013. Equity awards vest according to the terms described in Compensation Discussion and Analysis Our Executive Compensation Program Long-term Incentive Plan on page 49. The amount reflects the market value of restricted stock and in-the-money value of stock options based on the Company's December 31, 2013 closing price of \$34.60.
- (2) The amounts shown consist of the following potential payments if an NEO had been terminated not for cause as of December 31, 2013:
- a. An amount based on the NEO's then current salary and years of service under the Xylem Senior Executive Severance Pay Plan for all NEOs. This amount is made in the form of equal monthly payments over the severance period.
 - b. A lump-sum payment for unvested equity awards that would vest according to the terms described in Compensation Discussion and Analysis Our Executive Compensation Program Long-term Incentive Plan. The amount reflects the market value of restricted stock and in-the-money value of stock options based on the Company's December 31, 2013 closing price of \$34.60.
 - c. The Company's portion of health and life insurance premium paid monthly for the duration of the severance period based on a NEO's years of service under the Xylem Senior Executive Severance Pay Plan.
- (3) The amounts shown consist of the following potential payments upon termination not for cause or with good reason within two years of Change of Control:
- a. A Severance Pay equal to three times an NEO's then current salary and three times the most recent AIP award paid or awarded preceding a change of control under the Xylem Special Senior Executive Severance Pay Plan. The Severance Pay amount is made in the form of equal monthly payments over the severance period.
 - b. A lump-sum payment for unvested equity awards that would vest according to the terms described in Compensation Discussion and Analysis Our Executive Compensation Program Long-term Incentive Plan. The amount reflects the market value of restricted stock, performance share units (assuming target performance is achieved) and in-the-money value of stock options based on the Company's December 31, 2013 closing price of \$34.60.
 - c. A lump-sum payment equal to Severance Pay times the then current eligible percentage for the Company's contribution to the Xylem Plan and the Xylem Supplemental Plan as provided under the Xylem Special Senior Executive Severance Pay Plan.
 - d. The Company's portion of health and life insurance premiums paid monthly for three years under the Xylem Special Senior Executive Severance Pay Plan.
 - e. A lump-sum payment equal to the cost of outplacement services for one year following the termination under the Xylem Special Senior Executive Severance Pay Plan.

Separation and Release Agreement for NEOs in 2013

Ms. McClain resigned as President and Chief Executive Officer and as a director on September 9, 2013. Pursuant to her employment agreement and contingent on receipt of a release (described below), Ms. McClain was entitled to the following: (i) severance of \$4,032,000 (representing two times the sum of the 2013 base salary and target annual incentive), paid over a period of 24 months (the Severance Pay Period); (ii) continued vesting of unvested stock options granted prior to 2013 through the Severance Pay Period, which remain exercisable for three months after the Severance Pay Period; (iii) immediate vesting of all outstanding RSU awards (prorated based on additional credit for the Severance Pay Period) granted prior to 2013; (iv) continued medical and dental coverage through the Severance Pay Period; and (v) lump sum

payout of earned and unused vacation days. All vested stock option awards granted prior to 2013 expire the earlier of the original expiration date or three months after the Severance Pay Period.

Following her termination, the 2013 AIP award valued at approximately \$0.5 million and all LTIP awards granted in 2013 valued at approximately \$2.9 million were forfeited.

Mr. Kuchenbrod resigned as Senior Vice President and President, Water Solutions on October 28, 2013. In connection with his departure, Mr. Kuchenbrod received certain severance benefits contingent on receipt of a release (described below), as follows: (i) severance pay of \$830,000, representing two times the sum of his 2013 base salary, to be paid in the form of equal payments over a period of 24 months (the Severance Pay Period); (ii) a one-time lump-sum payment of \$157,350 in lieu of AIP payout (prorated for 10 months of active employment and based entirely on the Company's final team score (no individual performance factor)); (iii) continued vesting of unvested stock options granted prior to 2013 through the Severance Pay Period, which remain exercisable for three months after the Severance Pay Period; (iv) immediate vesting of all outstanding

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RSU awards (prorated based on additional credit for the Severance Pay Period) granted prior to 2013; (v) lump sum payout of earned and unused vacation days; (vi) continued medical and dental coverage through the Severance Pay Period. All vested stock option awards granted prior to 2013 expire the earlier of the original expiration date or three months after the Severance Pay Period.

Following his termination, all LTIP awards granted in 2013 valued at approximately \$0.6 million were forfeited.

In exchange for the benefits mentioned above, Ms. McClain and Mr. Kuchenbrod released the Company from all claims and agreed not to disclose the Company's confidential information, compete against the Company or solicit the Company's employees for a two-year period that runs in tandem with the Severance Pay Period.

EQUITY COMPENSATION PLAN INFORMATION

The following table provides information related to the shares of Xylem Common Stock that may be issued under equity compensation plans as of December 31, 2013:

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights (a)	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights (b)	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in column (a)) (c)
Equity Compensation Plans Approved by Security Holders (1)	4,831,222(2)	\$ 26.80(3)	10,216,974
Equity Compensation Plans Not Approved by Security Holders			
Total	4,831,222	\$ 26.80(3)	10,216,974

(1) Equity Compensation Plans Approved by Security Holders include Xylem 2011 Omnibus Incentive Plan and ITT 2003 Equity Incentive Plan.

(2) The amount includes 3,503,990 shares of stock options, 1,274,953 shares of restricted stock, and 52,279 shares of performance shares.

(3) Represents weighted average exercise price of outstanding stock options only.

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ANNEX A

XYLEM

2011 OMNIBUS INCENTIVE PLAN

Article 1. ESTABLISHMENT, PURPOSE, AND DURATION

1.1 Establishment. Xylem Inc., an Indiana corporation (hereinafter referred to as the Company), establishes an incentive compensation plan to be known as the 2011 Omnibus Incentive Plan (hereinafter referred to as the Plan), as set forth in this document. The Plan permits the grant of Nonqualified Stock Options, Incentive Stock Options, Stock Appreciation Rights (SARs), Restricted Stock, Restricted Stock Units and Other Awards.

The Plan first became effective October 31, 2011 (the Effective Date) following the spin-off of Xylem Inc. from ITT Corporation (the Predecessor Corporation) on October 31, 2011. The Predecessor Corporation maintained a similar plan prior to the spin-off (the Predecessor Plan), and the Plan was created to govern the awards under the Predecessor Plan, as revised to reflect the spin-off from the Predecessor Corporation. The Plan shall remain in effect as provided in Section 1.3 hereof, and Participants shall receive full credit for their service and participation with the Predecessor Corporation as provided in Section 5.3 hereof.

1.2 Purpose of the Plan. The purpose of the Plan is to promote the long-term interests of the Company and its shareholders by strengthening the Company's ability to attract and retain Employees of the Company and its Affiliates and members of the Board of Directors upon whose judgment, initiative, and efforts the financial success and growth of the business of the Company largely depend, and to provide an additional incentive for such individuals through share ownership and other rights that promote and recognize the financial success and growth of the Company and create value for shareholders.

1.3 Duration of the Plan. The Plan shall commence as of the Effective Date, as described in Section 1.1 hereof, and shall remain in effect, subject to the right of the Leadership Development and Compensation Committee of the Board, (the Committee) to amend or terminate the Plan at any time pursuant to Article 14 hereof, until all Shares subject to it shall have been purchased or acquired according to the Plan's provisions.

Article 2. DEFINITIONS

Whenever used in the Plan, the following terms shall have the meanings set forth below, and when the meaning is intended, the initial letter of the word shall be capitalized.

2.1 Acceleration Event shall be deemed to have occurred as of the first day that any one or more of the following conditions have been satisfied:

(a) a report on Schedule 13D shall be filed with the Securities and Exchange Commission pursuant to Section 13(d) of the Exchange Act disclosing that any Person, other than the Company or a Subsidiary or any employee benefit plan sponsored by the Company or a Subsidiary (or related trust), is the Beneficial Owner directly or indirectly of twenty percent (20%) or more of the outstanding Shares;

(b) any Person, other than the Company or a Subsidiary, or any employee benefit plan sponsored by the Company or a Subsidiary (or related trust), shall purchase shares pursuant to a tender offer or exchange offer to acquire any Shares (or securities convertible into Shares) for cash, securities or any other consideration, provided that after consummation of the offer, the Person in question is the Beneficial Owner, directly or indirectly, of twenty percent (20%) or more of the outstanding Shares (calculated as provided in paragraph (d) of Rule 13d-3 under the Exchange Act in the case of rights to acquire Shares);

(c) the consummation of

(i) any consolidation, business combination or merger involving the Company, other than a consolidation, business combination or merger involving the Company in which holders of Shares immediately prior to the consolidation, business combination or merger (x) hold fifty percent (50%) or more of the combined voting power of the Company (or the corporation resulting from the consolidation, business combination or merger or the parent of such corporation) after the merger and (y) have the same proportionate ownership of

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common stock of the Company (or the corporation resulting from the consolidation, business combination or merger or the parent of such corporation), relative to other holders of Shares immediately prior to the consolidation, business combination or merger, immediately after the consolidation, business combination or merger as immediately before; or

(ii) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all the assets of the Company;

(d) there shall have been a change in a majority of the members of the Board within a 12-month period unless the election or nomination for election by the Company's shareholders of each new director during such 12-month period was approved by the vote of two-thirds of the directors then still in office who (x) were directors at the beginning of such 12-month period or (y) whose nomination for election or election as directors was recommended or approved by a majority of the directors who were directors at the beginning of such 12-month period; or

(e) any Person, other than the Company or a Subsidiary or any employee benefit plan sponsored by the Company or a Subsidiary (or related trust), becomes the Beneficial Owner of twenty percent (20%) or more of the Shares.

2.2 Affiliate means any Subsidiary and any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

2.3 Award means, individually or collectively, a grant under this Plan of Nonqualified Stock Options, Incentive Stock Options, SARs, Restricted Stock, Restricted Stock Units, Converted Awards and Other Awards.

2.4 Award Agreement means either (i) an agreement entered into by the Company and a Participant setting forth the terms and provisions applicable to Awards granted under this Plan, or (ii) a statement issued by the Company to a Participant describing the terms and conditions of such Award.

2.5 Beneficial Owner shall have the meaning ascribed to such term in Rule 13d-3 of the General Rules and Regulations under the Exchange Act.

2.6 Benefits and Compensation Matters Agreement means the Benefits and Compensation Matters Agreement by and among the Company, the Predecessor Corporation and Exelis Inc.

2.7 Board or *Board of Directors* means the Board of Directors of the Company.

2.8 Code means the U.S. Internal Revenue Code of 1986, as amended from time to time.

2.9 Committee means the Leadership Development and Compensation Committee of the Board.

2.10 Company means Xylem Inc., an Indiana corporation, and any successor thereto as provided in Article 16 herein; provided, however, that for purposes of grants made under the Predecessor Plan, Company shall mean the Predecessor Corporation as the original grantor.

2.11 Converted Award means Nonqualified Stock Options, Incentive Stock Options, SARs, Restricted Stock, Restricted Stock Units and Other Awards denominated in Shares that were originally granted to a Participant under any of the Predecessor Corporation Equity Plans, as adjusted pursuant to the terms of the Benefits and Compensation Matters Agreement.

2.13 Covered Employee means a Participant who is a Covered Employee, as defined in Code Section 162(m) and the regulations promulgated under Code Section 162(m), or any successor statute.

2.14 Director means any individual who is a member of the Board of Directors.

2.15 Employee means any employee of the Company or its Affiliates.

2.16 Exchange Act means the Securities Exchange Act of 1934, as amended from time to time, or any successor act thereto.

2.17 Fair Market Value means a price that is based on the opening, closing, actual, high, low, or average selling prices of a Share on the New York Stock Exchange (NYSE) or other established stock exchange (or

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exchanges) on the applicable date, the preceding trading day, the next succeeding trading day, or an average of trading days, as determined by the Committee in its discretion.

Such definition of Fair Market Value may differ depending on whether Fair Market Value is in reference to the grant, exercise, vesting, or settlement or payout of an Award. If, however, the accounting standards used to account for equity awards granted to Participants are substantially modified subsequent to the Effective Date of the Plan, the Committee shall have the ability to determine an Award's Fair Market Value based on the relevant facts and circumstances. If Shares are not traded on an established stock exchange, Fair Market Value shall be determined by the Committee based on objective criteria.

2.18 Freestanding SAR means a SAR that is granted independently of any Options, as described in Article 7 herein.

2.19 Full Value Award means an Award other than an Option granted with an Option Price equal to at least Fair Market Value on the date of grant or a SAR with a Grant Price equal to at least Fair Market Value on the date of grant.

2.20 Grant Price means the amount to which the Fair Market Value of a Share is compared pursuant to Section 7.6 to determine the amount of payment that should be made upon exercise of a SAR.

2.21 Incentive Stock Option or *ISO* means an Option that meets the requirements of Code Section 422, or any successor provision, and that is not designated as a Nonqualified Stock Option.

2.22 Insider means an individual who is, on the relevant date, an officer, Director, or more than ten percent (10%) Beneficial Owner of any class of the Company's equity securities that is registered pursuant to Section 12 of the Exchange Act, as determined by the Board or the Committee in accordance with Section 16 of the Exchange Act.

2.23 Nonqualified Stock Option or *NQSO* means an Option that is not intended to meet the requirements of Code Section 422, or that otherwise does not meet such requirements.

2.24 Option means an Incentive Stock Option or a Nonqualified Stock Option to purchase Shares, as described in Article 6 herein.

2.25 Option Price means the price at which a Share may be purchased by a Participant pursuant to an Option.

2.26 Other Award means an Award granted to a Participant pursuant to Article 9 herein.

2.27 Participant means an Employee or Director who has been selected to receive an Award or who has an outstanding Award granted under the Plan.

2.28 Performance-Based Compensation means an Award that is qualified as Performance-Based Compensation under Code Section 162(m).

2.29 Performance Measures means measures as described in Article 10, the attainment of which may determine the amount of payout and/or vesting with respect to Awards.

2.30 Performance Period means the period of time during which the performance goals must be met in order to determine the amount of payout and/or vesting with respect to an Award.

2.31 Period of Restriction means the period when Restricted Stock or Restricted Stock Units are subject to a substantial risk of forfeiture (based on the passage of time, the achievement of performance goals, or upon the occurrence of other events as determined by the Committee, at its discretion) and transfer restrictions, as provided in Article 8 herein.

2.32 Person shall have the meaning given in Section 3(a) (9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof.

2.33 Plan Year means the fiscal year of the Company.

2.34 Plan means the 2011 Omnibus Incentive Plan; provided, however, that for purposes of grants made under the Predecessor Plan, Plan shall mean the Predecessor Plan as it existed on the date of such grant.

2.35 Predecessor Corporation Equity Plan means any of the plans maintained by the Predecessor Corporation under which equity or equity-based awards were granted, including the ITT 2003 Equity Incentive

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Plan, ITT Corporation 1997 Long-Term Incentive Plan, 1994 ITT Incentive Stock Plan, ITT 1996 Restricted Stock Plan for Non-Employee Directors, and 2002 ITT Stock Option Plan for Non-Employee Directors.

2.36 Restricted Stock means an Award granted to a Participant pursuant to Article 8 herein.

2.37 Restricted Stock Unit means an Award granted to a Participant pursuant to Article 8 herein.

2.38 Share means a share of common stock of the Company, \$1.00 par value per share.

2.39 Stock Appreciation Right or *SAR* means an Award granted to a Participant pursuant to Article 7 herein.

2.40 Subsidiary means any corporation, partnership, joint venture, limited liability company, or other entity (other than the Company) in an unbroken chain of entities beginning with the Company if each of the entities other than the last entity in the unbroken chain owns at least fifty percent (50%) of the total combined voting power in one of the other entities in such chain.

2.41 Tandem SAR means a SAR that is granted in connection with a related Option pursuant to Article 7.

Article 3. ADMINISTRATION

3.1 General. The Committee shall be responsible for administering the Plan. The Committee may employ attorneys, consultants, accountants, and other persons, and the Committee, the Company, and its officers and Directors shall be entitled to rely upon the advice, opinions, or valuations of any such persons. All actions taken and all interpretations and determinations made by the Committee shall be final and binding upon the Participants, the Company, and all other interested persons.

3.2 Authority of the Committee. The Committee shall have full and exclusive discretionary power to interpret the terms and the intent of the Plan and to determine eligibility for Awards and to adopt such rules, regulations, and guidelines for administering the Plan as the Committee may deem necessary or proper. Such authority shall include, but not be limited to, selecting Award recipients, establishing all Award terms and conditions and, subject to Article 14, adopting modifications and amendments to the Plan or any Award Agreement, including without limitation, any that are necessary to comply with the laws of the countries in which the Company and its Affiliates operate.

3.3 Delegation. The Committee may delegate to one or more of its members or to one or more agents or advisors such administrative duties as it may deem advisable, and the Committee or any person to whom it has delegated duties as aforesaid may employ one or more persons to render advice with respect to any responsibility the Committee or such person may have under the Plan. The Committee may, by resolution, authorize one or more officers of the Company to do one or both of the following: (a) designate Employees and Directors to be recipients of Awards; and (b) determine the size of the Award; provided, however, the Committee shall not delegate such responsibilities to any such officer for Awards granted to an Employee that is considered an elected officer of the Company, or to the extent it would unintentionally cause Performance-Based Compensation to lose its status as such.

Article 4. SHARES SUBJECT TO THE PLAN AND MAXIMUM AWARDS

4.1 Number of Shares Available for Awards. Subject to adjustment as provided in Section 4.2 herein, the number of Shares hereby reserved for issuance to Participants under the Plan shall be eighteen million (18,000,000). For purposes of the prior sentence, Shares subject to outstanding awards under the Predecessor Plan shall not be considered available for issuance under the Predecessor Plan. Any Shares related to Awards under the Plan or awards under the Predecessor Plan that terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of such Shares, are settled in cash in lieu of Shares, or are exchanged with the Committee's permission for Awards not involving Shares, shall be available again for grant under the Plan. Notwithstanding the foregoing, (a) upon the exercise of a stock-settled Stock Appreciation Right or net-settled Option, the number of Shares subject to the Award (or portion of the Award) that is then being exercised shall be counted against the maximum aggregate number of Shares that may be issued under the Plan as provided above, on the basis of one Share for every Share subject thereto, regardless of the actual number of Shares issued upon exercise and (b) any Shares withheld with respect to an Award (or, with respect to Restricted Stock, returned) in satisfaction of tax withholding obligations shall be counted as Shares issued.

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In addition, any Shares related to Full Value Awards under the Plan or the Predecessor Plan that terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of such Shares, are settled in cash in lieu of Shares, or are exchanged with the Committee's permission for Awards not involving Shares, shall be available again for grant of Full Value Awards under the Plan.

All of the reserved Shares may be used as ISOs.

The Shares available for issuance under the Plan may be authorized and unissued Shares or treasury Shares.

The following limits (Award Limits) shall apply to Awards (other than Converted Awards), dividends and dividend equivalent intended to qualify as Performance-Based Compensation:

(a) *Options*: The maximum aggregate number of Shares that may be granted in the form of Options, pursuant to any Award granted in any one Plan Year to any one Participant shall be three million (3,000,000).

(b) *SARs*: The maximum number of Shares that may be granted in the form of Stock Appreciation Rights, pursuant to any Award granted in any one Plan Year to any one Participant shall be three million (3,000,000).

(c) *Restricted Stock or Restricted Stock Units*: The maximum aggregate grant with respect to Awards of Restricted Stock or Restricted Stock Units granted in any one Plan Year to any one Participant shall be one million (1,000,000).

(d) *Other Awards*: The maximum aggregate number of Shares with respect to which Other Awards may be granted in any one Plan Year to any one Participant shall be one million (1,000,000) and the maximum aggregate cash that may be payable with respect to Other Awards granted in any one Plan Year to any one Participant shall be fifteen million (\$15,000,000) dollars.

(e) *Dividends and Dividend Equivalents*: The maximum aggregate value of cash dividends (other than large, nonrecurring cash dividends) or dividend equivalents that any one Participant may receive pursuant to Awards in any one Plan Year shall not exceed six million (\$6,000,000) dollars.

4.2 Adjustments in Authorized Shares. In the event of any equity restructuring (within the meaning of FASB Accounting Standards Codification (ASC) 718 (formerly FAS 123R) that causes the per share value of Shares to change, such as a stock dividend, stock split, spin off, rights offering, or recapitalization through a large, nonrecurring cash dividend, the Committee shall cause there to be made an equitable adjustment to: (a) the number and, if applicable, kind of shares that may be issued under the Plan or pursuant to any type of Award under the Plan, (b) the Award Limits, (c) the number and, if applicable, kind of shares subject to outstanding Awards and (d) as applicable, the Option Price or Grant Price of any then outstanding Awards. In the event of any other change in corporate structure or capitalization, such as a merger, consolidation, any reorganization (whether or not such reorganization comes within the definition of such term in Section 368 of the Code) or any partial or complete liquidation of the Company, the Committee, in its sole discretion, in order to prevent dilution or enlargement of Participants' rights under the Plan, shall cause there to be made such equitable adjustments described in the foregoing sentence. Any fractional shares resulting from adjustments made pursuant to this Section 4.2 shall be eliminated. Any adjustment made pursuant to this Section 4.2 shall be conclusive and binding for all purposes of the Plan.

Except to the extent it would unintentionally cause Performance Based Compensation to fail to qualify for the performance based exception to Code Section 162(m), appropriate adjustments may also be made by the Committee in the terms of any Awards under the Plan to reflect such changes or distributions and to modify any other terms of outstanding Awards on an equitable basis, including modifications of performance goals and changes in the length of Performance Periods. The determination of the Committee as to the foregoing adjustments, if any, shall be conclusive and binding on Participants under the Plan.

Subject to the provisions of Article 13, without affecting the number of Shares reserved or available hereunder, the Committee may authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock, share exchange, amalgamation, reorganization or similar

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transaction upon such terms and conditions as it may deem appropriate; provided, however, that no such issuance or assumption shall be made without affecting the number of Shares reserved or available hereunder if it would prevent the granting of ISOs under the Plan.

Article 5. ELIGIBILITY AND PARTICIPATION

5.1 Eligibility. Individuals eligible to participate in this Plan include all Employees and Directors.

5.2 Actual Participation. Subject to the provisions of the Plan, the Committee may, from time to time, select from all eligible individuals, those to whom Awards shall be granted and shall determine the form and amount of each Award.

5.3 Prior Participation. Notwithstanding any other provision of the Plan to the contrary, all prior service and participation by a Participant with the Predecessor Corporation shall be credited in full towards a Participant's service and participation with the Corporation.

Article 6. STOCK OPTIONS

6.1 Grant of Options. Subject to the terms and provisions of the Plan, Options may be granted to Participants in such number, and upon such terms, and at any time and from time to time as shall be determined by the Committee.

ISOs may not be granted following the ten-year (10) anniversary of the date the Plan was last approved by shareholders in a manner that satisfies the shareholder approval requirements applicable to ISOs. ISOs may be granted only to Employees.

6.2 Award Agreement. Each Option grant shall be evidenced by an Award Agreement that shall specify the Option Price, the duration of the Option, the number of Shares to which the Option pertains, the conditions upon which an Option shall become vested and exercisable, and such other provisions as the Committee shall determine which are not inconsistent with the terms of the Plan. The Award Agreement also shall specify whether the Option is intended to be an ISO or an NQSO.

6.3 Option Price. The Option Price for each grant of an Option under this Plan shall be as determined by the Committee; provided, however, the Option Price shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the date the Option is granted.

6.4 Duration of Options. Each Option granted to a Participant shall expire at such time as the Committee shall determine at the time of grant; provided, however, no Option shall be exercisable later than the tenth (10th) anniversary of its grant.

6.5 Exercise of Options. Options granted under this Article 6 shall be exercisable at such times and be subject to such terms and conditions as the Committee shall in each instance approve, which need not be the same for each grant or for each Participant.

6.6 Payment. Options granted under this Article 6 shall be exercised by the delivery of notice of exercise to an agent designated by the Company or by complying with any alternative procedures which may be authorized by the Committee, setting forth the number of Shares with respect to which the Option is to be exercised.

A condition of the issuance of the Shares as to which an Option shall be exercised shall be the payment of the Option Price. The Option may be exercised (and the Option Price may be satisfied) by (a) delivering cash or its equivalent, (b) tendering (either by actual delivery or attestation) previously acquired Shares having an aggregate Fair Market Value at the time of exercise equal to the Option Price, (c) broker-assisted cashless exercise, (d) net exercise, (e) a combination of the foregoing or (f) by any other method approved by the Committee in its sole discretion. The Committee shall determine acceptable methods for tendering Shares as payment upon exercise of an Option and may impose such limitations and prohibitions on the use of Shares to exercise an Option as it deems appropriate.

Subject to any governing rules or regulations, as soon as practicable after receipt of written notification of exercise and full payment (including satisfaction of any applicable tax withholding), the Company shall deliver to the Participant evidence of book entry Shares, or upon the Participant's request, Share certificates in an appropriate amount based upon the number of Shares purchased under the Option(s).

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Unless otherwise determined by the Committee, all payments under the methods indicated above shall be paid in United States dollars.

6.7 Restrictions on Share Transferability. The Committee may impose such restrictions on any Shares acquired pursuant to the exercise of an Option granted under this Article 6 as it may deem advisable, including, without limitation, restrictions under applicable federal securities laws, under the requirements of any stock exchange or market upon which such Shares are then listed and/or traded, and under any blue sky or state securities laws applicable to such Shares.

6.8 Termination of Employment or Service as a Director. The impact of a termination of a Participant's employment on an Option's vesting and exercise period shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among Option grants or Participants. The impact of a termination on a Participant's service as a Director on an Option's vesting and exercise period shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among Option grants or Participants.

6.9 Transferability of Options. During his or her lifetime, only the Participant shall have the right to exercise the Options. After the Participant's death, the Participant's estate or beneficiary shall have the right to exercise such Options.

(a) *Incentive Stock Options.* No ISO granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution.

(b) *Nonqualified Stock Options.* Except as otherwise provided in a Participant's Award Agreement, no NQSO granted under this Article 6 may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution. Under no circumstances may an NQSO be transferable for value or consideration.

6.10 Notification of Disqualifying Disposition. If any Participant shall make any disposition of Shares issued pursuant to the exercise of an ISO under the circumstances described in Section 421(b) of the Code (relating to certain disqualifying dispositions), such Participant shall notify the Company of such disposition within ten (10) days thereof.

Article 7. STOCK APPRECIATION RIGHTS

7.1 Grant of SARs. Subject to the terms and conditions of the Plan, SARs may be granted to Participants at any time and from time to time as shall be determined by the Committee. The Committee may grant Freestanding SARs, Tandem SARs, or any combination of these forms of SARs.

Subject to the terms and conditions of the Plan, the Committee shall have complete discretion in determining the number of SARs granted to each Participant and, consistent with the provisions of the Plan, in determining the terms and conditions pertaining to such SARs.

The SAR Grant Price for each grant of a Freestanding SAR shall be determined by the Committee and shall be specified in the Award Agreement. The SAR Grant Price shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the date the SAR is granted. The Grant Price of Tandem SARs shall be equal to the Option Price of the related Option.

7.2 SAR Agreement. Each SAR Award shall be evidenced by an Award Agreement that shall specify the Grant Price, the term of the SAR, and such other provisions as the Committee shall determine.

7.3 Term of SAR. The term of a SAR granted under the Plan shall be determined by the Committee, in its sole discretion, provided that, no SAR shall be exercisable later than the tenth (10th) anniversary of its grant.

7.4 Exercise of Freestanding SARs. Freestanding SARs may be exercised upon whatever terms and conditions the Committee, in its sole discretion, imposes upon them; provided, however, such terms and conditions shall be subject to Section 7.1 as to grant price and Section 7.3 as to the term of the SAR.

7.5 Exercise of Tandem SARs. Tandem SARs may be exercised for all or part of the Shares subject to the related Option upon the surrender of the right to exercise the equivalent portion of the related Option. A Tandem SAR may be exercised only with respect to the Shares for which its related Option is then exercisable.

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Notwithstanding any other provision of this Plan to the contrary, with respect to a Tandem SAR granted in connection with an ISO: (a) the Tandem SAR will expire no later than the expiration of the underlying ISO; (b) the value of the payout with respect to the Tandem SAR may be for no more than one hundred percent (100%) of the difference between the Option Price of the underlying ISO and the Fair Market Value of the Shares subject to the underlying ISO at the time the Tandem SAR is exercised; and (c) the Tandem SAR may be exercised only when the Fair Market Value of the Shares subject to the ISO exceeds the Option Price of the ISO.

7.6 Payment of SAR Amount. Upon the exercise of a SAR, a Participant shall be entitled to receive payment from the Company in an amount determined by multiplying:

The difference between the Fair Market Value of a Share on the date of exercise over the Grant Price; by

The number of Shares with respect to which the SAR is exercised.

At the discretion of the Committee, the payment upon a SAR exercise may be in cash, in Shares of equivalent value, in some combination thereof, or in any other manner approved by the Committee at its sole discretion. The Committee's determination regarding the form of SAR payout shall be set forth in the Award Agreement pertaining to the grant of the SAR.

7.7 Termination of Employment or Service as a Director. The impact of a termination of a Participant's employment on a SAR's vesting and exercise period shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among SAR grants or Participants. The impact of a termination on a Participant's service as a Director on a SAR's vesting and exercise period shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among SAR grants or Participants.

7.8 Nontransferability of SARs. Except as otherwise provided in a Participant's Award Agreement, no SAR granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution. Under no circumstances may a SAR be transferable for value or consideration. Further, except as otherwise provided in a Participant's Award Agreement, all SARs granted to a Participant under the Plan shall be exercisable during his or her lifetime only by such Participant.

7.9 Other Restrictions. The Committee shall impose such other conditions and/or restrictions on any Shares received upon exercise of a SAR granted pursuant to the Plan as it may deem advisable. This includes, but is not limited to, requiring the Participant to hold the Shares received upon exercise of a SAR for a specified period of time.

Article 8. RESTRICTED STOCK AND RESTRICTED STOCK UNITS

8.1 Grant of Restricted Stock or Restricted Stock Units. Subject to the terms and conditions of the Plan, the Committee, at any time and from time to time, may grant Shares of Restricted Stock and/or Restricted Stock Units to Participants in such amounts as the Committee shall determine. Restricted Stock Units shall be similar to Restricted Stock except that no Shares are actually awarded to the Participant on the date of grant.

8.2 Restricted Stock or Restricted Stock Unit Agreement. Each Restricted Stock and/or Restricted Stock Unit grant shall be evidenced by an Award Agreement that shall specify the Period(s) of Restriction, the number of Shares of Restricted Stock or the number of Restricted Stock Units granted, and such other provisions as the Committee shall determine.

8.3 Transferability. Except as provided in this Article 8, the Shares of Restricted Stock and/or Restricted Stock Units granted herein may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated until the end of the applicable Period of Restriction established by the Committee and specified in the Award Agreement (and in the case of Restricted Stock Units until the date of delivery or other payment), or upon earlier satisfaction of any other conditions, as specified by the Committee, in its sole discretion, and set forth in the Award Agreement.

8.4 Other Restrictions. The Committee shall impose such other conditions and/or restrictions on any Shares of Restricted Stock or Restricted Stock Units granted pursuant to the Plan as it may deem advisable including, without limitation, a requirement that Participants pay a stipulated purchase price for each Share of Restricted Stock or each Restricted Stock Unit, restrictions based upon the achievement of specific performance goals, time-based restrictions on vesting following the attainment of the performance goals, time-based restrictions, and/or restrictions under applicable federal or state securities laws.

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To the extent deemed appropriate by the Committee, the Company may retain the certificates representing Shares of Restricted Stock in the Company's possession until such time as all conditions and/or restrictions applicable to such Shares have been satisfied or lapse.

Except as otherwise provided in this Article 8, Shares of Restricted Stock covered by each Restricted Stock Award shall become freely transferable by the Participant after all conditions and restrictions applicable to such Shares have been satisfied or lapse (including satisfaction of any applicable tax withholding obligations), and Restricted Stock Units shall be paid in cash, Shares, or a combination of cash and Shares as the Committee, in its sole discretion shall determine.

8.5 Voting Rights. To the extent permitted or required by law, as determined by the Committee, Participants holding Shares of Restricted Stock granted hereunder may be granted the right to exercise full voting rights with respect to those Shares during the Period of Restriction. A Participant shall have no voting rights with respect to any Restricted Stock Units granted hereunder.

8.6 Dividends and Other Distributions. During the Period of Restriction, Participants holding Shares of Restricted Stock or Restricted Stock Units granted hereunder may, if the Committee so determines, be credited with dividends paid with respect to the underlying Shares or dividend equivalents while they are so held in a manner determined by the Committee in its sole discretion. The Committee may apply any restrictions to the dividends or dividend equivalents that the Committee deems appropriate. The Committee, in its sole discretion, may determine the time and form of payment of dividends or dividend equivalents, including cash, Shares, Restricted Stock, or Restricted Stock Units; provided, however, that if dividends or dividend equivalents are granted with respect to any Shares of Restricted Stock or Restricted Share Units that are subject to performance goals, the dividends or dividend equivalents shall be accumulated or reinvested and paid following the time such performance goals are met, as set forth by the Committee in the applicable Award Agreement.

8.7 Termination of Employment or Service as a Director. The impact of a termination of a Participant's employment on a Restricted Stock or Restricted Stock Unit's vesting and settlement shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among Restricted Stock or Restricted Stock Unit grants or Participants. The impact of a termination of a Participant's service as a Director on a Restricted Stock or Restricted Stock Unit's vesting and settlement shall be determined by the Committee, in its sole discretion, in the Participant's Award Agreement, and need not be uniform among Restricted Stock or Restricted Stock Unit grants or Participants.

8.8 Section 83(b) Election. The Committee may provide in an Award Agreement that the Award of Restricted Stock is conditioned upon the Participant making or refraining from making an election with respect to the Award under Section 83(b) of the Code. If a Participant makes an election pursuant to Section 83(b) of the Code concerning a Restricted Stock Award, the Participant shall be required to file promptly a copy of such election with the Company.

Article 9. OTHER AWARDS

The Committee may grant Other Awards, which may include, without limitation, unrestricted Shares, the payment of Shares in lieu of cash, the payment of cash based on attainment of Performance Goals, service conditions or other goals established by the Committee and the payment of Shares in lieu of cash under other Company incentive or bonus programs. Payment under or settlement of any such Other Awards shall be made in such manner, at such times and subject to such terms and conditions as the Committee may determine.

Article 10. PERFORMANCE MEASURES

Unless and until the Committee proposes for shareholder vote and the shareholders approve a change in the general Performance Measures set forth in this Article 10, the performance goals upon which the payment or vesting of an Award to a Covered Employee that is intended to qualify as Performance-Based Compensation shall be limited to one or more of the following Performance Measures:

(a) Net earnings;

(b) Earnings per share;

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- (c) Net sales growth;
- (d) Net income (before or after taxes);
- (e) Net operating profit;
- (f) Return measures (including, but not limited to, return on assets, capital, equity, or sales);
- (g) Cash flow (including, but not limited to, operating cash flow and free cash flow);
- (h) Cash flow return on capital;
- (i) Earnings before or after taxes, interest, depreciation, and/or amortization;
- (j) Gross or operating margins;
- (k) Productivity ratios;
- (l) Share price (including, but not limited to, growth measures and total shareholder return);
- (m) Expense targets;
- (n) Margins;
- (o) Operating efficiency;
- (p) Customer satisfaction;
- (q) Employee satisfaction metrics;
- (r) Human resources metrics;
- (s) Working capital targets; and
- (t) EVA[®].

Any Performance Measure(s) may be used to measure the performance of the Company or an Affiliate as a whole or any business unit of the Company or an Affiliate or any combination thereof, as the Committee may deem appropriate, or any of the above Performance Measures as compared to the performance of a group of comparator companies, or published or special index that the Committee, in its sole discretion, deems appropriate, or the Company may select Performance Measure (l) above as compared to various stock market indices. The Committee also has the authority to provide for accelerated vesting of any Award based on the achievement of performance goals pursuant to the Performance Measures specified in this Article 10.

The Committee may provide in any such Award that any evaluation of performance may include or exclude any of the following events that occurs during a Performance Period: (a) asset write-downs, (b) litigation or claim judgments or settlements, (c) the effect of changes in tax laws, accounting principles, or other laws or provisions affecting reported results, (d) any reorganization and restructuring programs, (e) extraordinary nonrecurring items as described in Accounting Principles Board Opinion No. 30 and/or in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to shareholders for the applicable year, (f) acquisitions or divestitures, and (g) foreign exchange gains and losses. To the extent such inclusions or exclusions affect Awards to Covered Employees, they shall be prescribed in a form that meets the requirements of Code Section 162(m) for deductibility.

Awards that are designed to qualify as Performance-Based Compensation, and that are held by Covered Employees, may not be adjusted upward. The Committee shall retain the discretion to adjust such Awards downward.

In the event that applicable tax and/or securities laws change to permit Committee discretion to alter the governing Performance Measures without obtaining shareholder approval of such changes, the Committee shall have sole discretion to make such changes without obtaining shareholder approval.

Article 11. BENEFICIARY DESIGNATION

Each Participant under the Plan may, from time to time, name any beneficiary or beneficiaries (who may be named contingently or successively) to whom any benefit under the Plan is to be paid in case of his or her death

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before he or she receives any or all of such benefit. Each such designation shall revoke all prior designations by the same Participant, shall be in a form prescribed by the Committee, and will be effective only when filed by the Participant in writing with the Company during the Participant's lifetime. In the absence of any such designation, benefits remaining unpaid at the Participant's death shall be paid to the Participant's estate.

Article 12. RIGHTS OF PARTICIPANTS

12.1 Employment. Nothing in the Plan or an Award Agreement shall interfere with or limit in any way the right of the Company and/or its Affiliates to terminate any Participant's employment or of the Board of Directors to terminate service as a Director at any time or for any reason not prohibited by law, nor confer upon any Participant any right to continue his or her employment or service as a Director for any specified period of time.

Neither an Award nor any benefits arising under this Plan shall constitute an employment contract with the Company and, accordingly, subject to Article 3 and Section 14.1, this Plan and the benefits hereunder may be terminated at any time in the sole and exclusive discretion of the Committee without giving rise to any liability on the part of the Company, its Affiliates, and/or its Subsidiaries.

12.2 Participation. No individual shall have the right to be selected to receive an Award under this Plan, or, having been so selected, to be selected to receive a future Award.

12.3 Rights as a Shareholder. Except as otherwise provided in Section 8 of the Plan or in an Award Agreement, a Participant shall have none of the rights of a shareholder with respect to Shares covered by any Award until the Participant becomes the record holder of such Shares.

Article 13. ACCELERATION EVENT

The Compensation Committee shall specify in each Participant's Award Agreement the treatment of outstanding Awards upon an Acceleration Event; provided that any Converted Award will continue to apply the definition of change in control or acceleration event as provided in the Predecessor Corporation Equity Plan under which such Converted Award was originally granted, as adjusted pursuant to the terms of the Benefits and Compensation Matters Agreement.

Article 14. AMENDMENT, MODIFICATION, SUSPENSION, AND TERMINATION

14.1 Amendment, Modification, Suspension, and Termination. Subject to Section 14.3, the Committee may, at any time and from time to time, alter, amend, modify, suspend, or terminate the Plan and any Award Agreement in whole or in part; provided, however, that, except for a change or adjustment made pursuant to Section 4.2, no Option Price of an outstanding Option or Grant Price of an outstanding SAR shall be reduced (whether through amendment, cancellation or replacement of Awards with other Awards or other payments of cash or property) without shareholder approval.

14.2 Adjustment of Awards Upon the Occurrence of Certain Unusual or Nonrecurring Events. The Committee may make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of unusual or nonrecurring events (including, without limitation, the events described in Section 4.2 hereof) affecting the Company or the financial statements of the Company or of changes in applicable laws, regulations, or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent unintended dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan. The determination of the Committee as to the foregoing adjustments, if any, shall be conclusive and binding on Participants under the Plan.

14.3 Awards Previously Granted. Notwithstanding any other provision of the Plan to the contrary, no termination, amendment, suspension, or modification of the Plan or an Award Agreement shall adversely affect in any material way any Award previously granted under the Plan, without the written consent of the Participant holding such Award.

Article 15. WITHHOLDING

15.1 Tax Withholding. The Company shall have the power and the right to deduct or withhold, or require a Participant to remit to the Company, the minimum statutory amount to satisfy federal, state, and local taxes, domestic or foreign, required by law or regulation to be withheld with respect to any taxable event arising as a result of this Plan.

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15.2 Share Withholding. With respect to withholding required upon the exercise of Options, or SARs, upon the lapse of restrictions on Restricted Stock and Restricted Stock Units, or any other taxable event arising as a result of Awards granted hereunder, Participants may elect, subject to the approval of the Committee, to satisfy the withholding requirement, in whole or in part, by having the Company withhold Shares having a Fair Market Value on the date the tax is to be determined equal to the minimum statutory total tax that could be imposed on the transaction. All such elections shall be irrevocable, made in writing, and signed by the Participant, and shall be subject to any restrictions or limitations that the Committee, in its sole discretion, deems appropriate.

Article 16. SUCCESSORS

All obligations of the Company under the Plan with respect to Awards granted hereunder shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business and/or assets of the Company.

Article 17. GENERAL PROVISIONS

17.1 Forfeiture Events. The Committee may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events shall include, but shall not be limited to, termination of employment for cause, violation of material Company and/or Affiliate policies, breach of noncompetition, confidentiality, or other restrictive covenants that may apply to the Participant, or other conduct by the Participant that is detrimental to the business or reputation of the Company and/or its Affiliates.

17.2 Legend. The certificates for Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer of such Shares.

17.3 Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also shall include the feminine, the plural shall include the singular, and the singular shall include the plural.

17.4 Severability. In the event 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.

17.5 Requirements of Law. The granting of Awards and the issuance of Shares under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

17.6 Securities Law Compliance. With respect to Insiders, transactions under this Plan are intended to comply with all applicable conditions of Rule 16b-3 or its successor under the Exchange Act. To the extent any provision of the Plan or action by the Committee fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Committee.

17.7 Registration and Listing. The Company may use reasonable endeavors to register Shares allotted pursuant to the exercise of an Award with the United States Securities and Exchange Commission or to effect compliance with the registration, qualification, and listing requirements of any national securities laws, stock exchange, or automated quotation system.

17.8 Delivery of Title. The Company shall have no obligation to issue or deliver evidence of title for Shares issued under the Plan prior to:

- (a) Obtaining any approvals from governmental agencies that the Company determines are necessary or advisable; and
- (b) Completion of any registration or other qualification of the Shares under any applicable national or foreign law or ruling of any governmental body that the Company determines to be necessary or advisable.

17.9 Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful

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issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

17.10 Employees or Directors Based Outside of the United States. Notwithstanding any provision of the Plan to the contrary, in order to comply with the laws in other countries in which the Company and its Affiliates operate or have Employees or Directors, the Committee, in its sole discretion, shall have the power and authority to:

- (a) Determine which Affiliates shall be covered by the Plan;
- (b) Determine which Employees and/or Directors outside the United States are eligible to participate in the Plan;
- (c) Modify the administrative terms and conditions of any Award granted to Employees and/or Directors outside the United States to comply with applicable foreign laws;
- (d) Establish subplans and modify exercise procedures and other terms and procedures, to the extent such actions may be necessary or advisable. Any subplans and modifications to Plan terms and procedures established under this Section 17.10 by the Committee shall be attached to this Plan document as appendices; and
- (e) Take any action, before or after an Award is made, that it deems advisable to obtain approval or comply with any necessary local government regulatory exemptions or approvals.

Notwithstanding the above, the Committee may not take any actions hereunder, and no Awards shall be granted, that would violate the Exchange Act, the Code, any securities law, or governing statute or any other applicable law.

17.11 Uncertificated Shares. To the extent that the Plan provides for issuance of certificates to reflect the transfer of Shares, the transfer of such Shares may be effected on a noncertificated basis, to the extent not prohibited by applicable law or the rules of any stock exchange.

17.12 Unfunded Plan. Participants shall have no right, title, or interest whatsoever in or to any investments that the Company may make to aid it in meeting its obligations under the Plan. Nothing contained in the Plan, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship between the Company and any Participant, beneficiary, legal representative, or any other person. To the extent that any person acquires a right to receive payments from the Company under the Plan, such right shall be no greater than the right of an unsecured general creditor of the Company. All payments to be made hereunder shall be paid from the general funds of the Company and no special or separate fund shall be established and no segregation of assets shall be made to assure payment of such amounts except as expressly set forth in the Plan. The Plan is not subject to ERISA.

17.13 No Fractional Shares. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, Awards, or other property shall be issued or paid in lieu of fractional Shares or whether such fractional Shares or any rights thereto shall be forfeited or otherwise eliminated.

17.14 Retirement and Welfare Plans. The value of compensation paid under this Plan will not be included as compensation for purposes of computing the benefits payable to any participant under the Company's retirement plans (both qualified and non-qualified) or welfare benefit plans unless such other plan expressly provides that such compensation shall be taken into account in computing a participant's benefit.

17.15 Governing Law. The Plan and each Award Agreement shall be governed by the laws of the State of New York, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of the Plan to the substantive law of another jurisdiction. Unless otherwise provided in the Award Agreement, recipients of an Award under the Plan are deemed to submit to the exclusive jurisdiction and venue of the federal or state courts of New York, to resolve any and all issues that may arise out of or relate to the Plan or any related Award Agreement.

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ANNEX B

XYLEM ANNUAL INCENTIVE PLAN FOR EXECUTIVE OFFICERS

1. Purpose

The purpose of this Xylem Annual Incentive Plan for Executive Officers is to provide incentive compensation in the form of a cash award to executive officers of Xylem Inc. (the Company) for achieving specific pre-established performance objectives and to continue to motivate participating executive officers to achieve their business goals, while tying a portion of their compensation to measures affecting shareholder value; provided, however, that for purposes of grants made under the Predecessor Plan, the term Company shall include the ITT Corporation (the Predecessor Corporation) as the original grantor. The Incentive Plan seeks to enable the Company to continue to be competitive in its ability to attract and retain executive officers of the highest caliber.

The Xylem Annual Incentive Plan (the Incentive Plan) first became effective as of October 31, 2011 following the spin-off of Xylem Inc. from the Predecessor Corporation on October 31, 2011; provided, however, that for purposes of grants made under the Predecessor Plan, the term Incentive Plan shall include shall include the Predecessor Plan as it existed at the time of the grant. The Predecessor Corporation maintained a similar plan prior to the spin-off (the Predecessor Plan), and the Incentive Plan was created to govern the awards under the Predecessor Plan, as revised to reflect the spin-off from the Predecessor Corporation. The Incentive Plan shall remain in effect as provided in Article IX hereof, and participants shall receive full credit for their service and participation with the Predecessor Corporation as provided in Article IX hereof.

It is intended that compensation payable under the Incentive Plan will qualify as performance-based compensation, within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended (the Code) and regulations promulgated thereunder, if such qualification is desired.

2. Plan Administration

The Compensation and Personnel Committee (the Committee) of the Board of Directors (the Board) of the Company, as constituted by the Board from time to time, shall be comprised completely of outside directors as defined under Section 162(m) of the Code.

The Committee shall have full power and authority to administer, construe and interpret the provisions of the Incentive Plan and to adopt and amend administrative rules and regulations, agreements, guidelines and instruments for the administration of the Incentive Plan and for the conduct of its business as the Committee considers appropriate.

Except with respect to matters which under Section 162 (m) of the Code are required to be determined in the sole and absolute discretion of the Committee, the Committee shall have full power, to the extent permitted by law, to delegate its authority to any officer or employee of the Company to administer and interpret the procedural aspects of the Incentive Plan, subject to the terms of the Incentive Plan, including adopting and enforcing rules to decide procedural and administrative issues.

The Committee may rely on opinions, reports or statements of officers or employees of the Company and of counsel to the Company (inside or retained counsel), public accountants and other professional or expert persons.

The Board reserves the right to amend or terminate the Incentive Plan in whole or in part at any time; provided, however, that except as necessary to maintain an outstanding incentive award's qualification as performance-based compensation under Section 162(m) of the Code (Performance-Based Compensation), no amendments shall adversely affect or impair the rights of any participant that have previously accrued hereunder, without the written consent of the participant. Unless otherwise prohibited by applicable law, any amendment required to cause an incentive award to qualify as Performance-Based Compensation may be made by the Committee. No amendment to the Incentive Plan may be made to alter the class of individuals who are eligible to participate in the Incentive Plan, the performance criteria specified in Section 4 hereof or the maximum incentive award payable to any participant without shareholder approval unless shareholder approval of the amendment is not required in order for incentive awards paid to participants to constitute Performance-Based Compensation.

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No member of the Committee shall be liable for any action taken or omitted to be taken or for any determination made by him or her in good faith with respect to the Incentive Plan, and the Company shall indemnify and hold harmless each member of the Committee against any cost or expense (including counsel fees) or liability (including any sum paid in settlement of a claim with the approval of the Committee) arising out of any act or omission in connection with the administration or interpretation of the Incentive Plan, unless arising out of such person's own fraud or bad faith.

3. Eligible Executives

Executive officers of the Company and its subsidiaries, as defined by the Securities Exchange Act of 1934, Rule 3b-7, as that definition may be amended from time to time, shall be eligible to participate in the Incentive Plan. The Committee shall select from all eligible executive officers, those to whom incentive awards shall be granted under the Incentive Plan.

4. Plan Year, Performance Periods, Performance Measures and Performance Targets

Each fiscal year of the Incentive Plan (the "Plan Year") shall begin on January 1 and end on December 31. The performance period (the "Performance Period") with respect to which incentive awards may be payable under the Incentive Plan shall be the Plan Year unless the Committee designates one or more different Performance Periods.

The Committee shall establish the performance measures (the "Performance Measures") to be used which may include, one or more of the following criteria: (i) consolidated earnings before or after taxes (including earnings before interest, taxes, depreciation and amortization); (ii) net income; (iii) operating income; (iv) earnings per share; (v) book value per share; (vi) return on shareholders' equity; (vii) expense management; (viii) return on investment; (ix) improvements in capital structure; (x) profitability of an identifiable business unit or product; (xi) maintenance or improvement of profit margins; (xii) stock price; (xiii) market share; (xiv) revenues or sales (including organic revenue); (xv) costs; (xvi) cash flow; (xvii) working capital (xviii) return on assets; (xix) total shareholder return; (xx) return on invested or total capital and (xxi) economic value added.

In addition, to the extent consistent with Section 162(m) of the Code, Performance Measures may be based upon other objectives such as negotiating transactions or sales, implementation of Company policy, development of long-term business goals or strategic plans, negotiation of significant corporate transactions, meeting specified market penetration goals, productivity measures, geographic business expansion goals, cost targets, customer satisfaction or employee satisfaction goals, goals relating to merger synergies, management of employment practices and employee benefits, or supervision of litigation and information technology, and goals relating to acquisitions or divestitures of subsidiaries and/or other affiliates or joint ventures; provided however, that the measurement of any such Performance Measures must be objectively determinable.

All Performance Measures shall be objectively determinable and, to the extent they are expressed in standard accounting terms, shall be according to generally accepted accounting principles as in existence on the date on which the applicable Performance Period is established and without regard to any changes in such principles after such date (unless the modification of a Performance Measure to take into account such a change is pre-established in writing at the time the Performance Measures are established in writing by the Committee and/or the modification would not affect the ability of the incentive award to qualify as Performance-Based Compensation).

Notwithstanding the foregoing, incentive awards that are not intended to qualify as Performance-Based Compensation may be based on the Performance Measures described above or such other measures as the Committee may determine.

The Committee shall establish the performance targets (the "Performance Targets") to be achieved which shall be based on one or more Performance Measures relating to the Company as a whole or to the specific businesses of the Company, subsidiaries, operating groups, or operating units, as determined by the Committee. Performance Targets may be established on such terms as the Committee may determine, in its discretion, including in absolute terms, as a goal relative to performance in prior periods, or as a goal compared to the performance of one or more comparable companies or an index covering multiple companies. The Committee also shall establish with respect to each incentive award an objective formula to be used in calculating the

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amount of incentive award each participant shall be eligible to receive. There may be a sliding scale of payment dependent upon the percentage levels of achievement of Performance Targets.

The Performance Measures and Performance Targets, which may be different with respect to each participant and each Performance Period, must be set forth in writing by the Committee within the first ninety (90) days of the applicable Performance Period or, if sooner, prior to the time when 25 percent of the relevant Performance Period has elapsed.

5. Certification of Performance Targets and Calculation of Incentive Awards

After the end of each Performance Period, and prior to the payment for such Performance Period, the Committee must certify in writing the degree to which the Performance Targets for the Performance Period were achieved, including the specific target objective or objectives and the satisfaction of any other material terms of the incentive award. The Committee shall calculate the amount of each participant's incentive award for such Performance Period based upon the Performance Measures and Performance Targets for such participant. In establishing Performance Targets and Performance Measures and in calculating the degree of achievement thereof, the Committee may ignore extraordinary items, property transactions, changes in accounting standards and losses or gains arising from discontinued operations. The Committee shall have no authority or discretion to increase the amount of any participant's incentive award as so determined to the extent such incentive award is intended to qualify as Performance-Based Compensation, but it may reduce the amount or totally eliminate any such incentive award if it determines in its absolute and sole discretion that such action is appropriate in order to reflect the participant's performance or unanticipated factors during the Performance Period. The Committee shall have the authority to increase or decrease the amount of an incentive award to the extent the incentive award is not intended to qualify as Performance-Based Compensation.

The maximum payment that may be made with respect to incentive awards under the Plan to any participant in any one calendar year shall be \$8,000,000; provided, however, that this limitation shall not apply with respect to any incentive award that is paid in a calendar year prior to the year it would ordinarily be paid because of an Acceleration Event or other transaction or event that provides for accelerated payment of an incentive award.

6. Payment of Awards

Approved incentive awards shall be payable by the Company in cash to each participant, or to the participant's estate in the event of the participant's death, as soon as practicable (and in any event no later than 21/2 months) after the end of each Performance Period. No incentive award that is intended to qualify as Performance-Based Compensation may be paid under the Incentive Plan until the Committee has certified in writing that the relevant Performance Targets were achieved. If a participant is not an employee on the last day of the Performance Period, the Committee shall have sole discretion to determine what portion, if any, the participant shall be entitled to receive with respect to any award for the Performance Period. The Committee shall have the authority to adopt appropriate rules and regulations for the administration of the Incentive Plan in such termination cases.

The Company retains the right to deduct from any incentive awards paid under the Incentive Plan any Federal, state, local or foreign taxes required by law to be withheld with respect to such payment.

Notwithstanding the above, no incentive awards shall be paid under the Incentive Plan unless the Incentive Plan is approved by the requisite shareholders of the Company.

7. Other Terms and Conditions

Any award made under this Incentive Plan shall be subject to the discretion of the Committee. No person shall have any legal claim to be granted an award under the Incentive Plan and the Committee shall have no obligation to treat participants uniformly. Except as may be otherwise required by law, incentive awards under the Incentive Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary. Incentive awards granted under the Incentive Plan shall be payable from the general assets of the Company, and no participant shall have any claim with respect to any specific assets of the Company.

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Nothing contained in the Incentive Plan shall give any participant the right to continue in the employment of the Company or affect the right of the Company to terminate the employment of a participant.

8. Acceleration Event.

An Acceleration Event shall occur if (i) a report on Schedule 13D shall be filed with the Securities and Exchange Commission pursuant to Section 13(d) of the Securities Exchange Act of 1934 (the "Act") disclosing that any person (within the meaning of Section 13(d) of the Act), other than the Company or a subsidiary of the Company or any employee benefit plan sponsored by the Company or a subsidiary of the Company, is the beneficial owner directly or indirectly of twenty percent (20%) or more of the outstanding Common Stock \$1 par value, of the Company (the "Stock"); (ii) any person (within the meaning of Section 13(d) of the Act), other than the Company or a subsidiary of the Company, or any employee benefit plan sponsored by the Company or a subsidiary of the Company, shall purchase shares pursuant to a tender offer or exchange offer to acquire any Stock (or securities convertible into Stock) for cash, securities or any other consideration, provided that after consummation of the offer, the person in question is the beneficial owner (as such term is defined in Rule 13d-3 under the Act), directly or indirectly, of twenty percent (20%) or more of the outstanding Stock (calculated as provided in paragraph (d) of Rule 13d-3 under the Act in the case of rights to acquire Stock); (iii) the consummation of (A) any consolidation, business combination or merger involving the Company, other than a consolidation, business combination or merger involving the Company in which holders of Stock immediately prior to the consolidation, business combination or merger (x) hold fifty percent (50%) or more of the combined voting power of the Company (or the corporation resulting from the merger or consolidation or the parent of such corporation) after the merger and (y) have the same proportionate ownership of common stock of the Company (or the corporation resulting from the merger or consolidation or the parent of such corporation), relative to other holders of Stock immediately prior to the merger, business combination or consolidation, immediately after the merger as immediately before, or (B) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all the assets of the Company, (iv) there shall have been a change in a majority of the members of the Board within a 12-month period unless the election or nomination for election by the Company's stockholders of each new director during such 12-month period was approved by the vote of two-thirds of the directors then still in office who (x) were directors at the beginning of such 12-month period or (y) whose nomination for election or election as directors was recommended or approved by a majority of the directors who were directors at the beginning of such 12-month period or (v) any person (within the meaning of Section 13(d) of the Act) (other than the Company or any subsidiary of the Company or any employee benefit plan (or related trust) sponsored by the Company or a subsidiary of the Company) becomes the beneficial owner (as such term is defined in Rule 13d-3 under the Act) of twenty percent (20%) or more of the Stock.

Upon the occurrence of such Acceleration Event, the Performance Measures for each Performance Period with respect to which incentive awards may be payable under the Incentive Plan shall be deemed to be achieved at the greater of (i) the Performance Target established for such Performance Measures or (ii) the Company's actual achievement of such Performance Measures as of the Acceleration Event. Payment of the incentive awards, for the full year, will be made to each participant, in cash, within five (5) business days following such Acceleration Event.

9. Miscellaneous.

The Incentive Plan shall be effective October 31, 2011 subject to the approval of the requisite shareholders of the Company. Once approved, the Incentive Plan shall remain in effect unless/until terminated by the Board; provided, however, that if an Acceleration Event has occurred no amendment or termination shall impair the rights of any participant with respect to any prior award.

This Incentive Plan shall be construed and governed in accordance with the laws of the State of New York.

Notwithstanding any other provision of the Incentive Plan to the contrary, all prior service and participation by a participant with the Predecessor Corporation shall be credited in full towards a participant's service and participation with the Company.

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ANNEX C

**BLACKLINED TO REFLECT PROPOSED CHANGES TO THE
ARTICLES OF INCORPORATION OF XYLEM INC.
~~SECOND~~THIRD AMENDED AND RESTATED ARTICLES OF INCORPORATION**

of

XYLEM INC.

ARTICLE FIRST

The name of the corporation is Xylem Inc. (the Corporation).

ARTICLE SECOND

The address of the registered office of the Corporation in the State of Indiana is 251 East Ohio Street, Suite 1100, Indianapolis, Indiana 46204. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

ARTICLE THIRD

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Indiana Business Corporation Law (IBCL).

ARTICLE FOURTH

(a) The aggregate number of shares of stock that the Corporation shall have authority to issue is 800,000,000 shares, consisting of 750,000,000 shares designated Common Stock and 50,000,000 shares designated Preferred Stock . The shares of Common Stock shall have a par value of \$0.01 per share, and the shares of Preferred Stock shall not have any par or stated value, except that, solely for the purpose of any statute or regulation imposing any fee or tax based upon the capitalization of the Corporation, the shares of Preferred Stock shall be deemed to have a par value of \$.01 per share.

(b) The Board of Directors of the Corporation shall have the full authority permitted by law, at any time and from time to time, to divide the authorized and unissued shares of Preferred Stock into classes or series, or both, and to determine the preferences, limitations and relative voting and other rights of any such class or series of Preferred Stock, with such divisions and determinations to be accomplished by an amendment to these Amended and Restated Articles of Incorporation (Articles of Incorporation) which amendment may, except as otherwise provided by law, be made solely by action of the Board of Directors, which shall have the full authority permitted by law to make such divisions and determinations.

(c) Each holder of shares of Common Stock shall be entitled to one vote for each share of Common Stock held of record on all matters on which the holders of shares of Common Stock are entitled to vote. No holder of shares of Common Stock will be permitted to cumulate votes at any election of directors.

(d) Subject to all the rights of the holders of the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of funds legally available for the payment thereof, dividends payable in cash, stock or otherwise. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and subject to the rights of the holders of the Preferred Stock, the remaining assets of the Corporation available for distribution shall be distributed to the holders of the Common Stock ratably according to the number of shares of Common Stock held by such holder.

ARTICLE FIFTH

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(a) The number of directors constituting the Board of Directors of the Corporation shall be not less than three nor more than twenty-five, with the exact number to be fixed from time to time solely by resolution of the Board of Directors acting by not less than a majority of the directors in office. Prior to the annual meeting of shareholders to be held in 2016 (the 2016 Annual Meeting), the Board of Directors shall be divided into three (3) classes, as

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nearly equal in number as possible, with the term of office of one class expiring each year. At each annual meeting of shareholders prior to the 2016 Annual Meeting, each class of directors whose term shall then expire shall be elected to hold office for a three-year term. All directors of the Corporation elected at or after the 2016 Annual Meeting shall be elected for a term expiring at the next annual meeting of shareholders, with each such director to hold office until such director's successor shall have been elected and qualified, or until his or her earlier death, retirement, resignation or removal. Notwithstanding the foregoing, any director whose term expires at the annual meeting of shareholders scheduled to be held in 2017 or 2018 shall continue to hold office until the end of the term for which such director was elected and until such director's successor shall have been elected and qualified, or until his or her earlier death, retirement, resignation or removal.

(b) In the case of any vacancy on the Board of Directors, including a vacancy created by an increase in the number of directors, the vacancy shall be filled by the Board of Directors with the director so elected to serve (i) in the case of any vacancy so filled prior to the 2016 Annual Meeting, for the remainder of the term of the director being replaced or, in the case of an additional director, for the remainder of the term of the class to which the director has been assigned, with each such director to hold office until his or her successor is elected and qualified and (ii) in the case of any vacancy so filled at or after the 2016 Annual Meeting, until the next annual meeting of shareholders, with each such director to hold office until his or her successor is elected and qualified. Until the 2016 Annual Meeting, if the number of directors is changed, any newly created directorships or any decrease in directorships shall be so assigned among the classes by a majority of the directors then in office, though less than a quorum, as to make all classes as nearly equal in number as possible. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

(c) In a contested election of directors (i.e. any election where the number of nominees exceeds the number of directors to be elected), directors shall be elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. In an uncontested election of directors, directors shall be elected by a majority of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. Any director or directors may be removed from office at any time, but only for cause and only upon the affirmative vote of at least a majority of the shares then entitled to vote at a meeting called, and notice provided, in accordance with the IBCL, these Articles of Incorporation and the By-laws of the Corporation.

(d) Special meetings of shareholders of the Corporation may be called ~~only (i)~~ by the Chairman of the Board of Directors ~~or (ii)~~ by a majority vote of the entire Board of Directors, or (iii) by the Secretary of the Corporation upon the written request of the holders of at least twenty-five percent (25%) of the outstanding shares of Common Stock of the Corporation entitled to vote on the matter or matters to be brought before the proposed special meeting in accordance with the procedures and other requirements set forth in the By-laws of the Corporation.

(e) Holders of the Common Stock of the Corporation shall not have any preemptive rights to subscribe for additional issues of shares of Common Stock of the Corporation except as may be agreed from time to time by the Corporation and any such shareholder.

(f) Notwithstanding the foregoing, whenever the holders of any one or more classes or series of Preferred Stock issued by the Corporation, if any, shall have the right, voting separately by class or series, to elect directors at an annual or special meeting of shareholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of such class or series of Preferred Stock.

ARTICLE SIXTH

To the fullest extent permitted by applicable law as then in effect, no director or officer shall be personally liable to the Corporation or any of its shareholders for damages for any action taken as a director or officer, or any failure or omission to take any action, regardless of the nature of the breach or alleged breach, including any breach or alleged breach of the duty of care, the duty of loyalty or the duty of good faith. Any repeal or modification of this ARTICLE SIXTH shall not adversely affect any right or protection of a director or officer of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

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ARTICLE SEVENTH

The holders of the capital stock of the Corporation shall not be personally liable for the payment of the Corporation's debts and the private property of the holders of the capital stock of the Corporation shall not be subject to the payment of debts of the Corporation to any extent whatsoever.

ARTICLE EIGHTH

Subject to any express provision of the laws of the State of Indiana, these Articles of Incorporation or the By-laws of the Corporation, the By-laws of the Corporation may from time to time be supplemented, amended or repealed, or new By-laws may be adopted, by the Board of Directors at any regular or special meeting of the Board of Directors, if such supplement, amendment, repeal or adoption is approved by a majority of the entire Board of Directors.

ARTICLE NINTH

The Corporation reserves the right to supplement, amend or repeal any provision contained in these Articles of Incorporation, in the manner now or hereafter prescribed by the laws of the State of Indiana, and all rights conferred on shareholders herein are granted subject to this reservation.

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ANNEX D

BLACKLINED TO REFLECT PROPOSED CHANGES TO THE BY-LAWS OF XYLEM INC.

SECOND AMENDED AND RESTATED

BY-LAWS

of

XYLEM INC.

1. SHAREHOLDERS.

1.1. *Place of Shareholders Meetings.* All meetings of the shareholders of Xylem Inc. (the Corporation) shall be held at such place or places, within or outside the state of Indiana, as may be fixed by the Corporation's Board of Directors (the Board), and each member thereof a Director) from time to time or as shall be specified in the respective notices thereof.

1.2. *Day and Time of Annual Meetings of Shareholders.* An annual meeting of shareholders shall be held at such place (within or outside the state of Indiana), date and hour as shall be determined by the Board and designated in the notice thereof. Failure to hold an annual meeting of shareholders at such designated time shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the Corporation.

1.3. *Purposes of Annual Meetings.* (a) At each annual meeting, the shareholders shall elect the members of the Board for the succeeding term. At any such annual meeting any business properly brought before the meeting may be transacted.

(b) To be properly brought before an annual meeting, business must be (i) specified in the notice of the meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the meeting by or at the direction of the Board or (iii) otherwise properly brought before the meeting by a shareholder. For business to be properly brought before an annual meeting by a shareholder, the shareholder must have given written notice thereof, either by personal delivery or by United States mail, postage prepaid, to the Secretary, received at the principal executive offices of the Corporation, not less than 90 calendar days nor more than 120 calendar days prior to the date of the Corporation's proxy statement released to shareholders in connection with the previous year's annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting was changed by more than 30 days from the anniversary date of the previous year's annual meeting, notice by the shareholder must be so received not earlier than 120 calendar days prior to such annual meeting and not later than 90 calendar days prior to such annual meeting or 10 calendar days following the date on which public announcement of the date of the meeting is first made. In no event shall the public announcement of an adjournment or postponement of a meeting commence a new time period, or extend any time period, for the giving of written notice. Any such notice shall set forth as to each matter the shareholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting and, in the event that such business includes a proposal to amend either the Articles of Incorporation or By-laws of the Corporation, the language of the proposed amendment, (ii) the name and address of the shareholder proposing such business and the beneficial owner, if any, on whose behalf the proposal is made, (iii) a representation that the shareholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business, (iv) any material interest of the shareholder, and the beneficial owner, if any, on whose behalf the proposal is made, in such business, (v) if the shareholder or beneficial owner, if any, intends or is part of a group that intends to (x) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or (y) otherwise solicit proxies or votes in support of such shareholder's proposal, a representation to that effect, (vi) any other information relating to such shareholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal, pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, (vii) a description of any agreement, arrangement or understanding with respect to the proposal and/or the voting of shares of any class or series of stock of the Corporation between or among the shareholder giving the notice, the beneficial owner, if any, on whose behalf the proposal is made, any of their respective affiliates or associates and/or any others acting in concert with any

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of the foregoing (collectively, Proponent Persons), which term, for purposes of Section 2.2 herein, shall include each nominee (and his or her respective affiliates or associates and/or any others acting in concert with such nominee) and shall be defined as if the foregoing clause had, in each case, replaced the word proposal with the word nomination; and (viii) a description of any agreement, arrangement or understanding (including without limitation any swap or other derivative or short position, profits interest, hedging transaction, borrowed or loaned shares, any contract to purchase or sell, acquisition or grant of any option, right or warrant to purchase or sell, or other instrument) to which any Proponent Person is a party, the intent or effect of which may be (x) to transfer to or from any Proponent Person, in whole or in part, any of the economic consequences of ownership of any security of the Corporation, (y) to increase or decrease the voting power of any Proponent Person with respect to shares of any class or series of capital stock of the Corporation and/or (z) to provide any Proponent Person, directly or indirectly, with the opportunity to profit or share in any profit derived from, or to otherwise benefit economically from, or to mitigate any loss resulting from, the value (or any increase or decrease in the value) of any security of the Corporation. A shareholder providing notice of business proposed to be brought before a meeting shall update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is fifteen calendar days prior to the meeting or any adjournment or postponement thereof; such update and supplement shall be delivered in writing to the Secretary of the Corporation at the principal executive offices of the Corporation not later than five (5) days after the record date for the meeting (in the case of any update and supplement required to be made as of the record date), and not later than ten calendar days prior to the date for the meeting or any adjournment or postponement thereof (in the case of any update and supplement required to be made as of fifteen calendar days prior to the meeting or any adjournment or postponement thereof). The foregoing notice requirements shall be deemed satisfied by a shareholder if the shareholder has notified the Corporation of his or her intention to present a proposal at an annual meeting and such shareholder's proposal has been included in a proxy statement that has been prepared by management of the Corporation to solicit proxies for such annual meeting; provided, however, that, if such shareholder does not appear or send a qualified representative to present such proposal at such annual meeting, the Corporation need not present such proposal for a vote at such meeting, notwithstanding that proxies in respect of such vote may have been received by the Corporation. No business shall be conducted at an annual meeting of shareholders except in accordance with this Section 1.3(b), and the chairman of any annual meeting of shareholders may refuse to permit any business to be brought before an annual meeting without compliance with the foregoing procedures or if the shareholder solicits proxies in support of such shareholder's proposal without such shareholder having made the representation required by clause (v) of the preceding sentence.

1.4. *Special Meetings of Shareholders.* (a) Except as otherwise expressly required by applicable law, special meetings of the shareholders or of any class or series entitled to vote may be called for any purpose or purposes by: (i) the Chairman, (ii) by a majority vote of the entire Board, or (iii) the Secretary upon the written request of the holders of at least twenty-five percent (25%) of the outstanding shares of Common Stock of the Corporation (the Requisite Percentage), in each case in compliance with these By-laws and the Corporation's Articles of Incorporation to be held at such place (within or outside the state of Indiana), date and hour as shall be determined by the Board and designated in the notice thereof. Except as otherwise provided in this Section 1.4, a special meeting held following a Special Meeting Request (as defined below), to the extent practicable, shall be held not more than 90 days after the date on which a valid Special Meeting Request constituting the Requisite Percentage is received by the Secretary. Only such business as specified in the notice of such special meeting of the shareholders shall come before such meeting.

~~(b) Special meetings shall be held at such date, time and place as may be fixed by the Board in accordance with these by-laws.~~

(b) A request for a special meeting by the shareholders of the Corporation pursuant to this Section 1.4 (a Special Meeting Request) shall be delivered personally or sent by United States mail, postage prepaid, to the Secretary at the Corporation's principal executive offices and shall be signed and dated by each shareholder of record (or a duly authorized agent of such shareholder) requesting the special meeting (each, a Requesting Shareholder) and shall include (i) all information required to be provided by a shareholder proposing business or nominating

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directors at an annual meeting pursuant to Section 1.3(b) or Section 2.2 hereof, as applicable, including all information required with respect to a Proponent Person under Section 1.3(b)(i) through (viii) or Section 2.2(a) through (h) thereof, as applicable, and all updates required thereunder, (ii) a representation that each Requesting Shareholder, or one or more representatives of each such shareholder, intends to appear in person or by proxy at the special meeting to present the proposal(s) or business to be brought before the special meeting; (iii) an agreement by the Requesting Shareholders to notify the Corporation promptly in the event of any decrease in the number of shares of Common Stock held by the Requesting Shareholders following the delivery of such Special Meeting Request and prior to the special meeting and an acknowledgement that any such decrease shall be deemed to be a revocation of such Special Meeting Request to the extent of such reduction; and (iv) documentary evidence that the Requesting Shareholders own the Requisite Percentage as of the date on which the Special Meeting Request is delivered to the Secretary; provided, however, that if the shareholder(s) of record submitting the Special Meeting Request are not the beneficial owners of the shares representing the Requisite Percentage, then to be valid, the Special Meeting Request must also include documentary evidence that the beneficial owners on whose behalf the Special Meeting Request is made beneficially own the Requisite Percentage as of the date on which such Special Meeting Request is delivered to the Secretary. In addition, each Requesting Shareholder shall promptly provide any other information reasonably requested by the Corporation. Compliance by the Requesting Shareholder or group of Requesting Shareholders with the requirements of this Section and related provisions of these By-laws shall be determined in good faith by the Board, which determination shall be conclusive and binding on the Corporation and the shareholders.

(c) Notwithstanding anything to the contrary in this Section 1.4:

(i) A Special Meeting Request shall not be valid, and a special meeting requested by shareholders shall not be held, if (A) such Special Meeting Request does not comply with these By-laws, or relates to an item of business that is not a proper subject for shareholder action under applicable law, (B) the Special Meeting Request is received by the Corporation during the period commencing ninety (90) days prior to the first anniversary of the date of the immediately preceding annual meeting of shareholders and ending on the date of the next annual meeting of shareholders, (C) an identical or substantially similar item, other than the election of directors (as determined in good faith by the Board, a Similar Item) to that included in the Special Meeting Request was presented at any meeting of shareholders held within 90 days prior to receipt by the Corporation of such Special Meeting Request, (D) a Similar Item is already included in the Corporation's notice as an item of business to be brought before a meeting of the shareholders that has been called but not yet held or that is called for a date that is within 90 days of the receipt by the Corporation of a Special Meeting Request, or (E) such Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Act, or other applicable law.

(ii) Business transacted at any shareholder requested special meeting shall be limited to the purpose(s) stated in the valid Special Meeting Request; provided, however, that nothing herein shall prohibit the Board from submitting matters to the shareholders at any shareholder requested special meeting so long as such Board submissions are specified in the notice of such special meeting. If none of the Requesting Shareholders who submitted the Special Meeting Request appears at or sends a representative to the shareholder requested special meeting to present the matters to be presented for consideration that were specified in the Shareholder Meeting Request, the Corporation need not present such matters for a vote at such meeting.

(iii) Any Requesting Person may revoke a Special Meeting Request by written revocation delivered to, or mailed and received by, the Secretary at any time prior to the date of the shareholder requested special meeting. In the event any revocation(s) are received by the Secretary after the Secretary's receipt of a valid Special Meeting Request(s) from the holders of the Requisite Percentage of shareholders, or there is a decrease in the number of shares of Common Stock held by the Requesting Shareholders following the delivery of their Special Meeting Request, and in each case, as a result of such revocation(s) or decrease, as applicable, there no longer are valid unrevoked Special Meeting Request(s) meeting the Requisite Percentage of shareholders to call a special meeting, the Board shall have the discretion to determine whether or not to proceed with the shareholder requested special meeting.

1.5. *Notice of Meetings of Shareholders.* Except as otherwise expressly required or permitted by applicable law, not less than ten days nor more than sixty days before the date of every shareholders' meeting the Secretary shall

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give to each shareholder of record entitled to vote at such meeting written notice stating the place, day and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called and indication that notice is being issued by or at the direction of the person or persons calling the meeting. Except as provided in Section 1.6(d) or as otherwise expressly required by applicable law, notice of any adjourned meeting of shareholders need not be given if the time and place thereof are announced at the meeting at which the adjournment is taken. Any notice, if mailed, shall be deemed to be given when deposited in the United States mail, postage prepaid, addressed to the shareholder at the address for notices to such shareholder as it appears on the records of the Corporation.

1.6. *Quorum of Shareholders.* (a) Unless otherwise expressly required by applicable law, at any meeting of the shareholders, the presence in person or by proxy of shareholders entitled to cast a majority of votes thereat shall constitute a quorum. Shares of the Corporation's stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in an election of the directors of such other corporation is held by the Corporation, shall neither be counted for the purpose of determining the presence of a quorum nor entitled to vote at any meeting of the shareholders.

(b) At any meeting of the shareholders at which a quorum shall be present, a majority of those present in person or by proxy may adjourn the meeting from time to time without notice other than announcement at the meeting. In the absence of a quorum, the officer presiding thereat shall have power to adjourn the meeting from time to time until a quorum shall be present. Notice of any adjourned meeting other than announcement at the meeting shall not be required to be given, except as provided in Section 1.6(d) below and except where expressly required by applicable law.

(c) At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting originally called, but only those shareholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof unless a new record date is fixed by the Board.

(d) If a new date, time and place of an adjourned meeting is not announced at the original meeting before adjournment, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given in the manner specified in Section 1.5 to each shareholder of record entitled to vote at the meeting.

1.7. *Chairman and Secretary of Meeting.* The Chairman or, in his or her absence, another officer of the Corporation designated by the Chairman, shall preside at meetings of the shareholders. The Secretary shall act as secretary of the meeting, or in the absence of the Secretary, an Assistant Secretary shall so act, or if neither is present, then the presiding officer may appoint a person to act as secretary of the meeting.

1.8. *Voting by Shareholders.* (a) Except as otherwise expressly required by applicable law, at every meeting of the shareholders each shareholder shall be entitled to the number of votes specified in the Articles of Incorporation, in person or by proxy, for each share of stock standing in his or her name on the books of the Corporation on the date fixed pursuant to the provisions of Section 5.6 of these By-laws as the record date for the determination of the shareholders who shall be entitled to receive notice of and to vote at such meeting.

(b) When a quorum is present at any meeting of the shareholders, action on a matter (other than the election of directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless express provision of law or the Articles of Incorporation require a greater number of affirmative votes.

(c) Except as required by applicable law, the vote at any meeting of shareholders on any question need not be by ballot, unless so directed by the chairman of the meeting. On a vote by ballot, each ballot shall be signed by the shareholder voting, or by his or her proxy, if there be such proxy, and shall state the number of shares voted.

1.9. *Proxies.* Any shareholder entitled to vote at any meeting of shareholders may vote either in person or by proxy. A shareholder may authorize a person or persons to act for the shareholder as proxy by (i) the shareholder or the shareholder's designated officer, director, employee or agent executing a writing by signing it or by causing the shareholder's signature or the signature of the designated officer, director, employee or agent of the shareholder to be affixed to the writing by any reasonable means, including by facsimile signature; (ii) the shareholder transmitting or authorizing the transmission of an electronic submission which may be by any

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electronic means, including data and voice telephonic communications and computer network to (a) the person who will be the holder of the proxy; (b) a proxy solicitation firm; or (c) a proxy support service organization or similar agency authorized by the person who will be the holder of the proxy to receive the electronic submission, which electronic submission must either contain or be accompanied by information from which it can be determined that the electronic submission was transmitted by or authorized by the shareholder; or (iii) any other method allowed by law.

1.10. *Inspectors.* (a) The election of Directors and any other vote by ballot at any meeting of the shareholders shall be supervised by at least two inspectors. Such inspectors may be appointed by the Chairman before or at the meeting. If the Chairman shall not have so appointed such inspectors or if one or both inspectors so appointed shall refuse to serve or shall not be present, such appointment shall be made by the officer presiding at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability.

(b) The inspectors shall (i) ascertain the number of shares of the Corporation outstanding and the voting power of each, (ii) determine the shares represented at any meeting of shareholders and the validity of the proxies and ballots, (iii) count all proxies and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares represented at the meeting, and their count of all proxies and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of their duties.

1.11. *List of Shareholders.* (a) At least five business days before every meeting of shareholders, the Corporation shall cause to be prepared and made a complete list of the shareholders entitled to vote at the meeting, arranged in alphabetical order by voting group, if any, and showing the address of each shareholder and the number of shares registered in the name of each shareholder.

(b) During ordinary business hours for a period of at least five business days prior to the meeting, such list shall be open to examination by any shareholder for any purpose germane to the meeting, either at the Corporation's principal office or a place identified in the meeting notice in the city where the meeting will be held.

(c) The list shall also be produced and kept at the time and place of the meeting, and it may be inspected during the meeting by any shareholder or the shareholder's agent or attorney authorized in writing.

(d) The stock ledger shall be the only evidence as to who are the shareholders entitled to examine the stock ledger, the list required by this Section 1.11 or the books of the Corporation, or to vote in person or by proxy at any meeting of shareholders.

1.12. *Confidential Voting.* (a) Proxies and ballots that identify the votes of specific shareholders shall be kept in confidence by the tabulators and the inspectors of election unless (i) there is an opposing solicitation with respect to the election or removal of Directors, (ii) disclosure is required by applicable law, (iii) a shareholder expressly requests or otherwise authorizes disclosure, or (iv) the Corporation concludes in good faith that a bona fide dispute exists as to the authenticity of one or more proxies, ballots or votes, or as to the accuracy of any tabulation of such proxies, ballots or votes.

(b) The tabulators and inspectors of election and any authorized agents or other persons engaged in the receipt, count and tabulation of proxies and ballots shall be advised of this By-law and instructed to comply herewith.

(c) The inspectors of election shall certify, to the best of their knowledge based on due inquiry, that proxies and ballots have been kept in confidence as required by this Section 1.12.

2. DIRECTORS.

2.1. *Powers of Directors.* The business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all the powers of the Corporation except such as are by applicable law, the Articles of Incorporation or these By-laws required to be exercised or performed by the shareholders.

2.2. *Number, Method of Election, Terms of Office of Directors.* The number of Directors which shall constitute the whole Board shall be such as set forth in, and as determined in accordance with, the Articles of Incorporation.

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Prior to the annual meeting of shareholders to be held in 2016 (the 2016 Annual Meeting), the Directors shall be divided into three classes as nearly equal in number as possible as provided in the Articles of Incorporation. At each annual meeting of shareholders prior to the 2016 Annual Meeting, each class of Directors whose term shall then expire shall be elected to hold office for a three-year term. All Directors elected at or after the 2016 Annual Meeting shall be elected for a term expiring at the next annual meeting of shareholders, with each such Director to hold office until such Director's successor shall have been elected and qualified, or until his or her earlier death, retirement, resignation or removal. Notwithstanding the foregoing, any Director whose term expires at the annual meeting of shareholders scheduled to be held in 2017 or 2018 shall continue to hold office until the end of the term for which such Director was elected and until such Director's successor shall have been elected and qualified, or until his or her earlier death, retirement, resignation or removal. Directors need not be shareholders of the Corporation or citizens of the United States of America.

Nominations of persons for election as Directors may be made by the Board or by any shareholder who is a shareholder of record at the time of giving of the notice of nomination provided for in this Section 2.2 and who is entitled to vote for the election of Directors. Any shareholder of record entitled to vote for the election of Directors at a meeting may nominate a person or persons for election as Directors only if written notice of such shareholder's intent to make such nomination is given in accordance with the procedures for bringing business before the meeting set forth in Section 1.3(b) or Section 1.4 of these By-laws, as applicable, either by personal delivery or by United States mail, postage prepaid, to the Secretary, received at the principal executive offices of the Corporation, ~~not later than and~~ (i) with respect to an election to be held at an annual meeting of shareholders, received not less than 90 calendar days nor more than 120 calendar days prior to the date the Corporation's proxy statement was released to shareholders in connection with the previous year's annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting was changed by more than 30 days from the anniversary date of the previous year's annual meeting, notice by the shareholder must be so received not earlier than 120 calendar days prior to such annual meeting and not later than 90 calendar days prior to such annual meeting or 10 calendar days following the date on which public announcement of the date of the meeting is first made, and (ii) with respect to an election to be held at a special meeting of shareholders for the election of Directors, called by the Chairman or the Board pursuant to Section 1.4(a) or (b) of these By-laws, received not earlier than 120 calendar days prior to such special meeting and not later than 90 calendar days prior to such special meeting or 10 calendar days following the date on which public announcement of the date of the special meeting is first made and of the nominees to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a meeting commence a new time period, or extend any time period, for the giving of written notice. Any such notice shall set forth: (a) the name and address of the shareholder who intends to make the nomination and the beneficial owner, if any, on whose behalf the nomination is made and of the person or persons to be nominated; (b) a representation that the shareholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (c) a description of all arrangements or understandings between the shareholder, any beneficial owner on whose behalf the nomination is made and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the shareholder; (d) such other information regarding each shareholder, the beneficial owner, if any, on whose behalf the nomination is made and nominee proposed by such shareholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission in connection with solicitations of proxies for the election of directors in an election contest; (e) the consent of each nominee to serve as a Director if so elected; (f) if the shareholder or beneficial owner, if any, intends to (x) deliver a proxy statement and/or form of proxy to the holders of at least the percent of the Corporation's outstanding capital stock required to elect the nominee and/or (y) otherwise solicit proxies of votes from shareholders in support of such shareholder's nominee(s), a representation to that effect; (g) a description of any agreement, arrangement or understanding with respect to the nomination and/or the voting of shares of any class or series of stock of the Corporation between or among the Proponent Persons; and (h) a description of any agreement, arrangement or understanding (including without limitation any swap or other derivative or short position, profits interest, hedging transaction, borrowed or loaned shares, any contract to purchase or sell, acquisition or grant of any option, right or warrant to purchase or sell or

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other instrument) to which any Proponent Person is a party, the intent or effect of which may be (x) to transfer to or from any Proponent Person, in whole or in part, any of the economic consequences of ownership of any security of the Corporation, (y) to increase or decrease the voting power of any Proponent Person with respect to shares of any class or series of capital stock of the Corporation and/or (z) to provide any Proponent Person, directly or indirectly, with the opportunity to profit or share in any profit derived from, or to otherwise benefit economically from, or to mitigate any loss resulting from, the value (or any increase or decrease in the value) of any security of the Corporation. A shareholder providing notice of a proposed nomination shall update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is fifteen calendar days prior to the meeting or any adjournment or postponement thereof; such update and supplement shall be delivered in writing to the Secretary of the Corporation at the principal executive offices of the Corporation not later than five calendar days after the record date for the meeting (in the case of any update and supplement required to be made as of the record date), and not later than ten calendar days prior to the date for the meeting or any adjournment or postponement thereof (in the case of any update and supplement required to be made as of fifteen calendar days prior to the meeting or any adjournment or postponement thereof). The chairman of any meeting of shareholders to elect Directors and the Board may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedures or if the shareholder solicits proxies in support of such shareholder's nominee(s) without such shareholder having made the representation required by (f) of the preceding sentence. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

In an uncontested election (i.e. any election in which the number of nominees does not exceed the number of Directors to be elected), Directors shall be elected by a majority of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. Any Director nominee that does not receive the requisite votes shall not be elected. Any Director nominee who fails to be elected but who is a Director at the time of the election shall promptly provide a written resignation to the Chairman or the Secretary and remain a Director until a successor shall have been elected and qualified (a Holdover Director).

The Nominating and Governance Committee (or the equivalent committee then in existence) shall promptly consider the resignation and all relevant facts and circumstances concerning the vote and the best interests of the Corporation and its shareholders. After consideration, the Nominating and Governance Committee shall make a recommendation to the Board whether to accept or reject the tendered resignation, or whether other action should be taken.

The Board will act on the Nominating and Governance Committee's recommendation no later than its next regularly scheduled Board Meeting or within 90 days after certification of the shareholder vote, whichever is earlier.

The Board will promptly publicly disclose its decision (by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication) and the reasons for its decision.

Any Holdover Director who tenders a resignation shall not participate in the Nominating and Governance Committee's recommendation or Board action regarding whether to accept the resignation offer. If a Holdover Director's resignation is not accepted, such Holdover Director shall continue to serve until his or her successor is duly elected and qualified or his or her earlier resignation or removal. If a Holdover Director's resignation is accepted, then the Board may fill the resulting vacancy, or decrease the size of the Board, pursuant to the provisions of Article Fifth of the Articles of Incorporation.

If each member of the Nominating and Governance Committee receives less than a majority of the votes cast at the same election, then the Board shall appoint a committee composed of three independent Directors (with an independent Director being a Director that has been determined by the Board to be independent under such criteria as it deems applicable, including, without limitation, applicable New York Stock Exchange rules and regulations and other applicable law) who received more than a majority of the votes cast to consider the resignation offers and recommend to the Board whether to accept the offers. However, if there are fewer than

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three independent Directors who receive a majority or more of the votes cast in the same election then the Board will promptly consider the resignation and all relevant facts and circumstances concerning the vote and the best interests of the Corporation and its shareholders and act no later than its next regularly scheduled Board Meeting or within 90 days after certification of the shareholder vote, whichever is earlier. If all Directors receive less than a majority of the votes cast at the same election, the election shall be treated as a contested election and the majority vote requirement shall be inapplicable.

2.3. *Vacancies on Board.* (a) Any Director may resign from office at any time by delivering a written resignation to the Chairman or the Secretary. The resignation will take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the Corporation. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

(b) Any vacancy resulting from the death, retirement, resignation, or removal of a Director and any newly created Directorship resulting from any increase in the authorized number of Directors may be filled by vote of a majority of the Directors then in office, though less than a quorum. In the case of any vacancy so filled prior to the 2016 Annual Meeting, any Director so chosen shall hold office for the remainder of the term of the Director being replaced or, in the event of an increase in the number of Directors, of the class to which he or she is assigned, with each such Director to hold office until his or her successor is duly elected and qualified, or until his or her earlier death, retirement, resignation or removal. In the case of any vacancy so filled at or after the 2016 Annual Meeting, any Director so chosen shall serve until the next annual meeting of shareholders, with such Director to hold office until such Director's successor shall have been elected and qualified, or until his or her earlier death, retirement, resignation or removal. If there are no Directors in office, then an election of Directors may be held in the manner provided by applicable law.

2.4. *Meetings of the Board.* (a) The Board may hold its meetings, both regular and special, either within or outside the state of Indiana, at such places as from time to time may be determined by the Board or as may be designated in the respective notices or waivers of notice thereof.

(b) Regular meetings of the Board shall be held at such times and at such places as from time to time shall be determined by the Board.

(c) The first meeting of each newly elected Board shall be held as soon as practicable after the annual meeting of the shareholders and shall be for the election of officers and the transaction of such other business as may come before it.

(d) Special meetings of the Board shall be held whenever called by direction of the Chairman or at the request of Directors constituting one-third of the number of Directors then in office.

(e) Members of the Board or any Committee of the Board may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

(f) The Secretary shall give notice to each Director of any meeting of the Board by mailing the same at least two days before the meeting or by telegraphing or delivering the same not later than the day before the meeting. Such notice need not include a statement of the business to be transacted at, or the purpose of, any such meeting. Any and all business may be transacted at any meeting of the Board. No notice of any adjourned meeting need be given. No notice to or waiver by any Director shall be required with respect to any meeting at which the Director is present.

2.5. *Quorum and Action.* Except as otherwise expressly required by applicable law, the Articles of Incorporation or these By-laws, at any meeting of the Board, the presence of at least one-third of the entire Board shall constitute a quorum for the transaction of business; but if there shall be less than a quorum at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. Unless otherwise provided by applicable law, the Articles of Incorporation or these By-laws, the vote of a majority of the Directors present (and not abstaining) at any meeting at which a quorum is present shall be necessary for the approval and adoption of any resolution or the approval of any act of the Board.

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2.6. *Presiding Officer and Secretary of Meeting.* The Chairman or, in the absence of the Chairman, a member of the Board selected by the members present, shall preside at meetings of the Board. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the presiding officer may appoint a secretary of the meeting.

2.7. *Action by Consent without Meeting.* Any action required or permitted to be taken at any meeting of the Board or of any Committee thereof may be taken without a meeting if all members of the Board or Committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of their proceedings.

2.8. *Standing Committees.* By resolution adopted by a majority of the entire Board, the Board may, from time to time, establish such Standing Committees (including, without limitation, an Audit Committee, a Compensation and Personnel Committee and a Nominating and Governance Committee) with such powers of the Board as it may consider appropriate, consistent with applicable law, the Articles of Incorporation and these By-laws and which are specified by resolution or by committee charter approved by a majority of the entire Board. By resolution adopted by a majority of the entire Board, the Board shall elect, from among its members, individuals to serve on such Standing Committees established by this Section 2.8.

2.9. *Other Committees.* By resolution passed by a majority of the entire Board, the Board may also appoint from among its members such other Committees as it may from time to time deem desirable and may delegate to such Committees such powers of the Board as it may consider appropriate, consistent with applicable law, the Articles of Incorporation and these By-laws. Except to the extent inconsistent with the resolutions creating a Committee, Sections 2.4, 2.5, 2.7 and 10 of these By-laws, which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements and telephone participation in meetings of the Board, shall apply to each Committee (including any Standing Committee) and its members as well.

2.10. *Compensation of Directors.* Unless otherwise restricted by the Articles of Incorporation or these By-laws, Directors shall receive for their services on the Board or any Committee thereof such compensation and benefits, including the granting of options, together with expenses, if any, as the Board may from time to time determine. The Directors may be paid a fixed sum for attendance at each meeting of the Board or Committee thereof and/or a stated annual sum as a Director, together with expenses, if any, of attendance at each meeting of the Board or Committee thereof. Nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

2.11. *Mandatory Classified Board Structure.* The provisions of IC 23-1-33-6(c) shall not apply to the Corporation.

3. OFFICERS.

3.1. *Officer, Titles, Elections, Terms.* (a) The Board may from time to time elect a Chairman, a Chief Executive, a Vice Chairman, a President, one or more Executive Vice Presidents, one or more Senior Vice Presidents, one or more Corporate Vice Presidents, a Chief Financial Officer, a Chief Accounting Officer, a Controller, a Treasurer, a Secretary, a General Counsel, one or more Assistant Controllers, one or more Assistant Treasurers, one or more Assistant Secretaries, and one or more Deputy General Counsels, to serve at the pleasure of the Board or otherwise as shall be specified by the Board at the time of such election and until their successors are elected and qualified or until their earlier death, retirement, resignation or removal.

(b) The Board may elect or appoint at any time such other officers or agents with such duties as it may deem necessary or desirable. Such other officers or agents shall serve at the pleasure of the Board or otherwise as shall be specified by the Board at the time of such election or appointment and, in the case of such other officers, until their successors are elected and qualified or until their earlier death, retirement, resignation or removal. Each such officer or agent shall have such authority and shall perform such duties as may be provided herein or as the Board may prescribe. The Board may from time to time authorize any officer or agent to appoint and remove any other such officer or agent and to prescribe such person's authority and duties.

(c) No person may be elected or appointed an officer who is not a citizen of the United States of America if such election or appointment is prohibited by applicable law or regulation.

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(d) Any vacancy in any office may be filled for the unexpired portion of the term by the Board. Each officer elected or appointed during the year shall hold office until the next annual meeting of the Board at which officers are regularly elected or appointed and until his or her successor is elected or appointed and qualified or until his or her earlier death, retirement, resignation or removal.

(e) Any officer or agent elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the entire Board.

(f) Any officer may resign from office at any time. Such resignation shall be made in writing and given to the President or the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the Corporation. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

3.2. *General Powers of Officers.* Except as may be otherwise provided by applicable law or in Article 6 or Article 7 of these By-laws, the Chairman, any Vice Chairman, the President, any Executive Vice President, any Senior Vice President, any Corporate Vice President, the Chief Financial Officer, the General Counsel, the Chief Accounting Officer, the Controller, the Treasurer and the Secretary, or any of them, may (i) execute and deliver in the name of the Corporation, in the name of any Division of the Corporation or in both names any agreement, contract, instrument, power of attorney or other document pertaining to the business or affairs of the Corporation or any Division of the Corporation, including without limitation agreements or contracts with any government or governmental department, agency or instrumentality, and (ii) delegate to any employee or agent the power to execute and deliver any such agreement, contract, instrument, power of attorney or other document.

3.3. *Powers of the Chairman or Chief Executive.* The Chairman shall be the Chief Executive (as defined in Section 3.11) of the Corporation unless the Board specifically elects the President to be Chief Executive of the Corporation, in which case the President shall be the Chief Executive. If either the Chairman or the President is the Chief Executive, then he or she shall report directly to the Board. Except in such instances as the Board may confer powers in particular transactions upon any other officer, and subject to the control and direction of the Board, the Chief Executive shall manage and direct the business and affairs of the Corporation and shall communicate to the Board and any Committee thereof reports, proposals and recommendations for their respective consideration or action. He or she may do and perform all acts on behalf of the Corporation. The Chairman (whether or not the Chief Executive) shall preside at meetings of the Board and the shareholders.

3.4. *Powers and Duties of a Vice Chairman.* A Vice Chairman shall have such powers and perform such duties as the Board or the Chairman may from time to time prescribe or as may be prescribed in these By-laws.

3.5. *Powers and Duties of the President.* Unless the President is Chief Executive, the President shall have such powers and perform such duties as the Board or the Chairman may from time to time prescribe or as may be prescribed in these By-laws. If the President is the Chief Executive, then Section 3.3 shall be applicable.

3.6. *Powers and Duties of Executive Vice Presidents, Senior Vice Presidents and Corporate Vice Presidents.* Executive Vice Presidents, Senior Vice Presidents and Corporate Vice Presidents shall have such powers and perform such duties as the Board, the Chairman, or the Chief Executive may from time to time prescribe or as may be prescribed in these By-laws.

3.7. *Powers and Duties of the Chief Financial Officer.* The Chief Financial Officer shall have such powers and perform such duties as the Board, the Chairman, Chief Executive, or any Vice Chairman may from time to time prescribe or as may be prescribed in these By-laws. The Chief Financial Officer shall cause to be prepared and maintained (i) a stock ledger containing the names and addresses of all shareholders and the number of shares of each class and series held by each and (ii) the list of shareholders for each meeting of the shareholders as required by Section 1.11 of these By-laws. The Chief Financial Officer shall be responsible for the custody of all stock books and of all unissued stock certificates.

3.8. *Powers and Duties of the Chief Accounting Officer, Controller and Assistant Controllers.* (a) The Chief Accounting Officer, Controller or the Corporate Vice President, Finance, as determined by the Chief Financial Officer, shall be responsible for the maintenance of adequate accounting records of all assets, liabilities, capital and transactions of the Corporation. The Chief Accounting Officer, Controller, or the Corporate Vice President,

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Finance as determined by the Chief Financial Officer, shall prepare and render such balance sheets, income statements, budgets and other financial statements and reports as the Board or the Chairman or the Chief Executive may require, and shall perform such other duties as may be prescribed or assigned pursuant to these By-laws and all other acts incident to the position of the Chief Accounting Officer, Controller, or the Corporate Vice President, Finance.

(b) Each Assistant Controller shall perform such duties as from time to time may be assigned by the Controller or by the Board. In the event of the absence, incapacity or inability to act of the Controller, then any Assistant Controller may perform any of the duties and may exercise any of the powers of the Controller.

3.9. *Powers and Duties of the Treasurer and Assistant Treasurers.* (a) The Treasurer shall have the care and custody of all the funds and securities of the Corporation except as may be otherwise ordered by the Board, and shall cause such funds (i) to be invested or reinvested from time to time for the benefit of the Corporation as may be designated by the Board, the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer or (ii) to be deposited to the credit of the Corporation in such banks or depositories as may be designated by the Board, the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer, and shall cause such securities to be placed in safekeeping in such manner as may be designated by the Board, the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer.

(b) The Treasurer, any Assistant Treasurer or such other person or persons as may be designated for such purpose by the Board, the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer may endorse in the name and on behalf of the Corporation all instruments for the payment of money, bills of lading, warehouse receipts, insurance policies and other commercial documents requiring such endorsement.

(c) The Treasurer, any Assistant Treasurer or such other person or persons as may be designated for such purpose by the Board, the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer (i) may sign all receipts and vouchers for payments made to the Corporation, (ii) shall render a statement of the cash account of the Corporation to the Board as often as it shall require the same; and (iii) shall enter regularly in books to be kept for that purpose full and accurate account of all moneys received and paid on account of the Corporation and of all securities received and delivered by the Corporation.

(d) The Treasurer shall perform such other duties as may be prescribed or assigned pursuant to these By-laws and all other acts incident to the position of Treasurer. Each Assistant Treasurer shall perform such duties as may from time to time be assigned by the Treasurer or by the Board. In the event of the absence, incapacity or inability to act of the Treasurer, then any Assistant Treasurer may perform any of the duties and may exercise any of the powers of the Treasurer.

3.10. *Powers and Duties of the Secretary and Assistant Secretaries.* (a) The Secretary shall keep the minutes of all proceedings of the shareholders, the Board and the Committees of the Board. The Secretary shall attend to the giving and serving of all notices of the Corporation, in accordance with the provisions of these By-laws and as required by applicable law. The Secretary shall be the custodian of the seal of the Corporation. The Secretary shall affix or cause to be affixed the seal of the Corporation to such contracts, instruments and other documents requiring the seal of the Corporation, and when so affixed may attest the same and shall perform such other duties as may be prescribed or assigned pursuant to these By-laws and all other acts incident to the position of Secretary.

(b) Each Assistant Secretary shall perform such duties as may from time to time be assigned by the Secretary or by the Board. In the event of the absence, incapacity or inability to act of the Secretary, then any Assistant Secretary may perform any of the duties and may exercise any of the powers of the Secretary.

3.11. *Applicable Definition.* As used in these By-laws, the term Chief Executive shall refer to the Chairman unless the President is elected to be the Chief Executive, pursuant to Section 3.3, in which case the term Chief Executive shall refer to the President.

4. INDEMNIFICATION.

4.1.(a) *Right to Indemnification.* The Corporation, to the fullest extent permitted by applicable law as then in effect, shall indemnify any person who is or was a Director or officer of the Corporation and who is or was

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involved in any manner (including, without limitation, as a party or a witness) or is threatened to be made so involved in any threatened, pending or completed investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including, without limitation, any action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor) (a *Proceeding*) by reason of the fact that such person is or was a Director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust or other enterprise (including, without limitation, any employee benefit plan) (a *Covered Entity*), against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding; provided, however, that the foregoing shall not apply to a Director or officer of the Corporation with respect to a Proceeding that was commenced by such Director or officer prior to a Change in Control (as defined in Section 4.4(e)(i) of this Article 4). Any Director or officer of the Corporation entitled to indemnification as provided in this Section 4.1(a) is hereinafter called an *Indemnitee* . Any right of an Indemnitee to indemnification shall be a contract right and shall include the right to receive, prior to the conclusion of any Proceeding, payment of any expenses incurred by the Indemnitee in connection with such Proceeding, consistent with the provisions of applicable law as then in effect and the other provisions of this Article 4.

(b) *Effect of Amendments.* Neither the amendment or repeal of, nor the adoption of a provision inconsistent with, any provision of this Article 4 (including, without limitation, this Section 4.1(b)) shall adversely affect the rights of any Director or officer under this Article 4 (i) with respect to any Proceeding commenced or threatened prior to such amendment, repeal or adoption of an inconsistent provision or (ii) after the occurrence of a Change in Control, with respect to any Proceeding arising out of any action or omission occurring prior to such amendment, repeal or adoption of an inconsistent provision, in either case without the written consent of such Director or officer.

4.2. *Insurance, Contracts and Funding.* The Corporation may purchase and maintain insurance to protect itself and any indemnified person against any expenses, judgments, fines and amounts paid in settlement as specified in Section 4.1(a) or Section 4.5 of this Article 4 or incurred by any indemnified person in connection with any Proceeding referred to in such Sections, to the fullest extent permitted by applicable law as then in effect. The Corporation may enter into contracts with any Director, officer, employee or agent of the Corporation or any director, officer, employee, fiduciary or agent of any Covered Entity in furtherance of the provisions of this Article 4 and may create a trust fund or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in this Article 4.

4.3. *Indemnification; Not Exclusive Right.* The right of indemnification provided in this Article 4 shall not be exclusive of any other rights to which any indemnified person may otherwise be entitled, and the provisions of this Article 4 shall inure to the benefit of the heirs and legal representatives of any indemnified person under this Article 4 and shall be applicable to Proceedings commenced or continuing after the adoption of this Article 4, whether arising from acts or omissions occurring before or after such adoption.

4.4. *Advancement of Expenses; Procedures; Presumptions and Effect of Certain Proceedings; Remedies.* In furtherance, but not in limitation, of the foregoing provisions, the following procedures, presumptions and remedies shall apply with respect to the advancement of expenses and the right to indemnification under this Article 4:

(a) *Advancement of Expenses.* All reasonable expenses incurred by or on behalf of the Indemnitee in connection with any Proceeding shall be advanced to the Indemnitee by the Corporation within 20 days after the receipt by the Corporation of a statement or statements from the Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Any such statement or statements shall reasonably evidence the expenses incurred by the Indemnitee and shall include any written affirmation or undertaking required by applicable law in effect at the time of such advance.

(b) *Procedures for Determination of Entitlement to Indemnification.* (i) To obtain indemnification under this Article 4, an Indemnitee shall submit to the Secretary of the Corporation a written request, including such documentation and information as is reasonably available to the Indemnitee and reasonably necessary to

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determine whether and to what extent the Indemnitee is entitled to indemnification (the Supporting Documentation). The determination of the Indemnitee s entitlement to indemnification shall be made not later than 60 days after receipt by the Corporation of the written request for indemnification together with the Supporting Documentation. The Secretary of the Corporation shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that the Indemnitee has requested indemnification.

(ii) The Indemnitee s entitlement to indemnification under this Article 4 shall be determined in one of the following ways: (A) by a majority vote of the Disinterested Directors (as hereinafter defined), if they constitute a quorum of the Board; (B) by a written opinion of Independent Counsel (as hereinafter defined) if (x) a Change in Control (as hereinafter defined) shall have occurred and the Indemnitee so requests or (y) a quorum of the Board consisting of Disinterested Directors is not obtainable or, even if obtainable, a majority of such Disinterested Directors so directs; (C) by the shareholders of the Corporation (but only if a majority of the Disinterested Directors, if they constitute a quorum of the Board, presents the issue of entitlement to indemnification to the shareholders for their determination); or (D) as provided in Section 4.4(c) of this Article 4.

(iii) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 4.4(b)(ii), a majority of the Disinterested Directors shall select the Independent Counsel, but only an Independent Counsel to which the Indemnitee does not reasonably object; provided, however, that if a Change in Control shall have occurred, the Indemnitee shall select such Independent Counsel, but only an Independent Counsel to which a majority of the Disinterested Directors does not reasonably object.

(c) *Presumptions and Effect of Certain Proceedings.* Except as otherwise expressly provided in this Article 4, if a Change in Control shall have occurred, the Indemnitee shall be presumed to be entitled to indemnification under this Article 4 (with respect to actions or failures to act occurring prior to such Change in Control) upon submission of a request for indemnification together with the Supporting Documentation in accordance with Section 4.4(b) of this Article 4, and thereafter the Corporation shall have the burden of proof to overcome that presumption in reaching a contrary determination. In any event, if the person or persons empowered under Section 4.4(b) of this Article 4 to determine entitlement to indemnification shall not have been appointed or shall not have made a determination within 60 days after receipt by the Corporation of the request therefor together with the Supporting Documentation, the Indemnitee shall be deemed to be, and shall be, entitled to indemnification unless (A) the Indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation or (B) such indemnification is prohibited by law. The termination of any Proceeding described in Section 4.1 of this Article 4, or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, adversely affect the right of the Indemnitee to indemnification or create a presumption that the Indemnitee did not act in good faith and in a manner which the Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation or, with respect to any criminal Proceeding, that the Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

(d) *Remedies of Indemnitee.* (i) In the event that a determination is made pursuant to Section 4.4(b) of this Article 4 that the Indemnitee is not entitled to indemnification under this Article 4, (A) the Indemnitee shall be entitled to seek an adjudication of his or her entitlement to such indemnification either, at the Indemnitee s sole option, in (x) an appropriate court of the state of Indiana or any other court of competent jurisdiction or (y) an arbitration to be conducted by a single arbitrator pursuant to the rules of the American Arbitration Association; (B) any such judicial proceeding or arbitration shall be *de novo* and the Indemnitee shall not be prejudiced by reason of such adverse determination; and (C) if a Change in Control shall have occurred, in any such judicial proceeding or arbitration the Corporation shall have the burden of proving that the Indemnitee is not entitled to indemnification under this Article 4 (with respect to actions or failures to act occurring prior to such Change in Control).

(ii) If a determination shall have been made or deemed to have been made, pursuant to Section 4.4(b) or (c) of this Article 4, that the Indemnitee is entitled to indemnification, the Corporation shall be obligated to pay the amounts constituting such indemnification within five days after such determination has been made or deemed to have been made and shall be conclusively bound by such determination unless (A) the Indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting

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Documentation or (B) such indemnification is prohibited by law. In the event that (x) advancement of expenses is not timely made pursuant to Section 4.4(a) of this Article 4 or (y) payment of indemnification is not made within five days after a determination of entitlement to indemnification has been made or deemed to have been made pursuant to Section 4.4(b) or (c) of this Article 4, the Indemnitee shall be entitled to seek judicial enforcement of the Corporation's obligation to pay to the Indemnitee such advancement of expenses or indemnification. Notwithstanding the foregoing, the Corporation may bring an action, in an appropriate court in the state of Indiana or any other court of competent jurisdiction, contesting the right of the Indemnitee to receive indemnification hereunder due to the occurrence of an event described in Subclause (A) or (B) of this Clause (ii) (a Disqualifying Event); provided, however, that in any such action the Corporation shall have the burden of proving the occurrence of such Disqualifying Event.

(iii) The Corporation shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 4.4(d) that the procedures and presumptions of this Article 4 are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Corporation is bound by all the provisions of this Article 4.

(iv) In the event that the Indemnitee, pursuant to this Section 4.4(d), seeks a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Article 4, the Indemnitee shall be entitled to recover from the Corporation, and shall be indemnified by the Corporation against, any expenses actually and reasonably incurred by the Indemnitee if the Indemnitee prevails in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that the Indemnitee is entitled to receive part but not all of the indemnification or advancement of expenses sought, the expenses incurred by the Indemnitee in connection with such judicial adjudication or arbitration shall be prorated accordingly.

(e) *Definitions.* For purposes of this Article 4:

(i) *Change in Control* means a change in control of the Corporation of a nature that would be required to be reported in response to Item 6(e) (or any successor provision) of Schedule 14A of Regulation 14A (or any amendment or successor provision thereto) promulgated under the Securities Exchange Act of 1934 (the Act), whether or not the Corporation is then subject to such reporting requirement; provided that, without limitation, such a change in control shall be deemed to have occurred if (A) any person (as such term is used in Sections 13(d) and 14(d) of the Act) is or becomes the beneficial owner (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Corporation representing 20% or more of the voting power of all outstanding shares of stock of the Corporation entitled to vote generally in an election of Directors without the prior approval of at least two-thirds of the members of the Board in office immediately prior to such acquisition; (B) the Corporation is a party to any merger or consolidation in which the Corporation is not the continuing or surviving corporation or pursuant to which shares of the Corporation's common stock would be converted into cash, securities or other property, other than a merger of the Corporation in which the holders of the Corporation's common stock immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation immediately after the merger, (C) there is a sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all, or substantially all, the assets of the Corporation, or liquidation or dissolution of the Corporation; (D) the Corporation is a party to a merger, consolidation, sale of assets or other reorganization, or a proxy contest, as a consequence of which members of the Board in office immediately prior to such transaction or event constitute less than a majority of the Board thereafter; or (E) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board (including for this purpose any new Director whose election or nomination for election by the shareholders was approved by a vote of at least two-thirds of the Directors then still in office who were Directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board.

(ii) *Disinterested Director* means a Director who is not or was not a party to the proceeding in respect of which indemnification is sought by the Indemnitee.

(iii) *Independent Counsel* means a law firm or a member of a law firm that neither presently is, nor in the past five years has been, retained to represent: (a) the Corporation or the Indemnitee in any matter material to either

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such party or (b) any other party to the Proceeding giving rise to a claim for indemnification under this Article 4. Notwithstanding the foregoing, the term Independent Counsel shall not include any person who, under applicable standards of professional conduct, would have a conflict of interest in representing either the Corporation or the Indemnitee in an action to determine the Indemnitee's rights under this Article 4.

4.5. *Indemnification of Employees and Agents.* Notwithstanding any other provision of this Article 4, the Corporation, to the fullest extent permitted by applicable law as then in effect, may indemnify any person other than a Director or officer of the Corporation who is or was an employee or agent of the Corporation and who is or was involved in any manner (including, without limitation, as a party or a witness) or is threatened to be made so involved in any threatened, pending or completed Proceeding by reasons of the fact that such person is or was an employee or agent of the Corporation or, at the request of the Corporation, a director, officer, employee, fiduciary or agent of a Covered Entity against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding. The Corporation may also advance expenses incurred by such employee, fiduciary or agent in connection with any such Proceeding, consistent with the provisions of applicable law as then in effect.

4.6. *Severability.* If any of this Article 4 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Article 4 (including, without limitation, all portions of any Section of this Article 4 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Article 4 (including, without limitation, all portions of any Section of this Article 4 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

5. CAPITAL STOCK.

5.1. *Stock Certificates.* (a) Shares of stock of each class of the Corporation may be issued in book-entry form or evidenced by certificates. Every certificate shall state on its face (or in the case of book-entry shares, the statement evidencing ownership of such shares shall state) the name of the Corporation and that it is organized under the laws of the State of Indiana, the name of the person to whom the certificate (or bookentry statement) was issued, and the number and class of shares and the designation of the series, if any, the certificate (or book-entry statement) represents, and shall state conspicuously on its front or back that the Corporation will furnish the shareholder, upon his written request and without charge, a summary of the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the Board of Directors to determine variations for future series), which certificate, if any, shall otherwise be in such form as the Board shall prescribe and as provided in Section 5.1(d).

(b) If a certificate is countersigned by a transfer agent other than the Corporation or its employee, or by a registrar other than the Corporation or its employee, the signatures of the officers of the Corporation may be facsimiles, and, if permitted by applicable law, any other signature on the certificate may be a facsimile.

(c) In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer at the date of issue.

(d) Any certificates of stock shall be issued in such form not inconsistent with the Articles of Incorporation. They shall be numbered and registered in the order in which they are issued. No certificate shall be issued until fully paid.

(e) All certificates surrendered to the Corporation shall be cancelled (other than treasury shares) with the date of cancellation and shall be retained by or under the control of the Chief Financial Officer, together with the powers of attorney to transfer and the assignments of the shares represented by such certificates, for such period of time as such officer shall designate.

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5.2. *Record Ownership.* A record of the name of the person, firm or corporation and address of each holder of stock, the number of shares of each class and series represented thereby and the date of issue thereof shall be made on the Corporation's books. The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof, and accordingly shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any person, whether or not it shall have express or other notice thereof, except as required by applicable law.

5.3. *Transfer of Record Ownership.* Transfers of stock shall be made on the books of the Corporation only by direction of the person named in the certificate (or book-entry statement) or such person's attorney, lawfully constituted in writing, and only upon the surrender of the certificate, if any, therefor and a written assignment of the shares evidenced thereby. Whenever any transfer of stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer if, when the certificates, if any, are presented to the Corporation for transfer, both the transferor and transferee request the Corporation to do so.

5.4. *Lost, Stolen or Destroyed Certificates.* New certificates or uncertificated shares representing shares of the stock of the Corporation shall be issued in place of any certificate alleged to have been lost, stolen or destroyed in such manner and on such terms and conditions as the Board from time to time may authorize in accordance with applicable law.

5.5. *Transfer Agent; Registrar; Rules Respecting Certificates.* The Corporation shall maintain one or more transfer offices or agencies where stock of the Corporation shall be transferable. The Corporation shall also maintain one or more registry offices where such stock shall be registered. The Board may make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of stock certificates (or book-entry statements) in accordance with applicable law.

5.6. *Fixing Record Date for Determination of Shareholders of Record.* (a) The Board may fix, in advance, a date as the record date for the purpose of determining the shareholders entitled to notice of, or to vote at, any meeting of the shareholders or any adjournment thereof, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty days nor less than ten days before the date of a meeting of the shareholders. If no record date is fixed by the Board, the record date for determining the shareholders entitled to notice of or to vote at a shareholders' meeting shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting and shall fix a new record date if such adjourned meeting is more than 120 days after the date of the original meeting. (b) The Board may fix, in advance, a date as the record date for the purpose of determining the shareholders entitled to receive payment of any dividend or other distribution or the allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or in order to make a determination of the shareholders for the purpose of any other lawful action, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty days prior to such action. If no record date is fixed by the Board, the record date for determining the shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

6. SECURITIES HELD BY THE CORPORATION.

6.1. *Voting.* Unless the Board shall otherwise order, the Chairman, any Vice Chairman, the President, any Executive Vice President, any Senior Vice President, any Corporate Vice President, the Chief Financial Officer, the Chief Accounting Officer, the Controller, the Treasurer or the Secretary shall have full power and authority, on behalf of the Corporation, (i) to attend, act and vote at any meeting of the shareholders of any corporation in which the Corporation may hold stock and at such meeting to exercise any or all rights and powers incident to the ownership of such stock, and to execute on behalf of the Corporation a proxy or proxies empowering another or others to act as aforesaid, and (ii) to delegate to any employee or agent such power and authority.

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6.2. *General Authorization to Transfer Securities Held by the Corporation.* (a) Any of the following officers, to wit: the Chairman, any Vice Chairman, the President, any Executive Vice President, any Senior Vice President, any Corporate Vice President, the Chief Financial Officer, the Chief Accounting Officer, the Controller, the Treasurer, any Assistant Controller, any Assistant Treasurer, and each of them, hereby is authorized and empowered (i) to transfer, convert, endorse, sell, assign, set over and deliver any and all shares of stock, bonds, debentures, notes, subscription warrants, stock purchase warrants, evidences of indebtedness, or other securities now or hereafter standing in the name of or owned by the Corporation and to make, execute and deliver any and all written instruments of assignment and transfer necessary or proper to effectuate the authority hereby conferred, and (ii) to delegate to any employee or agent such power and authority.

(b) Whenever there shall be annexed to any instrument of assignment and transfer executed pursuant to and in accordance with the foregoing Section 6.2(a), a certificate of the Secretary or any Assistant Secretary in office at the date of such certificate setting forth the provisions hereof, stating that they are in full force and effect, setting forth the names of persons who are then officers of the corporation, and certifying as to the employees or agents, if any, to whom any such power and authority have been delegated, all persons to whom such instrument and annexed certificate shall thereafter come shall be entitled, without further inquiry or investigation and regardless of the date of such certificate, to assume and to act in reliance upon the assumption that (i) the shares of stock or other securities named in such instrument were theretofore duly and properly transferred, endorsed, sold, assigned, set over and delivered by the Corporation, and (ii) with respect to such securities, the authority of these provisions of these Bylaws and of such officers, employees and agents is still in full force and effect.

7. DEPOSITARIES AND SIGNATORIES.

7.1. *Depositaries.* The Chairman, any Vice Chairman, the President, the Chief Financial Officer, and the Treasurer are each authorized to designate depositaries for the funds of the Corporation deposited in its name or that of a Division of the Corporation, or both, and the signatories with respect thereto in each case, and from time to time, to change such depositaries and signatories, with the same force and effect as if each such depositary and the signatories with respect thereto and changes therein had been specifically designated or authorized by the Board; and each depositary designated by the Board or by the Chairman, any Vice Chairman, the President, the Chief Financial Officer, or the Treasurer shall be entitled to rely upon the certificate of the Secretary or any Assistant Secretary of the Corporation or of a Division of the Corporation setting forth the fact of such designation and of the appointment of the officers of the Corporation or of the Division or of both or of other persons who are to be signatories with respect to the withdrawal of funds deposited with such depositary, or from time to time the fact of any change in any depositary or in the signatories with respect thereto.

7.2. *Signatories.* Unless otherwise designated by the Board or by the Chairman, any Vice Chairman, the President, the Chief Financial Officer or the Treasurer, each of whom is authorized to execute any of such items individually, all notes, drafts, checks, acceptances, orders for the payment of money and all other negotiable instruments obligating the Corporation for the payment of money, including any form of guaranty by the Corporation with respect to any such item entered into by any direct or indirect subsidiary of the Corporation, shall be (a) signed by any Assistant Treasurer and (b) countersigned by the Chief Accounting Officer, Controller or any Assistant Controller, or (c) either signed or countersigned by any Executive Vice President, any Senior Vice President or any Corporate Vice President in lieu of either the officers designated in Clause (a) or the officers designated in Clause (b) of this Section 7.2.

8. SEAL.

The seal of the Corporation shall be in such form and shall have such content as the Board shall from time to time determine.

9. FISCAL YEAR.

The fiscal year of the Corporation shall end on December 31 in each year, or on such other date as the Board shall determine.

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10. WAIVER OF OR DISPENSING WITH NOTICE.

(a) Whenever any notice of the time, place or purpose of any meeting of the shareholders is required to be given by applicable law, the Articles of Incorporation or these By-laws, a written waiver of notice, signed by a shareholder entitled to notice of a shareholders meeting, whether by pdf, facsimile, telegraph, cable or other form of recorded communication, whether signed before or after the time set for a given meeting, shall be deemed equivalent to notice of such meeting. The waiver must be included in the minutes or filed with the corporate records. Attendance of a shareholder in person or by proxy at a shareholders meeting shall constitute a waiver of notice to such shareholder of such meeting, except when (i) the shareholder attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened, or (ii) the shareholder objects to consideration of a particular matter at the meeting at the time such matter is presented because it is not within the purpose or purposes described in the meeting notice.

(b) Whenever any notice of the time or place of any meeting of the Board or Committee of the Board is required to be given by applicable law, the Articles of Incorporation or these By-laws, a written waiver of notice signed by a Director, whether by pdf, facsimile, telegraph, cable or other form of recorded communication, whether signed before or after the time set for a given meeting, shall be deemed equivalent to notice of such meeting. Unless the Director is deemed to have waived notice by attending the meeting, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at a meeting shall constitute a waiver of notice to such Director of such meeting, unless the Director at the beginning of the meeting (or promptly upon the Director's arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(c) No notice need be given to any person with whom communication is made unlawful by any law of the United States or any rule, regulation, proclamation or executive order issued under any such law.

11. POLITICAL NONPARTISANSHIP OF THE CORPORATION.

The Corporation shall not make, directly or indirectly, any contributions or expenditures in connection with the election of any candidate for federal, state or local political office, or any committee campaigning for such a candidate, except to the extent necessary to permit in the United States the expenditure of corporate assets for the payment of expenses for establishing, registering and administering any political action committee and of soliciting contributions thereto, all as may be authorized by federal or state laws.

12. AMENDMENT OF BY-LAWS.

These By-laws, or any of them, may from time to time be supplemented, amended or repealed, or new By-laws may be adopted, by the Board at any regular or special meeting of the Board, if such supplement, amendment, repeal or adoption is approved by a majority of the entire Board.

13. OFFICES AND AGENT.

(a) *Registered Office and Agent.* The registered office of the Corporation in the State of Indiana shall be 251 East Ohio Street, Suite 1100, Indianapolis, Indiana 46204. The name of the registered agent is The Corporation Trust Company.

(b) *Other Offices.* The Corporation may also have offices at other places, either within or outside the State of Indiana, as the Board of Directors may from time to time determine or as the business of the Corporation may require.

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XYLEM INC.

1 INTERNATIONAL DRIVE

RYE BROOK, NEW YORK 10573

WE ENCOURAGE YOU TO TAKE ADVANTAGE OF INTERNET OR TELEPHONE VOTING. BOTH ARE AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK.

Internet and telephone voting are available through 11:59 PM (EDT) the day before the Annual Meeting. Your Internet or telephone vote authorizes the named proxies to vote the shares in the same manner as if you marked, signed and returned your proxy card. If you vote your proxy by Internet or by telephone, you do not need to mail back your proxy card.

VOTE BY INTERNET - www.proxyvote.com

Use the Internet to vote your proxy. Have your proxy card in hand when you access the website.

VOTE BY TELEPHONE - 1-800-690-6903

Use any touch-tone telephone to vote your proxy. Have your proxy card in hand when you call.

VOTE BY MAIL

Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Vote Processing, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

ELECTRONIC DELIVERY OF FUTURE PROXY MATERIALS

If you would like to reduce the costs incurred by our company in mailing proxy materials, you can consent to receiving all future proxy statements, proxy cards and annual reports electronically via e-mail or the Internet. To sign up for electronic delivery, please follow the instructions above to vote using the Internet and, when prompted, indicate that you agree to receive or access proxy materials electronically in future years.

TO VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS:

M68701-P48172 KEEP THIS PORTION FOR YOUR RECORDS

DETACH AND RETURN THIS PORTION ONLY

XYLEM INC.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR

PROPOSALS 1, 2, 3, 4, 5 AND 6.

Vote on Directors

1. Election of four Class III members of the Board of Directors.

Nominees:	For	Against	Abstain	Vote on Proposals	For	Against	Abstain
1a. Sten E. Jakobsson	2. Ratification of the appointment of Deloitte & Touche LLP as our Independent Registered Public Accounting Firm for 2014.
1b. Steven R. Loranger	3. To approve, in a non-binding vote, the compensation of our named executive officers.
1c. Edward J. Ludwig	4. The approval of the performance-based provisions of the 2011 Omnibus Incentive Plan.

- | | | | |
|------------------------|----------------|--|----------------|
| 1d. Jerome A. Peribere | ..
..
.. | 5. The approval of the performance-based provisions of the Xylem Annual Incentive Plan for Executive Officers.

6. Proposed amendment to our Articles of Incorporation to allow shareowners to call a special meeting. | ..
..
.. |
| | | THE BOARD OF DIRECTORS
 RECOMMENDS A VOTE
 AGAINST PROPOSAL 7. | |
| | | 7. To vote on a shareowner proposal titled Executives to Retain Significant Stock . | ..
..
.. |

For address changes and/or comments, please check this box and write them on the back where indicated.

Please indicate if you plan to attend this Annual Meeting.

Yes No

(When signing as attorney, executor, administrator, trustee or guardian, give full title. If more than one trustee, all should sign.)

Signature [PLEASE SIGN WITHIN BOX]

Date

Signature (Joint Owners)

Date

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Annual Meeting of Shareowners

Tuesday, May 6, 2014, 11:00 a.m. (EDT)

Xylem Headquarters

1 International Drive

Rye Brook, NY 10573

Note: If you plan to attend the Annual Meeting of Shareowners, please do indicate by marking the appropriate box on the attached proxy card. If you plan to attend the Annual Meeting in person, please bring, in addition to this Admission Ticket, a proper form of identification. The use of video, still photography or audio recording at the Annual Meeting is not permitted. For the safety of attendees, all bags, packages and briefcases are subject to inspection. Your compliance is appreciated.

IF ATTENDING IN PERSON, PLEASE RETAIN AND PRESENT THIS CARD AT THE ENTRANCE TO THE MEETING ROOM.

SEC PROXY ACCESS NOTICE

Important Notice Regarding the Internet Availability of Proxy Materials for the Shareowner Meeting to be held on Tuesday, May 6, 2014 at 11:00 a.m. (EDT) at Xylem Headquarters, 1 International Drive, Rye Brook, NY 10573: The proxy materials for XYLEM INC. s 2014 Annual Meeting of Shareowners, including the 2013 Annual Report and Notice and Proxy Statement are available on the Internet at www.proxyvote.com.

M68702-P48172

PROXY SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS OF XYLEM INC.

FOR THE ANNUAL MEETING OF SHAREOWNERS TO BE HELD ON MAY 6, 2014:

The shareowner(s) whose signature(s) appear(s) on the reverse side of this proxy form hereby appoint(s) Elena Centeio and John Connolly, or either of them, each with full power of substitution as proxies, to vote all shares of Xylem Inc. common stock that the shareowner(s) would be entitled to vote on all matters that may properly come before the Annual Meeting and at any adjournments or postponements. The proxies are authorized to vote in accordance with the specifications indicated by the shareowner(s) on the reverse side of this form. If this form is signed and returned by the shareowner(s), and no specifications are indicated, the proxies are authorized to vote as recommended by the Board of Directors. **In either case, if this form is signed and returned, the proxies thereby will be authorized to vote in their discretion on any other matters that may be presented for a vote at the**

Annual Meeting and at any adjournments or postponements.

For participants in the Xylem Retirement Savings Plan for Salaried Employees:

Under the savings plan, participants are named fiduciaries to the extent of their authority to direct the voting of Xylem Inc. shares credited to their savings plan accounts and their proportionate share of allocated shares for which no direction is received and unallocated shares, if any (together, Undirected Shares). Participants under this plan should mail their confidential voting instruction card to Broadridge, acting as tabulation agent, or vote by Phone or Internet. Instructions must be received by Broadridge before 11:59 p.m. (EDT), on May 1, 2014. The trustee of the savings plan will vote Undirected Shares in the same proportion as the shares for which directions are received, except as otherwise provided in accordance with ERISA. By submitting voting instructions by telephone or Internet, or by signing and returning this voting instruction card, you direct the trustee of the savings plan to vote these shares, in person or by proxy, as designated herein, at the Annual Meeting.

The Trustee will exercise its discretion in voting on any other matter that may be presented for a vote at the Annual Meeting and at any adjournments or postponements.

Address Changes/Comments:

(If you noted any Address Changes/Comments above, please mark corresponding box on the reverse side.)

(Continued, and to be dated and signed on the reverse side.)