

HUTTIG BUILDING PRODUCTS INC  
Form DEF 14A  
March 17, 2017

**SCHEDULE 14A INFORMATION**

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934**

**(Amendment No. )**

Filed by the Registrant

Filed by a party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Under §240.14a-12

**Huttig Building Products, Inc.**

**(Name of Registrant as Specified In Its Charter)**

**(Name of Person(s) Filing Proxy Statement, if other than the Registrant)**

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

- (2) Aggregate number of securities to which transaction applies:
  
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Fee paid previously with preliminary materials.

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- (1) Amount previously paid:
  
- (2) Form, Schedule or Registration Statement No.:
  
- (3) Filing party:
  
- (4) Date Filed:



**555 Maryville University Dr.**

**Suite 400**

**St. Louis, Missouri 63141**

March 17, 2017

Dear Huttig Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders of Huttig Building Products, Inc., to be held at 8 a.m., local time, on Tuesday, April 25, 2017 at the Westwood conference room of the St. Louis Marriott West, located at 660 Maryville Centre Drive, St. Louis, Missouri 63141.

The Notice of Annual Meeting and Proxy Statement on the following pages describe the matters to be presented at the meeting. Management will report on current operations and there will be an opportunity for discussion of the Company and its activities. Our Annual Report for fiscal year 2016 accompanies this Proxy Statement.

It is important that your shares be represented at the meeting regardless of the size of your holdings. If you are unable to attend in person, we urge you to participate by voting your shares by proxy. You may do so by filling out and returning the enclosed proxy card, or by using the Internet address or the toll-free telephone number on the proxy card.

Sincerely,

Jon P. Vrabely  
President and Chief Executive Officer

**Huttig Building Products, Inc.**

**555 Maryville University Dr.**

**Suite 400**

**St. Louis, Missouri 63141**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON APRIL 25, 2017**

March 17, 2017

Huttig Building Products, Inc. will hold its 2017 Annual Meeting of Stockholders on Tuesday, April 25, 2017 at 8 a.m., local time at the Westwood conference room of the St. Louis Marriott West, located at 660 Maryville Centre Drive, St. Louis, Missouri 63141 for the following purposes:

1. To elect two directors to each serve a three-year term expiring in 2020;
2. To approve the Rights Agreement by and between the Company and Computershare Trust Company, N.A.;
3. To approve the amendment of the Certificate of Incorporation increasing the Company's authorized common stock;
4. To approve the amendment and restatement of the 2005 Executive Incentive Compensation Plan, as amended and restated;
5. To approve, by a non-binding advisory vote, the compensation paid by the Company to its named executive officers;
6. To ratify the appointment of KPMG LLP as our independent registered public accounting firm for the year ending December 31, 2017; and
7. To transact such other business as may properly come before the meeting and all adjournments and postponements thereof.

The Board of Directors has fixed February 27, 2017 as the record date for the purpose of determining stockholders entitled to notice of and to vote at the Annual Meeting and all adjournments thereof. A list of stockholders entitled to vote at the Annual Meeting will be available for ten days prior to the meeting at our executive offices at 555 Maryville University Dr., Suite 400, St. Louis, Missouri 63141.

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In order to assure a quorum, it is important that stockholders, who do not expect to attend the meeting in person fill in, sign, date and return the enclosed proxy card in the accompanying envelope, or use the Internet address or toll-free telephone number set forth on the enclosed proxy card to vote their shares. Any stockholder attending the meeting may vote in person even if that stockholder has previously returned a proxy. If you plan to attend the meeting in person, please bring proper identification and proof of ownership of your shares.

By Order of the Board of Directors,

Jon P. Vrabely  
President & Chief Executive Officer

**HUTTIG BUILDING PRODUCTS, INC.**

**555 Maryville University Dr.**

**Suite 400**

**St. Louis, Missouri 63141**

**PROXY STATEMENT**

**ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON APRIL 25, 2017**

The Board of Directors of Huttig Building Products, Inc. ( Huttig or the Company ) is soliciting the enclosed proxy for use at the Annual Meeting of Stockholders (the Annual Meeting ) to be held at the Westwood conference room of the St. Louis Marriott West, located at 660 Maryville Centre Drive, St. Louis, Missouri 63141 on Tuesday, April 25, 2017 at 8 a.m., local time, and at any adjournments or postponements thereof. Shares represented by the enclosed proxy, when properly executed, returned prior to the Annual Meeting and not revoked, will be voted in accordance with the directions thereon. If no directions are indicated on a proxy for a particular matter that is properly executed and returned prior to the Annual Meeting and not revoked, the shares represented by the proxy will be voted **For** each nominee for election as a director, **For** the proposal to approve the Rights Agreement by and between the Company and Computershare Trust Company, N.A., **For** the proposal to approve the amendment to the Certificate of Incorporation increasing the Company's authorized common stock, par value \$0.01 per share ( Common Stock ), **For** the proposal to approve the amendment and restatement of the 2005 Executive Incentive Compensation Plan, as amended and restated, **For** the proposal to approve, by a non-binding advisory vote, the compensation paid by the Company to its named executive officers, and **For** the proposal to ratify the selection of KPMG LLP as our independent registered public accounting firm for the year ending December 31, 2017, as the case may be. If any other matter should be presented at the Annual Meeting upon which a vote may properly be taken, the shares represented by the proxy will be voted with respect thereto in accordance with the discretion of the person or persons holding such proxy.

The first date on which this Proxy Statement, the enclosed proxy card and the 2016 Annual Report are being sent to the Company's stockholders entitled to notice of and to vote at the Annual Meeting is on or about March 17, 2017.

Only shareholders as of the Record Date are entitled to attend the Annual Meeting. Each shareholder must present valid picture identification such as a driver's license or passport and, if asked, provide proof of stock ownership as of the Record Date. The use of mobile phones, pagers, recording or photographic equipment, tablets, or computers is not permitted at the Annual Meeting.

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS**

**FOR THE STOCKHOLDER MEETING TO BE HELD ON APRIL 25, 2017**

**This Proxy Statement and the 2016 Annual Report to Stockholders are available at  
*www.edocumentview.com/HBP.***

**How to Vote**

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Stockholders may vote by marking their proxy, dating and signing it and returning it to the Corporate Secretary in the enclosed envelope. As an alternative to using the written form of proxy, stockholders may also vote their proxy by using the toll-free number listed on the proxy card or by voting via the Internet. The telephone voting and Internet voting procedures are designed to authenticate votes cast by use of a Personal Identification Number. The procedures allow stockholders to appoint a proxy to vote their shares and to confirm that their instructions have been properly recorded. Specific instructions to be followed by any stockholder of record interested in voting by telephone or the Internet are set forth on the enclosed proxy card. If your shares are held in the name of a bank or broker, follow the voting instructions on the form you receive from that firm. The availability of telephone or Internet voting will depend on that firm's voting processes.



### **How to Revoke a Vote**

Stockholders may revoke proxies at any time prior to the voting of the proxy by (a) providing written notice to the Company, (b) submitting a new later-dated proxy via the Internet, (c) telephone or by mail, or (d) voting in person at the Annual Meeting.

### **Special Voting Rules for Participants in Huttig's 401(k) Plan**

If you participate in the Huttig Building Products, Inc. Savings and Profit Sharing Plan (the 401(k) Plan), you will receive one proxy with respect to all of your shares of Huttig stock registered in the same name. If your accounts are not registered in the same name, you will receive a separate proxy with respect to each registered name for which you have an account. Shares of Huttig Common Stock held in the 401(k) Plan will be voted by The Prudential Investment Company of America, as trustee of the 401(k) Plan, as directed by 401(k) Plan participants.

Participants in the 401(k) Plan should indicate their voting instructions for each action to be taken at the Annual Meeting on the Huttig proxy. All voting instructions from the 401(k) Plan participants will be kept confidential. If a participant fails to vote, the Huttig shares allocated to such participant will be voted in accordance with the pro-rata vote of the participants in the 401(k) Plan who did provide voting instructions to the trustee.

### **Outstanding Shares and Required Votes**

As of the close of business on February 27, 2017, the record date for determining stockholders entitled to vote at the Annual Meeting, the Company had issued and outstanding 25,914,318 shares of Common Stock. Each share of Common Stock is entitled to one vote on each matter to be voted on at the Annual Meeting. At the Annual Meeting, a quorum will be present if at least a majority of the total number of outstanding shares of our Common Stock are present, either in person or represented by proxy.

Directors will be elected by a plurality of the votes cast by holders of shares of Common Stock present in person or represented by proxy and entitled to vote at the Annual Meeting. Votes may be cast in favor of a director nominee or withheld, and the nominees receiving the highest number of favorable votes will be elected as directors of the Company. Because at this year's Annual Meeting, there are as many nominees (two) as there are directors to be elected (two), a director nominee is assured of being elected if he or she receives any For votes, regardless of how many withheld votes are cast for that director.

The approval of the Rights Agreement by and between the Company and Computershare Trust Company, N.A., the approval of the amendment of the Certificate of Incorporation increasing the Company's authorized Common Stock, the approval of the amendment and restatement of the 2005 Executive Incentive Compensation Plan, as amended and restated, the advisory approval of the compensation paid by the Company to its named executive officers, and the ratification of the appointment of KPMG LLP each require the affirmative vote of a majority of the votes cast by the holders of shares of Common Stock present in person or represented by proxy and entitled to vote at the Annual Meeting.

Abstentions and broker non-votes are counted as present or represented for purposes of determining whether a quorum is present at the meeting. Stockholders may abstain from voting on any or all proposals expected to be brought before the meeting except for the election of directors. For Item 4 (the proposal to amend and restate the 2005 Executive Incentive Compensation Plan, as amended and restated), an abstention has the same effect as a vote against such proposal. For the other matters, abstentions do not count as votes cast for or against a matter and, therefore, will not affect the outcome of the voting with respect to such matters at the meeting.

A broker non-vote occurs with respect to a particular matter when a broker returns a proxy card but does not vote on the matter because the broker does not have the discretionary authority to do so in the absence of voting

instructions from the beneficial owner. Brokers have discretionary authority to vote on Item 6, the ratification of the appointment of KPMG LLP; however, brokers do not have discretionary authority to vote on the election of directors or on any of the other items to be considered at the Annual Meeting if the broker does not receive voting instructions from you. Broker non-votes do not count as votes cast for or against a matter or as shares entitled to vote, and therefore will not affect the outcome of the voting at the Annual Meeting. Shares represented by proxies that are marked withhold with respect to the election of one or more directors will be counted as present in determining whether there is a quorum.

### **Householding of Materials**

In some instances, only one copy of this Proxy Statement or the 2016 Annual Report is being delivered to multiple stockholders sharing an address, unless we have received instructions from one or more of the stockholders to continue to deliver multiple copies. We will deliver promptly upon oral or written request a separate copy of this Proxy Statement or the 2016 Annual Report, as applicable, to any stockholder at your address. If you wish to receive a separate copy of this Proxy Statement or the 2016 Annual Report, you may call us at 314-216-2600 or send a written request to 555 Maryville University Dr., Suite 400, St. Louis, Missouri 63141, Attn: Corporate Secretary. Alternatively, stockholders sharing an address who now receive multiple copies of this Proxy Statement or the 2016 Annual Report may request delivery of a single copy also by calling us at the number or writing to us at the address listed above.

## **ITEM 1 ELECTION OF DIRECTORS**

The Board of Directors of the Company is currently comprised of seven members and is divided into three classes, with each class holding office for staggered three-year terms. At the Annual Meeting, Gina G. Hoagland and J. Keith Matheney, if elected, will hold office until the 2020 Annual Meeting of Stockholders. If properly voted prior to the Annual Meeting, and not revoked, the enclosed proxy will be voted for the election of these directors unless a stockholder indicates that a vote should be withheld with respect to any or all of such nominees. The election of each nominee has been recommended by the Board of Directors. Each of the nominees has consented to being named in this Proxy Statement and has indicated his and her willingness to serve if elected. If any of the nominees shall, prior to the meeting, become unavailable for election as a director, the persons named in the accompanying form of proxy will vote for such replacement nominee, if any, as may be recommended by the Board of Directors.

**The Board unanimously recommends a vote FOR the election of Ms. Hoagland and Mr. Matheney as directors for a three year term expiring in 2020.**

Please review the following information regarding Ms. Hoagland and Mr. Matheney, and the other directors continuing in office.

### **Director Nominees for Election at the Annual Meeting**

#### **GINA G. HOAGLAND**

Age 52. Director since January 2016. Chief Executive Officer and Chairman of Collaborative Strategies, Inc. (consulting firm that provides board development, strategy and succession planning services) since 1993. President and owner of Trademark Wines (Missouri-based distributor of beverages and alcohol) since July 2016. Ms. Hoagland's qualifications to serve on the Board include her experience serving as Chairman of the Board of Directors of Triad Bank and her extensive experience as an advisory member of the Board of Directors of the following distribution and manufacturing companies: Major Eagle Inc. / Eagle Brands, Inc., G.M. Johnson Companies, Inc., Duke Manufacturing Company, Essex Industries Inc., ATRO Engineered Systems, Inc. and Anova Furnishings, Inc.



**J. KEITH MATHENEY**

Age 68. Director since 2004. Managing member of Matheney and Matheney, CPAs PLLC (accounting and tax consulting) since 2004. Executive Vice President of Louisiana Pacific Corporation (forest products manufacturer) from 2002 to 2003 and Vice President from 1997 to 2002. Formerly a director of Pope & Talbot, Inc. (a forest products company). Mr. Matheney's qualifications to serve on the Board include his executive experience in a large public company in the building products industry, his financial expertise and his experience on another public company board, including audit committee experience.

**Continuing Directors:**

***Directors Whose Terms Expire in 2018***

**DONALD L. GLASS**

Age 68. Director since 2004. Retired. President and Chief Executive Officer of The Timber Company (timber producer) from 1997 to 2001. Executive Vice President of Georgia-Pacific Corporation (building products manufacturer) from 1996 to 2001. Mr. Glass's qualifications to serve on the Board include his executive experience with a large public company in the building products industry, including his experience as the chief executive officer of one of its operating units.

**DELBERT H. TANNER**

Age 65. Chairman. Director since 2001. Retired. Chief Executive Officer of Anderson Group, Inc. (manufacturer of welding equipment and industrial fans) from 2005 to 2007. President and Chief Executive Officer of RMC Industries Corporation (ready-mix concrete and building materials producer) from 2002 to 2005. Chief Operating Officer and Executive Vice President of RMC Industries Corporation in 2002 and Senior Vice President of RMC Industries Corporation from 1998 to 2002. Mr. Tanner's qualifications to serve on the Board include his experience as the chief executive officer of a multi-national equipment manufacturer and of a large cement and buildings material producer.

***Directors Whose Terms Expire in 2019***

**JON P. VRABELY**

Age 52. Director since 2007. President and Chief Executive Officer of the Company since 2007. Vice President, Chief Operating Officer of the Company from 2005 to 2007. Mr. Vrabely's qualifications to serve on the Board include his extensive knowledge of the Company's operations, strategy and financial position through his service as our President and Chief Executive Officer, as well as through his prior positions in his 17 years of service with the Company.

**PATRICK L. LARMON**

Age 64. Director since 2015. President and Chief Executive Officer of Bunzl North America since 2004. Executive Director of Bunzl plc., an international distribution and outsourcing group headquartered in London and director of Bodycote plc., a metal heat treating company. Mr. Larmon held various other management positions in Bunzl North America from 1990 to 2003. Mr. Larmon was Executive Vice President and part owner of Packaging Products Corporation from 1984 to 1990 when it was acquired. Mr. Larmon's qualifications to serve on the Board include his executive experience in a large public company in the distribution industry, his financial expertise, and his experience on other public company boards.



**JAMES F. HIBBERD**

Age 52. Director since 2015. Senior Vice President Strategy, Business Transformation and Mergers & Acquisitions for Rexel North America (distributor of electrical and communications products) since January 2016. Senior Vice President and Chief Executive Officer of Gexpro Electrical Distribution, a division of Rexel Holdings USA Corp. since 2012. Mr. Hibberd held various leadership positions at General Electric Supply and other General Electric affiliates prior to joining Rexel in 2006. Mr. Hibberd's qualifications to serve on the Board include his executive experience in a large international distribution company, including his experience as the chief executive officer of one of its operating units.

There are no arrangements or understandings between any director or director nominee and any other persons pursuant to which he or she was selected as a director or nominee. None of our directors are a party to any agreement or arrangement that would require disclosure pursuant to Stock Market Rule 5250(b)(3) of The NASDAQ Market LLC ( NASDAQ ), where the Company's Common Stock is listed.

**BOARD OF DIRECTORS AND COMMITTEES OF THE BOARD OF DIRECTORS**

**Board of Directors**

The Board of Directors is currently comprised of seven directors. The Board of Directors held six meetings and 12 separate Committee meetings in 2016. For their respective terms on the Board, each director attended at least 75% of the aggregate of all fiscal year 2016 meetings of the Board and each Committee on which he or she served. The Company's directors are encouraged to attend the Annual Meeting of Stockholders. Six of the Company's then-current directors attended the 2016 Annual Meeting of Stockholders.

**Director Independence**

On an annual basis, and at other appropriate times when a change in circumstances could potentially impact the independence or effectiveness of one or more of the directors, the Board of Directors evaluates the independence of the directors and determines if each director qualifies as an independent director as defined under the listing requirements of NASDAQ on which the Company's common stock is listed. After carefully considering all relevant facts and circumstances, the Board of Directors has affirmatively determined that six of the Company's seven directors, Ms. Hoagland and Messrs. Hibberd, Larmon, Glass, Matheny and Tanner, are independent in accordance with the standards established by NASDAQ. The Board has made a determination as to each independent director that no relationship exists which, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. Mr. Vrabely does not meet the NASDAQ independence standards for a director because he is an executive officer of the Company.

The Board of Directors has also affirmatively determined that:

each member of the Audit Committee qualifies as independent under the provisions of Section 10A of the Securities Exchange Act of 1934, as amended, and the rules of the U.S. Securities Exchange Commission ( SEC ) thereunder, as well as NASDAQ's independence rules relating to audit committees; and

each member of the Management Organization and Compensation Committee meets the independence requirements of the SEC and NASDAQ's corporate governance listing standards.

**Corporate Governance**

The Company has adopted Corporate Governance Guidelines, as well as a Code of Business Conduct and Ethics applicable to all directors, officers and employees. The Corporate Governance Guidelines and the Code of



Business Conduct and Ethics are available on the Company's website at [www.huttig.com](http://www.huttig.com). Information on, or accessible through, the Company's website is not a part of, and is not incorporated into, this Proxy Statement. The Company intends to post on its website any amendments to, or waivers from, its Code of Business Conduct and Ethics within four business days of such amendment or waiver.

The Nominating and Corporate Governance Committee is responsible for reviewing the Corporate Governance Guidelines from time to time and reporting and making recommendations to the Board concerning corporate governance matters. Each year, the Nominating and Corporate Governance Committee reviews the Company's corporate governance practices to ensure that (a) they comply with applicable laws, (b) they continue to reflect what the Committee believes are best practices, and (c) they promote the best interests of the Company and its stockholders.

### **Board Leadership Structure**

The Board has chosen to separate the positions of Chairman of the Board and Chief Executive Officer at this time. Mr. Delbert H. Tanner, a non-employee independent director, serves as Chairman, and Mr. Jon P. Vrabely serves as the President and Chief Executive Officer. Separating the Chairman position and the Chief Executive Office position allows the Chief Executive Officer to focus on setting the strategic direction of the Company and on our day-to-day business, and allows the Chairman to lead the Board in its fundamental role of providing advice to and independent oversight of management. While the Company's Amended and Restated By-laws ( bylaws ) and Corporate Governance Guidelines do not require that our Chairman and Chief Executive Officer positions be separate, the Board believes that having separate positions and having an independent outside director serve as Chairman is the appropriate leadership structure for the Company at this time. The Board retains the discretion to assess whether the positions should be combined or separated at any given time based upon its evaluation of, among other things, the composition of the Board and the circumstances facing the Company.

### **Board Role in Risk Oversight**

The Board believes that an important part of its responsibilities is to review the Company's assessment of the major risks the Company faces and its policies for monitoring and controlling these risks. The Audit Committee has specific responsibility for oversight of risks associated with financial accounting and audits, as well as internal control over financial reporting. Management regularly reports to the Audit Committee on the Company's risk assessment and management policies, the Company's major financial risk exposure and the steps taken by management to monitor and mitigate such exposure. The Management Organization and Compensation Committee oversees the risks relating to the Company's compensation policies and practices, as well as management development and leadership succession. It believes it has allocated executive compensation among base salary and short and long term compensation target opportunities in such a way as to not encourage excessive risk-taking. The Board, as a whole, examines specific business risks as part of its regular strategic reviews. In addition, management periodically reviews with the Board matters of particular importance or concern, including any significant areas of risk that warrant Board attention.

### **Board Committees**

The Board of Directors has four standing Committees: (1) Executive, (2) Audit, (3) Management Organization and Compensation, and (4) Nominating and Governance. The Executive Committee meets when a quorum of the full Board of Directors cannot be readily obtained. In 2016, the Executive Committee held three meetings.

Except for the Executive Committee, which operates under the authority set forth in our bylaws, each of the Committees operates under a written charter adopted by the Board of Directors. All of the Committee charters are available on the Company's website at [www.huttig.com](http://www.huttig.com). Information on, or accessible through, the Company's website is not a part of, and is not incorporated into, this Proxy Statement.



The current memberships of the Board committees follows:

<b>Executive Committee</b>	<b>Audit Committee</b>	<b>Management Organization &amp; Compensation Committee</b>	<b>Nominating &amp; Governance Committee</b>
Jon P. Vrabely*	J. Keith Matheney*	Donald L. Glass*	Delbert H. Tanner*
Donald L. Glass	James F. Hibberd	Gina G. Hoagland	Donald L. Glass
J. Keith Matheney	Patrick L. Larmon	Patrick L. Larmon	James F. Hibberd
Delbert H. Tanner		Delbert H. Tanner	Gina G. Hoagland

\* Chairman

***Audit Committee***

The Audit Committee assists the Board in fulfilling the Board's oversight responsibility with respect to the integrity of the Company's financial statements, the qualification and independence of the Company's independent auditors, the performance of the Company's internal audit function and its internal auditors, the Company's compliance with legal and regulatory requirements and the Company's risk assessment and risk management policies. The Audit Committee has the sole authority to select, evaluate and, where appropriate, replace the independent auditors. The Audit Committee meets periodically with representatives from the Company's internal auditors and independent auditors separate from management. The Audit Committee is also responsible for reviewing compliance with the Company's Code of Business Conduct and Ethics and for administering and enforcing the Company's accounting and auditing compliance procedures adopted in accordance with Section 301 of the Sarbanes-Oxley Act of 2002.

In discharging its oversight responsibility as to the audit process, the Audit Committee obtained from the independent auditors a formal written statement confirming the absence of any relationships between the auditors and the Company that might bear on the auditors' independence, consistent with applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the audit committee concerning independence. The Audit Committee discussed with the independent auditors any activities that may impact their objectivity and independence, including fees for non-audit services, and satisfied itself as to the auditors' independence. The Audit Committee also received a report on the quality control procedures of the independent auditors, as well as the most recent peer review conducted under guidelines of the American Institute of Certified Public Accountants. The Audit Committee also discussed with management, the internal auditors and the independent auditors the quality and adequacy of the Company's internal controls and the internal audit function's organization, responsibilities, budget and staffing, and results of the internal audit examinations. The Audit Committee reviewed with the independent auditors and the internal auditors their audit plan and audit scope and the independent auditors' examination of the financial statements.

The Board of Directors has determined that J. Keith Matheney meets the requirements of an audit committee financial expert as defined in regulations of the SEC. During 2016, the Audit Committee held five meetings.

The report of the Audit Committee is included under "Report of the Audit Committee" in this Proxy Statement.

***Management Organization and Compensation Committee***

The Management Organization and Compensation Committee oversees the Company's compensation plans and practices, including its executive compensation plans and director compensation plans, reviews and evaluates the performance of the Chief Executive Officer, reviews with the Chief Executive Officer his evaluation of the

performance of other members of senior management, administers the Company's restricted stock and other stock-based compensation plans and programs, reviews management development and succession planning policies and produces the annual report on executive compensation for inclusion in the Company's annual proxy statement. During 2016, the Management Organization and Compensation Committee held three meetings.

The report of the Management Organization and Compensation Committee on executive compensation is included under Compensation Committee Report in this Proxy Statement.

### ***Nominating and Governance Committee***

The Nominating and Governance Committee's duties include assisting the Board by identifying individuals qualified to become members of the Board, recommending to the Board the director nominees for election at the next Annual Meeting of Stockholders, advising the Board with respect to Board composition and procedures, advising the Board with respect to corporate governance principles and overseeing the evaluation of the Board. During 2016, the Nominating and Governance Committee held one meeting.

### **Director Qualifications and Nominating Procedures**

The Company's Corporate Governance Guidelines provide that the Board should generally have between seven and eleven directors, a substantial majority of whom must qualify as independent directors as defined under the listing standards of NASDAQ. The Corporate Governance Guidelines provide that a director who serves as the Company's Chief Executive Officer should not serve on more than two other public company boards, other directors should not serve on more than four other public company boards and members of the Audit Committee should not serve on more than two other public company audit committees.

The Board seeks to identify and recruit the best available director candidates to sustain and enhance the composition of the Board with the appropriate balance of knowledge, experience, skills, expertise and diversity. Characteristics required for service on the Company's Board include integrity, an understanding of the workings of large business organizations such as the Company, senior level executive experience, the ability to make independent, analytical judgments, the ability to be an effective communicator, and the ability and willingness to devote the time and effort to be an effective and contributing member of the Board. The Board will consider potential director candidates proposed by other members of the Board and management and those potential director candidates properly proposed by our stockholders. From time to time, the Nominating and Governance Committee may retain search firms or other advisors to assist it in recruiting the best available director candidates for the Company.

Although the Company does not have a formal written diversity policy for the Board, the Board determines the most appropriate mix of characteristics, skills and experiences for the Board as a whole to possess at any given time, with the objective of having a Board with adequately diverse backgrounds and experiences in light of the circumstances existing at that time. The Board evaluates each individual in the context of that individual's potential contribution to the Board as a whole with the objective of recommending a collective group that can best promote the success of the Company's business, represent stockholder interests through the exercise of sound judgment and allow the Board as a whole to benefit from the group's varying backgrounds and experiences. The Board applies the same criteria to all candidates that it considers, including any candidates properly submitted by our stockholders.

To have a candidate considered by the Board, a stockholder must submit the recommendation in writing to the Company addressed to the Office of the Corporate Secretary at 555 Maryville University Dr., Suite 400, St. Louis, Missouri 63141 and must provide the following information, in addition to any other information required in the Company's bylaws:

The candidate's name, age and business and residence address;

The candidate's principal employment or occupation;

The class or series and number of shares of capital stock of the Company that are owned beneficially or of record by the candidate;

A description of any arrangements or understandings between the stockholder and the candidate;

A signed confirmation of the candidate's willingness to serve on the Board;

A representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the candidate;

The class or series and number of shares of capital stock of the Company that are owned beneficially or of record by the stockholder, and the length of time of such ownership; and

The stockholder's name and record address.

Stockholders may submit potential director candidates at any time pursuant to these procedures. The Board will consider such candidates in connection with annual elections of directors or the filling of any director vacancies. Any stockholder nominations for the 2018 Annual Meeting of Stockholders, together with the information described above, must be submitted in accordance with the procedures described under "Miscellaneous - Next Annual Meeting; Stockholder Proposals" in this Proxy Statement.

### Stockholder Communications with Directors

The Board has established a process to receive communications from stockholders and other interested parties. Stockholders and other interested parties may contact any member (or all members) of the Board, any Committee or any Chairman of any Committee by mail or electronically. To communicate with the Board of Directors, any individual director or any group or Committee, correspondence should be addressed to the Board of Directors or any such individual director or group or Committee by either name or title. All such correspondence should be sent to the Company c/o Corporate Secretary at 555 Maryville University Dr., Suite 400, St. Louis, Missouri 63141. To communicate with any of our directors electronically, stockholders should use the following e-mail address: [corporatesecretary@huttig.com](mailto:corporatesecretary@huttig.com).

The office of the Corporate Secretary will open all communications received as set forth in the preceding paragraph for the sole purpose of determining whether the contents represent a message to our directors. Any contents that are not in the nature of advertising, promotions of a product or service, or patently offensive or irrelevant material will be forwarded promptly to the addressee. To the extent that the communication involves a request for information, such as an inquiry about the Company or stock-related matters, the Corporate Secretary's office may handle the inquiry directly. In the case of communications to the Board or any group or Committee, the Corporate Secretary's office will make sufficient copies of the contents to send to each director who is a member of the group or Committee to which the envelope or e-mail is addressed.

### Compensation of Directors

Shown below is information concerning the compensation for service as a director for each member of our Board of Directors for the year ended December 31, 2016.

Name	Fees		Total
	Earned or Paid in Cash(1)	Stock Awards(2)	
Delbert H. Tanner	\$ 98,500	\$ 40,000	\$ 138,500
Donald L. Glass	\$ 68,000	\$ 40,000	\$ 108,000
James F. Hibberd	\$ 53,750	\$ 40,000	\$ 93,750
Gina G. Hoagland	\$ 46,000	\$ 40,000	\$ 86,000

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Patrick L. Larmon	\$ 59,000	\$ 40,000	\$ 99,000
J. Keith Matheney	\$ 73,500	\$ 40,000	\$ 113,500
Jon P. Vrabely(3)			

- (1) Effective July 1, 2016, based on Lockton Companies review of the Company's non-employee director compensation and recommendation of the Management Organization and Compensation Committee, the Board increased the Board members' annual cash retainer. Each Board member's annual retainer was



increased from \$25,000 to \$35,000. The retainer for the Chairman of the Board was increased from \$75,000 to \$85,000 plus each director receives a meeting fee for each Board and Committee meeting attended. Effective July 1, 2016 the meeting fees increased from \$2,000 to \$2,500 per meeting. Non-employee directors receive the following cash compensation, as applicable:

Annual retainer	Board members	\$ 35,000
Annual retainer	Audit Committee chairman	\$ 10,000
Annual retainer	Other Audit Committee members	\$ 1,500
Annual retainer	Management Organization and Compensation Committee chairman	\$ 8,000
Annual retainer	Executive Committee members	\$ 2,000
Meeting fee		\$ 2,500

- (2) The non-employee Board members are also granted an annual equity grant valued at \$40,000 on grant date. Amounts represent the grant date fair value of stock awards computed in accordance with the provisions of Financial Accounting Standards Board Accounting Standard Codification Topic 718 (formerly referred to as Statement of Financial Accounting Standards No. 123R, *Share-Based Payment*). The per-share grant date fair value is computed as the average of the high and low stock prices on the date of grant. In accordance with the above-described program, each non-employee director was awarded shares valued at \$40,000 on April 26, 2016, the date of the 2016 Annual Meeting of Stockholders, on which date the per-share fair value was \$4.51. These awards will vest on April 25, 2017, the date of this year's Annual Meeting. Messrs. Glass, Matheney and Tanner currently hold restricted stock units for 44,502 shares of the Company's common stock which vested and will be distributed when they leave the Board of Directors.
- (3) Mr. Vrabely, who serves as both a director and the Company's President and Chief Executive Officer, does not receive additional compensation for service as a director. See the Summary Compensation Table in this Proxy Statement for his compensation as an executive officer of the Company.

## REPORT OF THE AUDIT COMMITTEE

The Audit Committee has reviewed and discussed with management the financial statements for fiscal year 2016 audited by KPMG LLP, the Company's independent registered public accounting firm. The Audit Committee has discussed with KPMG LLP various matters related to the financial statements, including those matters required to be discussed by Auditing Standard No. 1301, Communications with Audit Committees. The Audit Committee has also received the written disclosures and the letter from KPMG LLP required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the Audit Committee concerning independence, and has discussed with KPMG LLP its independence. Management is responsible for the preparation, presentation and integrity of the Company's financial statements, the Company's internal controls and financial reporting process and procedures designed to assure compliance with accounting standards and applicable laws and regulations. The Company's independent auditors are responsible for performing an independent audit of the Company's financial statements, expressing an opinion as to their conformity with generally accepted accounting principles, and auditing management's effectiveness of internal control over financial reporting. Based upon such review and discussions, the Audit Committee recommended to the Board of Directors that the audited financial statements be included in the Company's Annual Report on Form 10-K for the year ended December 31, 2016 filed with the SEC.

Other than Mr. Matheney, who is a practicing certified public accountant, the members of the Audit Committee are not professionally engaged in the practice of auditing or accounting. The members of the Audit Committee are not, and do not represent themselves to be, performing the functions of auditors or accountants. Members of the Audit Committee may rely without independent verification on the information provided to them and on representations made by management and the independent auditors. Accordingly, the Audit Committee's oversight does not provide an independent basis to determine that management has maintained appropriate accounting and financial reporting principles or appropriate internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. Furthermore, the Audit Committee's considerations and discussions referred to above do not assure that the audit of the Company's financial statements has been carried out in accordance with generally accepted auditing standards, that the financial statements are presented in accordance with generally accepted accounting principles, or that the Company's auditors are in fact independent.

This report is not to be deemed soliciting material or deemed to be filed with the SEC or subject to Regulation 14A of the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically requests that this report be treated as soliciting material or specifically incorporates it by reference into a document filed with the SEC.

Submitted by:

The Audit Committee of the Board of Directors of Huttig Building Products, Inc.

J. Keith Matheney Chairman

James F. Hibberd

Patrick L. Larmon

*The preceding report will not be deemed incorporated by reference by any general statement incorporating by reference this Proxy Statement into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates the report by reference, and the report will not otherwise be deemed filed under such acts.*



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**EXECUTIVE OFFICERS**

Huttig's executive officers as of March 17, 2017 and their respective ages and positions are set forth below:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Jon P. Vrabely	52	President and Chief Executive Officer
Oscar A. Martinez	47	Vice President, Chief Financial Officer
Gregory W. Gurley	62	Vice President, Product Management and Marketing
Brian D. Robinson	55	Vice President, Chief Information Officer
Rebecca L. Kujawa	40	Vice President, General Counsel and Corporate Secretary

The principal occupations and employment of our executive officers, including positions held with the Company, during the past five years are set forth below:

*Jon P. Vrabely* was named President and Chief Executive Officer in 2007. He was also appointed to the Board of Directors in 2007. He served as interim Chief Financial Officer and Secretary of the Company from June 2015 until April 2016, when Mr. Martinez was appointed.

*Oscar A. Martinez* was named Vice President and Chief Financial Officer in April 2016. Mr. Martinez previously served as Senior Vice President and Chief Financial Officer of Foresight Energy from 2011 to 2015.

*Gregory W. Gurley* was named Vice President, Product Management and Marketing in 2007.

*Brian D. Robinson* was named Vice President, Chief Information Officer in 2006.

*Rebecca L. Kujawa* was named Vice President, General Counsel and Corporate Secretary in April 2016. She previously served as a consultant to the Company from January 2014 through April 3, 2016. She served in various positions with Peabody Energy Corp. from 2008 to 2012, including Vice President & General Counsel - Asia & Trading.

**BENEFICIAL OWNERSHIP OF COMMON STOCK****BY DIRECTORS AND MANAGEMENT**

The following table sets forth the number of shares of common stock beneficially owned, directly or indirectly, by the Company's directors, the executive officers named in the Summary Compensation Table and all of the Company's directors and executive officers as a group, as of February 27, 2017. There were 25,914,318 shares of our common stock outstanding as of February 27, 2017. Beneficial ownership is determined in accordance with SEC rules and includes voting or investment power with respect to the Company's securities. Except as indicated in footnotes to this table, the Company believes that the stockholders named in this table have sole voting and investment power with respect to all shares of common stock shown to be beneficially owned by them.

	<b>Unrestricted Shares Owned(1)</b>	<b>Shares in 401(k) Plan</b>	<b>Restricted Shares/ Restricted Stock Units</b>	<b>Total Shares Beneficially Owned</b>	<b>Percent of Shares Outstanding</b>
<b>Non-Employee Directors:</b>					
Delbert H. Tanner	118,870(2)		53,381	172,251	*
Donald L. Glass	80,870		53,381	134,251	*
James F. Hibberd	12,800		8,879	21,679	*
Gina G. Hoagland			8,879	8,879	*
Patrick L. Larmon	12,800		8,879	21,679	*
J. Keith Matheney	40,870(3)		53,381	94,251	*
<b>Named Executive Officers:</b>					
Jon P. Vrabely	797,606	8,937	99,296	905,839	3.5%
Oscar A. Martinez			226,657	226,657	*
Gregory W. Gurley	177,587	2,094	46,565	226,246	*
Brian D. Robinson	304,106	117,284	40,478	461,868	1.7%
Rebecca L. Kujawa	7,625		23,661	31,286	*
<b>Directors and executive officers as a group (11 persons)</b>	<b>1,553,134</b>	<b>128,315</b>	<b>623,437</b>	<b>2,304,886</b>	<b>8.89%</b>

\* Represents holdings of less than 1%.

(1) Includes previously restricted shares, the restrictions on which have lapsed.

(2) 90,500 shares are held in OOT, LLC, a company solely owned by Mr. Tanner.

(3) Shares are held in a Matheney family trust.

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**PRINCIPAL STOCKHOLDERS OF THE COMPANY**

The following table sets forth the ownership of common stock by each person known by the Company to beneficially own more than 5% of the Company's common stock based on the number of shares of common stock outstanding as of February 27, 2017. There were 25,914,318 shares of our common stock outstanding as of February 27, 2017. Except as indicated in footnotes to this table, the Company believes that the stockholders named in this table have sole voting and dispositive power with respect to all shares of common stock shown to be beneficially owned by them.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class
JB Capital Partners LP and Alan Weber  5 Evan Place  Armonk, New York 10504	1,774,835(1)	6.85%
Arnold B. Siemer and Andrew F. Bohutinsky  7795 Walton Parkway  Suite 175  New Albany, Ohio 43054	1,503,490(2)	5.80%
Phillip Hauser and Fritz Hauser  Hauser Family AG,  Hauser & Friends AG,  Hauser & more Friends GmbH  Hauser Brothers GmbH  Wilhelm-Hamm-Strasse 15  77654 Offenburg  Germany	1,532,871(3)	5.92%
Paradigm Capital Management, Inc.  Nine Elk Street  Albany, New York 12207	1,856,300(4)	7.16%

(1)

This information is based solely on a Schedule 13D filed jointly by JB Capital Partners LP and Alan Weber with the SEC on December 31, 2012. According to the filing, each member of the filing group has shared voting and dispositive power with respect to all of the shares.

- (2) This information is based solely on a Schedule 13G/A filed jointly by Arnold B. Siemer and Andrew F. Bohutinsky with the SEC on February 12, 2016. According to the filing, each member of the filing group has sole voting and dispositive power with respect to all of the shares. The filing indicates that Mr. Siemer beneficially owns 1,280,000 of the shares and Mr. Bohutinsky beneficially owns 223,490 of the shares (215,000 individually and 8,490 through an individual retirement account), and each member of the group disclaims beneficial ownership of the shares owned by the other member of the group.
- (3) This information is based solely on a Schedule 13G/A filed jointly by Phillip Hauser, Fritz Hauser, Hauser Family AG, Hauser & Friends AG, Hauser & more Friends GmbH and Hauser Brothers GmbH with the SEC on February 13, 2017. According to the filing: Phillip Hauser and Fritz Hauser each beneficially owns 1,532,871 of the shares and has sole voting and dispositive power with respect to such shares; Hauser Family AG beneficially owns 1,104,018 shares and has sole voting and dispositive power with respect to such shares; Hauser & Friends AG beneficially owns 330,277 shares and has sole voting and dispositive power with respect to such shares; Hauser & more Friends GmbH beneficially owns 92,576 shares and has sole voting and dispositive power with respect to such shares; and Hauser Brothers GmbH beneficially owns 6,000 shares and has sole voting and dispositive power with respect to such shares. The address in the table above is for Philip Hauser and Hauser Family AG. The address for Fritz Hauser, Hauser & Friends AG, Hauser & more Friends GmbH and Hauser Brothers GmbH is Unterer Fauler Pelz 8, 69117 Heidelberg, Germany.
- (4) This information is based solely on a Schedule 13G/A filed by Paradigm Capital Management, Inc. with the SEC on February 14, 2017. According to the filing, Paradigm Capital Management, Inc. has sole voting and dispositive power with respect to all of the shares.

## COMPENSATION COMMITTEE REPORT

The Management Organization and Compensation Committee (the Compensation Committee ) has reviewed and discussed with management the disclosures contained in the Compensation Discussion and Analysis section of this Proxy Statement. Based upon this review and its discussions, the Compensation Committee has recommended to the Board of Directors that the Compensation Discussion and Analysis section of this Proxy Statement be included in the Company's Proxy Statement on Schedule 14A for the Company's 2017 Annual Meeting of Stockholders filed with the SEC.

Submitted by:

The Management Organization and Compensation Committee of the Board of Directors of Huttig Building Products, Inc.

Donald L. Glass Chairman

Gina G. Hoagland

Patrick L. Larmon

Delbert H. Tanner

*The preceding report will not be deemed incorporated by reference by any general statement incorporating by reference this Proxy Statement into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates the report by reference, and the report will not otherwise be deemed filed under such acts.*

## EXECUTIVE COMPENSATION

### Compensation Discussion and Analysis

The Management Organization and Compensation Committee (the Committee ) of the Board of Directors of the Company is responsible for overseeing the Company's executive compensation programs. This Compensation Discussion and Analysis describes the key features of our executive compensation program and the Committee's approach to designing and implementing 2016 compensation for each of the executive officers named in the Summary Compensation Table (the named executive officers ).

#### *Philosophy*

The primary objective of our executive compensation program is to attract and retain qualified employees. Our compensation program is designed to encourage and reward individual and Company performance and increase stockholder value. Accordingly, executive compensation is based on our pay-for-performance philosophy, which emphasizes executive performance measures that correlate closely with the achievement of both shorter-term performance objectives and longer-term stockholder value. To this end, a substantial portion of our executives' compensation is at-risk based on the performance of the Company and the executive. The percentage of compensation at risk increases with position level. We believe this effectively incentivizes senior management, who have greater influence on the performance of the Company as a whole.

#### *Overview*



Executive compensation is comprised of the following components:

base salary;

annual incentive compensation;

long-term incentive awards;

defined contribution plans; and

perquisites and other personal benefits.

Each of these components represents a portion of each executive officer's total compensation package, although participation in the defined contribution plan is at the option of the executive officer. Our policy for allocating between long-term and currently paid compensation seeks to ensure adequate base compensation to attract and retain qualified personnel, while providing incentives to maximize long-term value for the Company and its stockholders. We do not maintain a pre-established policy or formula for the allocation between either cash and non-cash or short-term and long-term incentive compensation.

### ***Process***

On an annual basis, the Committee reviews and evaluates the performance and leadership of the executive officers and recommends to the independent members of the Board of Directors all compensation actions affecting the Chief Executive Officer. The Committee also annually reviews with the Chief Executive Officer his evaluation of the performance of the other executive officers.

In setting executive compensation for 2016, the Committee considered the results of the Company's say-on-pay proposal at the 2016 Annual Meeting of Stockholders, which was approved by over 96.4% of the votes cast by the Company's stockholders. The Committee considered this favorable outcome and believed it reflects the stockholders' general support for the Company's existing compensation policies and philosophy.

To assist it in its review of executive compensation, the Committee also periodically engages outside consultants to provide competitive compensation information. The Committee uses peer-group compensation data in its decision-making process to target elements of the executives' compensation to be competitive with a peer group.

### ***Base Salaries***

In connection with the Company's cost control efforts in response to the prolonged, severe decline in the housing market, no incumbent executive officer received a base salary increase from 2007 through 2014. In addition, the Company instituted a 10% reduction in the base salaries of certain employees, including certain of the named executive officers below, which became effective in November 2011. Executive salaries were not fully restored to 2007 levels until June 2014. In 2015, the Company worked with Lockton Companies to evaluate executive salaries to be competitive with peer-group compensation and increased executives' salaries to be in line with such peer-group compensation.

The 2016 annual base salary for each of the named executive officers was as follows:

<b>Name and Principal Position</b>	<b>2016 Base Salary</b>
Jon P. Vrabely(1)	\$ 550,000
President and Chief Executive Officer and Former Interim Chief Financial Officer	
Oscar A. Martinez(2)	\$ 350,000
Vice President, Chief Financial Officer	
Gregory W. Gurley	\$ 252,500

Vice President, Product Management and Marketing		
Brian D. Robinson	\$	219,750
Vice President, Chief Information Officer		
Rebecca L. Kujawa(3)	\$	200,000
Vice President, General Counsel and Corporate Secretary		

- (1) Mr. Vrabely served as Interim Chief Financial Officer and Secretary from June 12, 2015 through April 3, 2016, at which time Mr. Martinez was appointed.

- (2) Mr. Martinez was named Vice President, Chief Financial Officer effective April 4, 2016.
- (3) Ms. Kujawa was named Vice President, General Counsel and Corporate Secretary effective April 4, 2016.
- The Company believes that the base salaries of the named executive officers are at levels that, considering the current economic environment, are appropriate for executives of a public corporation of the Company's size and industry.

### ***2016 Annual Incentive Compensation***

In 2016, each of the executive officers of the Company was eligible to receive annual incentive bonuses under the Company's 2005 Executive Incentive Compensation Plan, as amended and restated effective April 27, 2015 ( "EIC Plan" ). The Company's annual incentive compensation program is designed to reward the performance of the executives. For 2016, the Board primarily used an economic value added ( "EVA" ) measure to determine performance, among other factors. EVA is a measurement of the amount by which the Company's after-tax profits, after certain adjustments, exceed the cost of capital employed by the Company. The Company believes that, as compared to other common performance measures such as return on equity or growth in earnings per share, EVA has a higher correlation with the Company's overall financial performance and the creation of long-term stockholder value. Although criteria used to determine the total annual incentive compensation is formula driven, the Committee makes individual awards using its discretion based on review of individual performance.

For 2016, the Committee established target annual bonuses for each of the executive officers based on a percent of their respective base salaries. The aggregate target annual bonuses for the executive officers was approximately \$1.2 million. For 2016, the Committee relied in part on an EVA calculation for the Company that included two components: (1) a percentage of the absolute EVA generated for 2016 and (2) a percentage of the improvement in EVA from 2015 to 2016. In evaluating EVA, the Committee used a weighted average cost of capital of 5.08%. The Committee determined that the bonus pool would be 6% of the 2016 EVA of \$17,150,000 plus 10% of the \$4,202,000 improvement in EVA from 2015 to 2016. This resulted in a total incentive cash bonus pool for 2016 of \$1,449,000. Based on the company's improved financial performance in 2016, the Committee, in its discretion, increased the total annual incentive pool by \$50,000 to \$1,499,000, of which \$1,368,100 was allocated to the named executive officers. The Committee reviewed the executives' performance and the achievements of the Company for 2016.

As discussed below, Mr. Vrabely's employment agreement effective the first quarter of 2016 provides that his targeted annual bonus incentive is not less than 100% of his current base salary. For the other named executive officers, the Committee considered Mr. Vrabely's recommendations, the scope of each executive officer's duties, prior year awards, performance in areas of leadership, and completion of key projects.

The following table highlights certain of the material factors considered by the Committee in determining 2016 annual bonus awards:

<b>Name</b>	<b>Individual Performance Assessment</b>
Jon P. Vrabely	The Compensation Committee considered Mr. Vrabely's continued progress in diversifying the Company's business and initiatives, including the acquisition of BenBilt, the organic growth initiative of the Huttig-Grip product line, and leading a change management culture in addition to the goals set for Mr. Vrabely in early 2016 regarding gross margins and Adjusted EBITDA.
Oscar A. Martinez	The Compensation Committee considered Mr. Martinez's contribution in achieving the company's strategic growth initiatives, financial initiatives, and the development and implementation of the company's investor relations strategy.



<b>Name</b>	<b>Individual Performance Assessment</b>
Greg W. Gurley	The Compensation Committee considered Mr. Gurley's contribution in the development and implementation of the company's organic growth strategy.
Brian R. Robinson	The Compensation Committee considered Mr. Robinson's leadership in development and implementation of the company's Information Technology strategy.
Rebecca L. Kujawa	The Compensation Committee considered Ms. Kujawa's strategic analysis, management and settlement of the company's legal and environmental matters and accompanying settlements and her engagement in the company's human resources strategy.

The following lists the annual cash bonus awards allocated to the named executive officers for 2016:

<b>Name</b>	<b>2016 Annual Bonus Earned</b>
Jon P. Vrabely	\$ 666,615
Oscar A. Martinez	\$ 232,721
Gregory W. Gurley	\$ 138,880
Brian D. Robinson	\$ 172,138
Rebecca L. Kujawa	\$ 157,746

The awards to the named executive officers were paid in March 2017. In addition to her 2016 annual cash bonus under the EIC Plan, the Board of Directors approved a special, one-time cash performance award of \$100,000 for Ms. Kujawa's management and settlement of legal matters in 2016.

### ***Long Term Incentive Awards***

The Company considers its long term incentive awards program a key employee retention tool and a way to better align the interests of our named executive officers with those of our stockholders. In making decisions regarding long-term incentive awards for executive officers, the Committee considers factors such as each individual's performance and responsibilities.

Mr. Vrabely's 2016 long term incentive compensation was determined under his employment agreement, which provides for a target long term incentive award equal to 100% of his base salary, with 45% provided as a time-vesting restricted stock award (as shown in the table below) and 55% as a cash long-term incentive award (the Cash LTI). Additional details on the Cash LTI are provided under Compensation of Chief Executive Officer below. The Committee believes that this balanced approach to long-term incentive compensation for Mr. Vrabely focuses him on achieving key financial goals over multiple years, encourages his retention and aligns his interests with those of our long-term stockholders.

In 2016, each of the named executive officers received grants of restricted stock under the EIC Plan. The Committee awarded a total of 756,492 shares of restricted stock to employees, including 336,166 shares awarded to the named executive officers. The number of shares of restricted stock granted to the named executive officers in 2016 and 2015 is as follows.

<b>Name</b>	<b>Restricted Stock Grant</b>	
	<b>2016</b>	<b>2015</b>
	<b>(# Shares)</b>	<b>(# Shares)</b>

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Jon P. Vrabely	65,963(1)	100,000
Oscar A. Martinez	200,000(2)	
Gregory W. Gurley	27,457(3)	40,000
Brian D. Robinson	24,025(3)	35,000
Rebecca L. Kujawa	18,721(3)	2,698

- (1) In 2016, the Board approved a 2016 long term incentive award with 45% as a time-vesting restricted stock award and 55% as a Cash LTI. On March 16, 2016, Mr. Vrabely received a grant of 65,963 shares of restricted stock. The award vests ratably over three years assuming Mr. Vrabely's continued employment and vests immediately in the event of his death, permanent disability, or upon termination of employment by the Company without cause (or by Mr. Vrabely for good reason) or a change of control of the Company.
  - (2) Mr. Martinez received a grant of 200,000 shares of restricted stock on April 4, 2016 as a signing bonus. The award vests ratably over five years assuming his continued employment and vest immediately in the event of his death, permanent disability, retirement, or upon a change of control of the Company.
  - (3) Mr. Gurley, Mr. Robinson, and Ms. Kujawa received restricted stock awards on February 3, 2016. The awards vest ratably over three years assuming the executive's continued employment and vest immediately in the event of the executive's death, permanent disability, retirement or upon a change of control of the Company.
- The Company considered the Company's increased stock price in granting the number of restricted shares to each of the named executive officers in 2016 and 2015. The Committee believes that awards of equity compensation provide an appropriate incentive to the executive officers which align their interests with those of the Company's stockholders.

### ***Defined Contribution Plans***

The Company provides retirement benefits to the named executive officers under the terms of its tax-qualified 401(k) defined contribution plan. Effective July 1, 2016, the Company reinstated the Company matching program for all employees. For every pre-tax dollar contributed to the 401k/Roth plan, the Company made matching contributions, up to a total of 6% of the employee's total eligible deferral amount. The named executive officers participate in the plan on substantially the same terms as our other participating employees.

In 2016, as required by Mr. Vrabely's employment agreement, the Company established an unfunded nonqualified deferred compensation plan (the DC Plan) in which only Mr. Vrabely participates. Under the DC Plan, and consistent with the terms of Mr. Vrabely's employment agreement, the Company makes an annual contribution in a targeted amount between \$100,000 and \$300,000, with the exact amount to be determined by the Board based on Company and individual performance. No elective deferrals by Mr. Vrabely are permitted. The Company contributions under the DC Plan do not become vested until January 1, 2023, subject to Mr. Vrabely's continued employment with the Company, or earlier vesting in the event of his death, permanent disability, termination of employment by the Company without cause or termination of employment by Mr. Vrabely for good reason, or in the event that the DC Plan is terminated by the Company following a change of control. The Committee believes that these vesting provisions will further encourage Mr. Vrabely's retention through the vesting date.

For 2016, the Company contributed \$300,000 to Mr. Vrabely's account under the DC Plan. The Committee considered the Company and individual performance and the recommendation from the Committee's compensation consultant when making the 2016 contribution.

During the deferral period, balances in the DC Plan account will be adjusted with deemed investment returns based on Mr. Vrabely's investment choices, all of which are based on market rates of return. Vested balances are payable from the DC Plan in a lump sum following Mr. Vrabely's termination of employment or his earlier disability or death. Amounts credited to the DC Plan will be included as compensation in the Summary Compensation Table in the year of vesting.

### ***Perquisites and Other Personal Benefits***

The Company provides the named executive officers with perquisites and other personal benefits that the Company believes are reasonable and consistent with its overall compensation program to better enable the





Company to attract and retain superior employees for key positions. The Committee periodically reviews the levels of perquisites and other personal benefits provided to named executive officers. Mr. Vrabely receives additional supplemental life and long-term disability insurance with benefits of three times his base salary upon death and providing supplemental income in the event of his disability. Certain named executive officers are provided the use of a leased Company automobile or a car allowance. In certain instances, as determined on a case-by-case basis, the Company provides signing bonuses for new hires and reimbursement for spouse travel in connection with business functions. (See Long-Term Incentive Awards above regarding a new hire signing bonus in 2016 in the form of a restricted stock award to Mr. Martinez.)

Costs of the perquisites and personal benefits described above for the named executive officers that meet the threshold established by applicable SEC regulations are included in the Summary Compensation Table below in the All Other Compensation column.

### ***Change of Control Agreements***

The Company entered into an employment agreement with Mr. Vrabely which contains certain payments in connection with a termination of employment following a change in control of the Company. The Company has also entered into change in control agreements with the other named executive officers providing similar protections. The change in control agreements provide benefits only upon an involuntary termination or constructive termination of the officer within three years following a change in control. In addition, the Company's long term incentive plans and the award agreements under such plans provide that all restrictions on restricted stock lapse in the event of a change of control of the Company, and that all stock options become fully vested and exercisable either immediately upon a change of control or in the event that the employee is terminated following a change of control, depending on the plan. Information regarding payments and benefits that would accrue to the named executive officers under such arrangements is provided under the heading Potential Payments Upon Termination or Change of Control below. The Committee believes that these change of control agreements promote stability and continuity of senior management, represent a market competitive practice and will encourage executives to consider potential transactions that will benefit stockholders even if the transactions could result in the executive's termination of employment.

### ***Employment Agreements***

During 2016, no named executive officer was party to a written employment agreement, except Mr. Vrabely, whose compensation is discussed immediately below.

### ***Compensation of Chief Executive Officer***

#### ***General***

Mr. Vrabely's compensation is determined in accordance with an employment agreement with the Company as described further in this section. The Committee believes that Mr. Vrabely's compensation under the employment agreement, while higher than that of our other executive officers, is appropriate taking into consideration the level of his responsibilities with the Company. The Committee's goals in setting Mr. Vrabely's compensation are consistent with its goals for setting the compensation of our other executive officers generally including providing compensation that is competitive with that of the companies with which we compete for talent; aligning the interests of our executives with those of our stockholders through annual incentive compensation; and promoting retention and alignment with stockholder interests through long term equity incentives.

#### ***Term of Employment***

Effective January 1, 2007, Jon P. Vrabely was appointed as the Company's President and Chief Executive Officer. In connection with this appointment, the Company entered into a written employment agreement with

Mr. Vrabely, which has been amended from time to time, including in March 2016. The current term of the agreement expires on December 31, 2017; however, the agreement automatically extends for an additional year on that date and on each succeeding December 31 unless either Mr. Vrabely or the Company provides written notice of their intent to terminate at least 90 days prior to December 31.

#### *Base Salary*

Mr. Vrabely's employment agreement provides for an initial base salary of \$550,000 per year beginning January 1, 2016, which base salary may be increased but not decreased without Mr. Vrabely's consent.

#### *Annual Incentive Compensation*

Mr. Vrabely's employment agreement provides that he is to be allocated an annual cash incentive award target opportunity of at least 100% of his base salary. See discussion above under 2016 Annual Incentive Compensation regarding the 2016 award for Mr. Vrabely.

#### *Long Term Incentive Compensation*

Mr. Vrabely's employment agreement provides that on an annual basis, he is eligible to receive a long term incentive award with an aggregate target opportunity of at least 100% of his base salary, which award may be cash-based or stock-based, may be time-vesting or performance-vesting as the Board shall determine. The Board approved a 2016 long term incentive award with two components:

45% as a time-vesting restricted stock award, and

55% as the Cash LTI, which is a cash-based long term performance award with a performance period covering 2016-2018.

See discussion above under Long Term Incentive Awards regarding the 2016 restricted stock award for Mr. Vrabely.

For the 2016 Cash LTI, the Committee set two equally weighted goals with a payout ranging from 0% to 200% of target for each goal to be earned over a three-year performance period (2016-2018). The two goals are based on increases in gross profit and Adjusted EBITDA as compared against the 2015 baseline results.

In addition, for each goal, the Committee set annual milestone goals for 2016 and 2017 that could result in a partial payment (one-third of the target) at the end of each of those years. For 2016, the milestone goals for both performance measures were achieved, and as a result, one-third of the target award (\$100,000) was earned and paid in early 2017. This 2016 milestone payment is included as 2016 compensation in the Summary Compensation Table under Non-Equity Incentive Plan Compensation.

The following summarizes the 2016 milestone goals and results:

Measure	2015 Baseline	2016 Milestone Goal	2016 Result
Gross Profit	20.2%	21.2%	21.2%
		(100 bps growth)	

Adjusted EBITDA	\$18.7M	\$24.7M	\$28.3M
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(\$6M growth)

*Severance/Change of Control*

The employment agreement includes certain severance benefits payable in case of Mr. Vrabely's termination of employment without cause or upon non-renewal of the employment agreement by the Company without cause, in addition to certain protections in case of a termination of employment following a change in

control as described above. The Committee believes that the amount of severance protection provided under the employment agreement represents a standard market practice and helps to encourage Mr. Vrabely's retention. See below under "Potential Payments Upon Termination or Change of Control" "Change of Control Arrangements" for additional details.

#### *Perquisites and Other Benefits*

Mr. Vrabely's employment agreement states that he is to be provided the use of a Company-provided automobile and is to receive other employee benefits provided by the Company and generally available to executive officers. In addition to receiving the employee benefits available to the other executive officers, Mr. Vrabely receives supplemental life and long-term disability insurance with benefits of three times his base salary upon death and providing supplemental income in the event of disability.

The Committee believes that Mr. Vrabely's compensation, while higher than that of our other executive officers, is appropriate taking into consideration the level of his responsibilities with the Company. The Committee's goals in setting Mr. Vrabely's compensation are consistent with its goals for setting the compensation of our other executive officers generally such as providing compensation that is competitive with that of the companies with which we compete for talent; aligning the interests of our executives with those of our stockholders through annual incentive compensation; and promoting retention and alignment with stockholder interests through long term equity incentives.

#### *Accounting and Tax Considerations*

The Committee generally considers the financial accounting implications of stock awards and other compensation to the Company's executive officers in evaluating and establishing the Company's compensation policies and practices. In addition, Section 162(m) of the Internal Revenue Code, as amended (the "Code"), limits the deductibility of annual compensation paid to certain executive officers to \$1 million per employee unless the compensation meets certain specific requirements. The Committee believes that in establishing incentive compensation programs for our named executive officers, the potential deductibility of the compensation payable should be only one of several factors taken into consideration and not the sole governing factor. For that reason, the Committee may deem it appropriate to continue to provide one or more named executive officers with the opportunity to earn compensation that may be in excess of the amount deductible by reason of Section 162(m) or other provisions of the Code.

**Summary Compensation Table**

Shown below is information concerning the total compensation paid to and compensatory awards received by the named executive officers of the Company during each of the relevant years.

Name and Principal Position	Year	Salary	Bonus	Non-Equity Incentive Plan			Total
				Stock Awards(1)	Compensation(2)	All Other Compensation(4)	
Jon P. Vrabely(3) President and Chief Executive Officer and Former Interim Chief Financial Officer	2016	\$ 547,115		\$ 250,000	\$ 766,615	\$ 11,221	\$ 1,574,951
	2015	\$ 400,000		\$ 319,000	\$ 760,000	\$ 11,350	\$ 1,490,350
	2014	\$ 390,692		\$ 380,500	\$ 416,640	\$ 12,426	\$ 1,200,258
Oscar A. Martinez(3) Vice President Chief Financial Officer	2016	\$ 255,769		\$ 745,000	\$ 232,721		\$ 1,233,490
Gregory W. Gurley Vice President Product Management and Marketing	2016	\$ 251,442		\$ 88,000	\$ 138,880	\$ 14,400	\$ 492,722
	2015	\$ 225,000		\$ 127,600	\$ 165,512	\$ 15,786	\$ 533,898
	2014	\$ 219,765		\$ 152,200	\$ 138,880	\$ 15,786	\$ 526,631
Brian D. Robinson Vice President Chief Information Officer	2016	\$ 218,971		\$ 77,000	\$ 172,138	\$ 14,400	\$ 482,509
	2015	\$ 199,500		\$ 111,650	\$ 146,021	\$ 14,814	\$ 471,985
	2014	\$ 194,858		\$ 133,175	\$ 119,540	\$ 14,814	\$ 462,387
Rebecca L. Kujawa(5) Vice President General Counsel and Corporate Secretary	2016	\$ 146,154	\$ 100,000	\$ 60,001	\$ 157,746	\$ 175,502	\$ 639,403

(1) Represents the grant date fair value of restricted stock awards computed in accordance with the provisions of Financial Accounting Standards Board Accounting Standard Codification Topic 718. The per-share grant date fair value is computed as the average of the high and low stock prices on the date of grant. Mr. Vrabely's award was granted on March 16, 2016 and based on a per-share fair value of \$3.79. Mr. Martinez's award was granted on April 4, 2016 and based on a per-share fair value of \$3.725. Messrs. Gurley and Robinson and Ms. Kujawa's awards were granted on February 3, 2016 and based on a per-share fair value of \$3.205. The 2015 awards were granted on January 27, 2015, on which date the per-share fair market value was \$3.19. The 2014 awards were granted on January 28, 2014, on which date the per-share fair market value was \$3.805.

Restricted stock was granted under the EIC Plan. Shares vest over three years, assuming continued employment, with one-third of the shares vesting on each of the first three anniversaries of the grant date, with the exception of the 2016 award to Mr. Martinez with one-fifth of the shares vesting on each of the first five anniversaries of the grant date.

(2) All of the named executive officers participated in the EIC Plan for 2016 and 2015 and the predecessor cash bonus plan based on EVA for year 2014 (the EVA Plan), as applicable. In January 2017, the Committee approved a total annual bonus pool of \$1,499,000 for 2016, of which \$1,368,100 was allocated to the named executive officers. The awards will be paid in March 2017. In addition to an annual cash incentive of \$666,615, Mr. Vrabely received

\$100,000 for achievement of the 2016 milestones under the 2016-2018 Cash LTI. See Compensation of Chief Executive Officer Long Term Incentives above.

- (3) Mr. Vrabely served as Interim Chief Financial Officer from June 12, 2015 through April 3, 2016. Mr. Martinez was appointed as Chief Financial Officer effective April 4, 2016.
- (4) For Mr. Vrabely, all other compensation includes a car allowance, life insurance, and supplemental long-term disability. Additionally, for 2016, the Company contributed \$300,000 to Mr. Vrabely's account under the DC Plan. Amounts credited to the DC Plan will be included as compensation in the Summary Compensation Table in the year of vesting. For Messrs. Gurley and Robinson, it includes a car allowance. For Ms. Kujawa, it includes \$175,502 paid to her as an independent contractor to the Company in the performance of legal services on behalf of the Company prior to her employment.
- (5) Ms. Kujawa was appointed as Vice President, General Counsel and Corporate Secretary effective April 4, 2016.



**Grants of Plan-Based Awards for 2016**

Shown below is information concerning the total grant of plan-based awards received by the named executive officers of the Company during 2016.

Name	Plan	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards			All Other Stock Awards Number of Shares of Stock or Units (#)	Grant Date Fair Value (\$)
			Threshold (\$)	Target (\$)	Maximum (\$)		
Jon P. Vrabely	Annual Plan (1)			550,000			
	2016 Cash LTI (2)		0	300,000	600,000		
	Restricted Stock (3)	3/16/2016				65,963	250,000
Oscar A. Martinez	Annual Plan (1)			262,500			
	Restricted Stock (4)	4/4/2016				200,000	745,000
Greg Gurley	Annual Plan (1)			164,125			
	Restricted Stock (3)	2/3/2016				27,457	88,000
Brian Robinson	Annual Plan (1)			142,838			
	Restricted Stock (3)	2/3/2016				24,025	77,000
Rebecca Kujawa	Annual Plan (1)			110,000			
	Restricted Stock (3)	2/3/2016				18,721	60,001

- (1) The annual incentive plan in 2016 was based in part on an EVA calculation for the Company for 2016 that included two components: (i) a percentage of the absolute EVA generated for 2016 and (ii) a percentage of the improvement in EVA from 2015 to 2016. The Committee also reviews the executives' performance and the achievements of the Company for 2016 when determining the annual payouts. Executives' target annual bonuses are based on a percentage of their base salary. As discussed in the Compensation of the Chief Executive Officer, Mr. Vrabely's targeted annual bonus incentive for 2016 equals 100% of his current base salary. See Compensation Discussion and Analysis 2016 Annual Incentive Bonuses.
- (2) Mr. Vrabely's 2016 Cash LTI is based on a three year performance target for gross profit and Adjusted EBITDA improvement, with annual payouts based on achieving certain milestones. Payouts are based on relevant performance results against specified threshold, target and maximum performance levels. The Committee administers the plan to provide for payouts at a threshold level of performance at 80% of the target payout, payouts at a target level of performance at 100% of the target payout, and payouts at a maximum level of performance at 200% of the target payout. See Compensation of the Chief Executive Officer Long Term Incentive Compensation.
- (3) Executives are granted a long term equity incentive award equal to a percentage of their base salary. See Long Term Incentive Awards. The awards vest ratably over three years assuming the executive's continued employment and vest immediately in the event of the executive's death, permanent disability, retirement or upon a change of control of the Company.
- (4) Mr. Martinez received a grant of 200,000 shares of restricted stock on April 4, 2016 as a signing bonus. The award vests ratably over five years assuming the executive's continued employment and vest immediately in the event of his death, permanent disability, retirement, or upon a change of control of the Company.

- (5) The per-share grant date fair value is computed as the average of the high and low stock prices on the date of grant. Mr. Vrabely's award granted on March 16, 2016 was based on a per-share fair value of \$3.79. Mr. Martinez's award granted on April 4, 2016 was based on a per-share fair value of \$3.725. Messrs. Gurley and Robinson and Ms. Kujawa's awards granted on February 3, 2016 were based on a per-share fair value of \$3.205.

**Outstanding Equity Awards at December 31, 2016**

The following table sets forth certain information with respect to unvested shares of restricted stock held at December 31, 2016 by each of the named executive officers (there are no outstanding unexercised stock options).

Name	Stock Awards	
	Number of Shares or Units of Stock That Have Not Vested	Market Value of Shares or Units of Stock That Have Not Vested(1)
Jon P. Vrabely	165,962(2)	\$ 1,097,009
Oscar A. Martinez	200,000(3)	\$ 1,322,000
Gregory W. Gurley	67,456(4)	\$ 445,884
Brian D. Robinson	59,025(5)	\$ 390,155
Rebecca L. Kujawa	21,416(6)	\$ 141,560

- (1) Computed based on the market price of \$6.61 of the Company's common stock on December 31, 2016.
- (2) Mr. Vrabely's unvested restricted shares vest as follows: 33,333 on January 27, 2017; 33,333 on January 28, 2017; 21,988 on March 16, 2017; 33,333 on January 27, 2018; 21,987 on March 16, 2018 and 21,988 on March 16, 2019.
- (3) Mr. Martinez's unvested restricted shares vest as follows: 40,000 on April 4, 2017; 40,000 on April 4, 2018; 40,000 on April 4, 2019; 40,000 on April 4, 2020; and 40,000 on April 4, 2021.
- (4) Mr. Gurley's unvested restricted shares vest as follows: 13,333 on January 27, 2017; 13,333 on January 28, 2017; 13,333 on January 27, 2018; 9,153 on February 3, 2017; 9,152 on February 3, 2018 and 9,152 on February 3, 2019.
- (5) Mr. Robinson's unvested restricted shares vest as follows: 11,666 on January 27, 2017; 11,667 on January 28, 2017; 8,009 on February 3, 2017; 11,667 on January 27, 2018; 8,008 on February 3, 2018 and 8,008 on February 3, 2019.
- (6) Ms. Kujawa's unvested restricted shares vest as follows: 899 on January 17, 2017; 897 on January 28, 2017; 6,241 on February 3, 2017; 899 on January 27, 2018; 6,240 on February 3, 2018 and 6,240 on February 3, 2019.

**Stock Vested 2016**

The following table sets forth certain information with respect to shares of restricted stock which vested during the year ended December 31, 2016 for each of the named executive officers.

Name	Stock Awards	
	Number of Shares Acquired on Vesting	Value Realized on Vesting(1)

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Jon P. Vrabely	111,000	\$ 353,250(2)
Oscar A. Martinez		
Gregory W. Gurley	41,667	\$ 132,418(3)
Brian D. Robinson	35,333	\$ 112,207(4)
Rebecca L. Kujawa	1,797	\$ 5,638(5)

- (1) Computed by multiplying the number of shares acquired on vesting by the market value of the shares on the vesting date.
- (2) Mr. Vrabely's shares vested as follows: 33,334 shares on January 27, 2016, on which date the market value of the underlying shares was \$3.19, 33,333 shares on January 28, 2016, on which date the market value of the underlying shares was \$3.085, and 44,333 shares on January 29, 2016, on which date the market value of the underlying shares was \$3.25.
- (3) Mr. Gurley's shares vested as follows: 13,334 shares on January 27, 2016, on which date the market value of the underlying shares was \$3.19, 13,333 shares on January 28, 2016, on which date the market value of the underlying shares was \$3.085, and 15,000 shares on January 28, 2016, on which date the market value of the underlying shares was \$3.25.

- (4) Mr. Robinson's shares vested as follows: 11,667 shares on January 27, 2016, on which date the market value of the underlying shares was \$3.19, 11,666 shares on January 28, 2016, on which date the market value of the underlying shares was \$3.085, and 12,000 shares on January 29, 2016, on which date the market value of the underlying shares was \$3.25.
- (5) Ms. Kujawa's shares vested as follows: 900 shares on January 27, 2016, on which date the market value of the underlying shares was \$3.19; 897 shares on January 28, 2016 on January 28, 2016, on which date the market value of the underlying shares was \$3.085.

#### **Potential Payments Upon Termination or Change of Control**

##### *Payments Upon Termination of Employment Not in Connection With a Change in Control*

Other than Mr. Vrabely, the named executive officers do not have agreements or arrangements that would provide for severance payments for a termination of employment that is not in connection with a change in control. Restricted stock awards for these named executive officers include provisions that would vest the awards in case of termination of employment due to death or disability, but the awards would otherwise forfeit upon termination of employment before a change on control. For the named executive officers other than Mr. Vrabely, if employment had terminated on December 31, 2016 as a result of death or disability, the value of the equity awards that would have vested (based on the market price of Company common stock of \$6.61 per share on December 30, 2016) are as follows: Mr. Martinez, \$1,322,000; Mr. Gurley, \$445,884; Mr. Robinson, \$390,155; and Ms. Kujawa, \$141,560.

Mr. Vrabely's employment agreement includes provisions regarding severance and other payments as a result of a termination of employment before a change in control:

For any termination of employment, he would be eligible for a prorated payout of any outstanding Cash LTI award (based on performance through the date of termination).

In addition, in case of termination of employment due to death or disability, Mr. Vrabely would be entitled to receive, in addition to the prorated Cash LTI as described above, (i) a prorated bonus for the year of termination based on the average bonus paid by the Company for the three preceding fiscal years (the average bonus), plus (ii) full vesting of outstanding equity awards, plus (iii) full vesting of his unvested DC Plan balance.

In addition, in case of termination of employment by the Company without Cause (including a decision of the Company to not renew the term of the employment agreement other than for Cause), Mr. Vrabely would receive, in addition to the amounts described above (i) a cash severance payment equal to two times the sum of his base salary plus average bonus (payable in periodic installments over 24 months), plus (ii) two years of COBRA premiums based on the terms of Company's group health plan and the executive's coverage under such plan.

Payment of severance benefits are conditioned on Mr. Vrabely signing a release of all claims against the Company, and the employment agreement includes certain post-employment covenants, including a covenant not to compete.

The following chart provides the amounts Mr. Vrabely would have received under these provisions in case of termination of employment as of December 31, 2016:

#### **Potential Payments to Mr. Vrabely under Employment Agreement (Non-Change in Control)**

<b>Termination Reason</b>	<b>Prorated Cash LTI (1)</b>	<b>Prorated Bonus (2)</b>	<b>Equity Vesting</b>	<b>DC Plan Vesting (3)</b>	<b>Cash Severance (4)</b>	<b>COBRA Premiums (5)</b>	<b>Total</b>
Termination without Cause/Non-renewal by Company	\$ 0	\$ 666,615	\$ 1,097,009	\$ 306,244	\$ 2,038,627	\$ 38,648	\$ 4,147,143
Death/Disability	\$ 0	\$ 666,615	\$ 1,097,009	\$ 306,244			\$ 2,069,868
All Other	\$ 0						\$ 0

- (1) The amount with respect to the Cash LTI for 2016 is \$0, because the prorated portion based on target performance is fully offset by the \$100,000 paid for 2016 as a result of one-year milestone goals being achieved for 2016.
- (2) The amounts in this column are calculated based on the Company's actual performance through the termination date.
- (3) Amounts in this column are based on the unvested balance in the DC Plan as of December 31, 2016.
- (4) As described above, the amount in this column equals two times the sum of salary and the average bonus for 2013-2015.
- (5) As described above, the amount in this column equals two times the COBRA premiums based on the terms of Company's group health plan and executive's coverage under such plan.

***Change in Control Arrangements***

Mr. Vrabely's employment agreement includes provisions for severance and other benefits in case of termination of employment within three years after a change in control of the Company (or if the termination of employment occurs before the change in control at the request of the buyer or otherwise in connection with the change in control). The other named executive officers have change in control agreements with the Company that provide similar severance and other benefits in case of a qualifying termination within three years after a change in control (and before the executive's normal retirement date under the Company's 401(k) plan). In addition, under the EIC Plan and applicable award agreements, outstanding equity awards vest in full upon a change in control (without regard to termination of employment).

Under these agreements, in case of termination of employment due to death or disability within the applicable change in control protected period, Mr. Vrabely will receive the same benefits as described above under his employment agreement for termination due to death or disability before a change in control, and the other named executive officers will be entitled to a prorated bonus based on the average bonus.

Under these agreements, in case of termination of employment by the Company without Cause or by the executive for Good Reason within the applicable change in control protected period, the executive will receive:

A prorated annual bonus based on the greater of the average bonus or the bonus paid for the last fiscal year (the highest bonus);

Cash severance equal to a multiple of salary and the average bonus for Mr. Vrabely, the multiple is three, and for the other named executive officers it is two;

A multiple of COBRA premiums based on the terms of Company's group health plan and executive's coverage under such plan after termination for Mr. Vrabely, the multiple is three, and for the other named executive officers it is two; and

For Mr. Vrabely, prorated vesting of his Cash LTI, full vesting of any outstanding equity awards, full vesting of his DC Plan balance and outplacement services with a value up to \$25,000.

These payments are conditioned on the executive signing a release of all claims against the Company. Payments are generally made in a lump sum shortly following termination of employment, but for Mr. Vrabely in some cases may be paid in periodic installments over 36 months to the extent necessary to comply with Section 409A of the Code.

There are no excise tax gross-ups provided under these agreements. Instead, if the Company's tax counsel determines that any economic benefit or payment or distribution by the Company to the employee pursuant to the agreement is subject to the excise tax imposed by Section 4999 of the Code, the Company will reduce the aggregate payments due to the employee under the agreement and any other agreement, plan or program of the Company to an amount that is one dollar less than the maximum amount allowable without becoming subject to the excise tax.



The change in control agreements and Mr. Vrabely's employment agreement prohibit the officer from engaging in certain conduct during the term of employment and for one year following termination from employment with the Company: (1) engaging in any business that is competitive with the Company, (2) soliciting for employment any current employee of the Company or any individual who had been employed by the Company in the one year prior thereto, (3) soliciting the business of the Company or doing business with any actual or prospective customer or supplier of the Company, and (4) taking any action which is intended, or would reasonably be expected, to harm the Company or its reputation or which would reasonably be expected to lead to unwanted or unfavorable publicity to the Company. The change of control agreements and Mr. Vrabely's employment agreement also prohibit the officer from disclosing any confidential information of the Company at any time.

Had a change in control occurred on December 31, 2016, the value of the equity awards that would have vested upon that event (based on the market price of Company common stock of \$6.61 per share on December 31, 2016) are as follows: Mr. Martinez, \$1,322,000; Mr. Gurley, \$445,884; Mr. Robinson, \$390,155; and Ms. Kujawa, \$141,560.

The following table shows the amount of severance and other benefits that the named executive officers would have received under the agreements described above if there had been a change in control and on December 31, 2016, the executive had termination of employment by the Company without Cause or by the executive for Good Reason within the applicable change in control protected period:

#### Potential Payments to Named Executive Officers Upon Qualifying Termination Following a Change in Control

Name	Prorated Bonus and Cash LTI (1)	Cash Severance (2)	COBRA		Total
			Premiums/ Outplacement (3)	DC Plan Vesting (4)	
Jon P. Vrabely	\$ 760,000	\$ 3,057,940	\$ 82,972	\$ 306,244	\$ 4,207,156
Oscar A. Martinez	\$ 232,721	\$ 1,165,442	\$ 38,648		\$ 1,436,811
Greg W. Gurley	\$ 165,512	\$ 790,168	\$ 25,599		\$ 981,279
Brian D. Robinson	\$ 146,021	\$ 694,155	\$ 21,582		\$ 861,758
Rebecca L. Kujawa	\$ 257,746	\$ 915,492	\$ 21,582		\$ 1,194,820

- (1) The amounts in this column are based on the greater of the average bonus for the three years 2013-2015 or the bonus paid for 2015. For Mr. Vrabely, the amount with respect to the Cash LTI for 2016 is \$0, because the prorated portion based on target performance is fully offset by the \$100,000 paid for 2016 as a result of one-year milestone goals being achieved for 2016.
  - (2) As described above, the amounts in this column are based on the applicable multiple (three for Mr. Vrabely and two for the other named executive officers) times the sum of salary and the average bonus for 2013-2015.
  - (3) As described above, amounts in this column are based on the applicable multiple (three for Mr. Vrabely and two for the other named executive officers) times the COBRA premiums based on the terms of Company's group health plan and executive's coverage under such plan; for Mr. Vrabely, also includes \$25,000 in outplacement services.
  - (4) Amounts in this column are based on the unvested balance in the DC Plan as of December 31, 2016.
- The change in control agreements, Mr. Vrabely's employment agreement, and the Company's EIC Plan defines a change in control to mean the first to occur of any of the following events:

the start of a tender offer or exchange for all or part of the Company's outstanding shares or any shares convertible into such shares;

acquisition by a person of 20% of the Company's outstanding shares;

consummation of a merger or other business combination that results in the Company's stockholders immediately before the transaction owning less than 50% of the common stock after the transaction;

sale, lease, exchange of substantially all the assets of the Company,

the adoption of any plan or proposal for the liquidation or dissolution of the Company, or

a change in the majority of the members of the Company's Board that is not supported by the incumbent Board.

The change of control agreements and Mr. Vrabely's employment agreement define "cause" to mean, generally:

personal dishonesty or breach of fiduciary duty involving personal profit at the expense of the Company;

repeated, deliberate violations of the employee's duties;

commission of a criminal act related to the performance of the employee's duties;

furnishing of proprietary confidential information about the Company to a competitor;

intoxication by alcohol or drugs during work hours; or

conviction of a felony; or

breach of any material Company policy or material term of this Agreement or any other agreement by and between the Executive and the Company that is not cured within 30 days of receipt of written notice.

The change of control agreements define "good reason" to mean, generally:

diminution in the employee's position, authority, duties or responsibilities;

failure of the Company to provide the employee with compensation and benefits as described in the agreement;

requiring the employee to be based at any office or location more than 35 miles from the location at which the employee was based previously; or

any purported termination by the Company of the employee's employment except as expressly permitted by the agreement.

Mr. Vrabely's employment agreement defines "good reason" as follows:

Mr. Vrabely's salary is reduced or he fails to receive an increase in salary or participate in annual awards on the same basis as other key employees of the Company and its subsidiaries;

The Company fails to offer to Mr. Vrabely incentive plans or programs, perquisites or secretarial assistance as offered to other key employees of the Company and its subsidiaries;

Any action by the Company which results in a diminution in such position, authority, duties or responsibilities of Mr. Vrabely;

The Company requires Executive to perform his services at a location more than thirty-five (35) miles from the current headquarters, except for travel reasonably required in the performance of Executive's responsibilities; or

Any purported termination by the Company of Executive's employment otherwise than as expressly permitted by this Agreement.

## SECTION 16(A) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Based solely upon a review of the forms furnished to the Company or written representations of certain persons, each director, officer and beneficial owner of greater than 10% of the outstanding shares of the Company timely filed all required reports under Section 16(a) of the Securities Exchange Act of 1934, as amended, for 2016.

## CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The Company's Audit Committee charter requires that the Audit Committee, which is comprised entirely of independent directors, review all related party transactions and potential conflict of interest situations involving members of the Board of Directors or senior management. Current SEC rules define a related party transaction to include any transaction, arrangement or relationship in which the Company is a participant and the related party has a direct or indirect interest. Since January 1, 2016, the beginning of the Company's last fiscal year, the Company has not had any related party transactions involving an amount in excess of \$120,000.

## COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

The Compensation Committee is comprised of Messrs. Glass, Larmon and Tanner and Ms. Hoagland. No member of the Compensation Committee is or has ever been an officer or employee of the Company and no executive officer of the Company has served as a director or member of a compensation committee of another company of which any member of the Board of Directors is an executive officer.

## PRINCIPAL ACCOUNTING FIRM SERVICES AND FEES

The following table sets forth the aggregate fees billed for the years ended December 31, 2016 and 2015 by KPMG LLP, the Company's principal accounting firm during those years.

	2016	2015
Audit Fees(1)	\$ 446,080	\$ 458,500
Audit-Related Fees		
Tax Fees		
All Other Fees		
<b>Total Fees</b>	<b>\$ 446,080</b>	<b>\$ 458,500</b>

(1) Audit fees consist of fees for the following services: (a) the audit of the Company's annual financial statements, and (b) reviews of the Company's quarterly financial statements.

The Audit Committee has adopted a policy under which the independent auditors are prohibited from performing certain services in accordance with Section 202 of the Sarbanes-Oxley Act of 2002. The Audit Committee pre-approves all services to be provided by the independent auditors. The Audit Committee pre-approves the annual audit engagement terms and fees at the beginning of the year and pre-approves, if necessary, any changes in terms or fees resulting from changes in audit scope, Company structure or other matters. For services other than the annual audit engagement, if pre-approval by the full Audit Committee at a regularly scheduled meeting is not practical due to time limitations or otherwise, the Chairman of the Audit Committee may pre-approve such services and shall report any such pre-approval decision to the Audit Committee at the next regularly scheduled meeting.



## ITEM 2 APPROVAL OF RIGHTS AGREEMENT

On May 18, 2016, the Board entered into a Rights Agreement with Computershare Trust Company, N.A. (the Rights Agreement ) and declared a dividend of one preferred share purchase right (a Right ) for each outstanding share of Common Stock. The dividend was paid upon the close of business on May 31, 2016 to the stockholders of record upon the close of business on that date. Pursuant to its terms, the Rights Agreement will terminate on the date of the Annual Meeting if the Company's stockholders do not approve it by an affirmative majority vote.

The Board has adopted the rights agreement to protect stockholder value by attempting to diminish the risk that the Company's ability to use its net operating losses ( NOLs ) to reduce potential future federal income tax obligations may become substantially limited. We believe that the approval of the Rights Agreement is in the best interest of the Company.

**The Board of Directors unanimously recommends a vote FOR the approval of the Rights Agreement.**

The following is a summary of the Rights Agreement. This summary does not purport to be complete and is qualified in its entirety by reference to the full text of the Rights Agreement, which is set forth in Attachment A to this Proxy Statement.

### Summary of the Material Terms of the Rights Agreement

*Exercise Price.* Each Right entitles the registered holder to purchase from the Company one one-hundredth of a share of Series A Junior Participating Preferred Stock, par value \$0.01 per share ( Preferred Shares ), of the Company at a price of \$13.86 per one one-hundredth of a Preferred Share, subject to adjustment as provided in the Rights Agreement (the Purchase Price ).

*The Rights.* The Rights will initially trade with, and will be inseparable from, shares of Common Stock. The Rights are evidenced only by certificates that represent the Common Stock. New Rights will accompany any new shares of Common Stock the Company issues until the Distribution Date described below or until the Rights are redeemed or the Rights Agreement expires. Until a Right is exercised as described below, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends.

*Exercisability.* The Rights will not be exercisable until the earlier of (i) ten days following a public announcement, or the Board concluding, that a person or group of affiliated or associated persons has become an Acquiring Person (as defined below) by, subject to certain exceptions, acquiring beneficial ownership of 4.99% or more of the outstanding shares of Common Stock, or (ii) ten business days (or such later date as may be determined by the Board prior to such time as any person becomes an Acquiring Person) following the commencement of, or announcement of an intention to make, a tender offer or exchange offer, the consummation of which would result in a person or group becoming an Acquiring Person.

The date on which the Rights become exercisable is referred to in the Rights Agreement as the Distribution Date. Until that date, the certificates for the shares of Common Stock will also evidence the Rights, and any transfer of shares of Common Stock will constitute a transfer of Rights. After that date, the Rights will separate from the shares of Common Stock and be evidenced by book entry credits or by Rights certificates that the Company will mail to all eligible holders of shares of Common Stock. Any Rights held by an Acquiring Person are null and void and may not be exercised.

*Acquiring Person.* An Acquiring Person is any person that becomes, by itself or together with its affiliates and associates, a beneficial owner of 4.99% or more of the shares of Common Stock then outstanding, but will not include (i) the Company, its subsidiaries and certain benefit plans of the Company and its subsidiaries,





(ii) any of certain grandfathered persons ( Grandfathered Persons ) that would otherwise be Acquiring Persons as of the effective time of the Rights Agreement and that continue to qualify for this status by not acquiring additional shares of Common Stock or (iii) any person who or which the Board determines, in its sole discretion, has inadvertently become a beneficial owner of 4.99% or more of the shares of Common Stock then outstanding (or has inadvertently failed to continue to qualify as a Grandfathered Person), provided that such person or its affiliates and associates promptly divest sufficient shares of Common Stock so that the percentage stock ownership of such person and its affiliates and associates is less than 4.99% of the shares of Common Stock then outstanding (or, in the case of any person who or which has inadvertently failed to continue to qualify as a Grandfathered Person, the shares of Common Stock that caused such person to so fail to qualify as a Grandfathered Person). In addition, the Board, in its sole discretion, may (a) prior to the consummation of a transaction that would result in a person becoming an Acquiring Person, upon the request of such person, determine that such person's consummation of the transaction will not result in such person becoming an Acquiring Person and (b) following the consummation of a transaction that results in a person becoming an Acquiring Person, upon the request of such person or on its own accord, determine that such person is not an Acquiring Person as a result of such transaction.

*Preferred Shares.* Preferred Shares purchasable upon the exercise of Rights will not be redeemable. The holder of a Preferred Share will be entitled to a minimum preferential quarterly dividend payment of \$1.00 per share but will be entitled to an aggregate dividend of 100 times the dividend declared per share of Common Stock. In the event of liquidation, the holders of the Preferred Shares will be entitled to a minimum preferential liquidation payment of \$100 per share but will be entitled to an aggregate payment of 100 times the payment made per share of Common Stock. Each Preferred Share will have 100 votes, voting together with the Common Stock. Finally, in the event of any merger, consolidation or other transaction in which shares of Common Stock are exchanged, each Preferred Share will be entitled to receive 100 times the amount received per share of Common Stock. These rights are protected by customary anti-dilution provisions.

Because of the nature of the Preferred Shares' dividend, voting and liquidation rights, the value of the one one-hundredth interest in a Preferred Share purchasable upon exercise of each Right should approximate the value of one share of Common Stock.

*Flip-In.* Upon any person or group becoming an Acquiring Person, each holder of a Right, other than the Acquiring Person, will have the right to receive, upon exercise of such Right, that number of shares of Common Stock having a market value equal to the then-current Purchase Price divided by 50% of the market closing price of a share of Common Stock on the trading day immediately preceding the date on which such Right is exercised. In certain circumstances, the holder of a Right may receive upon exercise, in lieu of shares of Common Stock, cash, property or other securities of the Company or a reduction in the Purchase Price.

*Flip-Over.* Upon any person or group becoming an Acquiring Person and the Company is acquired in a merger or similar transaction, each holder of a Right, other than the Acquiring Person, may exercise such Right upon payment of the Purchase Price, to purchase shares of the acquiring or other appropriate entity with a market value equal to two times the Purchase Price of the rights.

*Expiration.* The Rights will expire on the earliest of (i) the Annual Meeting if the stockholders do not approve the Rights Agreement at our meeting, (ii) May 18, 2019, (iii) the time at which the Rights are redeemed as described below, (iv) the time at which the Rights are exchanged as described below, (v) the repeal of Section 382 of the Internal Revenue Code if the Board determines that the Rights Agreement is no longer necessary for the preservation of the Company's NOLs, and (vi) the beginning of a taxable year of the Company to which the Board determines that no NOLs may be carried forward.

*Redemption.* The Board may redeem the Rights for \$0.01 per Right at any time before any person or group becomes an Acquiring Person. If the Board redeems any Rights, it must redeem all of the Rights. Once the Rights are

redeemed, the only right of a holder of Rights, as such, will be to receive the redemption price of \$0.01 per

Right. The redemption price will be adjusted if the Company affects a stock split or pays a dividend in the form of shares of Common Stock.

*Exchange.* After a person or group becomes an Acquiring Person, but before an Acquiring Person owns 50% or more of the outstanding shares of Common Stock, the Board may extinguish the Rights by exchanging one share of Common Stock or an equivalent security for each Right, other than Rights held by the Acquiring Person.

*Anti-Dilution Provisions.* The Board may adjust the Purchase Price, the number of Preferred Shares or shares of Common Stock issuable upon exercise of a Right and the number of outstanding Rights to prevent dilution that may occur from a stock dividend, a stock split or a reclassification of the Preferred Shares or shares of Common Stock. No adjustments to the Purchase Price of less than 1% will be made. No fractional Preferred Shares will be issued (other than fractions which are integral multiples of one one-hundredth of a Preferred Share). In lieu thereof, an adjustment in cash will be made based on the market price of the Preferred Shares on the last trading day prior to the date of exercise.

*Amendments.* The terms of the Rights Agreement may be amended by the Board without the consent of the holders of the Rights. After a person or group becomes an Acquiring Person, the Board generally may not amend the Rights Agreement in any way that adversely affects holders of the Rights.

*Anti-Takeover Effects.* The Rights may have certain anti-takeover effects. The Rights may cause substantial dilution to any person or group that attempts to acquire the Company without the approval of the Board. As a result, the overall effect of the Rights may be to render more difficult or discourage a merger, tender offer or other business combination involving the Company that is not supported by the Board.

**The Board of Directors unanimously recommends a vote FOR the approval of the Rights Agreement.**

#### **Vote Required**

Assuming a quorum is present at the meeting, the Rights Agreement will be approved if the proposal receives the affirmative vote of a majority of votes cast by holders of shares of Common Stock present in person or represented by proxy and entitled to vote at the meeting.

### **ITEM 3 INCREASE OF AUTHORIZED COMMON STOCK**

The Board has approved a resolution to amend and restate the Restated Certificate of Incorporation of the Company (the *Certificate*) as a Second Amended and Restated Certificate of Incorporation (the *Second Amended and Restated Certificate*), as set forth in Attachment B to this Proxy Statement, in order to increase the number of authorized shares of our Common Stock from 50,000,000 to 75,000,000. The proposed amendment would replace the first sentence of Article IV of the Certificate with the following sentence: The total number of shares of all classes of stock which the Corporation shall have authority to issue is Seventy- Five Million (75,000,000) shares of common stock, par value \$.01 per share ( *Common Stock* ), and Five Million (5,000,000) shares of preferred stock, par value \$.01 per share ( *Preferred Stock* ).

**The Board of Directors unanimously recommends a vote FOR the approval of this proposal.**

The following is a summary of the purpose and possible effects of the proposed amendment.

#### **Purpose and Effects of the Amendment**

As set forth in Item 2 of this Proxy Statement, on May 18, 2016, the Board entered into a Rights Agreement with Computershare Trust Company, N.A. (the Rights Agreement ) and declared a dividend of one preferred

share purchase right for each outstanding share of Common Stock. The dividend was paid upon the close of business on May 31, 2016 to the stockholders of record upon the close of business on that date. Pursuant to the Rights Agreement, the Board may exchange the rights issued thereunder for one share of Common Stock in certain circumstances. The Rights Agreement was adopted to protect stockholder value by attempting to diminish the risk that the Company's ability to use its net operating losses to reduce potential future federal income tax obligations may become substantially limited. Additionally, as set forth in Item 4 of this Proxy Statement, the Board has approved a resolution to amend and restate the EIC Plan to increase the number of shares available for awards thereunder by 2,000,000 shares to a total of 8,125,000 shares.

In order to accommodate the shares that may be exchanged for rights pursuant to the Rights Agreement and the increased number of shares available under the EIC Plan, the Board believes it is in the best interest of the Company to increase the number of authorized shares of Common Stock. This will also give the Company greater flexibility in considering and planning for future corporate needs including stock splits, stock dividends, grants under equity compensation plans, financings, mergers, acquisitions, business combinations and other general corporate transactions.

If the amendment is approved, except as may be required by law or NASDAQ rules, no further stockholder approval would be required prior to the issuance of the additional shares authorized by the amendment. While adoption of the amendment would not have any immediate dilutive effect on the proportionate voting power or other rights of the Company's existing stockholders, any future issuances of additional shares could significantly dilute the equity interests of current stockholders and could have a negative effect on the market price of the Common Stock. Current stockholders have no preemptive or similar rights, which means that current stockholders do not have a prior right to purchase any new issue of Common Stock in order to maintain their proportionate ownership. If the proposal is approved, the Company will have the authority to file a Certificate of Amendment with the Secretary of State of Delaware and the Second Amended and Restated Certificate will become effective upon the filing of the Certificate of Amendment with the Secretary of State of Delaware, which filing is expected to occur promptly after the Annual Meeting.

#### **Vote Required**

Assuming a quorum is present at the meeting, the Second Amended and Restated Certificate will be approved if the proposal receives the affirmative vote of a majority of votes cast by holders of shares of Common Stock present in person or represented by proxy and entitled to vote at the meeting.

### **ITEM 4 AMENDMENT AND RESTATEMENT OF OUR**

#### **2005 EXECUTIVE INCENTIVE COMPENSATION PLAN**

The Company has established the EIC Plan. Subject to stockholder approval at the Annual Meeting, the Board has adopted a further amendment and restatement of the EIC Plan (which we refer to as the Amended EIC Plan), for two primary purposes:

To increase the number of shares of Common Stock available under the EIC Plan by 2,000,000, to 8,125,000 total shares of Common Stock; and

To extend the term of the EIC Plan to April 25, 2027.

In addition, under Code Section 162(m), we are generally prohibited from deducting compensation paid to covered employees in excess of \$1 million per person in any year. Covered employees are defined as the chief executive officer and the three other most highly compensated officers (excluding the chief financial officer). Compensation that qualifies as performance-based is not subject to the \$1 million limit. In general, one of the requirements that must be satisfied to qualify as performance-based compensation is that the material terms of the performance goals under which the compensation may be paid must be

disclosed to, and approved by, a majority vote of our stockholders, generally at least once every five years. By approving the Amended EIC Plan, stockholders also will be approving the material terms of the performance goals under the Amended EIC Plan. Although stockholder approval of the Amended EIC Plan will continue to provide the Company flexibility to grant awards under the Amended EIC Plan that qualify as performance-based compensation under Code Section 162(m), we retain the ability to grant awards under the Amended EIC Plan that do not qualify as performance-based compensation under Code Section 162(m).

The Amended EIC Plan is otherwise consistent with the EIC Plan.

The number of remaining shares available for issuance under the EIC Plan has diminished to a level such that, if the use of stock-based awards as long-term incentive compensation by the Company is to continue, the EIC Plan must be amended and restated to increase the number of shares available for issuance. As of March 1, 2017, the Company had 600,676 shares available for issuance under the EIC Plan. The amendment permitting the Company to withhold amounts greater than those required to be withheld, as permissible, affords the Company greater flexibility in its handling of tax matters.

We believe that the approval of the Amended EIC Plan is necessary to allow us to continue to offer competitive compensation to our executive officers and other employees while retaining the ability to handle tax matters flexibly and to the greatest advantage of the Company.

**The Board of Directors unanimously recommends a vote FOR the approval of the amendment and restatement of the 2005 Executive Incentive Compensation Plan, as amended and restated.**

The following is a summary of the Amended EIC Plan, including the provisions consistent with the EIC Plan. This summary does not purport to be complete and is qualified in its entirety by reference to the full text of the Amended EIC Plan, which is set forth in Attachment C to this Proxy Statement.

### **Summary of the Material Terms of the Amended EIC Plan**

#### **General**

The Amended EIC Plan authorizes the granting of equity incentive awards of up to 8,125,000 shares of Common Stock, subject to certain additional limitations on the amount of certain types of awards that may be issued in a given year or to a single plan participant. As of December 31, 2016, there were 512,849 shares of Common Stock available for awards under the EIC Plan (see Stock Plan Table below). Additionally, the Amended EIP Plan authorizes the issuance of cash-based incentive awards.

#### **Administration**

The Compensation Committee, or a subcommittee thereof, administers the Amended EIC Plan. The Compensation Committee has the authority to determine the individuals to whom awards will be granted, the nature, amounts and terms of such awards, and the objectives and conditions for earning such awards. The Compensation Committee may delegate its authority under the Amended EIC Plan to one or more persons, and the Compensation Committee or any persons to whom it has delegated its authority may employ individuals to render advice regarding the responsibility of the Compensation Committee or the agent to whom it has delegated its authority under the Amended EIC Plan.

#### **Types of Awards**

Awards under the Amended EIC Plan may include stock options, SARs, restricted stock, restricted stock units, other stock-based awards, and cash incentive awards, including annual incentive awards. Any of these awards may be

performance awards that are conditioned on attainment of performance goals.



*Stock Options.* The Compensation Committee may grant to a participant incentive stock options ( ISOs ), options that do not qualify as ISOs ( non-qualified stock options ) or a combination thereof. The terms and conditions of stock option grants, including the quantity, price, expiration and other conditions on exercise will be determined by the Compensation Committee. ISO grants shall be made only to employees of the Company or its subsidiaries, in accordance with Code Section 422. Under the Amended EIC Plan, no more than 1,425,000 shares may be issued pursuant to ISOs.

The Compensation Committee in its discretion will determine the exercise price for stock options, provided that the exercise price per share for each stock option shall be at least equal to 100% of the fair market value of one share of Common Stock on the date when the stock option is granted. As of February 27, 2017, the closing price of our Common Stock was \$6.59 per share.

Stock options must be exercised within a period fixed by the Compensation Committee that may not exceed ten years from the date of grant.

At the Compensation Committee's discretion, payment for shares of Common Stock on the exercise of stock options may be made in (1) cash, (2) shares of Common Stock held by the participant for at least six months (or such other period as the Compensation Committee may permit) with an aggregate fair market value equal to the option price, (3) a combination of cash and shares of Common Stock, or (4) any other form of consideration acceptable to the Compensation Committee (including one or more forms of cashless exercise).

*Stock Appreciation Rights.* The Compensation Committee may grant SARs in tandem with stock options, independent of stock options, or a combination of these forms. The terms and conditions of SARs, including the quantity, expiration, and conditions on exercise, will be determined by the Compensation Committee. An employee of a subsidiary of the Company who is subject to Code Section 409A may be granted SARs only to the extent that the subsidiary is part of the Company's consolidated group for federal tax purposes. A SAR entitles the participant to receive, upon its exercise, a payment, in Common Stock, equal to (1) the excess of the fair market value of a share of Common Stock on the exercise date over the SAR grant price, multiplied by (2) the number of shares of Common Stock with respect to which the SAR is exercised. The Compensation Committee may impose restrictions on the Common Stock received as payment by, for example, requiring the participant to hold such Common Stock for a specified period of time.

The grant price of each SAR granted independent of stock options is determined by the Compensation Committee, provided that the grant price on the date of grant must be at least equal to 100% of the fair market value of one share of Common Stock on the date of grant. The grant price of each SAR granted in tandem with a stock option shall be equal to the exercise price of the related stock option.

SARs must be exercised within a period fixed by the Compensation Committee, not to exceed ten years from the date of grant.

SARs granted independent of stock options may be exercised upon the terms and conditions specified by the Compensation Committee. SARs granted in tandem with stock options may be exercised upon the surrender of the right to exercise the related stock option. If a SAR is granted in tandem with an ISO, that SAR will expire at or before the time of the ISO, the SAR may be exercised only if the fair market value of the shares subject to the stock option is greater than the option price of the stock option, and the payment received upon exercise may not exceed the difference between (1) the fair market value of the shares subject to the stock option at the time of exercise of the SAR, and (2) the exercise price of the underlying stock option.

*Restricted Stock, Restricted Stock Units and Other Stock-Based Awards.* The Compensation Committee may grant awards of restricted stock, which are shares of Common Stock subject to specified restrictions, and restricted stock

units, which represent the right to receive shares of Common Stock in the future. These awards may be made subject to repurchase, forfeiture or vesting restrictions at the Compensation Committee s

discretion. The restrictions may be based on continuous service with the Company or the attainment of specified performance goals, as determined by the Compensation Committee. Stock units may be paid in stock or cash or a combination of stock and cash, as determined by the Compensation Committee. The Compensation Committee may also grant other types of equity or equity-based awards subject to the terms of the Amended EIC Plan and any other terms and conditions determined by the Compensation Committee.

*Performance Awards.* The Compensation Committee may grant performance awards which are, at its discretion, payable in cash, stock, other awards under the Amended EIC Plan or property upon the attainment of performance goals established by the Compensation Committee over a specified performance period. Any type of award may be granted under the Amended EIC Plan as a performance award, including annual incentive awards or other cash-based incentive awards.

### **Performance-Based Compensation under Section 162(m)**

*Performance Goals and Criteria.* Under Code Section 162(m), we generally are prohibited from deducting compensation paid to our chief executive officer and our three other most highly compensated executive officers (other than our principal financial officer) in excess of \$1 million per person in any year. However, compensation that qualifies as performance-based is not subject to the \$1 million limit.

If the Compensation Committee intends to qualify an award under the Amended EIC Plan as performance-based compensation under Code Section 162(m), the performance goals selected by the Compensation Committee will be based on the attainment of specified levels of one, or any combination, of the following performance criteria for the Company:

net earnings or net income (before or after taxes);

earnings per share;

net sales or revenue growth;

net operating profit (before or after taxes);

return measures (including, but not limited to, return on assets, capital, invested capital, equity, sales, or revenue);

cash flow (including, but not limited to, operating cash flow, free cash flow, cash flow return on equity, and cash flow return on investment);

earnings before or after taxes, interest, depreciation, and/or amortization;

gross or operating margins;

productivity ratios;

share price (including, but not limited to, growth measures and total stockholder return);

expense targets;

margins;

operating efficiency;

market share;

customer satisfaction;

working capital targets;

liquidity measures;

implementation, completion or attainment of measurable objectives with respect to specific operational goals and targets, such as: (A) environmental, health and/or safety goals (including lost workday rates);

(B) customer satisfaction; (C) inventory turns; (D) lead time; (E) on-time delivery; (G) days sales outstanding; (H) quality; (J) specific products/projects (including new product introductions); (K) recruitment or retention of personnel; (L) personnel cost to gross profit ratio; (M) restructuring activities; or (N) acquisition activities; and

economic value added (net operating profit after tax minus the sum of capital multiplied by the cost of capital).

The Compensation Committee can also select any derivations of these business criteria (e.g., income shall include pre-tax income, net income, operating income, etc.).

Performance goals may, in the discretion of the Compensation Committee, be established on a Company-wide basis, or with respect to one or more business units, divisions, subsidiaries or business segments, as applicable. Performance goals may be absolute or relative to the performance of one or more comparable companies or indices.

The Compensation Committee may determine at the time that the performance goals are established the extent to which measurement of performance goals may exclude (or otherwise adjust for) the impact of charges for restructuring, discontinued operations, extraordinary items, debt redemption or retirement, asset write downs, litigation or claim judgments or settlements, acquisitions or divestitures, foreign exchange gains and losses, and other special significant items or other unusual non-recurring items, tax adjustments, and the cumulative effects of tax or accounting changes (each as defined by generally accepted accounting principles and as identified in the Company's financial statements or other filings with the SEC).

In addition, compensation realized from the exercise of options and SARs granted under the Amended EIC Plan is intended to meet the requirements of the performance-based compensation exception under Code Section 162(m). These awards must have an exercise price equal at least to fair market value at the date of grant, and be granted to covered individuals by a Compensation Committee consisting of at least two outside directors. The Amended EIC Plan limits the number of shares that may be the subject of awards granted to any individual during any calendar year.

*Limitations; Committee Discretion.* Subject to certain adjustments for changes in our corporate or capital structure described below and certain other exceptions, participants who are granted awards intended to qualify as performance-based compensation under Code Section 162(m) may not be granted stock options or stock appreciation rights for more than 500,000 shares in any calendar year or more than 500,000 shares for all share-based awards that are performance awards in any calendar year. The maximum dollar value granted to any participant pursuant to that portion of a cash award granted under the Amended EIC Plan for any calendar year to any employee that is intended to satisfy the requirements for performance-based compensation under Code Section 162(m) may not exceed \$5 million for an annual incentive award and \$5 million for all other cash-based awards.

The Compensation Committee may, in its discretion, reduce the amount of a payment otherwise to be made in connection with a performance award.

### **Other Terms and Conditions**

*Agreements.* Awards granted under the Amended EIC Plan will be evidenced by agreements consistent with the Amended EIC Plan. Neither the Amended EIC Plan nor any agreements entered thereunder confer a right to continued employment to any participant. Each agreement shall specify the extent to which a participant shall have the right to receive awards following termination of his or her employment with or provision of services to the Company, its affiliates, or its subsidiaries.

*Transferability of Awards.* Absent action by the Compensation Committee, awards may not be transferred except by will or the laws of descent and distribution. The Compensation Committee may take action at its

discretion to permit transfer of any or all awards, provided that the transferee of the award must be the participant to whom the award has been granted, a family member of the participant to whom the award has been granted, or a charity.

*Change of Control.* Unless otherwise provided in an applicable award agreement, if a change of control occurs (as defined in the Amended EIC Plan), all outstanding stock options and SARs will become fully vested and exercisable, and all then-outstanding restricted stock and restricted units shall vest in full and be free of restrictions. The treatment of all other awards shall be determined by the Compensation Committee as reflected in the applicable award agreement.

*No Repricing.* Without stockholder approval, the Compensation Committee is not authorized to (a) lower the exercise or grant price of a stock option or SAR after it is granted, except in connection with certain adjustments to our corporate or capital structure permitted by the Amended EIC Plan, such as stock splits, or (b) cancel a stock option or SAR at a time when its exercise or grant price exceeds the fair market value of the underlying stock, in exchange for cash, another stock option or SAR, restricted stock, restricted stock units or other equity award, unless the cancellation and exchange occur in connection with a change in capitalization or other similar change.

### **Eligibility**

The Compensation Committee may grant awards to any employee of the Company, its affiliates, or its subsidiaries on the payroll records thereof or any individual classified or treated by the Company, its affiliates, or its subsidiaries as an independent contractor or consultant. The Compensation Committee shall select the individuals to whom an award shall be granted, and shall, in its sole discretion, determine the nature, amount, and terms of the award. Currently, the Company expects approximately 70 individuals, including 5 executives, will receive awards in 2017 under the Amended EIC Plan.

### **Plan Benefits**

The exact types and amounts of any future awards to be made to any eligible participants pursuant to the Amended EIC Plan are not presently determinable. As a result of the discretionary nature of the Amended EIC Plan, it is not possible to state who the participants in the Amended EIC Plan will be in the future or the number of options or other awards to be received by a person or group. For information regarding the number of restricted stock awards granted under the EIC Plan during 2016 and 2015 to the named executive officers, see [Executive Compensation Long-Term Incentive Awards](#) above.

**Stock Plan Table**

The following table presents information on the Company's equity compensation plans at December 31, 2016:

<b>Plan Category</b>	<b>Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)</b>	<b>Weighted-average exercise price of outstanding options, warrants and rights (b)</b>	<b>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)</b>
Equity compensation plans approved by security holders		\$ N/A	1,037,233
Equity compensation plans not approved by security holders			
<b>Total</b>		\$	1,037,233

**Shares Subject to the Amended EIC Plan**

The Amended EIC Plan authorizes the granting of equity incentive awards of up to 8,125,000 shares of Common Stock. Shares of Common Stock to be delivered or purchased under the Amended EIC Plan may be either authorized or unissued Common Stock or treasury shares.

Shares covered by an award shall only be counted as used to the extent they are actually issued. Any shares of Common Stock related to awards which 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, prior to the issuance of shares, for awards not involving shares, shall be available again for grant under the Amended EIC Plan. Moreover, if the exercise price of any stock option granted under the Amended EIC Plan or the tax withholding requirements with respect to any award granted under the Amended EIC Plan are satisfied by tendering shares of Common Stock to the Company, or if an SAR is exercised, only the number of shares issued, net of any shares tendered will be deemed delivered for purposes of determining the maximum number of shares available for delivery



under the Amended EIC Plan. Shares covered by the Company's prior stock plans, the 1999 Stock Incentive Plan, as amended, and the 2001 Stock Incentive Plan, as amended, that are terminated unexercised, forfeited or otherwise surrendered shall be available for subsequent awards under the Amended EIC Plan.

**Anti-Dilution Protection**

In the event of unusual or nonrecurring events, including corporate events or transactions (such as a change in the authorized shares of the Company, a change in the capitalization of the Company, a merger, or other similar change in capital structure or distribution), the Compensation Committee shall adjust in its sole discretion the number and kind of shares that may be issued under the Amended EIC Plan, the terms and conditions of outstanding awards, the annual award limits, and other value determinations applicable to outstanding awards, as it deems necessary and appropriate to prevent unintended dilution or enlargement of the benefits or potential benefits intended to be made available under the Amended EIC Plan.

**Amendment and Termination**

Subject to stockholder approval as may be required under applicable law, regulation or stock exchange rule, the Board of Directors may at any time amend or terminate the Amended EIC Plan, provided that no such action

may be taken that adversely affects in any material way any award previously granted under the Amended EIC Plan without the consent of the recipient. Unless the Amended EIC Plan is terminated at an earlier date by the Board of Directors, no awards may be made under the Amended EIC Plan after the tenth anniversary of its effective date.

### **Tax Withholding**

We are authorized to deduct or withhold from any award granted or payment due under the Amended EIC Plan, or require a participant to remit to us, the amount of any withholding taxes due in respect of the award or payment and to take such other action as may be necessary to satisfy all obligations for the payment of applicable withholding taxes. We are not required to issue any shares of common stock or otherwise settle an award under the Amended EIC Plan until all tax withholding obligations are satisfied. Shares or cash may be withheld to cover taxes at up to maximum applicable withholding rates.

### **Federal Income Tax Consequences**

The federal income tax consequences of the issuance and/or exercise of awards under the Amended EIC Plan are described below. The following information is only a summary of the tax consequences of the awards, and recipients should consult with their own tax advisors with respect to the tax consequences inherent in the ownership and/or exercise of the awards, and the ownership and disposition of any underlying securities.

*Incentive Stock Options.* The Amended EIC Plan allows for the grant of ISOs. A recipient who is granted an ISO will not recognize any taxable income for federal income tax purposes either on the grant or exercise of the ISO. If the recipient disposes of the shares purchased pursuant to an ISO more than two years after the date of grant and more than one year after the transfer of the shares to the recipient (the required statutory holding period), (a) the recipient will recognize long-term capital gain or loss, as the case may be, equal to the difference between the selling price and the option price; and (b) the Company will not be entitled to a deduction with respect to the shares of stock so issued. If the holding period requirements are not met, any gain realized upon disposition will generally be taxed as ordinary income to the extent of the excess of the lesser of (i) the excess of the fair market value of the shares at the time of exercise over the option price, and (ii) the gain on the sale. The balance of any gain or loss will be treated as a capital gain or loss. The Company will generally be entitled to a deduction in the year of disposition in an amount equal to the ordinary income recognized by the recipient. Any additional gain will be taxed as short-term or long-term capital gain depending upon the holding period for the stock. A sale for less than the option price results in a capital loss.

The excess of the fair market value of the shares on the date of exercise over the option price is, however, includable in the option holder's income for alternative minimum tax purposes.

*Non-Qualified Stock Options.* The recipient of a non-qualified stock option under the Amended EIC Plan will not recognize any income for federal income tax purposes on the grant of the option. Generally, on the exercise of the option, the recipient will recognize taxable ordinary income equal to the excess of the fair market value of the shares on the exercise date over the option price for the shares. The Company will generally be entitled to a deduction on the date of exercise in an amount equal to the ordinary income recognized by the recipient. Upon disposition of the shares purchased pursuant to the non-qualified stock option, the recipient will recognize long-term or short-term capital gain or loss, as the case may be, equal to the difference between the amount realized on such disposition and the basis for such shares, which basis includes the amount previously recognized by the recipient as ordinary income.

*Stock Appreciation Rights.* A recipient who is granted stock appreciation rights under the Amended EIC Plan will not recognize any taxable income on the receipt of the SARs. Upon the exercise of a SAR, (a) the recipient will recognize ordinary income equal to the amount received (the increase in the fair market value of one share of the Company's Common Stock from the date of grant of the SAR to the date of exercise); and



(b) the Company will be generally entitled to a deduction on the date of exercise in an amount equal to the ordinary income recognized by the recipient.

*Restricted Stock.* A recipient will not be taxed at the date of an award of restricted stock under the Amended EIC Plan, but will be taxed at ordinary income rates on the fair market value of any restricted stock as of the date that the restrictions lapse, unless the recipient, within 30 days after transfer of such restricted stock to the recipient, elects under Code Section 83(b) to include in income the fair market value of the restricted stock as of the date of such transfer. The Company generally will be entitled to a corresponding deduction for the year in which the recipient is taxed on the award. Any disposition of shares after restrictions lapse will be subject to the regular rules governing long-term and short-term capital gains and losses, with the basis for this purpose equal to the amount recognized by the recipient for income tax purposes. Dividends received by a recipient during the restricted period will be taxable to the recipient at ordinary income tax rates and will be deductible by the Company unless the recipient has elected under Section 83(b) to be taxed on the fair market value of the restricted stock upon transfer, in which case they will thereafter be taxable to the employee as dividends and will not be deductible by the Company.

*Restricted Stock Units.* A participant normally will not recognize taxable income upon an award of restricted stock units under the Amended EIC Plan, and the Company will not be entitled to a deduction until the lapse of the applicable restrictions and the issuance of the earned shares. Upon the lapse of the restrictions and the issuance of the earned shares, the participant will recognize ordinary taxable income in an amount equal to the fair market value of the Common Stock received and the Company will generally be entitled to a deduction in the same amount.

*Other Stock or Cash-Based Awards.* The U.S. federal income tax consequences of other stock or cash-based awards will depend upon the specific terms of each award. Normally, a participant will not recognize taxable income upon the grant of the awards. Subsequently, when the conditions and requirements for the grants have been satisfied and the payment determined, any cash received and the fair market value of any Common Stock received will constitute ordinary income to the participant. The Company also will then generally be entitled to a deduction in the same amount.

**The Board of Directors unanimously recommends a vote FOR the approval of the amendment and restatement of the 2005 Executive Incentive Compensation Plan, as amended and restated.**

### **Vote Required**

Assuming a quorum is present at the meeting, the Amended EIC Plan will be approved if the proposal receives the affirmative vote of a majority of votes cast by holders of shares of Common Stock present in person or represented by proxy and entitled to vote at the meeting. For this proposal, under applicable NASDAQ rules, an abstention shall be treated as a vote cast and will have the effect of a vote against the proposal. If the stockholders do not approve the Amended EIC Plan, it will not be implemented, but the Company reserves the right to adopt such other compensation, plans and programs as it deems appropriate and in the best interests of the Company and its stockholders.

## **ITEM 5 ADVISORY VOTE TO APPROVE THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS**

We are asking our stockholders to provide advisory approval of the compensation of our named executive officers, as described in this Proxy Statement. While this vote is advisory, and not binding on the Company, it will provide information to us regarding stockholder sentiment about our core principles and objectives, which we will be able to consider when determining executive compensation in the future. Last year, approximately 96.4% of the votes cast in our advisory vote were to approve the compensation of our named executive officers.



Stockholders should review the Compensation Discussion and Analysis set forth in this Proxy Statement, compensation tables, and related narratives appearing in this Proxy Statement for more information regarding the compensation of our named executive officers. As described in those sections, the primary objective of our executive compensation program is to attract and retain qualified employees. Our compensation program is designed to reward the named executive officers for individual performance, Company performance and increases in stockholder value. Accordingly, executive compensation is based on our pay-for-performance philosophy, which emphasizes executive performance measures that correlate closely with the achievement of both shorter-term performance objectives and longer-term stockholder value. The Compensation Committee regularly reviews our executive compensation program to assure that it continues to meet these overall objectives.

We believe that the information we have provided in this Proxy Statement demonstrates that our executive compensation program was designed appropriately and is working to ensure management's interests are aligned with our stockholders' interests to support long-term value creation.

**The Board of Directors unanimously recommends a vote FOR the following resolution:**

**RESOLVED, that the compensation of the named executive officers as disclosed in the Proxy Statement is approved.**

**Vote Required**

Assuming a quorum is present at the meeting, the proposal will be approved if it receives the affirmative vote of a majority of votes cast by holders of shares of common stock present in person or represented by proxy and entitled to vote at the Annual Meeting.

**ITEM 6 RATIFICATION OF APPOINTMENT OF KPMG LLP AS INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR THE YEAR ENDING DECEMBER 31, 2017**

The Audit Committee has appointed KPMG LLP as the Company's independent registered public accounting firm for the year ending December 31, 2017. KPMG LLP served as the Company's independent registered public accounting firm for the year ended December 31, 2016. A representative of KPMG LLP will be present, in person or via telephone, at the Annual Meeting, will have an opportunity to make a statement, if desired, and will be available to respond to appropriate questions from stockholders.

Although this appointment is not required to be submitted to a vote of stockholders, the Board of Directors believes it is appropriate to request that the stockholders ratify the appointment of KPMG LLP as the Company's independent registered accounting firm for the year ending December 31, 2017. If the stockholders do not so ratify, the Audit Committee will investigate the reasons for stockholder rejection and will reconsider the appointment.

**The Board of Directors unanimously recommends a vote FOR ratification of the appointment of KPMG LLP as the Company's independent registered public accounting firm for the year ending December 31, 2017.**

**Vote Required**

Assuming a quorum is present at the meeting, the proposal will be approved if it receives the affirmative vote of a majority of votes cast by holders of shares of common stock present in person or represented by proxy and entitled to vote at the Annual Meeting.



## MISCELLANEOUS

### **Solicitation of Proxies**

This solicitation of proxies for use at the Annual Meeting is being made by the Company, and the Company will bear all of the costs of the solicitation. In addition to the use of the mails, proxies may be solicited by personal interview, telephone and fax by directors, officers and employees of the Company, who will undertake such activities without additional compensation. Banks, brokerage houses and other institutions, nominees and fiduciaries will be requested to forward the proxy materials to the beneficial owners of the common stock held of record by such persons and entities and will be reimbursed for their reasonable expenses in forwarding such material.

### **Next Annual Meeting; Stockholder Proposals**

The Company's bylaws provide that the Annual Meeting of stockholders of the Company will be held on the fourth Monday in April in each year unless otherwise determined by the Board of Directors. Appropriate proposals of stockholders intended to be presented at the 2018 Annual Meeting of Stockholders must be received by the Company for inclusion in the Company's Proxy Statement and form of proxy relating to that meeting on or before November 17, 2017. In addition, the Company's bylaws provide that if stockholders intend to nominate directors or present proposals at the 2017 Annual Meeting other than through inclusion of such proposals in the Company's proxy materials for that meeting, then the Company must receive notice of such nominations or proposals no earlier than January 25, 2018 and no later than February 24, 2018. If the Company does not receive notice by that date, then such proposals may not be presented at the 2018 Annual Meeting.



**Attachment A**

**Rights Agreement**

**by and between**

**Huttig Building Products, Inc.**

**and**

**Computershare Trust Company, N.A.**

Dated May 18, 2016

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**RIGHTS AGREEMENT**

**THIS RIGHTS AGREEMENT** (this Agreement ), is dated as of May 18, 2016, between **HUTTIG BUILDING PRODUCTS, INC.**, a Delaware corporation (the Company ), and **COMPUTERSHARE TRUST COMPANY, N.A.**, a federally chartered trust company (the Rights Agent ).

**WHEREAS**, on May 18, 2016, the Board of Directors of the Company authorized and declared a dividend distribution of one preferred share purchase right (a Right ) for each Common Share (as hereinafter defined) of the Company outstanding upon the close of business on May 31, 2016 (the Record Date ) payable upon the close of business on such date, and authorized and directed the issuance of one Right with respect to each Common Share issued between the Record Date and the Distribution Date (as hereinafter defined), each Right representing the right to purchase one one-hundredth of a Preferred Share (as hereinafter defined) of the Company upon the terms and subject to the conditions set forth herein;

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements herein set forth, the Company and the Rights Agent hereby agree as follows:

**Section 1. Certain Definitions.** For purposes of this Agreement, the following terms have the meanings indicated:

(a) Acquiring Person shall mean any Person that is or has become, by itself or together with its Affiliates and Associates, a Beneficial Owner of 4.99% or more of the Common Shares then outstanding, but shall not include:

(i) any Related Person;

(ii) any Grandfathered Person; *provided, however*, that, if the Percentage Stock Ownership of any Person that had qualified as a Grandfathered Person ceases to be at least 4.99%, then such Person shall not be deemed to be an Acquiring Person until such later time (if any) as the Percentage Stock Ownership of such Person is 4.99% or more, and then only if such Person does not qualify (A) as an Exempt Person or (B) for the exception in subsection (iv) of this Section 1(a);

(iii) any Exempt Person;

(iv) any Person that the Company determines, in its sole discretion, has, at or after the date of this Agreement, by itself or together with its Affiliates and Associates, inadvertently become a Beneficial Owner of 4.99% or more of the Common Shares then outstanding (or has inadvertently failed to continue to qualify as a Grandfathered Person or Exempt Person), *provided that* such Person divests as promptly as practicable a sufficient number of Common Shares so that such Person would no longer be an Acquiring Person ; and

(v) any Person that has, by itself or together with its Affiliates and Associates, become a Beneficial Owner of 4.99% or more of the Common Shares then outstanding (or has failed to continue to qualify as a Grandfathered Person or Exempt Person) as a result of one or more transactions that are determined to be Exempt Transactions, unless and until such time as such Person or transaction(s) no longer satisfy the terms or conditions, if any, that the Board prescribed in its determination with respect to such transaction(s).

If officers of the Company determine on behalf of the Company that a Person has, at or after the date of this Agreement, by itself or together with its Affiliates and Associates, inadvertently become a Beneficial Owner of 4.99% or more of the Common Shares (or has inadvertently failed to continue to qualify as a Grandfathered Person or Exempt Person) pursuant to subsection (iv) of this Section 1(a), then such officers shall promptly notify the Board of such determination. Notwithstanding the foregoing, a failure to promptly make such a notification shall not impact the effectiveness of such determination.

(b) Affiliate and Associate shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended (the Exchange Act ), as in effect on the date of this Agreement and, to the extent not included within the foregoing provisions of

this Section 1(b), shall also include, with respect to any Person, any other Person whose Common Shares are treated, for purposes of Section 382 of the Code and the Treasury Regulations thereunder, as being (i) owned by such first Person (or by a Person or group of Persons to which the Common Shares owned by such first Person are attributed pursuant to Treasury Regulation Section 1.382-2T(h)) or (ii) owned by the same entity (as defined in the second sentence of Treasury Regulation Section 1.382-3(a)(1)(i)) as is deemed to own the Common Shares owned by such first Person; *provided, however*, that a Person shall not be deemed to be an Affiliate or Associate of another Person solely because either or both Persons are or were directors or officers of the Company.

(c) A Person shall be deemed the Beneficial Owner of and shall be deemed to beneficially own any securities:

(i) which such Person or any of such Person's Affiliates or Associates beneficially owns, directly or indirectly;

(ii) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, has the right or the obligation to acquire (whether such right is exercisable, or such obligation is required to be performed, immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding (whether or not in writing) or upon the exercise of conversion rights, exchange rights, warrants, options, or other rights (in each case, other than upon exercise or exchange of the Rights); *provided, however*, that a Person shall not be deemed the Beneficial Owner of, or to beneficially own, securities tendered pursuant to a tender or exchange offer made by or on behalf of such Person or any of such Person's Affiliates or Associates until such tendered securities are accepted for purchase or exchange;

(iii) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, has or shares the right to vote or dispose of, or has beneficial ownership (as defined under Rule 13d-3 of the General Rules and Regulations under the Exchange Act) of, including pursuant to any agreement, arrangement or understanding (whether or not in writing); or

(iv) with respect to which any other Person is a Beneficial Owner, if the Person referred to in the introductory clause of this Section 1(c) or any of such Person's Affiliates or Associates has any agreement, arrangement or understanding (whether or not in writing) with such other Person (or any of such other Person's Affiliates or Associates) with respect to acquiring, holding, voting or disposing of any securities of the Company; *provided, however*, that the preceding provisions of this Section 1(c) shall not be applied to cause a Person to be deemed the Beneficial Owner of, or to beneficially own, any security (A) solely because such Person has the right to vote such security pursuant to an agreement, arrangement or understanding (whether or not in writing) which (1) arises solely from a revocable proxy given to such Person in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable rules and regulations under the Exchange Act, and (2) is not also then reportable on Schedule 13D under the Exchange Act (or any comparable or successor report), or (B) if such beneficial ownership arises solely as a result of such Person's status as a clearing agency, as defined in Section 3(a)(23) of the Exchange Act; *provided, further*, that nothing in this Section 1(c) shall cause a Person engaged in business as an underwriter of securities or member of a selling group to be a Beneficial Owner of, or to beneficially own, any securities acquired through such Person's participation in good faith in an underwriting syndicate until the expiration of 40 calendar days after the date of such acquisition, or such later date as the directors of the Company may determine in any specific case; and *provided, further*, that the transfer of beneficial ownership of Common Shares to any Person without any consideration for such transfer being given by such Person shall not result in such Person becoming a Beneficial Owner of any additional Common Shares until the Person accepts such transfer. Anything in this Agreement to the contrary notwithstanding, to the extent not within the foregoing provisions of this Section 1(c), a Person shall be deemed the Beneficial Owner of, and shall be deemed to beneficially own or have beneficial ownership of, any securities that are owned by another Person and that are treated, for purposes of Section 382 of the Code and the Treasury Regulations thereunder, as being (x) owned by such first Person (or by a Person or group of Persons to which the securities owned by such first Person are attributed pursuant to Treasury Regulation Section 1.382-2T(h)), or (y) owned by the same entity (as defined in the second sentence of Treasury Regulation Section 1.382-3(a)(1)(i)) as

is deemed to own the securities owned by such first Person.

(d) Board shall mean the Board of Directors of the Company.

(e) Business Day shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the States of New York or New Jersey are authorized or obligated by law or executive order to close.

(f) close of business on any given date shall mean 5:00 P.M., New York, New York time, on such date; *provided, however*, that if such date is not a Business Day, then close of business shall mean 5:00 P.M., New York, New York time, on the next succeeding Business Day.

(g) Common Shares shall mean the shares of common stock, par value \$0.01 per share, of the Company; *provided, however*, that if the Company is the continuing or surviving corporation in a transaction described in Section 13(a)(ii), Common Shares when used with reference to the Company means shares of the capital stock or units of the equity interests with the greatest aggregate voting power of the Company. When used with reference to any Person other than the Company, Common Shares means the capital stock with the greatest voting power, or the equity securities or other equity interest having power to control or direct the management, of such Person or, if such Person is a Subsidiary of another Person, of the Person that ultimately controls such first-mentioned Person.

(h) Distribution Date shall have the meaning set forth in Section 3(a) hereof.

(i) Exempt Person shall mean any Person who or which would otherwise be an Acquiring Person but whose Beneficial Ownership (together with all Affiliates and Associates of such Person) of 4.99% or more of the Common Shares would not, as determined by the Board in its sole discretion, jeopardize, endanger or limit (in timing or amount) the availability to the Company of its Tax Benefits, at any time prior to the time at which the Company's right of redemption expires pursuant to Section 23(a); *provided, however*, that such a Person will cease to be an Exempt Person and will become an Acquiring Person if the Board of Directors subsequently makes a contrary determination.

If any Person that had qualified as an Exempt Person ceases to so qualify, then, for purposes of Section 1(a), such Person shall be deemed to have become, as of the time the Person ceased to qualify as an Exempt Person, a Beneficial Owner of the Common Shares that such Person and such Person's Affiliates and Associates then beneficially own.

(j) Exempt Transaction shall mean any transaction that the Board, in its sole discretion and on such terms and conditions as the Board may in its sole discretion prescribe, should have the consequences of an Exempt Transaction under this Agreement.

(k) Expiration Date means the earliest of (i) the close of business on the date of the Company's 2017 annual meeting of stockholders if the Company's stockholders do not approve this Agreement by the affirmative majority vote; (ii) the Final Expiration Date; (iii) the time at which the Rights are redeemed as provided in Section 23 hereof (the Redemption Date); (iv) the time at which the Rights are exchanged as provided in Section 24 hereof; (v) the repeal of Section 382 of the Code if the Board determines that this Agreement is no longer necessary for the preservation of the Tax Benefits; and (vi) the beginning of a taxable year of the Company to which the Board determines that no Tax Benefits may be carried forward.

(l) Final Expiration Date shall mean the close of business on May 18, 2019.

(m) Grandfathered Person shall mean any Person who would otherwise be an Acquiring Person as of the date of this Agreement; *provided, however*, that such Person shall cease to be a Grandfathered Person at such time as the Percentage Stock Ownership of such Person increases without the prior written approval of the Company, other than any increase pursuant to or as a result of (i) a reduction in the amount of Common Shares outstanding, (ii) any unilateral grant of any Common Shares by the Company, (iii) any issuance of Common Shares by the Company or any share dividend, share split or similar transaction effected by the Company in which all holders of Common Shares



are treated equally or (iv) any Exempt Transaction. If any Person that had qualified as a Grandfathered Person ceases to so qualify, then, for purposes of Section 1(a), such Person and such

Person's Affiliates and Associates shall be deemed to have become, as of the time the Person ceased to qualify as a Grandfathered Person, a Beneficial Owner of the Common Shares that such Person and such Person's Affiliates and Associates then beneficially own.

(n) Percentage Stock Ownership of a Person shall mean the percentage calculated by dividing (i) the number of Common Shares as to which such Person, together with its Affiliates and Associates, is a Beneficial Owner, divided by (ii) the number of Common Shares then outstanding.

(o) Person shall mean any individual, firm, corporation, partnership, trust, association, limited liability company, limited liability partnership, governmental entity, or other entity, or any group of any one or more of the foregoing making a coordinated acquisition of shares or otherwise treated as an entity within the meaning of Treasury Regulation Section 1.382-3(a)(1)(i) and shall include any successor (by merger or otherwise) of any such entity.

(p) Preferred Shares shall mean shares of Series A Junior Participating Preferred Stock, par value \$0.01 per share, of the Company having the preferences and rights set forth in Exhibit A attached to this Agreement.

(q) Redemption Date shall have the meaning set forth in subsection (k) of this Section 1.

(r) Related Person shall mean the Company, any Subsidiary of the Company (in each case, including, without limitation, in any fiduciary capacity), any employee benefit plan or compensation arrangement of the Company or any Subsidiary of the Company, or any entity or trustee holding Common Shares to the extent organized, appointed or established by the Company or any Subsidiary of the Company for or pursuant to the terms of any such employee benefit plan or compensation arrangement.

(s) Securities Act shall mean the Securities Act of 1933, as amended.

(t) Shares Acquisition Date shall mean (i) the first date of public announcement (which, for purposes of this definition, shall include, without limitation, a report filed or amended pursuant to Section 13(d) under the Exchange Act, but not a report filed or amended pursuant to Rule 13f-1 of the General Rules and Regulations under the Exchange Act) by the Company or a Person or an Affiliate of the Person that the Person has become an Acquiring Person or (ii) if earlier, the first date the Board concludes that a Person has become an Acquiring Person.

(u) Subsidiary of any Person shall mean any other Person of which securities or other ownership interests having ordinary voting power, in the absence of contingencies, to elect a majority of the board of directors or other Persons performing similar functions are, at the time, directly or indirectly owned by such first Person.

(v) Tax Benefits shall mean the net operating loss carryovers, capital loss carryovers, general business credit carryovers, alternative minimum tax credit carryovers and foreign tax credit carryovers, as well as any loss or deduction attributable to a net unrealized built-in loss within the meaning of Section 382 of the Code, of the Company or any of its Subsidiaries.

(w) Treasury Regulation shall mean a final, proposed or temporary regulation of the United States Department of Treasury promulgated under the Code.

**Section 2. Appointment of Rights Agent.** The Company hereby appoints the Rights Agent to act as rights agent for the Company in accordance with the express terms and conditions hereof (and no implied terms and conditions), and the Rights Agent hereby accepts such appointment. The Company may from time to time appoint such co-rights agents as it may deem necessary or desirable, upon at least ten days prior written notice to the Rights Agent setting forth the respective duties of the Rights Agent and any co-rights agent. The Rights Agent shall have no duty to supervise, and shall in no event be liable for, the acts or omissions of any such co-rights agents.



**Section 3. Issue of Right Certificates.**

(a) Until (i) the tenth day after the Shares Acquisition Date or (ii) the tenth Business Day (or such later date as may be determined by action of the Board prior to such time as any Person becomes an Acquiring Person) after the date that a tender or exchange offer is first published or sent or given within the meaning of Rule 14d-2(a) of the General Rules and Regulations under the Exchange Act if, upon consummation thereof, the Person publishing, sending or giving such tender or exchange offer would become an Acquiring Person (the earlier of such dates being herein referred to as the Distribution Date ), (x) the Rights will be evidenced (subject to the provisions of Section 3(b) hereof) by the certificates for Common Shares registered in the names of the holders thereof (which certificates shall also be deemed to be Right Certificates) and not by separate Right Certificates (or, for book entry Common Shares, by notations of such shares in the respective accounts), and (y) the right to receive Right Certificates will be transferable only in connection with the transfer of Common Shares; provided, however, that, if a tender or exchange offer is terminated prior to the occurrence of a Distribution Date, then no Distribution Date shall occur as a result of such tender or exchange offer. As soon as practicable after the Distribution Date, the Company will prepare and execute, the Rights Agent will countersign, and the Company will send or cause to be sent (and the Rights Agent will, if requested and provided with all necessary and relevant information and documentation, in form and substance satisfactory to the Rights Agent, send) by overnight delivery service or first-class mail, postage prepaid, to each record holder of Common Shares as of the close of business on the Distribution Date, at the address of such holder shown on the records of the Company or the transfer agent or registrar for the Common Shares, a Right Certificate, in substantially the form of Exhibit B hereto (a Right Certificate ), evidencing one Right for each Common Share so held. As of the Distribution Date, the Rights will be evidenced solely by such Right Certificates. The Company shall promptly notify the Rights Agent in writing upon the occurrence of the Distribution Date and, if such notification is given orally, the Company shall confirm the same in writing within two Business Days. Until such written notice is received by the Rights Agent, the Rights Agent may presume conclusively for all purposes that the Distribution Date has not occurred.

(b) The Company has prepared a Summary of Rights to Purchase Preferred Shares, attached as Exhibit C hereto (the Summary of Rights ), a copy of which is available free of charge from the Company. With respect to certificates or book entries for Common Shares outstanding as of the Record Date, until the Distribution Date, the Rights will be evidenced by such respective certificates or book entries registered in the names of the holders thereof. Until the Distribution Date (or the Expiration Date, if earlier), the surrender for transfer of any certificate for Common Shares or book entry Common Shares outstanding on the Record Date, with or without a copy of the Summary of Rights attached thereto, shall also constitute the transfer of the Rights associated with the Common Shares represented thereby.

(c) Certificates for Common Shares that become outstanding (including, without limitation, certificates for reacquired Common Shares referred to in the last sentence of this paragraph (c) and certificates issued on the transfer of Common Shares) after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date shall have impressed on, printed on, written on or otherwise affixed to them a legend in substantially the following form:

This certificate also evidences and entitles the holder hereof to certain rights as set forth in the Rights Agreement between Huttig Building Products, Inc. and Computershare Trust Company, N.A. (or any successor Rights Agent), dated as of May 18, 2016, and as such agreement may be amended or supplemented from time to time (the Rights Agreement ), the terms of which are hereby incorporated herein by reference and a copy of which is on file at the principal executive offices of Huttig Building Products, Inc. Under certain circumstances, as set forth in the Rights Agreement, such Rights will be evidenced by separate certificates and will no longer be evidenced by this certificate. Huttig Building Products, Inc. will mail to the holder of this certificate a copy of the Rights Agreement without charge after receipt of a written request therefor. Under certain circumstances set forth in the Rights Agreement, Rights issued to, or beneficially owned by, an Acquiring Person or any Affiliate or Associate thereof (as such terms are defined in the Rights Agreement), whether beneficially owned by such person or any subsequent holder, shall become null and void. With respect to such certificates containing the foregoing legend, until the



Distribution Date, the Rights associated with the Common Shares represented by such certificates shall be evidenced by such certificates alone, and the surrender for transfer of any such certificate shall also constitute the transfer of the Rights associated with the Common Shares represented thereby. Similarly, during such time periods, transfers of shares participating in the direct registration system shall also be deemed to be transfers of the associated Rights. In the case of any shares participating in the direct registration system, the Company shall cause the transfer agent for the Common Shares to include on each direct registration account statement with respect thereto issued prior to the earlier of the Distribution Date and the Redemption Date a notation to the effect that references to Common Shares also includes the associated Rights. To the extent that Common Shares of the Company are not represented by certificates, references in this Agreement to certificates shall be deemed to refer to the notations in the accounts reflecting ownership of book entry shares. In the event that the Company purchases or acquires any Common Shares after the Record Date but prior to the Distribution Date, any Rights associated with such Common Shares shall be deemed cancelled and retired so that the Company shall not be entitled to exercise any Rights associated with the Common Shares which are no longer outstanding.

**Section 4. Form of Right Certificates.** The Right Certificates (and the forms of election to purchase Preferred Shares and of assignment to be printed on the reverse thereof) shall be substantially the same as Exhibit B hereto and may have such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Company may deem appropriate (which shall not affect the rights, duties, liabilities, protections or responsibilities of the Rights Agent hereunder) and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any applicable law or with any applicable rule or regulation made pursuant thereto or with any applicable rule or regulation of any stock exchange or the Financial Industry Regulatory Authority, or to conform to usage. Subject to the provisions of Section 22 hereof, the Right Certificates shall entitle the holders thereof to purchase such number of one one-hundredths of a Preferred Share as shall be set forth therein at the price per one one-hundredth of a Preferred Share set forth therein, but the amount and type of securities purchasable upon exercise of each Right and such purchase price shall be subject to adjustment as provided herein (such purchase price, as so adjusted, the Purchase Price ).

**Section 5. Countersignature and Registration.**

(a) The Right Certificates shall be executed on behalf of the Company by its Chairman of the Board, Chief Executive Officer or any Vice President either manually or by facsimile signature, shall have affixed thereto the Company's seal or a facsimile thereof, and shall be attested by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Company, either manually or by facsimile signature. The Right Certificates shall be countersigned by an authorized signatory of the Rights Agent manually or by facsimile signature and shall not be valid for any purpose unless countersigned. In case any officer of the Company who shall have signed any of the Right Certificates shall cease to be such officer of the Company before countersignature by the Rights Agent and issuance and delivery by the Company, such Right Certificates, nevertheless, may be countersigned by the Rights Agent and issued and delivered by the Company with the same force and effect as though the individual who signed such Right Certificates had not ceased to be such officer of the Company. Any Right Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Right Certificate, shall be a proper officer of the Company to sign such Right Certificate, although at the date of the execution of this Agreement any such individual was not such an officer. In case any authorized signatory of the Rights Agent who has countersigned any Right Certificate ceases to be an authorized signatory of the Rights Agent before issuance and delivery by the Company, such Right Certificate, nevertheless, may be issued and delivered by the Company with the same force and effect as though the person who countersigned such Right Certificate had not ceased to be an authorized signatory of the Rights Agent; and any Right Certificate may be countersigned on behalf of the Rights Agent by any person who, at the actual date of the countersignature of such Right Certificate, is properly authorized to countersign such Right Certificate, although at the date of the execution of this Agreement any such person was not so authorized.

(b) Following the Distribution Date, upon receipt by the Rights Agent of notice to that effect and all other relevant information and documents referred to in Section 3(a), the Rights Agent will keep or cause to be

kept, at its office or offices designated for such purpose, books for registration and transfer of the Right Certificates issued hereunder. Such books shall show the names and addresses of the respective holders of the Right Certificates, the number of Rights evidenced on its face by each of the Right Certificates and the date of each of the Right Certificates.

(c) Any provisions of this Agreement to the contrary notwithstanding, the Company and the Rights Agent may amend this Agreement to provide for uncertificated Rights in addition to or in place of Rights evidenced by Right Certificates.

**Section 6. Transfer, Split Up, Combination and Exchange of Right Certificates; Mutilated, Destroyed, Lost or Stolen Right Certificates.**

(a) Subject to the provisions of Section 14 hereof, at any time after the close of business on the Distribution Date, and at or prior to the close of business on the Expiration Date, any Right Certificate or Right Certificates (other than Right Certificates representing Rights that have become null and void pursuant to Section 11(a)(ii) hereof or that have been redeemed or exchanged pursuant to Section 23 or Section 24 hereof) may be transferred, split up, combined or exchanged for another Right Certificate or Right Certificates, entitling the registered holder to purchase a like number of one one-hundredths of a Preferred Share as the Right Certificate or Right Certificates surrendered then entitled such holder to purchase. Any registered holder desiring to transfer, split up, combine or exchange any Right Certificate or Right Certificates shall make such request in writing delivered to the Rights Agent, and shall surrender the Right Certificate or Right Certificates to be transferred, split up, combined or exchanged at the office or offices of the Rights Agent designated for such purpose, along with a signature guarantee and such other and further documentation as the Company or the Rights Agent may reasonably request. Neither the Rights Agent nor the Company shall be obligated to take any action whatsoever with respect to the transfer of any such surrendered Right Certificate until the registered holder has properly completed and duly signed the certificate contained in the form of assignment on the reverse side of such Right Certificate and has provided such additional evidence as the Company or the Rights Agent may reasonably request. Pursuant to Section 9(d) hereof, the Company or the Rights Agent may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer, split up, combination or exchange of Right Certificates. The Rights Agent shall not have any duty or obligation to take any action under any section of this Agreement that requires the payment of taxes and/or charges unless and until it is satisfied that all such payments have been made, and the Rights Agent shall promptly forward any such sum collected by it to the Company or to such Persons as the Company may specify by written notice. Thereupon the Rights Agent, subject to the provisions of this Agreement, shall countersign and deliver to the Person entitled thereto a Right Certificate or Right Certificates, as the case may be, as so requested.

(b) Upon receipt by the Company and the Rights Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Right Certificate and, in case of loss, theft or destruction, of indemnity or security satisfactory to them, and, at the Company's request, reimbursement to the Company and the Rights Agent of all reasonable expenses incidental thereto, and upon surrender to the Rights Agent and cancellation of the Right Certificate if mutilated, the Company will execute and deliver a new Right Certificate of like tenor to the Rights Agent for countersignature and delivery to the registered holder in lieu of the Right Certificate so lost, stolen, destroyed or mutilated.

**Section 7. Exercise of Rights; Purchase Price; Expiration Date of Rights.**

(a) The registered holder of any Right Certificate may exercise the Rights evidenced thereby (except as otherwise provided herein) in whole or in part at any time after the Distribution Date upon surrender of the Right Certificate, with the form of election to purchase and the certificate on the reverse side thereof properly completed and duly executed (with such signature duly guaranteed), to the Rights Agent at the office or offices of the Rights Agent designated for such purpose, together with payment of the Purchase Price for each one one-hundredth of a Preferred



Share as to which the Rights are exercised, at or prior to the Expiration Date, and an amount equal to any tax or charge required to be paid under Section 9(d). Except for those provisions herein that

expressly survive the termination of this Agreement, this Agreement shall terminate upon the earlier of the Expiration Date and such time as all outstanding Rights have been exercised, redeemed or exchanged hereunder.

(b) The Purchase Price for each one one-hundredth of a Preferred Share pursuant to the exercise of a Right shall initially be \$13.86, shall be subject to adjustment from time to time as provided in Section 11 hereof and shall be payable in lawful money of the United States of America or in Common Shares in accordance with paragraph (c) below.

(c) Upon receipt of a Right Certificate representing exercisable Rights, with the form of election to purchase properly completed and duly executed, accompanied by payment of the Purchase Price for the shares to be purchased and an amount equal to any applicable transfer tax required to be paid by the holder of such Right Certificate in accordance with Section 9 hereof, as set forth below, the Rights Agent shall thereupon promptly (i) (A) requisition from any transfer agent of the Preferred Shares certificates for the number of Preferred Shares to be purchased, and the Company hereby irrevocably authorizes and directs any such transfer agent to comply with all such requests, or (B) requisition from the depositary agent depositary receipts representing such number of one one-hundredths of a Preferred Share as are to be purchased (in which case certificates for the Preferred Shares represented by such receipts shall be deposited by the transfer agent with the depositary agent), (ii) when necessary to comply with this Agreement, requisition from the Company the amount of cash to be paid in lieu of issuance of fractional shares in accordance with Section 14 hereof, (iii) after receipt of such certificates or depositary receipts, cause the same to be delivered to or upon the order of the registered holder of such Right Certificate, registered in such name or names as may be designated by such holder and (iv) when necessary to comply with this Agreement, after receipt, deliver such cash to or upon the order of the registered holder of such Right Certificate. The payment of the Purchase Price (as such amount may be reduced pursuant to Section 11(a)(iii) hereof) shall be made by certified check, cashier's check, bank draft or money order payable to the order of the Company, except that, if so provided by the Board, the payment of the Purchase Price following the occurrence of a Section 11(a)(ii) Event (as hereinafter defined) may be made wholly or in part by delivery of a certificate or certificates (with appropriate stock powers executed in blank attached thereto) evidencing a number of Common Shares equal to the then Purchase Price divided by the closing price (as determined pursuant to Section 11(d) hereof) per Common Share on the Trading Day (as hereinafter defined) immediately preceding the date of such exercise. If the Company is obligated to issue other securities of the Company, pay cash and/or distribute other property pursuant to Section 11(a) hereof, then the Company will make all arrangements necessary so that such other securities, cash and/or other property are available for distribution by the Rights Agent, if and when appropriate.

(d) In case the registered holder of any Right Certificate shall properly exercise less than all the Rights evidenced thereby, a new Right Certificate evidencing Rights equivalent to the Rights remaining unexercised shall be issued by the Rights Agent to the registered holder of such Right Certificate or to such holder's duly authorized assigns, subject to the provisions of Section 14 hereof.

(e) Notwithstanding anything in this Agreement to the contrary, neither the Rights Agent nor the Company shall be obligated to take any action with respect to a registered holder of a Right Certificate upon the occurrence of any purported transfer, assignment or exercise as set forth in this Section 7 unless such registered holder shall have (i) properly completed and duly executed the certificate following the form of assignment or election to purchase set forth on the reverse of the Right Certificate surrendered for such transfer, assignment or exercise, and (ii) provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) or Affiliates or Associates thereof as the Company or the Rights Agent shall reasonably request.

**Section 8. Cancellation and Destruction of Right Certificates.** All Right Certificates surrendered for the purpose of exercise, transfer, split up, combination or exchange shall, if surrendered to the Company or to any of its agents, be delivered to the Rights Agent for cancellation or in cancelled form, or if surrendered to the Rights Agent, shall be cancelled by it, and no Right Certificates shall be issued in lieu thereof, except as expressly permitted by any of the

provisions of this Agreement. The Company shall deliver to the Rights Agent for cancellation and retirement, and the Rights Agent shall so cancel and retire, any other Right Certificate purchased

or acquired by the Company otherwise than upon the exercise thereof. Subject to applicable law and regulation, the Rights Agent shall maintain in a retrievable database electronic records of all cancelled or destroyed Right Certificates that have been canceled or destroyed by the Rights Agent. The Rights Agent shall maintain such electronic records or physical records for the time period required by applicable law and regulation. Upon written request of the Company, the Rights Agent shall provide to the Company or its designee copies of such electronic records or physical records relating to Rights Certificates cancelled or destroyed by the Rights Agent.

**Section 9. Reservation and Availability of Preferred Shares.**

(a) The Company covenants and agrees that it will cause to be reserved and kept available out of its authorized and unissued Preferred Shares or any authorized and issued Preferred Shares held in its treasury the number of Preferred Shares that will be sufficient to permit the exercise in full of all outstanding Rights in accordance with Section 7.

(b) So long as the Preferred Shares issuable upon the exercise of Rights may be listed on any national securities exchange, the Company shall use its best efforts to cause, from and after such time as the Rights become exercisable, all Preferred Shares reserved for such issuance to be listed on such exchange upon official notice of issuance upon such exercise.

(c) The Company covenants and agrees that it will take all such action as may be necessary to ensure that all Preferred Shares delivered upon exercise of Rights shall, at the time of delivery of the certificates for such shares (subject to payment of the Purchase Price), be duly and validly authorized and issued and fully paid and nonassessable shares (except as otherwise provided by any corporation law applicable to the Company).

(d) The Company further covenants and agrees that it will pay when due and payable any and all taxes and charges which may be payable in respect of the issuance or delivery of the Right Certificates or of any Preferred Shares upon the exercise of Rights. The Company shall not, however, be required to pay any transfer tax which may be payable in respect of any transfer or delivery of Right Certificates to a Person other than, or the issuance or delivery of certificates for the Preferred Shares in a name other than that of, the registered holder of the Right Certificate evidencing Rights surrendered for exercise or to issue or to deliver any certificates for Preferred Shares upon the exercise of any Rights until any such tax shall have been paid (any such tax being payable by the holder of such Right Certificate at the time of surrender) or until it has been established to the Company's and the Rights Agent's reasonable satisfaction that no such tax is due.

(e) If the Company determines that registration under the Securities Act is required, the Company shall use commercially reasonable efforts (i) to file, as soon as practicable after the Distribution Date, a registration statement under the Securities Act with respect to the securities issuable upon exercise of the Rights, (ii) to cause such registration statement to become effective as soon as practicable after such filing and (iii) to cause such registration statement to remain effective (with a prospectus at all times meeting the requirements of the Securities Act) until the earlier of (A) the date as of which the Rights are no longer exercisable for such securities and (B) the Expiration Date. The Company shall also take such action as may be appropriate to ensure compliance with the securities or blue sky laws of the various states in connection with the exercisability of the Rights. The Company may temporarily suspend, for a period of time not to exceed 90 days, the exercisability of the Rights to prepare and file such registration statement and permit it to become effective or to qualify the rights, the exercise thereof or the issuance of securities upon the exercise thereof under state securities or blue sky laws. The Company shall issue a public announcement upon any such suspension stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement when the suspension is no longer in effect, in each case with simultaneous written notice to the Rights Agent. Notwithstanding anything contained in this Agreement to the contrary, the Rights shall not be exercisable for securities in any jurisdiction if the requisite qualification in such jurisdiction has not been obtained, such exercise is not permitted under applicable law or a registration statement in respect of such securities has not been declared effective.

**Section 10. Preferred Shares Record Date.** Each Person in whose name any certificate for Preferred Shares is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record

of the Preferred Shares represented thereby on, and such certificate shall be dated, the date upon which the Right Certificate evidencing such Rights was duly surrendered and payment of the Purchase Price (and any applicable transfer taxes) was made; *provided, however*, that if the date of such surrender and payment is a date upon which the Preferred Shares transfer books of the Company are closed, such Person shall be deemed to have become the record holder of such shares on, and such certificate shall be dated, the next succeeding Business Day on which the Preferred Shares transfer books of the Company are open.

**Section 11. Adjustment of Purchase Price, Number of Shares or Number of Rights.** The Purchase Price, the number of Preferred Shares covered by each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 11.

(a) (i) In the event the Company shall at any time after the date of this Agreement (A) declare a dividend on the Preferred Shares payable in Preferred Shares, (B) subdivide the outstanding Preferred Shares, (C) combine the outstanding Preferred Shares into a smaller number of Preferred Shares or (D) issue any shares of its capital stock in a reclassification of the Preferred Shares (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), except as otherwise provided in this Section 11(a), the Purchase Price in effect at the time of the record date for such dividend or of the effective date of such subdivision, combination or reclassification, and the number and kind of shares of capital stock issuable on such date, shall be proportionately adjusted so that the holder of any Right exercised after such time shall be entitled to receive the aggregate number and kind of shares of capital stock which, if such Right had been exercised immediately prior to such date and at a time when the Preferred Shares transfer books of the Company were open, such holder would have owned upon such exercise and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification; provided, however, that in no event shall the consideration to be paid upon the exercise of one Right be less than the aggregate par value of the shares of capital stock of the Company issuable upon exercise of one Right. If an event occurs which would require an adjustment under both Section 11(a)(i) and Section 11(a)(ii) or Section 13, then the adjustment provided for in this Section 11(a)(i) shall be in addition to, and shall be made prior to, any adjustment required pursuant to Section 11(a)(ii) or Section 13.

(ii) Subject to the following paragraph and Section 24 of this Agreement, in the event any Person shall become an Acquiring Person (a Section 11(a)(ii) Event ), each holder of a Right shall thereafter have a right to receive, upon exercise thereof at a price equal to the then current Purchase Price multiplied by the number of one one-hundredths of a Preferred Share for which a Right is exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event, in accordance with the terms of this Agreement and in lieu of Preferred Shares, such number of Common Shares as shall equal the result obtained by (x) multiplying the then current Purchase Price by the number of one one-hundredths of a Preferred Share for which a Right is exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event and dividing that product by (y) 50% of the then current per share market price of the Common Shares (determined pursuant to Section 11(d)) on the date the Person became an Acquiring Person (such number of shares, the Adjustment Shares ).

From and after a Section 11(a)(ii) Event, any Rights that are or were beneficially owned by such Acquiring Person (or any Associate or Affiliate of such Acquiring Person) shall be null and void and any holder of such Rights shall thereafter have no right to exercise such Rights under any provision of this Agreement. No Right Certificate shall be issued pursuant to Section 3 or Section 6 that represents Rights beneficially owned by an Acquiring Person whose Rights would be null and void pursuant to the preceding sentence or any Associate or Affiliate thereof; no Right Certificate shall be issued at any time upon the transfer of any Rights to an Acquiring Person whose Rights would be null and void pursuant to the preceding sentence or any Associate or Affiliate thereof or to any nominee of such Acquiring Person, Associate or Affiliate; and any Right Certificate delivered to the Rights Agent for transfer to an Acquiring Person whose Rights would be null and void pursuant to the preceding sentence shall be cancelled. The Company shall use all reasonable efforts to ensure that the provisions of this paragraph are complied with, but shall have no liability to any holder of Right Certificates or other Person as a result of its failure to make any determinations

with respect to an Acquiring Person or its Affiliates, Associates or transferees hereunder.

(iii) In the event that there shall not be sufficient Common Shares issued but not outstanding or authorized but unissued (and not reserved for issuance for purposes other than upon exercise of the Rights) to permit the exercise in full of the Rights in accordance with the foregoing subparagraph (ii), the Company shall: (A) determine the excess of (1) the value of the Adjustment Shares issuable upon the exercise of a Right (the Current Value ) over (2) the Purchase Price payable with respect to such Right (such excess, the Spread ), and (B) with respect to each Right (subject to the second paragraph of Section 11(a)(ii)), make adequate provision to substitute for the Adjustment Shares, upon payment of the applicable Purchase Price, (1) cash, (2) a reduction in the Purchase Price, (3) other equity securities of the Company (including, without limitation, one one-hundredth of a Preferred Share or shares, or units of shares, of preferred stock which the Board has deemed to have the same value as Common Shares (such one one-hundredth of a Preferred Share or shares of preferred stock, hereinafter referred to as common stock equivalents )), (4) debt securities of the Company, (5) other assets or (6) any combination of the foregoing, having an aggregate value equal to the Current Value, where such aggregate value has been determined by the Board based upon the advice of a nationally recognized investment banking firm selected by the Board; *provided, however*, if the Company shall not have made adequate provision to substitute for the Adjustment Shares pursuant to clause (B) above within 30 days following the occurrence of a Section 11(a)(ii) Event (the Section 11(a)(ii) Trigger Date ), then the Company shall be obligated to deliver, upon the surrender for exercise of a Right and without requiring payment of any portion of the Purchase Price, Common Shares (to the extent available) and then, if necessary, cash, which shares and/or cash have an aggregate value equal to the Spread. If the Board shall determine in good faith that it is likely that sufficient additional Common Shares might be authorized for issuance for exercise in full of the Rights, the 30-day period set forth above may be extended to the extent necessary, but not more than 90 days after the Section 11(a)(ii) Trigger Date, in order that the Company may seek stockholder approval for the authorization of such additional shares (such period, as it may be extended, the Substitution Period ). To the extent that the Company determines that some action need be taken pursuant to the first and/or second sentences of this Section 11(a)(iii), the Company (x) shall provide, subject to the last paragraph of Section 11(a)(ii) hereof, that such action shall apply uniformly to all outstanding Rights, and (y) may suspend the exercisability of the Rights until the expiration of the Substitution Period to seek any authorization of additional shares and/or to decide the appropriate form of distribution to be made pursuant to such first sentence and to determine the value thereof. In the event of any such suspension, the Company shall issue a public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect, in each case with simultaneous written notice to the Rights Agent. For purposes of this Section 11(a)(iii), the value of the Common Shares shall be the current per share market price (as determined pursuant to Section 11(d) hereof) of the Common Shares on the Section 11(a)(ii) Trigger Date and the value of any common stock equivalent shall be deemed to have the same value as the Common Shares on such date.

(b) In case the Company shall fix a record date for the issuance of rights, options or warrants to all holders of Preferred Shares entitling them (for a period expiring within 45 calendar days after such record date) to subscribe for or purchase Preferred Shares (or shares having the same rights, privileges and preferences as the Preferred Shares (equivalent preferred shares )) or securities convertible into Preferred Shares at a price per Preferred Share or equivalent preferred share (or having a conversion price per share, if a security convertible into Preferred Shares or equivalent preferred shares) less than the then current per share market price of the Preferred Shares (as defined in Section 11(d)) on such record date, the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the number of Preferred Shares outstanding on such record date plus the number of Preferred Shares which the aggregate offering price of the total number of Preferred Shares and/or equivalent preferred shares so to be offered (and/or the aggregate initial conversion price of the convertible securities so to be offered) would purchase at such current market price and the denominator of which shall be the number of Preferred Shares outstanding on such record date plus the number of additional Preferred Shares and/or equivalent preferred shares to be offered for subscription or purchase (or into which the convertible securities so to be offered are initially convertible); *provided, however*, that in no event shall the consideration to be paid upon the exercise of one Right be less than the aggregate par value of the shares of capital stock of the Company issuable upon exercise of one Right. In case such subscription price may be paid in





a consideration part or all of which shall be in a form other than cash, the value of such consideration shall be as determined in good faith by the Board, whose determination shall be described in a written statement filed with the Rights Agent and shall be binding on the Rights Agent and holders of the Rights. Preferred Shares owned by or held for the account of the Company or any Subsidiary of the Company shall not be deemed outstanding for the purpose of any such computation. Such adjustment shall be made successively whenever such a record date is fixed; and in the event that such rights, options or warrants are not so issued, the Purchase Price shall be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(c) In case the Company shall fix a record date for the making of a distribution to all holders of the Preferred Shares (including any such distribution made in connection with a consolidation or merger in which the Company is the continuing or surviving corporation) of evidences of indebtedness or assets (other than a regular quarterly cash dividend or a dividend payable in Preferred Shares) or subscription rights or warrants (excluding those referred to in Section 11(b)), the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the then current per share market price of the Preferred Shares (as defined in Section 11(d)) on such record date, less the fair market value (as determined in good faith by the Board, whose determination shall be described in a written statement filed with the Rights Agent and shall be binding on the Rights Agent and holders of the Rights) of the portion of the assets or evidences of indebtedness so to be distributed or of such subscription rights or warrants applicable to one Preferred Share and the denominator of which shall be such current per share market price of the Preferred Shares on such record date; *provided, however*, that in no event shall the consideration to be paid upon the exercise of one Right be less than the aggregate par value of the shares of capital stock of the Company to be issued upon exercise of one Right. Such adjustments shall be made successively whenever such a record date is fixed; and in the event that such distribution is not so made, the Purchase Price shall again be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(d) (i) For the purpose of any computation hereunder, the current per share market price of any security (a Security for the purpose of this Section 11(d)(i)) on any date shall be deemed to be the average of the daily closing prices per share of such Security for the 30 consecutive Trading Days (as hereinafter defined) immediately prior to but not including such date; *provided, however*, that, if the current per share market price of the Security is determined during a period following the announcement by the issuer of such Security of (i) a dividend or distribution on such Security payable in shares of such Security or securities convertible into such shares, or (ii) any subdivision, combination or reclassification of such Security and prior to the expiration of 30 Trading Days after but not including the ex-dividend date for such dividend or distribution, or the record date for such subdivision, combination or reclassification, then, and in each such case, the current per share market price shall be appropriately adjusted to reflect the current market price per share equivalent of such Security. The closing price for each day shall be the last transaction price as reported by the NASDAQ Capital Market or, if not so reported, the average of the high bid and low asked prices in the over-the-counter market, as reported by the NASDAQ Stock Market or such other system then in use, or, if the Security is not reported by such organization, the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Security is listed or admitted to trading or, if the Security is not listed or admitted to trading on any national securities exchange, the average of the closing bid and asked prices as furnished by a professional market maker in the Security selected by a majority of the Board of Directors. If on any such date no market maker is making a market in the Security, the fair value of such Security on such date as determined in good faith by a majority of the Board of Directors shall be used. The term Trading Day shall mean a day on which the principal national securities exchange on which the Security is listed or admitted to trading is open for the transaction of business or, if the Security is not listed or admitted to trading on any national securities exchange, a Business Day.

(iii) For the purpose of any computation hereunder, the current per share market price of the Preferred Shares shall be determined in accordance with the method set forth in Section 11(d)(i). If the Preferred Shares are not publicly traded,

then the current per share market price of the Preferred Shares shall be

conclusively deemed to be the current per share market price of the Common Shares as determined pursuant to Section 11(d)(i) (appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the Record Date), multiplied by 100. If neither the Common Shares nor the Preferred Shares are publicly held or so listed or traded, then current per share market price shall mean the fair value per share as determined in good faith by the Board, whose determination shall be described in a written statement filed with the Rights Agent and shall be binding on the Rights Agent and holders of the Rights.

(e) No adjustment in the Purchase Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Purchase Price; *provided, however*, that any adjustments that, by reason of this Section 11(e), are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 11 shall be made to the nearest cent or to the nearest one one-hundredth of a share, as the case may be. Notwithstanding the first sentence of this Section 11(e), any adjustment required by this Section 11 shall be made no later than the earlier of (i) three years from the date of the transaction which requires such adjustment or (ii) the Expiration Date.

(f) If, as a result of an adjustment made pursuant to Section 11(a), the holder of any Right thereafter exercised shall become entitled to receive any shares of capital stock of the Company other than Preferred Shares, then, thereafter, the number of such other shares so receivable upon exercise of any Right shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Preferred Shares contained in Section 11, and the provisions of Sections 7, 9, 10, 13 and 14 with respect to the Preferred Shares shall apply on like terms to any such other shares.

(g) All Rights originally issued by the Company subsequent to any adjustment made to the Purchase Price hereunder shall evidence the right to purchase, at the adjusted Purchase Price, the number of Preferred Shares purchasable from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

(h) Unless the Company shall have exercised its election as provided in Section 11(i), upon each adjustment of the Purchase Price as a result of the calculations made in Sections 11(b) and (c), each Right outstanding immediately prior to the making of such adjustment shall thereafter evidence the right to purchase, at the adjusted Purchase Price, that number of Preferred Shares (calculated to the nearest one one-hundredth of a Preferred Share) obtained by (i) multiplying (x) the number of one one-hundredth of a Preferred Share covered by a Right immediately prior to this adjustment by (y) the Purchase Price in effect immediately prior to such adjustment of the Purchase Price and (ii) dividing the product so obtained by the Purchase Price in effect immediately after such adjustment of the Purchase Price.

(i) The Company may elect, on or after the date of any adjustment of the Purchase Price, to adjust the number of Rights in substitution for any adjustment in the number of one one-hundredths of a Preferred Share purchasable upon the exercise of a Right. Each of the Rights outstanding after such adjustment of the number of Rights shall be exercisable for the number of one one-hundredths of a Preferred Share for which a Right was exercisable immediately prior to such adjustment. Each Right held of record prior to such adjustment of the number of Rights shall become that number of Rights (calculated to the nearest one one-hundredth) obtained by dividing the Purchase Price in effect immediately prior to adjustment of the Purchase Price by the Purchase Price in effect immediately after adjustment of the Purchase Price. The Company shall make a public announcement (with prompt written notice thereof to the Rights Agent) of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the Purchase Price is adjusted or any day thereafter, but, if the Right Certificates have been issued, shall be at least ten days later than the date of the public announcement. If Right Certificates have been issued, then, upon each adjustment of the number of Rights pursuant to this Section 11(i), the Company shall, as promptly as practicable, cause to be distributed to holders of record of Right Certificates on such record date Right Certificates evidencing, subject to Section 14 hereof, the additional Rights to which such holders shall be entitled as a result of such adjustment, or, at the option of the

Company, shall cause to be distributed to such holders of record in substitution and replacement for the Right Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if required by the Company, new Right

Certificates evidencing all the Rights to which such holders shall be entitled after such adjustment. Right Certificates so to be distributed shall be issued, executed and countersigned in the manner provided for herein and shall be registered in the names of the holders of record of Right Certificates on the record date specified in the public announcement.

(j) Irrespective of any adjustment or change in the Purchase Price or the number of one one-hundredths of a Preferred Share issuable upon the exercise of the Rights, the Right Certificates theretofore and thereafter issued may continue to express the Purchase Price and the number of one one-hundredths of a Preferred Share which were expressed in the initial Right Certificates issued hereunder.

(k) Before taking any action that would cause an adjustment reducing the Purchase Price below the par value, if any, of the Preferred Shares issuable upon exercise of the Rights, the Company shall take any corporate action which may, based on the advice of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable (except as otherwise provided by any corporation law applicable to the Company) Preferred Shares at such adjusted Purchase Price.

(l) In any case in which this Section 11 shall require that an adjustment in the Purchase Price be made effective as of a record date for a specified event, the Company may elect to defer (with prompt written notice thereof to the Rights Agent) until the occurrence of such event the issuing to the holder of any Right exercised after such record date of the one one-hundredths of a Preferred Share and other capital stock or securities of the Company, if any, issuable upon such exercise over and above the number of one one-hundredths of a Preferred Share and other capital stock or securities of the Company, if any, issuable upon such exercise on the basis of the Purchase Price in effect prior to such adjustment; *provided, however*, that the Company shall deliver to such holder a due bill or other appropriate instrument evidencing such holder's right to receive such additional shares upon the occurrence of the event requiring such adjustment.

(m) Anything in this Section 11 to the contrary notwithstanding, the Company shall be entitled to make such reductions in the Purchase Price, in addition to those adjustments expressly required by this Section 11, as and to the extent that the Company, in its sole discretion, shall determine to be advisable in order that any consolidation or subdivision of the Preferred Shares, issuance wholly for cash of any Preferred Shares at less than the current market price, issuance wholly for cash of Preferred Shares or securities which by their terms are convertible into or exchangeable for Preferred Shares, dividends on Preferred Shares payable in Preferred Shares or issuance of rights, options or warrants referred to in Section 11(b) hereof, hereafter made by the Company to holders of its Common Shares shall not be taxable to such stockholders.

(n) The Company covenants and agrees that, after the Distribution Date, it will not, except as permitted by Section 23, Section 24 or Section 28 hereof, take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or otherwise eliminate the benefits intended to be afforded by the Rights.

(o) Anything in this Agreement to the contrary notwithstanding, in the event that the Company shall, at any time after the Record Date and prior to the Distribution Date, (i) declare a dividend on the outstanding Common Shares payable in Common Shares, (ii) subdivide the outstanding Common Shares, or (iii) combine the outstanding Common Shares into a smaller number of shares, the number of Rights associated with each Common Share then outstanding, or issued or delivered thereafter but prior to the Distribution Date, shall be proportionately adjusted so that the number of Rights thereafter associated with each Common Share following any such event shall equal the result obtained by multiplying the number of Rights associated with each Common Share immediately prior to such event by a fraction, the numerator of which shall be the total number of Common Shares outstanding immediately prior to the occurrence of the event and the denominator of which shall be the total number of Common Shares outstanding immediately following the occurrence of such event.

**Section 12. Certificate of Adjusted Purchase Price or Number of Shares.** Whenever an adjustment is made as provided in Section 11 or Section 13 hereof, the Company shall promptly (a) prepare a certificate setting forth such adjustment and a brief statement of the facts accounting for such adjustment, (b) file with the Rights

Agent and with each transfer agent for the Common Shares a copy of such certificate and (c) if such adjustment occurs at any time after the Distribution Date, mail (or, if deemed appropriate by the Board, make available at no charge) a brief summary thereof to each holder of a Right Certificate in accordance with Section 26 hereof. The Rights Agent shall be fully protected in relying on any such certificate and on any adjustments or statements therein contained and shall have no duty or liability with respect to, and shall not be deemed to have knowledge of, any such adjustment or event unless and until it shall have received such certificate.

**Section 13. Consolidation, Merger or Sale or Transfer of Assets or Earning Power.** In the event, directly or indirectly, at any time after a Person has become an Acquiring Person, (a) the Company shall effect a share exchange, consolidate with, or merge with and into, any other Person, (b) any Person shall effect a share exchange, consolidate with the Company, or merge with and into the Company and the Company shall be the continuing or surviving corporation of such share exchange or merger and, in connection with such merger, all or part of the Common Shares shall be changed into or exchanged for stock or other securities of any other Person (or the Company) or cash or any other property, or (c) the Company shall sell or otherwise transfer (or one or more of its Subsidiaries shall sell or otherwise transfer), in one or more transactions, assets or earning power aggregating 50% or more of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person other than the Company or one or more of its wholly-owned Subsidiaries (each of Sections 13(a), (b) and (c), a Flip-Over Event ), then, and in each such case, proper provision shall be made so that (i) each holder of a Right (except as otherwise provided herein) shall thereafter have the right to receive, upon the exercise thereof at a price equal to the then current Purchase Price multiplied by the number of one one-hundredths of a Preferred Share for which a Right is then exercisable, in accordance with the terms of this Agreement and in lieu of Preferred Shares, such number of Common Shares of such other Person (including the Company as successor thereto or as the surviving corporation) as shall equal the result obtained by (A) multiplying the then current Purchase Price by the number of one one-hundredths of a Preferred Share for which a Right is then exercisable and dividing that product by (B) 50% of the then current per share market price of the Common Shares of such other Person (determined pursuant to Section 11(d) hereof) on the date of consummation of such consolidation, merger, sale or transfer; (ii) the issuer of such Common Shares shall thereafter be liable for, and shall assume, by virtue of such consolidation, merger, sale or transfer, all the obligations and duties of the Company pursuant to this Agreement; (iii) the term Company shall thereafter be deemed to refer to such issuer; and (iv) such issuer shall take such steps (including, but not limited to, the reservation of a sufficient number of its Common Shares in accordance with Section 9 hereof) in connection with such consummation as may be necessary to assure that the provisions hereof shall thereafter be applicable, as nearly as reasonably may be, in relation to the Common Shares of the Company thereafter deliverable upon the exercise of the Rights. The Company shall not consummate any Flip-Over Event unless, prior thereto, the Company and such issuer shall have executed and delivered to the Rights Agent a supplemental agreement so providing. The Company shall not consummate any Flip-Over Event if at the time of such transaction there are any rights, warrants, instruments or securities outstanding or any agreements or arrangements which, as a result of the consummation of such transaction, would eliminate or substantially diminish the benefits intended to be afforded by the Rights. The provisions of this Section 13 shall similarly apply to successive mergers, share exchanges, or consolidations or sales or other transfers.

**Section 14. Fractional Rights and Fractional Shares.**

(a) The Company shall not be required to issue fractions of Rights or to distribute Right Certificates which evidence fractional Rights. In lieu of such fractional Rights, there shall be paid to the registered holders of the Right Certificates with regard to which such fractional Rights would otherwise be issuable an amount in cash equal to the same fraction of the current market value of a whole Right. For the purposes of this Section 14(a), the current market value of a whole Right shall be the closing price of the Rights for the Trading Day immediately prior to the date on which such fractional Rights would have been otherwise issuable. The closing price for any day shall be the last transaction price as reported by the NASDAQ Capital Market or, if not so reported, the average of the high bid and low asked prices in the over-the-counter market, as reported by the NASDAQ Stock Market or such other system then in use, or, if the Rights are not reported by such organization,





the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Rights are listed or admitted to trading or, if the Rights are not listed or admitted to trading on any national securities exchange, the average of the closing bid and asked prices as furnished by a professional market maker in the Rights selected by a majority of the Board of Directors. If on any such date no market maker is making a market in the Rights, the fair value of the Rights on such date as determined in good faith by a majority of the Board shall be used.

(b) The Company shall not be required to issue fractions of Preferred Shares (other than fractions which are integral multiples of one one-hundredth of a Preferred Share) upon exercise or exchange of the Rights or to distribute certificates which evidence fractional Preferred Shares (other than fractions which are integral multiples of one one-hundredth of a Preferred Share). Fractions of Preferred Shares in integral multiples of one one-hundredth of a Preferred Share may, at the election of the Company, be evidenced by depositary receipts, pursuant to an appropriate agreement between the Company and a depositary selected by it; provided, that such agreement shall provide that the holders of such depositary receipts shall have all the rights, privileges and preferences to which they are entitled as beneficial owners of the Preferred Shares represented by such depositary receipts. In lieu of fractional Preferred Shares that are not integral multiples of one one-hundredth of a Preferred Share, the Company shall pay to the registered holders of Right Certificates, at the time such Rights are exercised as herein provided, an amount in cash equal to the same fraction of the current market value of one Preferred Share. For purposes of this Section 14(b), the current market value of a Preferred Share shall be the closing price of a Preferred Share (as determined pursuant to the second sentence of Section 11(d)(i) hereof) for the Trading Day immediately prior to the date of such exercise.

(c) The holder of a Right by the acceptance of the Right expressly waives such holder's right to receive any fractional Rights or any fractional shares upon exercise of a Right (except as provided above).

(d) Whenever a payment for fractional Rights or fractional shares is to be made by the Rights Agent, the Company shall (i) promptly prepare and deliver to the Rights Agent a certificate setting forth in reasonable detail the facts related to such payments and the prices and/or formulas utilized in calculating such payments, and (ii) provide sufficient monies to the Rights Agent in the form of fully collected funds to make such payments. The Rights Agent shall be fully protected in relying upon such a certificate and shall have no duty with respect to, and shall not be deemed to have knowledge of any payment for fractional Rights or fractional shares under any Section of this Agreement relating to the payment of fractional Rights or fractional shares unless and until the Rights Agent shall have received such a certificate and sufficient monies.

**Section 15. Rights of Action.** All rights of action in respect of this Agreement, excepting the rights of action given to the Rights Agent hereunder, including Section 18 hereof, are vested in the respective registered holders of the Right Certificates (and, prior to the Distribution Date, the registered holders of the Common Shares); and any registered holder of any Right Certificate (or, prior to the Distribution Date, of the Common Shares), without the consent of the Rights Agent or of the holder of any other Right Certificate (or, prior to the Distribution Date, of the Common Shares), may, in such holder's own behalf and for such holder's own benefit, enforce, and may institute and maintain any suit, action or proceeding against the Company to enforce, or otherwise act in respect of, such holder's right to exercise the Rights evidenced by such Right Certificate in the manner provided in such Right Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of the obligations of any Person subject to, this Agreement.

**Section 16. Agreement of Right Holders.** Every holder of a Right, by accepting the same, consents and agrees with the Company and the Rights Agent and with every other holder of a Right that:

(a) prior to the Distribution Date, the Rights will be transferable only in connection with the transfer of the Common Shares;

(b) after the Distribution Date, the Right Certificates are transferable only on the registry books of the Rights Agent if surrendered at the office or offices of the Rights Agent designated for such purpose, duly endorsed or accompanied by a proper instrument of transfer;

(c) the Company and the Rights Agent may deem and treat the Person in whose name the Right Certificate (or, prior to the Distribution Date, the associated Common Share certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on the Right Certificate or the associated Common Share certificate made by anyone other than the Company or the Rights Agent) for all purposes whatsoever, and neither the Company nor the Rights Agent shall be affected by any notice to the contrary; and

(d) notwithstanding anything in this Agreement to the contrary, neither the Company nor the Rights Agent shall have any liability to any holder of a Right or other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court or competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by any governmental authority, prohibiting or otherwise restraining performance of such obligation; *provided, however*, that the Company must use its best efforts to have any such order, decree or ruling lifted or otherwise overturned as soon as possible.

**Section 17. Right Certificate Holder Not Deemed a Stockholder.** No holder, as such, of any Right Certificate shall be entitled to vote, receive dividends or other distributions or be deemed for any purpose the holder of the Preferred Shares or any other securities of the Company which may at any time be issuable upon the exercise of the Rights represented thereby, nor shall anything contained herein or in any Right Certificate be construed to confer upon the holder of any Right Certificate, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in Section 26 hereof), or to receive dividends or subscription rights, or otherwise, until the Right or Rights evidenced by such Right Certificate shall have been exercised in accordance with the provisions hereof.

**Section 18. Concerning the Rights Agent.**

(a) The Company agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and counsel fees and other disbursements incurred in the preparation, negotiation, delivery, amendment, administration and execution of this Agreement and the exercise and performance of its duties hereunder. The Company also agrees to indemnify the Rights Agent and its affiliates, director, employees, representatives and advisors for, and to hold them harmless against, any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost or expense (including the reasonable fees and expenses of outside legal counsel), incurred without gross negligence, bad faith or willful misconduct (which gross negligence, bad faith or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction) on the part of the Rights Agent, for action taken or omitted to be taken by the Rights Agent in connection with the acceptance of, administration of and performance of its duties under this Agreement, including the costs and expenses of defending against any claim of liability arising therefrom, directly or indirectly. The costs and expenses incurred in enforcing this right of indemnification shall be paid by the Company.

(b) The Rights Agent shall be protected and shall incur no liability for, or in respect of any action taken, suffered or omitted to be taken by it in connection with, its administration of this Agreement in reliance upon any Right Certificate or certificate for the Preferred Shares or Common Shares or for other securities of the Company, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement, or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons, or otherwise



upon the advice of counsel as set forth in Section 20 hereof. The Rights Agent shall not be deemed to have knowledge of any event of which it was supposed to receive notice thereof hereunder, and the Rights Agent shall be fully protected and shall incur no liability for failing to take action in connection therewith unless and until it has received such notice in writing.

(c) The provisions of this Section 18 and Section 20 hereof shall survive the termination or expiration of this Agreement, the exercise or expiration of the Rights and the resignation, replacement or removal of the Rights Agent.

**Section 19. Merger or Consolidation or Change of Name of Rights Agent.**

(a) Any Person into which the Rights Ag