EXELON CORP
Form DEF 14A
March 13, 2002

SCHEDULE 14A

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)).

[X] Definitive proxy statement.

[ ] Definitive additional materials.

[ ] Soliciting material pursuant to Section 240.14a-12

Exelon Corporation

(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):

[X] No fee required.

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(1) Amount Previously Paid:

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[EXELON LETTERHEAD]

KATHERINE K. COMBS
Vice President, Deputy General Counsel,
and Corporate Secretary

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
APRIL 23, 2002

March 13, 2002

We will hold the annual meeting of shareholders of Exelon Corporation on Tuesday, April 23, 2002, at 9:30 A.M. (Eastern Time), at the Park Hyatt Philadelphia at the Bellevue, Broad and Walnut Streets, Philadelphia, Pennsylvania.

The purpose of the annual meeting is to consider and take action on the following:

1. Election of five directors: Edward A. Brennan, Bruce DeMars, Richard H. Glanton, John W. Rowe, and Ronald Rubin, each for a term of three years.
2. Ratification of PricewaterhouseCoopers, LLP as Exelon's independent accountants for the year 2002.
3. Approval of the Employee Stock Purchase Plan.
4. Approval of amendments to the Long Term Incentive Plan, including an increase in the number of shares available for awards under the plan.
5. Consideration of a shareholder proposal to require certain investment in clean energy sources, if properly brought before the meeting.
6. Any other business that properly comes before the annual meeting.

Shareholders of record as of March 1, 2002 can vote at the annual meeting. This proxy statement, voting instructions and 2001 annual report to shareholders are being distributed on or about March 13, 2002.

YOUR VOTE IS VERY IMPORTANT. IF VOTING BY MAIL, PLEASE SIGN, DATE AND RETURN THE ENCLOSED PROXY CARD IN THE ENCLOSED ENVELOPE, AND ALLOW SUFFICIENT TIME FOR THE POSTAL SERVICE TO DELIVER YOUR PROXY BEFORE THE MEETING. IF VOTING

BY TELEPHONE OR INTERNET, PLEASE FOLLOW THE INSTRUCTIONS ON YOUR PROXY CARD.

By order of the board of directors

/s/ KATHERINE K. COMBS

Katherine K. Combs
Vice President, Deputy General Counsel,
and Corporate Secretary

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For directions to the annual meeting, please refer to the inside back cover.

COMMONLY ASKED QUESTIONS AND ANSWERS ABOUT THE ANNUAL MEETING

Q. WHAT AM I VOTING ON?

A:
- Proposal 1: Election of five directors: Edward A. Brennan, Bruce DeMars, Richard H. Glanton, John W. Rowe, and Ronald Rubin, each for a term of three years, and
- Proposal 2: Ratification of PricewaterhouseCoopers, LLP as Exelon Corporation's independent accountants for 2002, and
- Proposal 3: Approval of the Employee Stock Purchase Plan, and

- Proposal 4: Approval of amendments to the Long Term Incentive Plan, including an increase in the number of shares available for awards under the plan, and

- Proposal 5: Consideration of a shareholder proposal to require the Company to make certain investments in clean energy.

Q. WHO CAN VOTE?

A: Common shareholders of Exelon Corporation as of the close of business on the record date, March 1, 2002, can vote at the annual meeting. Each share of Exelon Corporation common stock gets one vote.

Q. HOW DO I VOTE?

A: Sign and date each proxy card that you receive and return it in the prepaid envelope or vote by telephone or by Internet. If we receive your signed proxy before the annual meeting, we will vote your shares as you direct. You can specify on your proxy whether your shares should be voted for all, some or none of the nominees for director. You can also specify whether you approve, disapprove or abstain from the other proposals.

If you do not mark any selections, your proxy card will be voted:

- in favor of the election of the directors named in Proposal 1; and

- in favor of Proposal 2; and

- in favor of Proposal 3; and

- in favor of Proposal 4; and

- against Proposal 5.

You have the right to revoke your proxy at any time before the meeting by:

- notifying the Corporate Secretary; or

- casting another vote either in person or by one of the other methods discussed above.

Q. CAN I VOTE MY SHARES BY TELEPHONE OR BY INTERNET?

A: If you hold your shares in your own name, you may vote by telephone or by the Internet, by following the instructions included on your proxy card.

If your shares are held in "street name," you will need to contact your broker or other nominee to find out whether you will be able to vote by telephone or by Internet.

Q. WHO WILL COUNT THE VOTE?

A: Representatives of EquiServe Trust Company, N.A., and Exelon Corporation's Office of the Corporate Secretary will count the votes and serve as judges

of election.

Q. WHAT CONSTITUTES A QUORUM?

A: As of the record date, March 1, 2002, 321,420,883 shares of Exelon Corporation's common stock were issued and outstanding. In order to conduct the annual meeting, more than one-half of the outstanding shares must be present or be represented by proxy. This is referred to as a "quorum." If you submit a properly executed proxy card or vote by telephone or by Internet, you will be considered part of the quorum. Proxies marked as abstaining on any proposal to be acted on by shareholders will be treated as present at the annual meeting for purposes of a quorum. Proxies marked as abstaining, however, will not be counted as votes cast on that proposal. Abstaining proxies include proxies containing broker non-votes.

Q. WHAT VOTE IS NEEDED FOR THESE PROPOSALS TO BE ADOPTED?

A: More than one-half of shares present either in person or by proxy and entitled to vote at the annual meeting must vote for a proposal in order for it to be adopted. Directors are elected by a plurality, and the five nominees who receive the most votes will be elected. Abstentions and broker non-votes will not be taken into account to determine the outcome of the election of directors or the approval of any proposal.

Q. WHO CONDUCTS THE PROXY SOLICITATION AND HOW MUCH WILL IT COST?

A: Exelon Corporation is asking for your proxy for the annual meeting and will pay all of the cost of asking for shareholder proxies. We have hired Morrow & Co., Inc. to help us send out the proxy materials and ask for proxies. Morrow & Co.'s fee for these services is $15,000, plus out-of-pocket expenses. We can ask for proxies through the mail or personally by telephone or telegram. We can use directors, officers and regular employees of Exelon Corporation to ask for proxies. These people do not receive additional compensation for these services. We will reimburse brokerage houses and other custodians, nominees and fiduciaries for their reasonable out-of-pocket expenses for forwarding solicitation material to the beneficial owners of Exelon Corporation common stock.

Q. HOW DOES A SHAREHOLDER NOMINATE SOMEONE TO BE A DIRECTOR OF EXELON CORPORATION?

A: The deadline for submitting nominations for the 2002 annual meeting was November 23, 2001; notice of this deadline was provided in last year's proxy statement. At the close of business on November 23, 2001, no such nominations were received. You may recommend any person as a nominee for director of Exelon Corporation for next year's annual meeting by writing to Mr. M. Walter D'Alessio, Chairman of the Corporate Governance Committee, c/o Exelon Corporation, 10 South Dearborn Street, 37th Floor, P.O. Box 805398, Chicago, Illinois 60680-5398. Your recommendation must include information required under the Bylaws, including information about the nominating shareholder and the information about the nominee that would be required to be included in a proxy statement under the rules of the Securities and Exchange Commission, as well as the signed consent of the nominee to serve as a director of Exelon if elected. The corporate

governance committee has the sole discretion to decide whom it will recommend, and the board has the sole discretion to make the final selection of nominees. You cannot nominate a candidate from the floor of next year's annual meeting unless you have submitted the notice and the information required by the Bylaws to the Corporate Secretary and it is received no later than November 13, 2002.

Q. WHEN ARE THE SHAREHOLDER PROPOSALS FOR THE ANNUAL MEETING HELD IN THE YEAR 2003 DUE?

A: In order to be considered for next year's annual meeting you must submit proposals in writing to Ms. Katherine K. Combs, Vice President, Corporate Secretary and Deputy General Counsel, Exelon Corporation, 10 South Dearborn Street, 37th Floor, P.O. Box 805398, Chicago, Illinois 60680-5398. Under the Bylaws, no proposal can be considered at the 2003 annual meeting unless it is received by the Corporate Secretary before the close of business on November 13, 2002. The proposal must also meet the other requirements of the rules of the SEC relating to shareholder proposals.

PROPOSALS TO BE VOTED UPON

PROPOSAL 1:
ELECTION OF DIRECTORS

The board of directors of Exelon Corporation consists of 16 members, divided into three classes. The three-year terms of each class are staggered so that the term of one class expires at each annual meeting. The terms of the five Class II directors will expire at the 2002 annual meeting. Terms of Class I directors expire at the 2004 Annual Meeting, and terms of Class III directors expire at the 2003 Annual Meeting.

The corporate governance committee has recommended, and the board nominates, the following Class II directors for re-election: Edward A. Brennan, Bruce DeMars, Richard H. Glanton, John W. Rowe, and Ronald Rubin. Each has consented to serve for a three-year term.

If any Class II director is unable to stand for re-election, the board may reduce the number of Class II directors, or designate a substitute. In that case, shares represented by proxies may be voted for a substitute Class II director. We do not expect that any nominee will be unavailable or unable to serve.

THE CORPORATE GOVERNANCE COMMITTEE AND THE BOARD OF DIRECTORS RECOMMEND A VOTE "FOR" THESE DIRECTORS.

PROPOSAL 2:
RATIFICATION OF PRICEWATERHOUSECOOPERS, LLP AS EXELON CORPORATION'S INDEPENDENT ACCOUNTANTS FOR 2002

PricewaterhouseCoopers and its predecessor firm Coopers & Lybrand have been the independent accountants for PECO Energy Company for many years. The board of directors selected PricewaterhouseCoopers to be the independent accountants for Exelon Corporation and its subsidiaries for 2000 through a formal bidding process, and the shareholders voted to retain them for 2001. The audit committee and the board of directors believe that PricewaterhouseCooper's knowledge of Exelon Corporation is invaluable, especially as Exelon Corporation moves to greater competition in the energy market. Representatives of PricewaterhouseCoopers working on Exelon Corporation matters are periodically

changed, providing Exelon Corporation with new expertise and experience. Representatives of PricewaterhouseCoopers have direct access to members of the audit committee and regularly attend their meetings. Representatives of PricewaterhouseCoopers will attend the annual meeting to answer appropriate questions and make a statement if they desire.

In 2001, the audit committee reviewed the PricewaterhouseCoopers Audit Plan for 2002 and proposed fees and concluded that the scope of audit was appropriate and the proposed fees were reasonable.

AUDIT FEES

The aggregate fees billed for professional services rendered by PricewaterhouseCoopers LLP for the audit of Exelon's annual financial statements for the fiscal year ended December 31, 2001 and for the reviews of the quarterly financial statements included in the Forms 10-Q were $2,384,649.

FINANCIAL INFORMATION SYSTEMS DESIGN AND IMPLEMENTATION FEES

The aggregate fees for professional services rendered for financial information systems design and implementation by PricewaterhouseCoopers LLP for Exelon for the fiscal year ended December 31, 2001 were $0.

ALL OTHER FEES

The aggregate fees billed for services rendered by PricewaterhouseCoopers, other that for the services covered in the two preceding paragraphs, for the fiscal year ended December 31, 2001, were $4,274,661. Such services included primarily tax planning projects and other tax related services.

THE AUDIT COMMITTEE AND THE BOARD OF DIRECTORS RECOMMEND A VOTE "FOR" PRICEWATERHOUSECOOPERS, LLP AS EXELON CORPORATION'S INDEPENDENT ACCOUNTANTS FOR 2002.

PROPOSAL 3:
APPROVAL OF THE EXELON CORPORATION EMPLOYEE STOCK PURCHASE PLAN

The Exelon Corporation Employee Stock Purchase Plan (the "Purchase Plan") was adopted by the board of directors of Exelon Corporation on May 11, 2001 and became effective on June 1, 2001, subject to approval by the shareholders of Exelon Corporation. If shareholders do not approve the Purchase Plan, it will cease to be effective on May 10, 2002.

PURPOSE OF THE PURCHASE PLAN

The purpose of the Purchase Plan is to provide an added incentive for eligible employees of Exelon Corporation and its participating subsidiaries to remain employed by such companies and to encourage increased efforts to promote Exelon Corporation's best interests, by permitting those employees to purchase shares of Exelon Corporation common stock at below-market prices through payroll deductions. The Purchase Plan replaces employee stock purchase plans formerly maintained by PECO Energy Company and Unicom Corporation.

PRINCIPAL TERMS OF THE PURCHASE PLAN

Under the Purchase Plan, eligible employees of Exelon Corporation and designated subsidiaries (currently subsidiaries in which Exelon Corporation directly or indirectly owns at least 80% of the total value or voting power) may authorize their employers to withhold up to 10% of their regular base pay and to

use those amounts to purchase shares of Exelon Corporation common stock. The Purchase Plan establishes four purchase periods beginning on January 1, April 1, July 1 and October 1 of each year. A participant's payroll deductions are accumulated and used to purchase shares of Exelon Corporation common stock as soon as practicable after the end of each purchase period. The purchase price per share for any purchase period is equal to 90% of the lesser of the closing price on the New York Stock Exchange of a share of Exelon Corporation common stock on the first day of the purchase period or the last day of the purchase period on which the Exchange is open. Dividends on shares purchased under the Purchase Plan will be paid in cash unless the participant elects to have the dividends reinvested to purchase additional shares of Exelon Corporation common stock. Shares purchased with reinvested dividends will be purchased at fair market value with no discount. In addition to the 10% limit on payroll deductions, a participant in the Purchase

Plan may not purchase more than 125 shares in any purchase period (500 shares per year) or more than $25,000 in fair market value of stock in any calendar year. An individual's purchases under the Purchase Plan also will be limited if they would cause the employee to own 5% or more of the total combined voting power or value of all classes of stock of Exelon Corporation or any of its subsidiaries. The full text of the Purchase Plan is attached as Appendix A.

AVAILABLE SHARES; PARTICIPATING EMPLOYEES

Under the terms of the Purchase Plan, the maximum number of shares of Exelon Corporation common stock that may be purchased under the Purchase Plan is 3,000,000, subject to adjustment for stock dividends, stock splits or combinations of shares of Exelon Corporation common stock. Through the purchase period that ended December 31, 2001, 137,648 shares of Exelon Corporation common stock had been purchased under the Purchase Plan. John W. Rowe, President and Co-CEO, has purchased 394 shares under the Purchase Plan. As of March 1, 2002, approximately 28,705 employees were eligible to participate in the Purchase Plan and 3,647 were participating in the Purchase Plan.

ADMINISTRATION OF THE PURCHASE PLAN

The Purchase Plan is administered by the Treasurer of Exelon Corporation (the "Plan Administrator"). The Plan Administrator has the power and authority to interpret and administer the Purchase Plan, to establish rules and regulations and appoint agents as deemed appropriate for the proper administration of the Purchase Plan and to designate which subsidiaries of Exelon Corporation may participate in the Purchase Plan.

AMENDMENT AND TERMINATION

The board of directors or the Plan Administrator may suspend or amend the Purchase Plan from time to time, but no amendment may (a) materially adversely affect any purchase rights outstanding under the Purchase Plan during the purchase period in which the amendment is adopted, (b) increase the maximum number of shares of Exelon Corporation common stock which may be purchased under the Purchase Plan, or (c) decrease the purchase price of a share of Exelon Corporation common stock for any purchase period below the lesser of 85% of the fair market value of a share on the first day of the purchase period and 85% of the fair market value of a share on the last day of the purchase period. The board of directors or the Plan Administrator may terminate the Purchase Plan at any time. The Purchase Plan will terminate automatically when the maximum number of shares that may be purchased under the Purchase Plan has been purchased or in the event of a change in control of Exelon Corporation.

FEDERAL TAX TREATMENT

Under current U.S. federal tax law, if an employee holds stock acquired under an "employee stock purchase plan" for a period of two years or more, any profit to the employee on resale, up to the amount of the discount from market value on the purchase date, is subject to tax as ordinary income and the balance is subject to tax as a capital gain. If the stock is held for such period, Exelon Corporation is not allowed to deduct from its income for federal income tax purposes the value of the purchase right to the employee. If an employee disposes of stock within two years of its acquisition, the employee's entire discount from market value on his purchase date is subject to tax as ordinary income; any further profit will be subject to tax as a capital gain; any loss, after considering the full 10% discount as ordinary income, will be treated

as a capital loss; and Exelon Corporation will be entitled to a federal income tax deduction equal to the entire discount.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" THE APPROVAL OF THE PURCHASE PLAN.

PROPOSAL 4:
APPROVAL OF AMENDMENTS TO THE EXELON LONG TERM INCENTIVE PLAN

The Exelon Long-Term Incentive Plan (the "Incentive Plan") was originally established by PECO Energy Company ("PECO") in 1989 as the PECO Energy Company 1989 Long-Term Incentive Plan. In connection with the exchange of PECO shares for shares of Exelon Corporation and the merger of Unicom Corporation ("Unicom") with and into Exelon Corporation, effective October 20, 2000, Exelon Corporation assumed sponsorship of the Incentive Plan and the Incentive Plan was amended to change its name and otherwise reflect the share exchange and the merger.

On January 28, 2002, the board of directors of Exelon Corporation approved an amendment and restatement of the Incentive Plan, subject to shareholder approval. The material differences from the existing plan that are being made by the amendment are as follows: (a) adding 13,000,000 shares of Exelon Corporation common stock to the shares previously authorized to be available for grants under the Incentive Plan and limiting the number of shares that may be granted under the Incentive Plan at full value as restricted stock, performance shares or phantom stock (all of which are described below) to three million, (b) increasing the number of shares that can granted to any individual in any calendar year from five hundred thousand to one million, (c) allowing the compensation committee of the board of directors, which administers the Incentive Plan, to delegate its authority under the Incentive Plan and authorizing the Chief Executive Officer(s) of Exelon Corporation to make special grants to employees generally below the level of Senior Vice President, subject to maximum numbers of shares that may be granted in any single year in total and to any individual, (d) clarifying the ability of the board of directors to cancel certain grants or substitute grants of another company's stock if Exelon Corporation is a party to a merger, sale, consolidation, reorganization or other similar corporate transaction, (e) changing the definition of "change in control" for purposes of the Incentive Plan to be consistent with the definition of that term in the change of control agreements Exelon Corporation has entered into with senior executives described under "Employment Agreements -- Change in Control Severance Arrangements" and (f) limiting the definition of "retirement," which accelerates and extends the exercisability of stock options under the existing Incentive Plan, to retirement under the applicable retirement plan of Exelon Corporation. The amendment also increases from twenty-one to thirty-three the number of business criteria which may be used to establish performance goals for grants and awards under the Incentive Plan which qualify as "qualified

performance based compensation" under Section 162(m) of the Internal Revenue Code and are therefore not subject to the compensation deduction limitations of Section 162(m). These business criteria are: (1) cumulative Shareholder Value Added (SVA), (2) customer satisfaction, (3) revenue, (4) primary or fully-diluted earnings per share of common stock, (5) net income, (6) total shareholder return, (7) earnings before interest and taxes (EBIT), (8) cash flow, including operating cash flows, free cash flow, discounted cash flow return on investment and cash flow in excess of cost of capital, or any combination thereof, (9) economic value added, (10) return on equity, (11) return on capital, (12) return on assets, (13) net operating profits after taxes, (14) stock price increase, (15) return on sales, (16) debt to equity ratio, (17) payout ratio, (18) asset turnover, (19) ratio of share price to book value of shares, (20) price/earnings ratio, (21) employee satisfaction, (22) diversity, (23) market share, (24) operating income, (25) pre-tax

income, (26) safety, (27) diversification of business opportunities, (28) expense ratios, (29) total expenditures, (30) completion of key projects, (31) dividend payout as percentage of net income, (32) earnings before interest, taxes, depreciation and amortization (EBITDA), or (33) any individual performance objective which is measured solely in terms of quantitative targets related to the Company, any Subsidiary or the Company's or Subsidiary's business.

The full text of the Incentive Plan as it is proposed to be amended is attached as Appendix B to this Proxy Statement.

PURPOSES OF THE INCENTIVE PLAN AND THE AMENDMENT

The purpose of the Incentive Plan is to encourage designated key employees of Exelon Corporation and its subsidiaries to contribute materially to the growth of Exelon Corporation, thereby benefiting Exelon Corporation's shareholders.

The Incentive Plan provides for a variety of awards that can be flexibly administered in order to attract and retain well-qualified employees by providing them with performance-based incentives that align those employees' interests with those of Exelon Corporation's shareholders through the increase in the proprietary interest of those employees in the growth and success of Exelon Corporation. The board of directors believes that the Incentive Plan permits Exelon Corporation to keep pace with developments in compensation programs and makes Exelon Corporation competitive with other companies that offer creative incentives to attract and keep employees.

As of March 1, 2002, fewer than 1,150,000 shares remained available for grants under the Incentive Plan. See "Available Shares and Outstanding Awards" below. One purpose of the amendment is to make additional shares available for future grants under the Incentive Plan. The proposed amendment of the Incentive Plan also is intended to provide the Compensation Committee with additional flexibility to make large grants where appropriate to reward extraordinary performance and to enable the Chief Executive Officer(s) of Exelon Corporation to make special grants rewarding exceptional performance in circumstances, and at levels of employment, that might otherwise not be recognized.

PRINCIPAL TERMS OF THE INCENTIVE PLAN

Key management employees of Exelon Corporation and its subsidiary companies (in which Exelon Corporation owns directly or indirectly at least 50% of the combined voting power of all classes of stock entitled to vote) are eligible to be selected to participate in the Incentive Plan. Approximately 650 persons are

eligible to participate in the Incentive Plan.

The Incentive Plan authorizes the following types of grants singly, in combination or in tandem:

Stock Options. Grants consist of options to purchase shares of Exelon Corporation's common stock, which may be "incentive stock options" or non-qualified stock options. Incentive stock options must meet the requirements of Section 422 of the Internal Revenue Code and carry some potential tax advantages for the recipient. Non-qualified stock options are not subject to those requirements and do not carry such advantages. Each stock option grant specifies the number of shares subject to the option, the manner and time of the option's exercise and the exercise price per share of stock subject to the option. The exercise price of stock option may not be less than the fair market value of a share of Exelon Corporation common stock on the date the option is granted. The exercise price of an option may be paid by a participant in cash, shares of Exelon Corporation common stock owned by the participant

if approved by the Compensation Committee, a combination thereof or such other consideration as the Compensation Committee may deem appropriate.

Stock Appreciation Rights. A stock appreciation right ("SAR") is a right to receive a payment (either in cash, shares of Exelon Corporation common stock, or a combination thereof) equal to the appreciation in market value of a stated number of shares of Exelon Corporation common stock. The appreciation is measured by the difference between a base amount stated in the SAR and the market value of a share of Exelon Corporation common stock on the date of exercise of the SAR. A SAR may be granted in tandem with a stock option ("Tandem SARs") or independent of a stock option ("Non-tandem SARs"). A Tandem SAR may be granted either at the time of the grant of the related stock option or, in the case of a non-qualified stock option, at any time thereafter during the term of such option. Upon the exercise of a stock option as to some or all of the shares covered by the award, the related Tandem SAR is cancelled automatically to the extent that the number of shares subject to the Tandem SAR exceeds the number of remaining shares subject to the related stock option.

Restricted Stock. Grants are made of restricted shares of Exelon Corporation common stock. Such grants will be subject to such terms, conditions, restrictions and/or limitations, if any, as the Compensation Committee deems appropriate, which may include vesting periods, restrictions on transferability and requirements of continued employment.

Performance Shares and Performance Units. Performance shares are shares of Exelon Corporation common stock and performance units which are valued by reference to criteria chosen by the Compensation Committee. Such grants are contingent on the attainment over a specified period of time of certain performance objectives. The length of the performance period, the performance objectives to be achieved and the measure of whether and to what degree such objectives have been achieved are determined by the Compensation Committee. Amounts earned under performance shares and performance units may be paid in cash, shares of Exelon Corporation common stock or both.

Phantom Stock. Phantom stock is a grant expressed in terms of, but not actually represented by, a number of shares of Exelon Corporation common stock. The Compensation Committee establishes the initial value of the phantom stock at the time of grant, which may be greater than, equal to or less than the fair market value of a share of Exelon Corporation common stock. The Compensation Committee also determines the time at which the phantom stock will be paid and whether such payment will be in the form of cash, shares of Exelon Corporation

common stock or a combination of both. Any cash payment will be the fair market value of shares of Exelon Corporation common stock on the payment date equal in number to the number of shares of phantom stock being paid in cash.

Dividend Equivalents. Each dividend equivalent represents the right to receive an amount in cash, or in shares of Exelon Corporation common stock having a fair market value, equal to the amount of each dividend paid on one share of Exelon Corporation common stock during a period of time established by the Compensation Committee. Dividend equivalents may be paid currently or accrued as contingent cash obligations payable at a time or times specified by the Compensation Committee. Dividend equivalents may be granted separately or in connection with grants of stock options or phantom stock under the Incentive Plan.

The Incentive Plan currently limits the maximum aggregate number of shares of Exelon Corporation common stock that may be granted to any given individual in any calendar year to 500,000 (proposed to be amended to 1,000,000). The proposed amendment also adds to the Incentive Plan a provision that limits the number of shares available to be granted under the

Incentive Plan at full value as restricted stock, performance shares or phantom stock to 3,000,000.

Grants are evidenced by written agreements containing the terms, conditions, restrictions and/or limitations covering the grant.

AVAILABLE SHARES AND OUTSTANDING AWARDS

On October 20, 2000, the effective date of the exchange of PECO shares for shares of Exelon Corporation common stock and the merger of Unicom with and into Exelon Corporation, 10,800,000 shares of Exelon Corporation common stock were available for grants under the Incentive Plan. Since then, grants covering 9,883,672 shares have been made under the Incentive Plan and grants covering 232,651 shares have expired or been forfeited, leaving 1,148,979 shares of Exelon Corporation common stock available for future grants under the Incentive Plan as of March 1, 2002. Approval of the proposed amendment of the Incentive Plan will increase the number of shares available for future grants under the Incentive Plan to approximately 14,148,000. As of March 1, 2002, the market price of Exelon Corporation common stock was $50.52 per share.

Neither the number of shares or units that may be granted under the Incentive Plan in 2002, nor the dollar value of such benefits, is determinable. Because of the similarities of the existing Incentive Plan and the Incentive Plan as it will exist if the proposed amendment is approved, Exelon Corporation believes that, if the Incentive Plan as proposed to be amended had been in effect in 2001, participants (including Mr. McNeill, Mr. Rowe, Mr. Kingsley, Ms. Strobel, Mr. Lawrence, and Mr. Mehrberg) would have received the same types and amounts of grants as they received under the existing Incentive Plan in 2001.

INCENTIVE PLAN ADMINISTRATION

The Incentive Plan is administered by the compensation committee of the board of directors of Exelon Corporation. No member of the compensation committee is eligible to participate in the Incentive Plan. Among the powers granted to the compensation committee are the authority to interpret the Incentive Plan, establish rules and regulations for its operation, select employees of Exelon Corporation and its subsidiaries to receive awards, and determine the form, amount of other terms and conditions of awards. The compensation committee also has the power to modify or waive restrictions on

awards, to amend awards and to grant extensions and accelerate awards. Under the proposed amendment to the Incentive Plan, the Chief Executive Officer(s) of Exelon Corporation may make special grants of stock options, restricted stock, stock appreciation rights, performance shares, performance units and phantom stock, subject to limitations on the numbers of shares that may be granted in total and to any individual in any single year and to limitations on the levels of employees who may receive such grants.

AMENDMENT AND TERMINATION

The board of directors may amend the Incentive Plan at any time but may not, without shareholder approval, adopt any amendment which would increase the number of shares of common stock available for grants under the Incentive Plan or which would cause the Incentive Plan to lose its exemption under Securities and Exchange Commission Regulation Section 240.16b-3.

The Incentive Plan has no fixed termination date but may be terminated by the board at any time. Termination of the Incentive Plan will not affect the status of any grants outstanding at the date of termination.

FEDERAL TAX TREATMENT.

Under current U.S. federal tax law, the following is a brief summary of the U.S. federal income tax consequences generally arising with respect to awards under the Incentive Plan.

A participant who is granted an incentive stock option will not recognize any taxable income at the time of the grant of the option or at the time of its exercise. If the participant does not dispose of the shares acquired pursuant to the exercise of an incentive stock option before the later of two years from the date of grant and one year from the date of exercise, any gain or loss realized on a subsequent disposition of the shares will be treated as a long-term capital gain or loss, and the Exelon Corporation will not be entitled to any deduction for federal income tax purposes.

A participant who is granted a non-qualified option will not recognize taxable income at the time of grant, but will recognize taxable income at the time of exercise equal to the difference between the exercise price of the shares and the market value of the shares on the date of exercise. The Exelon Corporation will be entitled to a tax deduction for the amount of income recognized by the participant.

A participant who is granted a SAR will not recognize any taxable income at the time of grant, but will recognize taxable income at the time of exercise equal to the difference between the reference price of the shares and the market price of the shares on the date of exercise, and the Exelon Corporation will be entitled to a tax deduction for the amount of income recognized by the participant.

A participant who has been granted either performance units or performance shares will not recognize taxable income at the time of the grant. A participant will recognize ordinary income at the time the grant is paid equal to the amount of cash paid or the value of shares delivered, and the Exelon Corporation will be entitled to a tax deduction for the amount of income recognized by the participant.

A participant who has been granted restricted stock will not recognize taxable income at the time of the grant, and the Company will not be entitled to a tax deduction at the time of the grant, unless the participant makes an

election to be taxed at the time of the award. When the restrictions lapse, the participant will recognize taxable income in an amount equal to the excess of the fair market value of the shares at such time over the amount, if any, paid for such shares. The Exelon Corporation will be entitled to a corresponding tax deduction.

A participant who has been granted phantom stock will not recognize taxable income at the time of the grant. A participant will recognize ordinary income at the time the grant is paid equal to the amount of cash paid or the value of shares delivered, and Exelon Corporation will be entitled to a tax deduction for the amount of income recognized by the participant.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" THE APPROVAL OF THE AMENDMENT OF THE INCENTIVE PLAN.

PROPOSAL 5:
PROPOSAL TO INVEST IN CLEAN ENERGY

Mr. Robert B. Mills, 1233 12th St. NW, Washington, DC 20005, who owns 114 1/2 shares of Exelon common stock, has notified the Company that he intends to present the following proposal at the annual meeting:

"Be it resolved that the shareholders recommend that Exelon Corporation should invest sufficient resources to build new electrical generation from solar and wind power sources to replace approximately one percent (1%) of system capacity yearly for the next twenty years with the goal of having the company producing twenty percent (20%) of generation capacity from clean renewable sources in 20 years."

SUPPORTING STATEMENT

"Utility deregulation demands the company present a good public image, and the public is demanding progress towards clean energy.

Efforts must be made to slow down changes in global climate so that we can continue to survive on planet earth.

The proposal allows flexibility in schedule for the Board of Directors to implement this proposal. The 20% figure is just a reasonable and conservative goal to aim for.

A one percent yearly addition to generation capacity allows for small pilot plants to be built and tried as the program advances.

The company should look to building facilities that are made to last a long time.

Solar power towers, wind farms, solar photovoltaic arrays and parabolic solar thermal collectors already exist in other places in this range of power production, proving that Exelon could realistically build such facilities in Pennsylvania, Illinois and elsewhere."

STATEMENT OF THE BOARD OF DIRECTORS

The board of directors recommends a vote AGAINST this proposal because the proposal sets unreasonable targets that are not based on sound business, technical or economic assumptions, because the proposal would be very expensive to implement and because the proposal purports to commit the Company to a particular strategy over a very long period of time.

Exelon Corporation believes that development of clean, renewable energy sources is very important. The Company supports research and development of renewable energy technologies and participates in a number of commercial projects for clean, renewable energy that are consistent with its business strategy and its investment policies. In the City of Chicago, for example, Commonwealth Edison Company, the City of Chicago and other governmental and private entities have created a unique partnership to develop solar generating resources. Exelon Power Team has signed 20-year agreements to purchase the output of three Pennsylvania wind farms. Commonwealth Edison also recently entered into agreements to connect a proposed wind-powered generating facility in Illinois to its network and to purchase the electric energy generated by that facility. The Company also owns and purchases electric power generated from landfill gas.

The proposal, if adopted by shareholders, would require Exelon Corporation to develop, at its sole cost, solar and wind-power sources without reference to any economic, scientific or

technical data on which to evaluate such actions. The requirement to replace one percent of system capacity per year is stated as absolute, regardless of whether such replacements are practical and regardless of cost.

Generation of electric energy represents a significant portion of the Company's business and Exelon Corporation is the largest owner and operator of nuclear generating facilities in the country. Changes in the composition of electric generating systems such as Exelon's are not easily made in the kind of successive yearly increments of one percent envisioned by this proposal. In addition, the proposal would actually require the Company to dismantle parts of its generating system which may be highly productive, since the proposal dictates that capacity be replaced rather than adding solar and wind-powered generation to existing capacity. The costs of dismantling approximately 200 megawatts of generating capacity a year, together with the costs of constructing and maintaining new solar or wind-powered generating facilities to replace existing facilities, would be substantial.

The timing and advisability of implementing business strategies, including strategies for generation of electric energy, depend on many factors and must be flexible enough to adjust for economic, technological, regulatory and environmental changes, as well as the demands of consumers. Yet the proposal would lock Exelon Corporation into a very specific and highly restrictive schedule of replacing generating capacity over a period of 20 years without regard to market, economic, technological, regulatory or environmental developments. The Board of Directors believes that such an inflexible business strategy is unwarranted and not in the best interests of shareholders.

The board of directors recommends a vote AGAINST this proposal.

DISCRETIONARY VOTING AUTHORITY

The board of Exelon Corporation knows of no other matters to be presented for action at the meeting. As to any other matters that may properly come before the meeting, the individuals serving as proxies intend to vote in their best judgment. Your signed proxy card gives authority to Randall E. Mehrberg and Katherine K. Combs to vote on these matters.

BENEFICIAL OWNERSHIP

This table indicates how much Exelon Corporation common stock was owned by the beneficial owners of more than 5% of Exelon common stock, and by the Company's directors and executive officers as of December 31, 2001.

- The shares listed as "Beneficially Owned" include stock options exercisable within 60 days of December 31, 2001.
- The shares listed as "May Be Acquired" include shares of Exelon Corporation common stock which can be acquired upon the exercise of stock options granted under Exelon Corporation plans that are not exercisable within 60 days of December 31, 2001.
- The shares listed as "Deferred Share Equivalents" include shares not considered to be "beneficially owned" under rules of the Securities and Exchange Commission because they are deferred under Exelon Corporation plans.
- Beneficial ownership of directors and executive officers as a group represents less than 1% of the outstanding shares of Exelon Corporation common stock.

NAME	BENEFICIALLY OWNED SHARES	MAY BE ACQUIRED	DEFERRED SHARE EQUIVALENTS	TOTAL
Wellington Management Company, LLP(1)	23,919,260			23,919,260
Oppenheimer Capital LLC(2)	19,093,588			19,903,588
Edward A. Brennan, Director	3,954		3,837	7,791
Carlos H. Cantu, Director	3,012		1,156	4,168
Daniel L. Cooper, Director	185		5,157	5,342
M. Walter D'Alessio, Director	1,165	6,000	10,991	18,156
Bruce DeMars, Director	4,130		1,537	5,667
G. Fred DiBona, Jr., Director	950		4,454	5,404
Sue L. Gin, Director	12,588		2,857	15,445
Richard H. Glanton, Director	100		6,534	6,634
Rosemarie B. Greco, Director	1,000		5,527	6,527
Edgar D. Jannotta, Director	6,620		7,445	14,065
John M. Palms, Ph.D., Director	1,175		12,121	13,296
John W. Rogers, Jr., Director	2,188		2,935	5,123
Ronald Rubin, Director	1,359	6,000	11,123	18,482
Richard L. Thomas, Director	10,567		4,724	15,291
Corbin A. McNeill, Jr., Director & Officer	1,128,393	375,266	26,754	1,530,413
John W. Rowe, Director & Officer	506,129	372,916	63,529	942,574
Oliver D. Kingsley, Jr., Officer	200,748	125,083	66,911	392,742
Pamela B. Strobel, Officer	103,193	69,696	20,594	193,843
Kenneth G. Lawrence, Officer	114,158	48,200	7,606	169,964
Randall E. Mehrberg, Officer	0	63,000	0	63,000
Directors & Executive Officers as a group (28)	2,600,998	1,425,196	311,524	4,337,718

BENEFICIAL OWNERSHIP

(1) In a Form 13G filed with the SEC on February 14, 2002, an investment adviser, Wellington Management Company, LLP, 75 State Street, Boston, MA 02109, disclosed that as of December 31, 2001, it was the beneficial owner of 23,919,260 Exelon shares, or approximately 7.45% of Exelon's issued and outstanding common shares. Wellington disclosed that it shared voting power as to 14,539,002 shares and shared dispositive power as to 23,919,920 shares.

(2) In a Form 13G filed with the SEC on February 12, 2002, an investment adviser, Oppenheimer Capital LLC, 1345 Avenue of the Americas, 49th Floor, New York, NY 10105, disclosed that as of December 31, 2001, it was the beneficial owner of 19,093,588 Exelon shares, or approximately 5.99% of Exelon's issued and outstanding common shares, and that it held sole voting and dispositive power as to these shares.

This table does not include 489,093 shares of common stock held under the Exelon Corporation Retirement Plan. Mr. McNeill, Mr. Rowe, Mr. D'Alessio, Mr. DiBona, Mr. Jannotta and Mr. Thomas are members of the executive committee which monitors the investment policy and performance of the investments under that plan.

BOARD OF DIRECTORS

[CORBIN A. McNEILL PHOTO] [JOHN W. ROWE PHOTO] [EDWARD A. BRENNAN PHOTO] [CARLOS H. CANT

CORBIN A. MCNEILL, JR. JOHN W. ROWE EDWARD A. BRENNAN CARLOS H. C

CORBIN A. McNEILL, JR.

Mr. McNeill, age 62. Director, Chairman, and co-CEO of Exelon Corporation since October 20, 2000. Class I director. Former chairman, president and CEO of PECO Energy Company. Other directorship: Associated Electric and Gas Insurance Services Limited. In February 2002, Mr. McNeill announced that he will retire as an officer and director of Exelon effective immediately after the 2002 annual meeting of shareholders.

JOHN W. ROWE

Mr. Rowe, age 56. Director, President, and co-CEO of Exelon Corporation since October 20, 2000. Class II director. Former chairman, president, and CEO of Unicom Corporation and Commonwealth Edison Company. Former president and CEO of New England Electric System. Other directorship: UnumProvident Corporation.

EDWARD A. BRENNAN

Mr. Brennan, age 68. Director of Exelon Corporation since October 20, 2000. Class II director. Retired Chairman and CEO of Sears, Roebuck and Co. (retail merchandiser). Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: The Allstate Corporation, AMR Corporation, Minnesota Mining and Manufacturing Company, and Morgan Stanley.

CARLOS H. CANTU

Mr. Cantu, age 68. Director of Exelon Corporation since October 20, 2000. Class I director. Retired President and Chief Executive Officer of The ServiceMaster Company (service businesses). Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: The ServiceMaster Company (Senior Chairman) and First Tennessee National Corporation.

[DANIEL L. COOPER PHOTO]
DANIEL L. COOPER

[M. WALTER D'ALESSIO PHOTO]
M. WALTER D'ALESSIO

[BRUCE DEMARS PHOTO]
BRUCE DeMARS

[G. FRED DIBON PHOTO]
G. FRED DiBON

DANIEL L. COOPER

Admiral Cooper, age 67. Director of Exelon Corporation since October 20, 2000. Class I director. Previously served as Vice-President and General Manager, Nuclear Services Division of Gilbert/Commonwealth, Inc. Retired Assistant Chief of Naval Operations (Undersea Warfare). Former Director and Vice-Chairman of the Board of USAA Insurance Company (insurance and financial services company). Former Chairman of the Advisory Board of the Applied Research Laboratory of The Penn State University. Former director of PECO Energy Company.

M. WALTER D'ALESSIO

Mr. D'Alessio, age 68. Director of Exelon Corporation since October 20, 2000. Class III director. Chairman and CEO of Legg Mason Real Estate Services (commercial mortgage, banking, and pension fund advisors). Former director of PECO Energy Company. Other directorships: Independence Blue Cross, Brandywine Real Estate Investment Trust, and Point Five Technologies.

BRUCE DeMARS

Admiral DeMars, age 66. Director of Exelon Corporation since October 20, 2000. Class II director. Partner, RSD, LLC. Retired Admiral, U.S. Navy, and former Director of the Naval Nuclear Propulsion Program. Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: McDermott International Inc., and Oceanworks International, Inc.

G. FRED DiBONA, JR.

Mr. DiBona, age 51. Director of Exelon Corporation since October 20, 2000. Class I director. President and CEO of Independence Blue Cross (health insurance organization). Also chairman, president, and CEO of Keystone Health Plan East, a subsidiary of Independence Blue Cross. Former chairman of the Blue Cross and Blue Shield Association. Former director of PECO Energy Company. Other directorships: Tasty Baking Company, Philadelphia Suburban Corporation, Eclipsys Corporation, and Magellan Health Services, Inc.

[SUE L. GIN PHOTO]
SUE L. GIN

[RICHARD H. GLANTON PHOTO]
RICHARD H. GLANTON

[ROSEMARIE B. GRECO PHOTO]
ROSEMARIE B. GRECO

[EDGAR D. JANNOT
EDGAR D. JAN

SUE L. GIN

Ms. Gin, age 59. Director of Exelon Corporation since October 20, 2000. Class I director. Founder, owner, chairman and CEO of Flying Food Group, Inc. (in-flight catering company). Former director of Unicom Corporation and Commonwealth Edison Company.

RICHARD H. GLANTON

Mr. Glanton, age 55. Director of Exelon Corporation since October 20, 2000. Class II director. Partner of the law firm of Reed Smith Shaw & McClay LLP. Former director of PECO Energy Company. Other directorships: CGU Corporation, Philadelphia Suburban Corporation, Philadelphia Suburban Water Company, and Wackenhut Corrections Corporation.

ROSEMARIE B. GRECO

Ms. Greco, age 55. Director of Exelon Corporation since October 20, 2000. Class III director. Principal of GRECOventures Ltd. Former president of CoreStates Financial Corporation and former director, president and CEO of CoreStates Bank, N.A. Former director of PECO Energy Company. Other directorships: Sunoco, Inc., Pennsylvania Real Estate Investment Trust, and Radian Group, Inc. Trustee of SEI I Mutual Funds of SEI Investments.

EDGAR D. JANNOTTA

Mr. Jannotta, age 70. Director of Exelon Corporation since October 20, 2000. Class I director. Chairman of William Blair & Company, L.L.C. (investment banking and brokerage company). Former managing partner and senior partner of William Blair & Company. Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: AAR Corp., Aon Corporation, Bandag, Incorporated, Inforte Corp., and Molex Incorporated.

BOARD OF DIRECTORS

[JOHN M. PALMS, Ph.D. PHOTO]
JOHN M. PALMS, PH.D.

[JOHN W. ROGERS, JR. PHOTO]
JOHN W. ROGERS, JR.

[RONALD RUBIN PHOTO]
RONALD RUBIN

[RICHARD L. THOM
RICHARD L. T

JOHN M. PALMS, Ph.D.

Dr. Palms, age 66. Director of Exelon Corporation since October 20, 2000. Class III director. President of the University of South Carolina and Professor of Physics since 1991. Former president of Georgia State University; Former

Vice-President for Academic Affairs and the Charles Howard Chandler Professor of Physics at Emory University. Former director of PECO Energy Company. Other directorships: Fortis, Inc., SIMCOM International Holdings, Inc., National Merit Scholarship Corporation, National Collegiate Athletic Association (NCAA); chairman of the Board of Trustees of the Institute for Defense Analyses, and formerly a member of the Advisory Council for the Institute of Nuclear Power Operations.

JOHN W. ROGERS, JR.

Mr. Rogers, age 44. Director of Exelon Corporation since October 20, 2000. Class III director. Founder, Chairman and CEO of Ariel Capital Management, Inc. (an institutional money management firm). Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: Aon Corporation, Bank One Corporation, and GATX Corporation.

RONALD RUBIN

Mr. Rubin, age 70. Director of Exelon Corporation since October 20, 2000. Class II director. Chairman and CEO of the Pennsylvania Real Estate Investment Trust, (a real estate management and development company). Former director of PECO Energy Company.

RICHARD L. THOMAS

Mr. Thomas, age 71. Director of Exelon Corporation since October 20, 2000. Class III director. Retired Chairman of First Chicago NBD Corporation (banking and financial services) and the First National Bank of Chicago. Former director of Unicom Corporation and Commonwealth Edison Company. Other directorships: IMC Global Inc., The PMI Group, Inc., The SABRE Holdings Corporation, Sara Lee Corporation, and Outsourcing Solutions, Inc.

BOARD COMMITTEES

COMMITTEE MEMBERSHIP ROSTER
AS OF JANUARY 29, 2002

NAME	BOARD	EXECUTIVE	AUDIT	COMPENSATION	CORPORATE GOVERNANCE
C. A. McNeill, Jr.	X*	X			
J. W. Rowe	X	X*			
E. A. Brennan	X			X*	
C. H. Cantu	X		X*		
D. L. Cooper	X		X		X
M. W. D'Alessio	X	X			X*
B. DeMars	X				
G. F. DiBona, Jr.	X	X			

S. L. Gin	X		X		
R. H. Glanton	X				
R. B. Greco	X			X	
E. D. Jannotta	X	X			X
J. M. Palms	X		X		
J. W. Rogers, Jr.	X				X
R. Rubin	X			X	
R. L. Thomas	X	X		X	
No. of Meetings in 2001	13	3	7	6	4

COMMITTEE MEMBERSHIP ROSTER
AS OF JANUARY 29, 2002

NAME	GENCO OVERSIGHT	ENERGY DELIVERY OVERSIGHT	ENTERPRISES OVERSIGHT
C. A. McNeill, Jr.			
J. W. Rowe			
E. A. Brennan	X		
C. H. Cantu			X
D. L. Cooper			
M. W. D'Alessio			
B. DeMars	X	X	
G. F. DiBona, Jr.		X	
S. L. Gin			X*
R. H. Glanton	X		X
R. B. Greco		X*	
E. D. Jannotta			
J. M. Palms	X*		
J. W. Rogers, Jr.		X	
R. Rubin			X
R. L. Thomas			

No. of Meetings in 2001	4	4	8

*Chairperson

The board of directors approved the charter for each committee. Each committee reviews its own charter and conducts an assessment of its own performance. The corporate governance committee reviews each of the individual committee assessments and presents the findings to the full Board.

Audit: The Audit Committee reviews financial reporting and accounting practices and internal control functions. The committee also reviews and makes recommendations to the full board regarding risk management policy and risk limits, officers' and directors' expenses, compliance with appropriate policies and the Company's code of business conduct, and environmental, legal and regulatory compliance matters. This committee recommends the independent accountants and approves the scope of the annual audit by the independent accountants and internal auditors. All members of this committee are independent directors. The committee meets outside the presence of management for portions of its meetings with both the independent accountants and the internal auditors.

Compensation: The Compensation Committee reviews executive compensation and administers and oversees the employee benefit plans and programs. The committee makes recommendations to the full board for approval of compensation for the positions of chairman, chief executive officer, president and executive vice president. The committee also oversees executive and management development programs and reviews succession planning and

related leadership continuity matters. When appropriate, the committee uses the services of an independent compensation consultant who reports directly to the committee. All members of the committee are independent directors.

Corporate Governance: The Corporate Governance Committee considers and recommends nominees for election as directors. The committee reviews individual committee self-assessments and makes recommendations on board and committee organization, membership, functions, compensation and effectiveness. The committee coordinates the board's role in establishing performance criteria for the Co-Chief Executive Officers and evaluating the Co-Chief Executive Officers' performance. The Committee also oversees director orientation and continuing education programs and oversees the Company's efforts to promote diversity among directors, officers, employees and contractors. All members of this committee are independent directors.

Executive: The Executive Committee reviews and makes recommendations to the full board about significant financial matters and strategic and other business opportunities. The committee acts on behalf of the full board when the board is not in session. The committee also oversees the management and investment of assets in the Company's service annuity fund and nuclear decommissioning trust funds.

Energy Delivery Oversight: The Energy Delivery Oversight Committee advises and assists the full board in fulfilling its responsibilities to oversee the safe, reliable and cost effective delivery of energy and related differentiated products and services to consumers. The committee also oversees the development of a growth strategy for the Energy Delivery business. The committee reviews the regulatory and public policy strategies and practices of the Energy Delivery business and its relations with regulators, public officials, consumers and other stakeholders.

Enterprises Oversight: The Enterprises Oversight Committee advises and assists the full board in fulfilling its responsibilities to oversee the performance of its unregulated businesses. The committee reviews any significant investments, acquisitions, divestitures, major initiatives or changes in the Enterprises strategy. The committee also reviews the Enterprises budget and business plans and monitors the Enterprises business, operating and financial performance and key performance indicator results and trends. The committee reviews the Enterprises risk management strategy, policies and procedures.

Genco Oversight: The Genco Oversight Committee advises and assists the full board in fulfilling its responsibilities to oversee the safe and reliable operation of all generating facilities owned or operated by the Company, or its subsidiaries, including those in which the Company has significant equity or operational interests. The committee also assists the full board in fulfilling its fiduciary responsibilities towards facilities in which the Company has non-operational or minority ownership interests. The committee reviews potential acquisitions and divestitures, major investments and changes in strategy regarding the generating facilities and power marketing activities. The committee also oversees the power marketing activities of the Power Team, reviews and makes recommendations to the full board on power trading risk management strategy and performance and the hedged condition of the generation portfolio.

Each director attended at least eighty-five percent of the meetings of the board and the meetings of committees of which he or she was a member.

BOARD COMPENSATION

Employee directors receive no compensation, other than their normal salary, for serving on the board or its committees.

Exelon Corporation's total compensation target for directors who are not officers of Exelon Corporation was the 50th percentile of a peer group consisting of both general and utility industry companies. The compensation program was reviewed again in 2001 and the compensation target remained consistent with the 50th percentile of Exelon's peer group.

Directors are paid in cash and deferred stock units as set forth below, and are reimbursed expenses, if any, for attending meetings:

$25,000	Annual board retainer
$ 1,500	Meeting fee
$ 3,000	Annual retainer for chairmanship of committees
$50,000	Annual grant of deferred stock units (dollar value)

Directors are required to own at least 3,000 shares of Exelon Corporation common stock or stock units within three years after their election to the board.

Directors can elect to defer receiving their cash compensation until retirement, death or until they no longer serve as director. Deferred compensation is put into an unfunded account and credited with interest, equal to the amount that would have been earned had the compensation been invested in a variety of mutual funds, including one fund composed exclusively of Exelon common stock. The deferred amounts and accrued interest are unfunded obligations

of Exelon Corporation.

OTHER INFORMATION: Ariel Capital Management, Inc. has acted as investment manager with respect to a portion of the assets of an employee benefit plan of Commonwealth Edison Company since 1994. During 2001, the firm received approximately $204,122 in fees. In 2002, it is estimated that the firm will receive approximately $250,000 in fees from Exelon. Mr. Rogers is Chairman and CEO of Ariel Capital Management, Inc. Exelon Corporation believes the fees paid or payable are equivalent to the fees that would have been paid to an unaffiliated third party for similar services.

Reed Smith Shaw & McClay LLP provided legal services to Exelon Corporation during 2001. Mr. Glanton is a partner of the law firm of Reed Smith Shaw & McClay LLP. Under the board's conflict of interest policy, the board specifically reviewed the proposal to engage Mr. Glanton's partners to perform particular legal services and concluded that the representation is in the best interest of Exelon Corporation.

REPORT OF THE COMPENSATION COMMITTEE

WHAT IS OUR COMPENSATION PHILOSOPHY?

Exelon's executive compensation program is designed to motivate and reward senior management for achieving high levels of business performance and outstanding financial results. In 2001, Exelon continued to direct its focus to compensating executives competitive with high performing energy services companies and general industry firms. This philosophy reflects a commitment to attracting executives from competitive businesses and retaining key executives to ensure continued focus on achieving long-term growth in shareholder value.

The compensation committee, (the "Committee"), composed of non-employee directors, is responsible for administering executive compensation programs, policies and practices. Exelon's executive compensation program comprises three elements:

- Base salary;
- Annual incentives; and
- Long-term incentives.

These components balance short-term and longer range business objectives and align executive financial rewards with those of Exelon's shareholders.

WHAT FACTORS DO WE CONSIDER IN DETERMINING OVERALL COMPENSATION?

The Committee commissioned a study of compensation programs in the fall of 2001. This analysis was conducted by a leading external management compensation consulting firm and included an assessment of business plans and strategic goals and competitive compensation levels compared with the external market.

Exelon's total compensation levels were found to be generally competitive, the study results indicated that the mix of compensation components (i.e., salary, annual and long-term incentives and stock options) is effectively aligned with the competitive market. Exelon's pay-for-performance places an emphasis on pay-at-risk. Pay will exceed market levels when excellent performance is achieved. Failure to achieve target goals will result in below market pay.

HOW DO WE DETERMINE BASE SALARY?

Base salaries for Exelon's executives are determined based on individual performance with reference to the salaries of executives in similar positions in general industry, and where appropriate, the energy services sector. Base salary is intended to be competitive with comparable markets to attract and retain key executives. Executive salaries are targeted to approximate the median (50th percentile) salaries of the companies identified and surveyed.

Mr. McNeill's and Mr. Rowe's 2001 Base Salary: The Committee determined Mr. McNeill's and Mr. Rowe's base salaries for serving as the Co-Chief Executive Officers by considering:

- A review of competitive data and estimated competitive levels of base pay, which were provided by external consulting firms
- performance achieved against financial and operational goals, and
- the implementation of Exelon's strategic plans.

During 2001, neither Mr. McNeill nor Mr. Rowe received any increase to their total annual salary. Their base salaries were last increased to $1,050,000 effective October 20, 2000, the merger closing date, and a base salary review was conducted on March 1, 2002.

Other Named Executives' 2001 Base Salary: The base salaries of the other named executive officers listed in the Summary Compensation Table were determined based upon individual performance and by considering comparable compensation data from the industry surveys referred to above. A base salary review was conducted on March 1, 2002.

HOW ARE 2001 ANNUAL INCENTIVES DETERMINED?

Exelon establishes corporate and business unit measures each year which are based on factors necessary to achieve strategic business objectives. These measures are incorporated into financial, customer and internal indicators designed to measure corporate and business unit performance.

The annual incentive awards paid to Exelon executives for 2001 were determined in accordance with the Exelon Corporation incentive programs. Annual incentives were paid to executives based on a combination of the achievement of pre-determined corporate and business unit-specific measures and individual performance. The incentive plan was designed to tie executive annual incentives to the achievement of key goals of Exelon Corporation, as applicable, and the executive's particular business unit.

For 2001, Mr. McNeill's and Mr. Rowe's annual incentive payouts were determined using the following corporate performance measures:

- Earnings Per Share
- Cash Flow Before Financings
- Customer Focus Index
- Employee Commitment Index

2001 Annual Incentive Award: In evaluating Mr. McNeill's and Mr. Rowe's performance, the Committee considered the overall performance of Exelon Corporation against the measures that were achieved under the applicable incentive program. The committee also considered the leadership demonstrated in positioning Exelon for the future.

Mr. McNeill's approved award was $1,500,300 and Mr. Rowe's approved award was $1,500,300.

Other Named Executive Officers' 2001 Annual Incentives: The final 2001 incentive plan payouts as approved by the Committee for the other named executive officers listed in the Summary Compensation Table were determined in accordance with the applicable incentive programs and each individual's performance.

HOW IS COMPENSATION USED TO FOCUS MANAGEMENT IN LONG-TERM VALUE CREATION?

Exelon has established a long-term incentive program that will include a combination of non-qualified stock options (75%) and performance shares (25%). Exelon granted long-term incentives in the form of stock options to Key Management effective October 20, 2000. The purpose of stock options is to align compensation directly to increases in shareholder value. Individuals receiving stock options are provided the right to buy a fixed number of shares of Exelon common stock at the closing price of such stock on the grant date.

STOCK OPTION AWARDS

Mr. McNeill and Mr. Rowe received grants of 500,000 non-qualified stock options in two parts, 266,700 on October 20, 2000 and 233,300 on January 2, 2001. Other Senior executives received grants of two times the target grant size on October 20, 2000 in support of the launch of Exelon and to motivate executives to achieve aggressive stock appreciation in support of shareholder value. All other executives received a target grant on October 20, 2000. The next scheduled grant for all executives occurred on January 28, 2002.

EXELON PERFORMANCE SHARES

Long-term incentives were awarded in the form of restricted stock to retain key executives engaged in positioning Exelon Corporation. Awards were determined based upon the successful completion of strategic goals designed to achieve long-term business success and increased shareholder value. Depending on Exelon Corporation's performance each year, the Committee could award performance shares with prohibitions on sale or transfer until the restrictions lapse.

Performance shares are paid in Exelon stock: 33% vest upon award date, 33% after the second year and 34% after the third year.

The 2001 Long Term Performance Share Program was based on achievements of Earnings Per Share (EPS) and Total Shareholder Return (TSR) comparing Exelon to companies listed on the Dow Jones Utility Index using a three-year TSR compounded monthly

The Board of Directors approved Mr. McNeill's Performance Share Award of 27,262 shares and Mr. Rowe's Performance Share Award of 27,262 shares.

CAN WE DEDUCT EXECUTIVE COMPENSATION UNDER SECTION 162(m) OF THE INTERNAL REVENUE CODE?

Under Section 162(m) of the Internal Revenue Code, executive compensation in excess of $1 million is generally not deductible for purposes of corporate income taxes. However, "qualified performance-based compensation" which is paid pursuant to a plan meeting certain requirements of the Code and applicable regulations remains deductible. The Committee intends to continue reliance on performance-based compensation programs, consistent with sound executive compensation policy. Such programs will be designed to fulfill, in the best possible manner, future corporate business objectives. The Committee's policy has been to seek to cause executive incentive compensation to qualify as

"performance-based" in order to preserve its deductibility for federal income tax purposes to the extent possible without sacrificing flexibility in designing appropriate compensation programs. However, in order to provide executives with appropriate incentives, the Committee may also determine, in light of all applicable circumstances, that it would be in the best interests of Exelon for awards to be paid under certain of its incentive compensation programs or otherwise in a manner that would not satisfy the requirements to qualify as performance-based compensation under Code Section 162(m). The portion of incentive compensation and salary in excess $1 million that does not qualify as performance-based compensation under Code Section 162(m) will not be deductible by Exelon for purposes of corporate income taxes to the extent receipt of such compensation is not deferred. Mr. McNeill and Mr. Rowe deferred 100% of their long-term incentive awards payable for 2001.

February 25, 2002

COMPENSATION COMMITTEE
Edward A. Brennan, Chairman
Rosemarie B. Greco
Ronald Rubin
Richard L. Thomas

PERFORMANCE GRAPH

COMPARISON OF FIVE-YEAR CUMULATIVE RETURN

The performance chart below illustrates a five-year comparison of cumulative total returns based on an initial investment of $100 in PECO Energy Company common stock that was exchanged for Exelon Corporation common stock in the share exchange on October 20, 2000 as compared with the S&P 500 Stock Index and the S&P Utility Average for the period 1997 through 2001.

This performance chart assumes:

- $100 invested on December 31, 1996 in PECO Energy Company common stock, S&P 500 Stock Index and S&P Utility Average.
- All dividends are reinvested.
- PECO Energy common stock exchanged for Exelon Corporation common stock on a 1:1 basis on October 20, 2000.

[This page includes a line chart with the vertical axis showing dollars from zero to 350 in increments of 50. The horizontal axis shows the end of quarter dates beginning at 12/96 and ending at 12/01. The quarterly data points are as follows:]

Exelon Quarterly Data Points for Performance Graph

	EXELON CORPORATION	S & P 500	S & P UTILITIES
12/96	100.000	100.000	100.000
3/97	82.280	102.681	96.633
6/97	86.701	120.607	102.307
9/97	98.663	129.641	107.223
12/97	104.108	133.363	124.654
3/98	96.168	151.966	131.659
6/98	128.020	156.984	133.252
9/98	162.474	141.368	139.421

12/98	185.715	171.474	143.063
3/99	207.090	180.018	129.676
6/99	188.455	192.708	144.734
9/99	169.755	180.676	137.796
12/99	158.397	207.560	130.366
3/00	169.124	212.320	140.910
6/00	185.915	206.678	150.356
9/00	280.740	204.677	199.148
12/00	327.466	188.661	208.161
3/01	308.606	166.295	193.422
6/01	303.491	176.027	182.358
9/01	212.745	150.191	149.701
12/01	230.609	166.239	144.824

	Value of Investment at December 31,					
	1996	1997	1998	1999	2000	2001
EXELON CORPORATION -----	$100.00	104.11	185.71	158.40	327.47	230.6
S&P 500 ------	$100.00	133.36	171.47	207.56	188.66	166.2
S&P Utilities	$100.00	124.65	143.06	130.37	208.16	144.8

SUMMARY COMPENSATION TABLE

COMPENSATION OF EXECUTIVE OFFICERS

		Annual Compensation			
			Bonus		
Name and Principal Position	Year	Salary($)	Cash($)	Stock Based(1)($)	Other(2)($)
Corbin A. McNeill, Jr. Co-CEO & Chairman, Exelon Corp.; Chairman & President, Exelon Generation	2001	1,050,000	1,500,300	0	84,987
	2000	855,830	1,081,472	0	0
	1999	659,857	1,000,000	0	0
John W. Rowe Co-CEO & President, Exelon Corp.; Chairman, Exelon Energy Delivery & Exelon Enterprises	2001	1,050,000	1,500,300	0	71,369
	2000	989,423	1,180,269	0	134,473
	1999	957,692	529,125	529,125*	55,112
Oliver D. Kingsley,					

Jr.	2001	650,000	928,000	0	0
EVP, Exelon Corp.;	2000	609,615	677,354	0	98,677
President & Chief	1999	544,385	0	594,000*	175,502
Nuclear Officer,					
Exelon Nuclear					
Pamela B. Strobel	2001	450,000	500,500	0	0
EVP, Exelon Corp.;	2000	377,423	269,824	0	0
Vice Chair & CEO	1999	375,131	208,961	69,654*	0
Exelon Energy					
Delivery;					
Chair, ComEd and					
PECO Energy					
Kenneth G. Lawrence	2001	370,577	378,700	0	0
Sr. VP, Exelon Corp.;	2000	318,923	225,666	0	0
President & COO,	1999	291,847	241,200	0	0
Exelon Energy					
Delivery;					
President, PECO					
Energy					
Randall E. Mehrberg(4)	2001	375,000	332,700	0	0
Sr. VP & General	2000	30,288	17,469	0	0
Counsel,	1999	0	0	0	0
Exelon Corp.					

		Long Term Compensation				
		Awards		Payouts		
Name and Principal Position	Year	Restricted Stock Award(s) ($)	Options(3) (#)	Cash($)	Stock Based(1)($)	All Other Compen-sation ($)
Corbin A. McNeill, Jr.	2001	1,354,104	233,000	0	0	26,573
Co-CEO & Chairman,	2000	2,803,513	392,500	0	0	3,200
Exelon Corp.;	1999	942,188	0	0	0	3,200
Chairman & President,						
Exelon Generation						
John W. Rowe	2001	1,354,104	233,000	0	0	52,729
Co-CEO & President,	2000	0	385,450	1,071,878*	1,071,878*	60,293
Exelon Corp.;	1999	0	116,850	475,246	203,677*	42,478
Chairman, Exelon						
Energy Delivery &						
Exelon Enterprises						
Oliver D. Kingsley,						
Jr.	2001	597,729	0	0	0	32,499
EVP, Exelon Corp.;	2000	0	223,250	547,251	547,251*	37,745
President & Chief	1999	231,562	38,000	0	322,488*	24,139
Nuclear Officer,						
Exelon Nuclear						
Pamela B. Strobel	2001	378,187	0	0	0	23,605
EVP, Exelon Corp.;	2000	0	122,250	331,618	331,618*	19,181

Vice Chair & CEO Exelon Energy Delivery; Chair, ComEd and PECO Energy	1999	0	28,500	84,410	84,410*	16,483
Kenneth G. Lawrence	2001	243,979	0	0	0	14,029
Sr. VP, Exelon Corp.; President & COO, Exelon Energy Delivery; President, PECO Energy	2000	777,112	81,600	0	0	4,093
	1999	94,219	0	0	0	3,200
Randall E. Mehrberg(4)	2001	243,979	0	0	0	9,692
Sr. VP & General Counsel, Exelon Corp.	2000	0	63,000	0	0	150,000(5)
	1999	0	0	0	0	

(1) All of the amounts shown under "Bonus--Stock-Based" and "Long Term Compensation Payouts--Stock-Based" were either paid in shares of Exelon common stock or were deferred and since the merger, are deemed to be invested in shares of Exelon common stock, and thus fully "at risk" until the end of the deferral period. Deferred amounts are noted with an asterisk.

(2) Excludes perquisites and other benefits, unless the aggregate amount of such compensation is at least $50,000. For 2001, includes $42,805 paid to Mr. McNeill for financial and legal services and $22,879 paid to Mr. Rowe for the payment of other taxes.

(3) Grants of options to Mr. Rowe, Mr. Kingsley, and Ms. Strobel prior to the merger have been adjusted to reflect the substitution of options to acquire shares of Exelon common stock in accordance with the merger agreement.

(4) Mr. Mehrberg commenced employment on Dec. 1, 2000.

(5) Includes sign-on payment of $150,000.

OPTION GRANTS IN 2001

The "grant date present values" indicated in the option grant table below are an estimate based on the Black-Scholes option pricing model. Although executives risk forfeiting these options in some circumstances, these risks are not factored into the calculated values. The actual value of these options will be determined by the excess of the stock price over the exercise price on the date that the options are exercised. There is no certainty that the actual value realized will be at or near the value estimated by the Black-Scholes option pricing model. The assumptions used for the Black-Scholes model are as of December 31, 2001 and are as follows: Risk-free interest rate: 4.85%; Volatility: 37.17%; Dividend Yield: 3.24%; Time of Exercise: 5 Years.

	Individual Grants				
	Number of Securities	% of Total Options			

Name	Underlying Options Granted (#) (1)	Granted to Employees in 2000	Exercise or Base Price ($/Sh.)	Expirat Date
Corbin A. McNeill, Jr.	233,300	37.08%	$67.88	01/01/2
John W. Rowe	233,300	37.08%	$67.88	01/01/2
Oliver D. Kingsley, Jr.	0			
Pamela B. Strobel	0			
Kenneth G. Lawrence	0			
Randall E. Mehrberg	0			

(1) Regular stock options that would have normally been granted to eligible participants in January 2001 were granted at the time of the merger in October 2000 with the exception of the Co CEOs. Due to Plan limitations as to the maximum number of options that can be granted in a calendar year, the 10/20/2000 launch grant to the Co-CEOs was split between that date and January 2, 2001. The remaining stock options granted during 2001 were deemed "off-cycle" grants and were usually awarded as part of an employment offer.

OPTION EXERCISES
AND YEAR-END VALUE

This table shows the number and value of exercised and unexercised stock options for the named executive officers during 2001. Value is determined using the market value of Exelon common stock at the year-end price of $47.88 per share, minus the value of Exelon common stock at the exercise price. All options whose exercise price exceeds the market value are valued at zero.

			Number of Securities Underlying Unexercised Options at 12/31/2001
Name	Shares Acquired of Exercise (#)	Value Realized ($)	(#) Exercisable Unexercisable
Corbin A. McNeill, Jr.	32,500	$1,478,750	545,833 E 494,967 U
John W. Rowe	100,000	$2,980,000	348,000 E 525,100 U
Oliver D. Kingsley, Jr.	0	0	156,750 E 161,500 U
Pamela B. Strobel	28,025	$1,136,224	78,750 E

			91,000 U
Kenneth G. Lawrence	8,000	$ 305,000	87,200 E 54,400 U
Randall E. Mehrberg	0	0	0 E 63,000 U

RETIREMENT PLANS

The following tables show the estimated annual retirement benefits payable on a straight-life annuity basis to participating employees, including officers, in the earnings and year of service classes indicated, under Exelon's non-contributory retirement plans. Effective January 1, 2001, Exelon Corporation assumed sponsorship of the Commonwealth Edison Company Service Annuity System and the PECO Energy Company Service Annuity Plan. Effective December 31, 2001, these plans were merged to form the Exelon Corporation Retirement Program, which incorporates the separate benefit formula of each merged plan for employees in business units formerly covered by that merged plan. Effective January 1, 2001, Exelon Corporation also established two cash balance pension plans which cover management employees and electing bargaining unit employees hired on or after such date. The amounts shown in the table are not subject to any deduction for Social Security or other offset amounts.

Covered compensation includes salary and bonus which is disclosed in the Summary Compensation Table on page 20 for the named executive officers. The calculation of retirement benefits under the plans is based upon average earnings for the highest consecutive five-year period under the PECO Energy Company Service Annuity Benefit Formula and for the highest four-year period (three-year for certain represented employees) under the ComEd Service Annuity Benefit Formula.

The Internal Revenue Code limits the annual benefits that can be paid from a tax-qualified retirement plan to $170,000 as of January 1, 2001. As permitted by the Employee Retirement Income Security Act of 1974, Exelon sponsored supplemental plans which allow the payment out of its general assets, any benefits calculated under provisions of the applicable retirement plan which may be above these limits.

PECO ENERGY SERVICE ANNUITY FORMULA TABLE

	Annual Normal Retirement Benefits After Specified Years of Servi						
Highest 5-Year Average Earnings	10 Years	15 Years	20 Years	25 Years	30 Years	35 Years	40
$ 100,000.00	$ 19,272	$ 26,407	$ 33,543	$ 40,679	$ 47,815	$ 54,950	$
200,000.00	39,772	54,657	69,543	84,429	99,315	114,200	1
300,000.00	60,272	82,907	105,543	128,179	150,815	173,450	1
400,000.00	80,772	111,157	141,543	171,929	202,315	232,700	2
500,000.00	101,272	139,407	177,543	215,679	253,815	291,950	3
600,000.00	121,772	167,657	213,543	259,429	305,315	351,200	3
700,000.00	142,272	195,907	249,543	303,179	356,815	410,450	4
800,000.00	162,772	224,157	285,543	346,929	408,315	469,700	5

900,000.00	183,272	252,407	321,543	390,679	459,815	528,950	5
1,000,000.00	203,772	280,657	357,543	434,429	511,315	588,200	6

Mr. McNeill and Mr. Lawrence have 34 and 32 credited years of service, respectively, under PECO Energy Company's pension program.

COMMONWEALTH EDISON SERVICE ANNUITY FORMULA TABLE

Highest 4-Year Average Earnings	Annual Normal Retirement Benefits After Specified Years of Servi						
	10	15	20	25	30	35	
$ 100,000	$ 19,523	$ 31,016	$ 41,648	$ 51,626	$ 61,113	$ 70,232	$
200,000	39,647	63,290	85,181	105,720	125,221	143,923	1
300,000	59,770	95,563	128,714	159,815	189,328	217,613	2
400,000	79,893	127,836	172,247	213,909	253,435	291,303	3
500,000	100,017	160,109	215,780	268,003	317,543	364,994	4
600,000	120,140	192,383	259,313	322,097	381,650	438,684	4
700,000	140,263	224,656	302,846	376,191	445,757	512,375	5
800,000	160,386	256,929	346,379	430,286	509,864	586,065	6
900,000	180,510	289,202	389,912	484,380	573,972	659,755	7
1,000,000	200,633	321,476	433,445	538,474	638,079	733,446	8

The approximate number of years of credited service under ComEd's pension programs for the persons named in the Summary Compensation Table are as follows: John W. Rowe, 24 years; Oliver D. Kingsley, 20 years; Pamela B. Strobel, 9 years, and Randall E. Mehrberg, 1 year. Ms. Strobel will be credited with an additional 9 years upon attaining age 50.

EMPLOYMENT AGREEMENTS

EMPLOYMENT AGREEMENT WITH JOHN W. ROWE

Exelon entered into an amended employment agreement with Mr. Rowe, which amended and restated his employment agreement with Unicom Corporation and Commonwealth Edison Company in effect at the time of the merger forming Exelon (the "prior agreement") and under which Mr. Rowe will serve as:

- co-chief executive officer and president of Exelon, chairman of the executive committee of the Exelon board of directors and a member of the Exelon board of directors during the first half of the transition period provided for in Exelon's Bylaws, which is defined as the period from the effective time of the merger forming Exelon (October 20, 2000) until December 31, 2003,

- co-chief executive officer of Exelon, chairman of the Exelon board of directors and a member of the Exelon board of directors during the second half of the transition period, and

- chief executive officer of Exelon, chairman of the Exelon board of directors and a member of the Exelon board of directors after the

transition period.

Mr. Rowe will succeed to the position of sole chief executive officer of Exelon or chairman of the Exelon board of directors if:

- prior to the end of the transition period, Mr. McNeill should cease to be a co-chief executive officer of Exelon or the chairman of the Exelon board of directors, and

- Mr. Rowe is still a co-chief executive officer of Exelon at that time.

Mr. Rowe will receive an annual base salary determined by Exelon's compensation committee. Mr. Rowe will be eligible to participate in annual incentive award programs, long-term incentive plans and stock option plans on the same basis as other senior executives of

Exelon. The agreement provided that a grant of options would be considered at the time the merger was completed. Mr. Rowe is entitled to participate in all savings, deferred compensation, retirement and other employee benefit plans generally available to other senior executives of Exelon. During the transition period, Mr. Rowe's base salary and participation in the plans and awards described in this paragraph will be in an amount or on a basis that is not less than that of Mr. McNeill's or on which Mr. McNeill participates.

Under his amended employment agreement and the prior agreement, Mr. Rowe is entitled to receive a special supplemental executive retirement plan, or SERP, benefit if he terminates due to normal retirement, early retirement, termination without cause, termination for good reason, death or disability or if he voluntarily terminates his employment for any other reason.

The term "good reason" includes the failure to appoint Mr. Rowe to the management and Exelon board of director positions described above. The special SERP benefit will equal the SERP benefit that Mr. Rowe would have received if:

- he had attained age 60 (or his actual age, if greater),

- he had earned 20 years of service on March 16, 1998 and one additional year of service on each anniversary after that date and prior to termination, and

- his annual incentive awards for each of 1998 and 1999 had been $300,000 greater than the annual incentive awards he actually received for those years.

Except as provided in the next paragraph, if Exelon terminates Mr. Rowe's employment for reasons other than cause, death or disability or if he should terminate employment for good reason on or after December 31, 2004 and not within 24 months following a change in control of Exelon, he would be entitled to the following benefits:

- a prorated annual incentive award for the year in which termination occurs,

- severance payments equal to his base salary for two years after termination, and for each year during such period an amount equal to the average of the annual incentive awards paid to him with respect to the three years preceding the year of termination or, if greater, his annual incentive award for the year before termination,

- for the two-year period, continuation of his life, disability, accident, health and other welfare benefits, plus the retirement benefits described above and post-retirement health care coverage,

- all of his exercisable options would remain exercisable until the applicable option expiration date,

- unvested options would continue to become exercisable during the two-year continuation period and thereafter remain exercisable until the applicable option expiration date, and

- all compensation earned through the date of termination and coverage and benefits under all benefit plans to which he is entitled.

Mr. Rowe will receive the termination benefits described in "Change in Control and Severance Arrangements" below, rather than the benefits described in the previous paragraph, if Exelon terminates Mr. Rowe without cause or he terminates with good reason and

- the termination occurs within 24 months after a change in control of Exelon, or

- the termination occurs at any other time prior to the earlier of normal retirement or December 31, 2004, or

- the termination occurs at any other time on and before normal retirement because of the failure to appoint or elect Mr. Rowe to the management or Exelon board of director positions described above.

EMPLOYMENT ARRANGEMENT WITH CORBIN A. MCNEILL, JR.

Although Exelon has not entered into an employment agreement with Mr. McNeill, the merger agreement provided that at any time during the transition period when Messrs. McNeill and Rowe are co-chief executive officers, each of them will receive the same salary, bonus and other compensation (including option grants and other incentive awards and all other forms of compensation) and enjoy the same other benefits and the same employment security arrangements as the other. In February 2002, Mr. McNeill announced that he will retire as an officer and director of Exelon effective immediately after the 2002 annual meeting of shareholders. Under an agreement approved by the board of directors of Exelon, Mr. McNeill will receive the termination benefits described in 'Change in Control Severance Arrangements' below upon his retirement.

EMPLOYMENT AGREEMENT WITH OLIVER D. KINGSLEY, JR.

ComEd entered into an employment agreement with Oliver D. Kingsley, Jr. pursuant to which he became Executive Vice President and President and Chief Nuclear Officer--Nuclear Generation Group, effective November 1, 1997. The agreement provides for a guaranteed increase in annual base salary of at least 4% per year, beginning in 1999.

Mr. Kingsley received an option to purchase 25,000 shares of common stock with an option price equal to the fair market value of the common stock as of November 1, 1997. Such option became exercisable in equal installments on November 1 of 1998, 1999 and 2000, and expires on October 31, 2007. Mr. Kingsley also received a grant of 20,000 shares of restricted stock that vested in equal installments on November 1 of 1998, 1999 and 2000.

Mr. Kingsley received $375,000 as an inducement to enter into the

employment agreement, and an annual living cost allowance equal to $75,000 (increased by the amount of applicable taxes on such amount as so increased) for the first three years of the agreement term.

Mr. Kingsley's employment agreement provides for a retirement benefit equal to the amount that would have been payable under the Service Annuity System (plus amounts payable under the ComEd Supplemental Management Retirement Plan) for an employee who retires at age 60 calculated based on the assumption that Mr. Kingsley had completed 15 years of credited service beginning with the third year of his employment and that such credited service increased by five years during each of the next two years, in addition to his actual years of credited service after five years of employment.

The employment agreement with Mr. Kingsley provides for a lump sum severance payment to Mr. Kingsley if he should be terminated without cause equal to two times his base salary at the time of such termination, and a continuation of health and life insurance benefits for two years after the date of termination, plus retirement benefits (calculated as though he had completed at least 15 years of credited service if such termination occurs during the first two years of employment) and retire health care coverage. In addition, any unvested portion of the restricted stock granted under the agreement will immediately become fully vested and nonforfeitable. These benefits have been incorporated into a change in control severance agreement that became effective on October 20, 2000. See "Change in Control Severance Agreements" below.

Mr. Kingsley agreed not to use for his own benefit or disclose any confidential information of Unicom or ComEd during or after the term of his employment, and not to solicit any employee of ComEd for one year after the term of his employment with ComEd.

CHANGE IN CONTROL SEVERANCE ARRANGEMENTS

Exelon has entered into change in control agreements with certain senior executives which generally protect such executives' position and compensation levels through October 20, 2002 with respect to the Exelon merger in the case of certain officers, and for two years after certain future changes in control if such changes in control occur before June 1, 2003. The June 1, 2003 date is subject to annual extension if there is no change in control before June 1 of each year. In some cases, these agreements replaced change in control agreements with PECO Energy and Unicom which became effective upon the completion of the merger and which cover employment through October 20, 2002. A material adverse change in compensation or position is included in the definition of "good reason" for purposes of these agreements. If an executives resigns for good reason or if the executive's employment is terminated by the company other than for cause, severance pay and benefits become payable.

The severance payments and benefits provided under the change in control agreements include:

- Severance payments equal to either two and one-half or three multiplied by the sum of:
  - the employee's annual base salary, plus
  - an amount equal to the average of the annual incentive awards paid to the employee for the two years preceding the year of termination or, if greater, the target award under the annual incentive award program in which the employee participates for the year in which termination occurs.

- A prorated annual incentive award for the year in which termination occurs.

- Continuation of life, disability, accident, health and other welfare benefit coverage for three years; thereafter, if applicable, retiree coverage is available.

- Outplacement services.

- All of a terminated employee's exercisable options remain exercisable until the applicable option expiration date, and all unvested options become fully exercisable and remain so until the applicable option expiration date.

- Any deferred stock units, restricted stock, or restricted share units become fully vested and any other long-term incentive plan award which is unvested would vest.

- For purposes of determining benefits under the supplemental retirement plan or arrangement in which the employee participates, the employee will be credited with three additional years of credited service, age and compensation.

- For purposes of determining eligibility for retiree welfare benefits, the employee will be deemed to have three additional years of service and age.

- All compensation earned through the date of termination as well as all coverage and benefits under all benefit plans to which the employee is entitled.

Pursuant to the terms of offers of employment or employment agreements, certain employees are also entitled to additional service credits for purposes of retiree health care eligibility and for determining benefits under the supplemental retirement plan or arrangement in which they participate.

In connection with the severance benefits described above, each executive who was an employee of PECO Energy prior to the merger is subject to a non-compete agreement for 24 months from the applicable termination date. Although a participating employee does not have a duty to mitigate the amounts due from the company, continued welfare benefit coverage would be offset during the applicable continuation period by comparable coverage provided under welfare plans of another employer.

Employees who are senior vice-presidents or above will receive an additional payment to cover excise taxes imposed under Section 4999 of the Internal Revenue Code on "excess parachute payments" or under similar state or local law if the after-tax amount of payments and benefits subject to these taxes exceeds 110% of the "safe harbor" amount that would not subject the employee to these excise taxes. If the after-tax amount, however, is less than 110% of the safe harbor amount, payments and benefits subject to these taxes would be reduced or eliminated to equal the safe harbor amount. Benefits payable to other employees subject to the excise taxes imposed under Section 4999 of the Internal Revenue Code will be reduced to the employees' safe harbor amount.

REPORT OF THE AUDIT COMMITTEE

Management is responsible for Exelon's financial reporting process including its system of internal controls, and for the preparation of consolidated financial statements in accordance with generally accepted accounting principles. Exelon's independent accountants, PricewaterhouseCoopers LLP, are responsible for auditing those financial statements. The audit committee's responsibility is to monitor and review these processes. It is not the audit committee's responsibility to conduct auditing or accounting reviews or procedures. The audit committee members are not employees of Exelon and are not accountants or auditors by profession or experts in accounting or auditing. Accordingly, the audit committee has relied, without independent verification, on management's representation that the financial statements have been prepared with integrity and objectivity and in conformity with generally accepted accounting principles and on the representations of the independent accountants included in their report on Exelon's financial statements. The audit committee's oversight does not provide it with an independent basis to determine that management has maintained appropriate accounting and financial reporting principles or policies, 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 with management and the independent accountants do not assure that Exelon's financial statements are presented in accordance with generally accepted accounting principles, that the audit of Exelon's financial statements has been carried out in accordance with generally accepted auditing standards or that Exelon's independent accountants are in fact "independent."

The audit committee met seven times in 2001. In addition, in January 2002 the audit committee held a special meeting with Exelon's accounting staff and the independent accountants designed to provide the audit committee with an opportunity to learn more about recent Securities and Exchange Commission disclosure pronouncements, about the Enron failure and related disclosure ramifications, and about Exelon's balance sheet composition and Exelon's most important accounting policies.

In fulfilling its responsibilities, the committee has reviewed and discussed the audited financial statements contained in the 2001 Annual Report on SEC Form 10-K with Exelon Corporation's management and the independent accountants. The committee discussed with the independent accountants the matters required to be discussed by Statement on Auditing Standards No. 61, Communication with Audit Committees, as amended. In addition, the committee has discussed with the independent accountants the accountants' independence from Exelon Corporation and its management, including the matters in the written disclosures required by Independence Standard Board Standard No. 1, Independence Discussions with Audit Committees.

In reliance on the reviews and discussions referred to above, the committee recommended to the Board of Directors (and the Board has approved) that the audited financial statements be included in Exelon Corporation's Annual Report on SEC Form 10-K for the year ended December 31, 2001, for filing with the Securities and Exchange Commission.

February 25, 2002

AUDIT COMMITTEE
Carlos H. Cantu, Chair
Daniel L. Cooper
Sue L. Gin
John M. Palms

OTHER INFORMATION

TRANSACTIONS WITH MANAGEMENT: Pamela Bize: 10pt">
26,563
6,641
1,771
1,063

Number of authorized and unreserved shares of preferred stock not outstanding
11,120,693
11,120,693
11,120,693
11,120,693

Number of authorized and unreserved shares of common stock not outstanding
15,669,548
116,417,387
141,044,637
144,626,782

10

Potential Anti-Takeover Effects

Since the reverse stock split will result in increased available shares of common stock, it may be construed as having an anti-takeover effect. Although neither the Board nor management views this proposal as an anti-takeover measure, and the Board has no current plans to utilize the additional authorized shares to entrench present management, we could use the increased available shares to resist or frustrate a third-party transaction providing an above-market premium that is favored by a majority of the independent stockholders. For example, we could privately place shares with purchasers who might side with the Board in opposing a hostile takeover bid or issue shares to a holder which would, thereafter, have sufficient voting power to assure that any proposal to amend or repeal our Amended and Restated Bylaws or certain provisions of the Third Amended and Restated Certificate of Incorporation would not receive the requisite vote.

There are no provisions in our Third Amended and Restated Certificate of Incorporation or Amended and Restated Bylaws or other material agreements to which we are a party that would, in our management's judgment, have an anti-takeover effect; however, our Amended and Restated Bylaws contain certain advance notification requirements for nominations of persons for election to the Board and proposals by stockholders at annual and special meetings of stockholders.

The Board is not aware of any pending takeover or other transactions that would result in a change in control of the Company, and the proposal was not adopted to thwart any such efforts.

Accounting Matters

If the reverse stock split is implemented, the par value per share of our common stock will remain unchanged at $0.01 per share after the reverse stock split. As a result of the reverse stock split, at the effective time of the reverse stock split, the stated capital on our balance sheet attributable to the common stock, which consists of the par value per share of the common stock multiplied by the aggregate number of shares of the common stock issued and outstanding, will be reduced in proportion to the reverse stock split ratio. Correspondingly, our additional paid-in capital account, which consists of the difference between our stated capital and the aggregate amount paid to us upon issuance of all currently outstanding shares of common stock, will be credited with the amount by which the stated capital is reduced. Our stockholders' equity, in the aggregate, will remain unchanged. In addition, the per share net income or loss of our common stock, for all periods, will be restated because there will be fewer outstanding shares of common stock.

No Going Private Transaction

Notwithstanding the decrease in the number of outstanding shares following the reverse stock split, this transaction is not intended to be the first step in a "going private transaction," within the meaning of Rule 13e-3 of the Exchange Act, and will not produce, either directly or indirectly, any of the effects described in paragraph (a)(3)(ii) of Rule 13e-3 of the Exchange Act.

Effective Date

If the reverse stock split is implemented, we will file a Certificate of Amendment of our Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware. The reverse stock split will become effective upon the filing of the Certificate of Amendment. No further action on the part of stockholders would be required to either effect or abandon the reverse stock split. If the Board does not implement the reverse stock split on or prior to January 14, 2015, the one-year anniversary of the date of the Special Meeting, the authority granted in this proposal to implement the reverse stock split will terminate. The Board reserves its right to elect not to proceed with the reverse stock split, and to abandon the reverse stock split in its entirety, if it determines, in its sole discretion, that this proposal is no longer in the best interests of our stockholders.

Mechanics of the Reverse Stock Split

Exchange of Stock Certificates

If the reverse stock split is implemented, each certificate representing pre-reverse split shares will, until surrendered and exchanged as described below, for all corporate purposes, be deemed to represent, respectively, only the number of post-reverse stock split shares.

Shortly after the reverse stock split becomes effective, stockholders will be notified and offered the opportunity at their own expense to surrender their current certificates to our transfer agent in accordance with the procedures to be set forth in a letter of transmittal to be sent by us or our transfer agent in exchange for the issuance of new certificates reflecting the reverse stock split. In connection with the reverse stock split, the CUSIP number for the common stock will change from its current CUSIP number. This new CUSIP number will appear on any new stock certificates issued representing post-reverse stock split shares.

STOCKHOLDERS SHOULD NOT DESTROY ANY STOCK CERTIFICATE(S) AND SHOULD NOT SUBMIT ANY STOCK CERTIFICATE(S) UNTIL REQUESTED TO DO SO.

Effect on Registered "Book-entry" Holders of Common Stock

Holders of common stock may hold some or all of their common stock electronically in book-entry form ("street name"). These stockholders do not have stock certificates evidencing their ownership. They are, however, provided with a statement reflecting the number of shares of common stock registered in their accounts. If the reverse stock split is implemented and you hold registered common stock in book-entry form, you do not need to take any action to receive your post-reverse stock split shares or cash payment in lieu of any fractional share interest, if applicable. If you are entitled to post-reverse stock split shares, a transaction statement will automatically be sent to your address of record indicating the number of shares you hold. If you are entitled to a payment in lieu of any fractional share interest, a check will be mailed to you at your registered address as soon as practicable after our transfer agent completes the aggregation and sale described below in "—Fractional Shares."

Effect on Registered Certificated Common Stockholders

Some of our stockholders hold their shares of common stock in certificate form or a combination of certificate and book-entry entry form. If the reverse stock split is implemented and any of your shares are held in certificate form, you will receive a transmittal letter from us or our transfer agent as soon as practicable after the effective date of the reverse stock split. The letter of transmittal will contain instructions on how to surrender your certificate(s) representing your pre-reverse common stock split shares to the transfer agent. Upon receipt of your pre-reverse stock split certificate(s), you will be issued the appropriate number of shares electronically in book-entry form, and if you are entitled to a payment in lieu of any fractional share interest, payment will be made as described below under "—Fractional Shares." No new shares in book-entry form will be issued and no payment in lieu of any fractional share interest will be made to you until you surrender your outstanding pre-reverse stock split certificate(s), together with the properly completed and executed letter of transmittal, to our transfer agent. At any time after receipt of your book-entry statement, you may request a stock certificate representing your ownership interest.

Fractional Shares

If the reverse stock split is implemented, no fractional shares will be issued in connection with the reverse stock split. Instead, stockholders who would otherwise hold fractional shares because the number of shares of common stock they hold before the reverse stock split is not evenly divisible by the split ratio ultimately selected by the Board will receive cash (without interest) in lieu of such fractional shares in an amount equal to the product obtained by multiplying (i) the closing price of our shares of common stock on the day immediately preceding the effective date of the reverse split, as reported on the OTCQB (or, if the closing price of our common stock is not then reported on the OTCQB, then the fair market value of our shares of common stock as determined by the Board) by (ii) the number of shares of our common stock held by such stockholder that would otherwise have been exchanged for such fractional share interest. Stockholders who own their shares in certificated form will receive such cash payment in lieu of fractional shares following the surrender of their pre-reverse split certificate(s) for post-reverse stock split shares. The ownership of a fractional share interest will not give the holder any voting, dividend or other rights, except to receive the above-described cash payment.

Dissenters' or Appraisal Rights

Under the General Corporation Law of the State of Delaware, our stockholders are not entitled to any dissenters' or appraisal rights with respect to the reverse stock split, and we will not independently provide stockholders with any such right.

U.S. Federal Income Tax Consequences of the Reverse Stock Split

The following summary describes certain material U.S. federal income tax consequences of the reverse stock split to holders of our common stock.

Unless otherwise specifically indicated herein, this summary addresses the U.S. federal income tax consequences only to a beneficial owner of our common stock that is: (i) a citizen or individual resident of the United States, (ii) a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the U.S. or of a political subdivision thereof (including the District of Columbia), (iii) an estate whose income is subject to U.S. federal income taxation, regardless of its source, or (iv) any trust if: (a) a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (b) it has a valid election in place to be treated as a U.S. person (each, a "U.S. Holder"). This summary does not address any state, local, foreign, or other tax consequences, nor does it address all of the tax consequences that may be relevant to a particular stockholder in light of their circumstances, including tax consequences arising to stockholders subject to special rules, such as persons who acquired shares of our common stock pursuant to employee stock options or otherwise as compensation, certain financial institutions, tax-exempt entities, regulated investment companies, insurance companies, partnerships or other pass-through entities, U.S. expatriates, persons subject to the alternative minimum tax, traders in securities that elect to use a mark-to-market method of accounting, individual retirement accounts or tax-deferred accounts, dealers in securities, commodities or currencies, persons holding shares in connection with a hedging transaction, "straddle," conversion transaction or a synthetic security or other integrated transaction, stockholders whose "functional currency" is not the U.S. dollar, and persons that do not hold our common stock as "capital assets" (generally, property held for investment).

This summary is based on current law, including the Internal Revenue Code of 1986, as amended (the "Code"), administrative pronouncements, judicial decisions, existing and proposed Treasury Regulations, and interpretations of the foregoing, all as in effect as of the date hereof. All of the foregoing authorities are subject to change (possibly with retroactive effect) and any such change may result in U.S. federal income tax consequences to a stockholder that are materially different from those described below. In addition, we have not sought, and will not seek, an opinion of counsel or a ruling from the Internal Revenue Service (the "IRS") regarding the U.S. federal income tax consequences of the reverse stock split, and there can be no assurance the IRS will not challenge the statements and conclusions set forth in this discussion or that a court would not sustain any such challenge.

Tax Consequences of the Reverse Stock Split Generally

The reverse stock split is intended to constitute a "reorganization" within the meaning of Section 368 of the Code. Accordingly, a U.S. Holder generally will not recognize gain or loss for U.S. federal income tax purposes on the reverse stock split (except with respect to any cash received in lieu of a fractional share as described below). The aggregate tax basis of the post-reverse split shares received will be the same as the aggregate tax basis of the pre-reverse split shares exchanged therefore (excluding any portion of the holder's basis allocated to fractional share interests), and the holding period(s) of the post-reverse split shares received will include the U.S. Holder's holding period(s) for the pre-reverse split shares exchanged. The Company will not recognize any gain or loss as a result of the reverse stock split.

Cash Received Instead of a Fractional Share

A U.S. Holder who receives cash for fractional shares should generally recognize gain or loss, as the case may be, for U.S. federal income tax purposes measured by the difference between the amount of cash received and the portion of the tax basis of the pre-reverse split shares allocated to the fractional share interest. Such gain or loss will be capital gain or loss and will generally be long-term capital gain or loss to the extent such U.S. Holder's holding period exceeds 12 months. The deductibility of capital losses may be subject to certain limitations.

Backup Withholding

A non-corporate U.S. Holder may be subject to backup withholding at a 28% rate on cash payments received pursuant to the reverse stock split unless such U.S. Holder provides a correct taxpayer identification number to its broker or to the Company and otherwise complies with applicable requirements of the backup withholding rules. Backup withholding is not an additional tax. Rather, any amount withheld under these rules will be creditable against the U.S. Holder's U.S. federal income tax liability, provided the required information is furnished to the IRS.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this proxy statement was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding tax-related penalties under the Code. The tax advice contained in this proxy statement was written to support the promotion or marketing of the transactions and matters addressed by the proxy statement. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

PLEASE CONSULT YOUR OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES TO YOU OF THE REVERSE STOCK SPLIT IN YOUR PARTICULAR CIRCUMSTANCES.

Vote Required

The affirmative vote of a majority of the votes cast at the Special Meeting by the holders of our common stock and Series A Preferred Stock, voting together as a single class on an as-converted to common stock basis, is required to approve the authorization of the Board to, in its discretion, amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio of between one-for-four to one-for-twenty-five, such ratio to be determined by the Board.

The Board of Directors recommends that you vote "FOR" Proposal One.

PROPOSAL TWO: AMENDMENT TO 2006 EQUITY INCENTIVE PLAN TO INCREASE THE NUMBER OF SHARES OF COMMON STOCK THAT MAY BE ISSUED THEREUNDER BY 10,000,000 SHARES (prior to giving effect to the proposed reverse stock split) AND TO PROVIDE FOR A CORRESPONDING INCREASE IN THE LIMITS ON THE NUMBER OF INCENTIVE STOCK OPTIONS AND AWARDS OTHER THAN OPTIONS OR STOCK APPRECIATION RIGHTS THAT MAY BE GRANTED UNDER THE 2006 PLAN

On December 11, 2013, the Board approved an amendment to the 2006 Plan, subject to approval by our stockholders. The 2006 Plan was originally adopted by the Board on April 27, 2006 and originally approved by the stockholders on July 12, 2006.

Contingent upon our stockholders approving Proposal One and the Board effectuating the reverse stock split, we have amended the 2006 Plan to provide for, and submit to our stockholders for approval, an increase in the number of shares of common stock that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan by 10,000,000 shares and 10,000,000 shares, respectively (in each case prior to giving effect to the proposed reverse stock split). The additional shares will increase the total shares of common stock reserved for issuance under the 2006 Plan to an aggregate of 20,000,000 shares (prior to giving effect to the proposed reverse stock split), all of which may be issued pursuant to the exercise of incentive stock options or any other type of award. Other than the increase in the aggregate number of shares of our common stock authorized for issuance under the 2006 Plan and corresponding adjustments to the maximum number of shares of our common stock that may be issued under the 2006 Plan pursuant to incentive stock options and the number of awards other than options or stock appreciation rights that may be granted under the 2006 Plan, no amendments have been proposed to be made to the 2006 Plan. In this Proposal Two, stockholders are requested to approve the foregoing amendment to the 2006 Plan (as amended, the “Amended 2006 Plan”).

Our executive officers and members of the Board will be eligible to receive awards under the Amended 2006 Plan and therefore have an interest in this proposal.

The number of shares issuable pursuant the Amended 2006 Plan will be adjusted to reflect the proposed reverse split. For example, in the event we implement a one-for-four reverse split, the number of shares added to the Amended 2006 Plan would be 2,500,000 and, in the event we implement a one-for-twenty-five reverse split, the number of shares added to the Amended 2006 Plan would be 400,000. If Proposal Two is approved by our stockholders and the Amended 2006 Plan becomes effective, we intend to file a registration statement on Form S-8 under the Securities Act of 1933, as amended, in order to register the additional shares of Common Stock that are the subject of equity awards made under the Amended 2006 Plan. If our stockholders do not approve Proposal One, the Board does not effectuate the reverse stock split or our stockholders do not approve the Amended 2006 Plan at the Special Meeting or any adjournment or postponement thereof, the 2006 Plan will continue to be in full force in accordance with its terms.

Reasons You Should Approve the Amended 2006 Plan

Equity Grants are an Important Part of Our Compensation Philosophy. We strongly believe that the approval of the Amended 2006 Plan is critical to our ongoing effort to build stockholder value. The Company relies on highly skilled employees to implement our strategic goals and expand our business. There is significant competition for these types of skilled professionals and many other companies also use stock-based awards to attract, motivate and retain their best employees. The Board believes stock-based compensation, including new hire stock awards for future employees of the Company, encourages employees to act like owners of the business, motivating them to work toward the Company's success and rewarding their contributions by allowing them to benefit from increases in the value of the Company's stock.

Limited Shares Remain Available under the 2006 Plan. As of December 18, 2013, there were 7,409,668 options and stock appreciation rights with respect to 1,660,000 shares of our common stock outstanding under the Amended 2006 Plan, of which none were exercisable as of the Record Date. As of December 18, 2013, a total of 26,563 shares of common stock were available for future equity awards that may be granted under the 2006 Plan, which constitutes approximately 0.03% of our outstanding shares of common stock as of such date**.**

We have included provisions in the Amended 2006 Plan that are designed to protect our stockholders' interests and to reflect what we believe to be strong corporate governance practices, including:

- *Continued broad-based eligibility for equity awards*. We grant equity to substantially all of our employees. By doing so, we link employee interests with stockholder interests throughout the organization and motivate our employees to act as owners of the business.

- *Stockholder approval is required for additional shares*. The Amended 2006 Plan does not contain an annual "evergreen" provision that would automatically add shares of our common stock to the plan reserve without additional stockholder approval. The Amended 2006 Plan authorizes a fixed number of shares, so that stockholder approval is required to increase the number of shares of common stock that may be issued under the Amended 2006 Plan.

- *No discount stock options or stock appreciation rights*. All stock options and stock appreciation rights are intended to have an exercise price equal to or greater than the fair market value of our common stock on the date the stock option or stock appreciation right is granted.

- *No tax gross-ups.* The Amended 2006 Plan does not provide for any tax gross-ups.

- *The Board is prohibited from taking action related to the Amended 2006 Plan that would be treated as a repricing without the approval of our stockholders*. The Amended 2006 Plan requires that the Board obtain the approval of our stockholders before taking actions that would be deemed to be a repricing, including reducing the exercise price of any outstanding stock option and/or cancelling and regranting any outstanding stock option to reduce the exercise price of the option.

Description of the Amended 2006 Plan

The principal features of the Amended 2006 Plan are outlined below. This summary is qualified in its entirety by reference to the complete text of the Amended 2006 Plan. Stockholders are urged to read the actual text of the Amended 2006 Plan in its entirety, which is appended to this proxy statement as Appendix B.

Administration

The Amended 2006 Plan is administered by the Compensation Committee of the Board (the "Committee"). Subject to the terms of the Amended 2006 Plan, the Committee has the discretion to determine the number, exercise price, term and vesting provisions of each award made under the Amended 2006 Plan and to agree to any amendment of the terms of any such award. However, no repricing of grants (including cancellation of a grant and the issuance of another grant with a lower exercise price) will be allowed without the approval of the stockholders. The Committee also has the sole authority to interpret the terms of the Amended 2006 Plan, including whether a "Change in Control" of the Company, as such term is defined in the Amended 2006 Plan, has occurred. The Committee has the ability to delegate to Company officers the authority to make awards under the Amended 2006 Plan to non-officer employees within limits established by the Committee.

Awards and Eligibility

Awards under the Amended 2006 Plan may be in the form of incentive stock options as defined in Section 422 of the Code ("ISOs"), nonqualified stock options ("NQSOs"), stock appreciation rights ("SARs"), restricted stock, restricted stock units, performance shares and performance units. In addition, awards of ISOs and NQSOs may be made in conjunction with dividend equivalency rights ("DERs") that provide for payments of cash in an amount equal to the dividend distributions paid on a share of Company common stock subject to such ISO or NQSO. The Amended 2006 Plan also authorizes the Committee to make equity-based awards not specifically provided for in the Amended 2006 Plan ("Other Awards") on terms and conditions it deems appropriate.

All directors, officers and employees of the Company are eligible to receive awards under the Amended 2006 Plan as well as advisors to the Company and others who are expected to provide significant services (of a type expressly approved by the Committee as covered services for these purposes) to the Company. As of December 18, 2013, the Record Date for the Special Meeting, there were 149 employees, zero consultants and four non-employee directors eligible to participate in the 2006 Plan.

Shares Available for Issuance

In the event the Amended 2006 Plan is approved by stockholders, the maximum number of shares as to which stock awards may be granted under the Amended 2006 Plan is 20,000,000 shares (prior to giving effect to the proposed reverse stock split). Of this maximum number, only an aggregate of 15,000,000 shares would be issuable for awards other than stock options or SARs. The number and kind of shares available under the Amended 2006 Plan (including the number and kind of shares issuable under any then outstanding awards and the exercise price) is subject to adjustment by the Committee in the event of certain corporate events such as stock splits, stock dividends, or other recapitalizations of the Company. Shares of common stock issued under the Amended 2006 Plan may be authorized and unissued shares, shares held in treasury or shares purchased by the Company on the open market.

Limitations on Grants of Incentive Stock Options

For purposes of determining whether shares are available for the issuance of ISOs, the maximum number of shares that may be issued through ISOs under the Amended 2006 Plan is 20,000,000 (prior to giving effect to the proposed reverse stock split).

Expired, Forfeited or Unexercised Awards

If any award granted under the Amended 2006 Plan expires, is forfeited or becomes unexercisable without having been exercised or fully paid, the Committee may determine that the shares underlying such award are available for future awards under the Amended 2006 Plan. Furthermore, if we settle any award in cash rather than in common stock, the shares underlying such award that are retained or otherwise not issued may become, in the Committee's discretion, available for future awards under the Amended 2006 Plan.

Options

Both ISOs and NQSOs entitle the optionee to purchase shares of our common stock at a price equal to or greater than the fair market value on the date of grant. Stock options issued under the Amended 2006 Plan may be either ISOs or NQSOs, provided that only employees may be granted ISOs. The option may specify that the option price is payable (i) by check, (ii) by the transfer to the Company of unrestricted stock, or by a combination of cash and shares of stock, (iii) by cancellation of indebtedness owed by the Company to the option holder or (iv) any combination of the foregoing, or any other method acceptable to the Committee in its discretion. No stock option may be exercised more than 10 years from the date of grant. Each grant may specify a period of continuous employment or service with the Company or any subsidiary that is necessary before the stock option or any portion thereof will become exercisable. All unvested or unexercised options will automatically vest, become exercisable and become unrestricted without further action by the Board or Committee upon a Change in Control, unless provisions are made in connection the Change in Control transaction for the assumption of outstanding options or for the substitution of outstanding options for new grants by the successor entity or its parent, with appropriate adjustment as to the number and kind of shares and the per share exercise prices. A Change in Control will be deemed to occur upon (a) a dissolution or liquidation of the Company, (b) a sale of all or substantially all of the assets of the Company, (c) a merger or combination involving the Company after which the owners of common stock of the Company immediately prior to the merger or combination own less than 50% of the outstanding shares of common stock of the surviving corporation, or (d) the acquisition of more than 30% of the outstanding shares of common stock of the Company, whether by tender offer or otherwise, by any person other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company.

Stock Appreciation Rights

SARs represent the right to receive an amount of Company common stock or cash equal to (i) the difference between the exercise price per share established for the SAR and the fair market value of the Company's common stock on the date the SAR is exercised, multiplied by (ii) the number of shares in respect of which the SAR is exercised. The grant price must not be less than the fair market value of our common stock on the date the SAR is granted. The grant may specify that the amount payable upon exercise of the SAR may be paid (a) in cash, (b) in shares of our common stock or (c) any combination of cash and common stock. The full number of SARs that are settled by the issuance of shares of common stock will be counted against the number of shares of common stock available for award under the Amended 2006 Plan, regardless of the number of shares of common stock actually issued upon settlement of such SARs. The Committee may provide in a SAR agreement or thereafter for an accelerated exercise of all or part of a SAR upon such events or standards that it may determine, including one or more performance measures. A SAR may, under certain circumstances, become exercisable upon a Change in Control. Unless the Committee specifies otherwise in the applicable SAR agreement, 34% of the SAR will be exercisable on the first anniversary of the grant date, and 33% of the SAR will be exercisable on each of the second and third anniversaries of the grant date. No SAR may be exercised more than ten years from the grant date, and each grant of a SAR may specify a period of continuous employment or service that is necessary before the SAR or installments thereof may be exercisable.

Restricted Stock

An award of restricted stock involves the immediate transfer of ownership of a specific number of shares of our common stock to a participant in return for the performance of services. However, during a "restriction period" designated by the Committee, such shares are subject to forfeiture unless conditions specified by the Committee are met, and no shares of restricted stock will become free of restrictions before one year after the grant of the shares (except under certain circumstances). These conditions will generally include the continuous employment of the participant with the Company (or service on the Board) and may include performance objectives that must be achieved. Although shares of restricted stock remain subject to forfeiture during the restriction period, the participant is entitled to vote these shares, receive all dividends paid on these shares and exercise all other ownership rights in such restricted stock. Unless the Committee specifies otherwise in the applicable restricted stock agreement, the standard restriction period is three years from the date of grant, although the stock may, in certain circumstances, become unrestricted prior to the end of a restriction period in the event of a Change in Control of the Company. Restricted stock may be awarded alone or in addition to other awards made under the Amended 2006 Plan.

Restricted Stock Units

A Restricted Stock Unit is an award denominated in shares of common stock that will be settled by the payment of either shares of common stock or cash based upon the fair market value of a specified number of shares of common stock on the settlement date. The Committee has the discretion to settle Restricted Stock Units by the delivery of shares of common stock. The Committee will determine the number of Restricted Stock Units to be awarded to any participant, the restriction period within which a grant may be subject to forfeiture, whether the grant or vesting depends upon the achievement of performance goals and other terms. During the restriction period, the participant is entitled to receive current payments corresponding to the dividends payable on the shares of common stock subject to the award. In general, the minimum restriction period that the Committee can impose is one year from the date of grant, although the standard restriction period is three years from the grant date, unless the Committee specifies otherwise in the applicable restricted stock unit agreement. Restricted stock units may, under certain circumstances, become unrestricted prior to the end of a restriction period in the event of a Change in Control of the Company. Restricted Stock Units may be awarded alone or in addition to other awards made under the Amended 2006 Plan.

Performance Units

Performance units consist of the right to receive cash upon achievement of a performance goal or goals, and upon the satisfaction of other terms and conditions as determined by the Committee. In general, performance unit awards will become payable only upon the attainment of one or more performance goals achieved over a performance period determined by the Committee. A performance unit award will vest as determined by the Committee. The Committee may substitute shares of common stock for the payment of cash otherwise required to be made for a performance unit. Performance units may be awarded alone or in addition to other grants made under the Amended 2006 Plan.

Performance Shares

A performance share consists of the right to receive our common stock upon achievement of a performance goal or goals, and the satisfaction of other terms and conditions as the Committee determines. In general, performance shares will be earned only upon the attainment of one or more performance goals achieved over a performance period determined by the Committee. A performance share award will vest as determined by the Committee. The Committee may settle performance shares by the payment of cash based on the fair market value of shares of common stock otherwise granted as performance shares. Performance shares may be awarded alone or in addition to other awards made under the Amended 2006 Plan.

Other Awards

Subject to the terms and conditions of the Amended 2006 Plan and such other terms and conditions as it deems appropriate, the Committee may grant other awards, which are awards based on, settled in or otherwise referenced to our common stock.

Dividend Equivalency Rights

Participants in the Amended 2006 Plan are also eligible to receive awards of DER in connection with stock options granted under the Amended 2006 Plan. Each DER entitles its holder to receive a cash payment equal to the dividends paid on one share of our common stock subject to an option.

Effects of a Change in Control

The Amended 2006 Plan provides that all unvested, unexercisable or restricted awards will automatically vest, become exercisable and become unrestricted, and performance-based awards will be paid out on a pro rata basis at a target level, without further action by the Board or Committee, upon a Change in Control, unless provisions are made in connection with such Change in Control for the assumption of outstanding awards, or the substitution for such awards of new grants, by the successor entity or parent thereof, with appropriate adjustment as to the number and kind of shares and the per share exercise prices.

Section 162(m) Exemption

The Amended 2006 Plan is designed to comply with the provisions of Section 162(m) of the Code. Code Section 162(m) precludes a publicly held corporation from claiming a federal income tax deduction for annual compensation paid to certain senior executives in excess of $1,000,000 per person. However, compensation is exempt from this limitation if it is "qualified performance-based compensation." To the extent the Company will take a tax deduction for such compensation, awards made under the Amended 2006 Plan will constitute qualified performance-based compensation satisfying the relevant requirements of Code Section 162(m) and the regulations issued thereunder. Accordingly, the Plan will be administered and the provisions of the Amended 2006 Plan shall be interpreted in a manner consistent with Code Section 162(m).

Compensation derived from stock options and SARs is considered to be qualified performance-based compensation if these awards are made by the Committee within the limit set forth in the plan for awards to single individuals. To be qualified performance-based compensation, stock options and SARs must provide the participant the right to receive compensation based solely on an increase in the value of our stock. For purposes of the Amended 2006 Plan, the individual limit is 2,000,000 shares per year for stock options and SARs.

Awards other than options and SARs are considered to be qualified performance-based compensation as long as they must vest (or may be granted or vest) solely upon the attainment of one or more objective performance goals unrelated to term of employment. The Committee must establish these performance goals in writing for participants prior to completion of 25% of the performance period relating to awards other than stock options and SARs and the outcome of these goals must be substantially uncertain at the time the Committee actually established the goal. The performance goal must state an objective formula or standard used to compute the grant payable to the participant if the goal is attained and the Committee may not retain any discretion to later increase the amount payable upon attainment of the performance goals. Under the Amended 2006 Plan, such performance goals must relate to one or more of the following for the Company: revenue; earnings (including earnings before interest, taxes, depreciation, and amortization, earnings before interest and taxes, and earnings before or after taxes); operating income; net income; funds from operations ("FFO"), profit margins; earnings per share; FFO per share, return on assets; return on equity; return on invested capital; economic value-added; stock price; gross dollar volume; total shareholder return; market

share; book value; expense management; cash flow; and customer satisfaction. The Committee may provide for the making of equitable adjustments to established performance goals in recognition of unusual or non-recurring events for the following qualifying objective items: asset impairments; acquisition-related charges; accruals for restructuring and/or reorganization program charges; merger integration costs; merger transaction costs; any profit or loss attributable to the business operations of any entity or entities acquired during the period of service to which the performance goal relates; tax settlements; extraordinary, unusual in nature, infrequent in occurrence, or other non-recurring items as described in Accounting Principles Board Opinion No. 30; any extraordinary, unusual in nature, infrequent in occurrence, or other non-recurring items (not otherwise listed) in management's discussion and analysis of financial condition and results of operations, selected financial data, financial statements and/or in the footnotes each as appearing in the annual report to stockholders; unrealized gains or losses on investments; charges related to derivative transactions contemplated by Statement of Financial Accounting Standards No. 133; and compensation charges related to FAS 123(R). The Committee must certify in writing prior to payout that the performance goals and any other material terms were in fact satisfied. For awards other than stock options and SARs to constitute qualified performance-based compensation, the maximum number of shares of stock which may be granted to any one participant per year is 500,000 shares. In addition, during any fiscal year, the maximum cash payment that may be made under the Amended 2006 Plan for performance-based compensation purposes under Code Section 162(m) to any employee is $250,000.

Transferability of Awards

Except as provided below, no award under the Amended 2006 Plan may be transferred by a participant other than by will or the laws of descent and distribution, and awards may be exercised during the participant's lifetime only by the participant.

Termination

The Amended 2006 Plan will terminate on July 12, 2016, the tenth anniversary of the date it was originally approved by stockholders, and no award will be granted under the Amended 2006 Plan after that date.

Plan Amendments

The Amended 2006 Plan may be amended by the Board, provided that no amendment may adversely affect a participant with respect to awards previously made without the written consent of the participant holding such awards or unless the amendments are made to comply with applicable laws, stock exchange rules or accounting rules. The Board may condition any amendment on the approval of the stockholders if such approval is necessary or deemed advisable with respect to the applicable listing or other requirements of a national securities exchange or other applicable laws, policies or regulations.

Tax Consequences

The following is a general summary of certain U.S. federal income tax consequences of the grant, exercise and/or vesting of awards under the Amended 2006 Plan and is intended to reflect the current provisions of the Code, the regulations thereunder and any other relevant authorities. Any such Code provision, regulation or authority may change in the future, possibly with retroactive effect. This summary is not intended to be a complete statement of applicable U.S. federal income tax law, nor does it address any tax considerations other than U.S. federal income tax considerations, such as foreign, state, local or payroll tax considerations. Moreover, the U.S. federal income tax consequences to any particular participant may differ from those described herein by reason of, among other things, the particular circumstances of such participant. Each participant should consult his or her own tax adviser regarding the tax consequences arising from such participant’s individual circumstances.

In general, an optionee will not recognize income at the time a NQSO is granted. At the time of exercise, the optionee will recognize ordinary income in an amount equal to the difference between the option price paid for the shares and the fair market value of the shares on the date of exercise. At the time of sale of shares acquired pursuant to the exercise of a NQSO, any appreciation (or depreciation) in the value of the shares after the date of exercise generally will be treated as capital gain (or loss).

An optionee generally will not recognize income upon the grant or exercise of an ISO. If shares issued to an optionee upon the exercise of an ISO are not disposed of in a disqualifying disposition within two years after the date of grant

or within one year after the transfer of the shares to the optionee, then upon the sale of the shares any amount realized in excess of the option price generally will be taxed to the optionee as long-term capital gain and any loss sustained will be a long-term capital loss. If shares acquired upon the exercise of an ISO are disposed of prior to the expiration of either holding period described above, the optionee generally will recognize ordinary income in the year of disposition in an amount equal to any excess of the fair market value of the shares at the time of exercise (or, if less, the amount realized on the disposition of the shares) over the option price paid for the shares. Any further gain (or loss) realized by the optionee generally will be taxed as short-term or long-term capital gain (or loss) depending on the holding period.

Subject to certain exceptions for death or disability, if an optionee exercises an ISO more than three months after termination of employment, the exercise of the option will be taxed as the exercise of a NQSO. In addition, if an optionee is subject to federal “alternative minimum tax,” the exercise of an ISO will be treated essentially the same as a NQSO for purposes of the alternative minimum tax.

A participant who is granted a stock appreciation right generally recognizes no income upon grant of the stock appreciation right. At the time of exercise, however, the participant will recognize as ordinary income the amount received in exchange for the exercise, which is generally the excess of the fair market value of our common stock less the base price for the stock appreciation right.

A recipient of restricted stock generally will be subject to tax at ordinary income rates on the fair market value of the restricted stock (reduced by any amount paid by the recipient) at such time as the shares are no longer subject to a risk of forfeiture or restrictions on transfer for purposes of Code Section 83. However, a recipient who makes an election under Code Section 83(b) within 30 days of the date of transfer of the restricted stock will recognize ordinary income on the date of transfer of the shares equal to the excess of the fair market value of the restricted stock (determined without regard to the risk of forfeiture or restrictions on transfer) over any purchase price paid for the shares. If a Section 83(b) election has not been made, any dividends received with respect to restricted stock that are subject at that time to a risk of forfeiture or restrictions on transfer generally will be treated as compensation that is taxable as ordinary income to the recipient.

A recipient of Restricted Stock Units generally will not recognize income until shares are transferred to the recipient at the end of the deferral period and are no longer subject to a substantial risk of forfeiture or restrictions on transfer for purposes of Code Section 83. At that time, the participant will recognize ordinary income equal to the fair market value of the shares, reduced by any amount paid by the recipient.

A participant generally will not recognize income upon the grant of Performance Units or Performance Shares. Upon settlement of Performance Units or Performance Shares, the participant generally will recognize as ordinary income an amount equal to the amount of cash received and/or the fair market value of any unrestricted stock received.

The tax consequences of other awards will depend on the specific terms of such awards.

To the extent that a participant recognizes ordinary income in the circumstances described above, the Company or subsidiary for which the participant performs services will be entitled to a corresponding deduction, provided however, that such deduction may be subject to limitation under certain provisions of the Code, including but not limited to Code Sections 280G, 162(a), and 162(m).

The Amended 2006 Plan is not qualified under Section 401(a) of the Code.

New Plan Benefits

All directors, officers and employees of the Company are eligible to receive awards under the Amended 2006 Plan as well as advisors to the Company. Awards under the Amended 2006 Plan are discretionary, and we have not approved any awards, including stock options, that are conditioned on stockholder approval of the Amended 2006 Plan. Accordingly, we cannot currently determine the benefits or number of shares subject to awards, including stock options, that may be granted in the future to executive officers, directors and employees under the Amended 2006 Plan.

Plan Benefits

The following table presents certain information with respect to options and SARs granted under the Amended 2006 Plan as of December 18, 2013, the Record Date for the Special Meeting, to (i) persons listed as our named executive officers in our proxy statement for the 2013 Annual Meeting of Stockholders, (ii) each of our current executive

officers, (iii) each of our current directors, (iv) all current executive officers as a group, (v) all current non-employee directors as a group, and (vi) all current employees, excluding non-executive officers, as a group. On December 18, 2013, the last reported sales price of our common stock was $0.45.

Amended 2006 Plan

Name and Position(s)	**Dollar value ($)[1]**	Number of Shares Subject to Stock Options	Number of Shares Subject to Stock Appreciation Rights
Paul Kinnon, President, Chief Executive Officer and Director[2]	939,225	2,300,000	1,000,000
Mark P. Colonnese, Executive Vice President and Chief Financial Officer	442,004	450,000	660,000
Craig J. Tuttle, Former President and Chief Executive Officer[3]	595,240	933,333	—
Brett L. Frevert, Former Chief Financial Officer[4]	—	—	—
Chad M. Richards, Former Chief Commercial Officer[5]	—	—	—
Doit L. Koppler II, Director	64,312	90,000	—
Rodney S. Markin, M.D., Ph.D., Director	70,716	105,000	—
Robert M. Patzig, Director	64,312	90,000	—
Antonius P. Schuh, Ph.D., Director	62,756	95,000	—
Current Executive Officer Group	1,381,229	2,750,000	1,660,000
Non-Employee Director Group	262,096	380,000	—
Non-Executive Officer Employee Group	871,425	3,346,335	—

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(1) The amounts in this column reflect the aggregate grant date fair value of the awards computed in accordance with Financial Accounting Standards Board Accounting Standards Codification No. 718 ("***ASC 718***"). These amounts reflect our accounting expense for these awards, and do not correspond to the actual value that will be recognized by the recipients. Assumptions used in the calculation of these amounts are included in the notes to our audited financial statements for the year ended December 31, 2012 and in our discussion of Stock-Based Compensation in our Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the year ended December 31, 2012.

(2) Mr. Kinnon was appointed to the Board and appointed our President and Chief Executive Officer on September 30, 2013.

(3) Mr. Tuttle's service as our President and Chief Executive Officer terminated on September 27, 2013. Mr. Tuttle resigned from the Board on September 30, 2013.

(4) Effective June 3, 2012, Mr. Frevert's service as our Chief Financial Officer terminated.

(5) Mr. Richards resigned as our Chief Commercial Officer effective May 10, 2013.

Since its inception, no shares have been issued to any associate of any director, nominee or executive officer under the Amended 2006 Plan. No person has been issued five percent or more of the total amount of shares issued under the Amended 2006 Plan.

Equity Compensation Plan Information

The following equity compensation plan information summarizes plans and securities approved and not approved by security holders as of December 31, 2012.

PLAN CATEGORY	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders [1]	4,353,167	$ 1.05	4,763,064
Equity compensation plans not approved by security holders	—	—	—
Total	4,353,167	$ 1.05	4,763,064

(1) Consists of the 2006 Equity Incentive Plan.

Vote Required

The affirmative vote of a majority of the votes cast at the Special Meeting by the holders of (i) our common stock and Series A Preferred Stock, voting together as a single class on an as-converted to common stock basis, and (ii) our Series A Preferred Stock, voting as a separate class, is required to approve the amendment to the 2006 Plan to increase the number of shares of common stock that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan.

Approval of Proposal Two regarding the amendments to the 2006 Plan is conditioned upon the approval by our stockholders, and the effectiveness, of the reverse stock split as contemplated by Proposal One.

The Board of Directors recommends that you vote "FOR" Proposal Two.

SUBMISSION OF STOCKHOLDER PROPOSALS

Pursuant to our Bylaws, stockholder proposals submitted for presentation at our 2014 annual meeting of stockholders, including nominations for common stock directors, must be received by our Corporate Secretary at c/o Transgenomic, Inc., 12325 Emmet Street, Omaha, NE 68164 no later than 35 days prior to the date of our 2014 annual meeting of stockholders. If less than 35 days' notice of our 2014 annual meeting of stockholders is given, then stockholder proposals must be received by our Corporate Secretary no later than 7 days after the mailing date of the notice of our 2014 annual meeting of stockholders. Any stockholder nomination for a Common Stock Director must set forth the name, age, address and principal occupation of the person nominated, the number of shares of our common stock owned by the nominee and the nominating stockholder and other information required to be disclosed about the nominee under federal proxy solicitation rules.

In order to be included in our proxy statement relating to our 2014 annual meeting of stockholders, stockholder proposals must be submitted in writing by December 27, 2013 to our Corporate Secretary at c/o Transgenomic, Inc., 12325 Emmet Street, Omaha, NE 68164. The inclusion of any such proposal in our proxy materials will be subject to the requirements of the proxy rules adopted under the Exchange Act.

IMPORTANT NOTICE REGARDING DELIVERY OF STOCKHOLDER DOCUMENTS

We are sending only one Proxy Statement to "street name" stockholders who share a single address unless we received contrary instructions from any stockholder at that address. This practice, known as "householding," is designed to reduce our printing and postage costs. However, if a stockholder is residing at such an address and wishes to receive a separate proxy statement in the future, such stockholder may request them by calling our Corporate Secretary at (402) 452-5400, or by submitting a request in writing to our Corporate Secretary, c/o Transgenomic, Inc., 12325 Emmet Street, Omaha, NE 68164. If a stockholder is receiving multiple copies of our proxy statement, such stockholder can request householding by contacting the Corporate Secretary in the same manner described above. In addition, we will promptly deliver, upon written or oral request to the address or telephone number above, a separate copy of the Proxy Statement to a stockholder at a shared address to which a single copy of the documents was delivered.

OTHER MATTERS

Management does not currently intend to bring any matter before the Special Meeting other than those disclosed in the Notice of Special Meeting of Stockholders, and it does not know of any business which persons, other than the management, intend to present at the meeting. The enclosed proxy for the Special Meeting confers discretionary authority on the Board to vote on any matter proposed by stockholders for consideration at the Special Meeting.

We will bear the cost of soliciting proxies for the Special Meeting. To the extent necessary, proxies may be solicited by our directors, officers and employees, but these persons will not receive any additional compensation for such solicitation. We will reimburse brokerage firms, banks and other custodians, nominees and fiduciaries for reasonable expenses incurred by them in sending proxy materials to the beneficial owners of our common stock. In addition to solicitation by mail, we will supply banks, brokers, dealers and other custodian nominees and fiduciaries with proxy materials to enable them to send a copy of such materials by mail to each beneficial owner of our common stock that they hold of record and will, upon request, reimburse them for their reasonable expenses in so doing.

Stockholders may communicate with any director, including the Chairman of the Board and the chairman of any committee of the Board, by sending a letter to the attention of the appropriate person (which may be marked as confidential) addressed to our Corporate Secretary at our home office. All communications received by the Corporate Secretary will be forwarded to the appropriate directors. In addition, it is the policy of the Board that, whenever possible, directors attend, and be available to discuss stockholder concerns at, the meetings of our stockholders. Only Craig Tuttle, a former director, participated in our 2013 Annual Meeting.

By Order of the Board of Directors

/s/ Paul Kinnon
Paul Kinnon
President and Chief Executive Officer

Omaha, Nebraska

December 24, 2013

Appendix A

CERTIFICATE OF AMENDMENT

OF THE

THIRD AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION OF

TRANSGENOMIC, INC.

TRANSGENOMIC, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "***DGCL***"), does hereby certify:

FIRST: The name of the Corporation is **TRANSGENOMIC, INC.** (the "***Corporation***").

SECOND: The Third Amended and Restated Certificate of Incorporation of the Corporation was filed with the office of the Secretary of State of the State of Delaware on October 26, 2005 (the "***Restated Certificate***")

THIRD: This Certificate of Amendment amends certain provisions of the Restated Certificate, and has been duly adopted by the Board of Directors of the Corporation acting in accordance with the provisions of Section 242 of the DGCL, and further adopted in accordance with the provisions of Sections 211 and 242 of the DGCL by the stockholders of the Corporation.

FOURTH: a second paragraph shall be added to Article IV, Section 4.1 of the Restated Certificate, which shall read as follows:

"Effective at [___].m. on [_____], 20[__], each [_____] shares of Common Stock issued and outstanding at such time shall be combined into one (1) share of Common Stock, par value $0.01 per share (the "***Reverse Stock Split***"). No fractional share shall be issued upon the Reverse Stock Split. All shares of Common Stock (including fractions thereof) issuable upon the Reverse Stock Split to a given holder shall be aggregated for purposes of determining whether the Reverse Stock Split would result in the issuance of any fractional share. If, after the aforementioned

aggregation, the Reverse Stock Split would result in the issuance of a fraction of a share of Common Stock, the Corporation shall, in lieu of issuing any such fractional share, pay to a holder of a fractional share interest an amount in cash equal to the product obtained by multiplying (i) the closing price of the shares of Common Stock on the day immediately preceding the effective date of the Reverse Stock Split, as reported on the Over-the-Counter Bulletin Board ("OTCQB") (or, if the closing price of the Common Stock is not then reported on the OTCQB, then the fair market value of the shares of Common Stock as determined by the Board of Directors of the Corporation) by (ii) the number of shares of Common Stock held by such stockholder that would otherwise have been exchanged for such fractional share interests."

IN WITNESS WHEREOF, TRANSGENOMIC, INC. has caused this Certificate of Amendment to be signed by its [___] as of [___], 20[_____].

TRANSGENOMIC, INC.

By:
Name:
Title:

[1] Final split ratio, within a range of 1-for-4 to 1-for-25 to be determined by the Board of Directors pursuant to authority granted by stockholders, as described in the accompanying proxy statement.

Appendix B

EXHIBIT 4(b)

TRANSGENOMIC, INC.

2006 EQUITY INCENTIVE PLAN

TABLE OF CONTENTS

TRANSGENOMIC, INC.

2006 EQUITY INCENTIVE PLAN

ARTICLE I

ESTABLISHMENT AND PURPOSE

Section 1.1. ***Establishment***. Effective June 27, 1997 Transgenomic, Inc. (the "Company") established the Transgenomic, Inc. 1997 Stock Option Plan. Thereafter the Company amended the Plan from time to time. The Company hereby amends and restates the Plan, renaming it the Transgenomic, Inc. 2006 Equity Incentive Plan, effective as of the Effective Date.

Section 1.2. ***Purpose***. The Plan is intended to provide incentive to key employees, officers, directors and others expected to provide significant services to the Company to foster and promote the long-term financial success of the Company and materially increase shareholder value. The Plan is also intended to encourage proprietary interest in the Company, to encourage such key employees to remain in the employ of the Company, to attract new employees with outstanding qualifications and to afford additional incentive to others to increase their efforts in providing significant services to the Company.

ARTICLE II

DEFINITIONS

Section 2.1. ***Definitions***. The following terms shall have the following meanings when used herein, unless the context clearly indicates otherwise.

(a) "Act" means the Securities Act of 1933, as amended.

(b) "Advisor" means a person who is not an Employee of the Company but who has agreed to serve as a source of information and advice regarding scientific, technical or other matters relating to the Company's business and products.

(c) "Agreement" means a written agreement entered into between the Company and the recipient of a Grant which sets forth the terms and conditions of the Grant.

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

(e) "Cause" means, unless otherwise provided in a Participant's Agreement, (i) engaging in (A) willful or gross misconduct or (B) willful or gross neglect, (ii) repeatedly failing to adhere to the directions of superiors or the Board or the written policies and practices of the Company, (iii) the commission of a felony or a crime of moral turpitude, or any crime involving the Company, (iv) fraud, misappropriation, embezzlement or material or repeated insubordination, (v) a material breach of the Participant's employment or other contractual agreement (if any) with the Company (other than a termination of employment by the Participant), or (vi) any illegal act detrimental to the Company; all as determined in the sole discretion of the Committee.

(f) "Change in Control" means any one of the following events: (i) a dissolution or liquidation of the Company, (ii) a sale of substantially all of the assets of the Company, (iii) a merger or combination involving the Company after which the owners of Common Stock of the Company immediately prior to the merger or combination own less than 50% of the outstanding shares of common stock of the surviving corporation, or (iv) the acquisition of more than 30% of the outstanding shares of Common Stock of the Company, whether by tender offer or otherwise, by any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company. The decision of the Committee as to whether a Change in Control has occurred shall be conclusive and binding.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and any related rules, regulations and interpretations.

(h) "Committee" means the Compensation Committee of the Company as appointed by the Board in accordance with Article III hereof; provided that the Committee shall at all times consist solely of at least two persons who each qualify as a "Non-Employee Director" under Rule 16b-3(b)(3)(i) promulgated under the Exchange Act and, to the extent that relief from the limitation of Section 162(m) of the Code is sought, as an "Outside Director" under Section 1.162-27(e)(3)(i) of the Treasury Regulations.

(i) "Common Stock" means the Company's Common Stock, par value $.01, either currently existing or authorized hereafter and any other stock or security resulting from adjustment thereof as described herein, or the Common Stock of any successor to the Company which is designated for the purpose of the Plan.

(j) "Company" means Transgenomic, Inc., a Delaware corporation, and any successor or assignee corporation(s) into which the Company may be merged, changed or consolidated; any corporation for whose Securities the Securities of the Company shall be exchanged; and any assignee of or successor to substantially all of the assets of the Company.

(k) "DER" means a dividend equivalency right consisting of the right to receive, as specified by the Committee or the Board at the time of the Grant, cash in an amount equal to the dividend distributions paid on a share of Common Stock subject to an Option.

(l) "Disability" means an illness or injury of a potentially permanent nature, expected to last for a continuous period of at least 12 months, certified by a physician selected by or satisfactory to the Committee, which prevents the Participant from engaging in any occupation for wage or profit for which the Participant is reasonably fitted by training, education or experience, as determined by the Committee in its absolute and sole discretion.

(m) "Effective Date" means the date the Plan is approved by the Company's shareholders.

(n) "Eligible Persons" means officers, directors and employees of the Company, Advisors and other persons expected to provide significant services (of a type expressly approved by the Committee as covered services for these purposes) to the Company. The Committee will determine the eligibility of employees, officers, directors, Advisors and others expected to provide significant services to the Company based on, among other factors, the position and responsibilities of such individuals and the nature and value to the Company of such individual's accomplishments and potential contribution to the success of the Company, whether directly or through its subsidiaries.

(o) "Employee" means an individual, including an officer of the Company, who is employed (within the meaning of Code Section 3401 and the regulations thereunder) by the Company. An "Employee" does not include any person classified by the Company as an independent contractor even if the individual is subsequently reclassified as a common-law employee by a court, administrative agency or other adjudicatory body. The payment of director's fees by the Company is not sufficient to constitute "employment" of the director by the Company.

(p) "Exchange Act" means the Securities Exchange Act of 1934, as amended and the regulations promulgated thereunder.

(q) "Exercise Price" means the price per share of Common Stock, determined by the Board or the Committee, at which an Option or SAR may be exercised.

(r) "Fair Market Value" means the value of one share of Common Stock, determined as follows:

(i) If the Common Stock is listed on a national stock exchange, the closing sale price per share on the exchange for the last preceding date on which there was a sale of Common Stock on such exchange, as determined by the Committee.

(ii) If the Common Stock is not then listed on a national stock exchange but is traded on an over-the-counter market, the average of the closing bid and asked prices for the Common Stock in such over-the-counter market for the last preceding date on which there was a sale of Common Stock in such market, as determined by the Committee.

(iii) If neither (i) nor (ii) applies, such value as the Committee in its discretion may in good faith determine. Notwithstanding the foregoing, where the Common Stock is listed or traded, the Committee may make discretionary determinations in good faith where the Common Stock has not been traded for 10 trading days.

(s) "Grant" means an award of an Incentive Stock Option, Non-qualified Stock Option, DER, SAR, Restricted Stock, Restricted Stock Unit, Performance Unit, Performance Share, Other Award or any combination thereof to an Eligible Person.

(t) "Incentive Stock Option" means an Option of the type described in Section 422(b) of the Code awarded to an Employee.

(u) "Non-qualified Stock Option" means an Option not described in Section 422(b) of the Code awarded to an Eligible Person, the taxation of which is pursuant to Section 83 of the Code.

(v) "Option" means any option, whether an Incentive Stock Option or a Non-qualified Stock Option, to purchase shares of Common Stock at a price and for the term fixed by the Committee in accordance with Article VII of the Plan, and subject to such other limitations and restrictions in the Plan and the applicable Agreement.

(w) "Other Award" means a right granted a Participant under Section 11.3.

(x) "Participant" means any Eligible Person to whom a Grant is made, or the Successors of the Participant, as the context so requires.

(y) "Performance Period" means the period established by the Committee during which any performance goals specified by the Committee with respect to a Grant are to be measured.

(z) "Performance Share" means a right granted to a Participant under Section 11.2.

(aa) "Performance Unit" means a right granted to a Participant under Section 11.1.

(bb) "Plan" means the Company's 2006 Equity Incentive Plan, as set forth herein, and as the same may from time to time be amended.

(cc) "Purchase Price" means the Exercise Price times the number of shares of Common Stock with respect to which an Option is exercised.

(dd) "Restricted Stock" means Common Stock granted to a Participant subject to the terms and conditions established by the Committee pursuant to Article IX.

(ee) "Restricted Stock Unit" means a right granted to a Participant under Article X.

(ff) "Restriction Period" means the period of time during which restrictions established by the Committee shall apply to a Grant.

(gg) "Retirement" means, unless otherwise provided by the Committee in the Participant's Agreement, the Termination (other than for Cause) of Service of a Participant:

(i) on or after the Participant's attainment of age 65; or

(ii) as determined by the Committee in its absolute discretion pursuant to such other standard as may be adopted by the Committee.

(hh) "Stock Appreciation Right" or "SAR" means a right granted to a Participant under Article VIII.

(ii) "Subsidiary" means any corporation, partnership, or other entity at least 50% of the economic interest in the equity of which is owned by the Company or by another Subsidiary.

(jj) "Successors of the Participant" means the legal representative of the estate of a deceased Participant or the person or persons who shall acquire the right to exercise Grants or receive property or payment under a Grant by bequest or inheritance or by reason of the death of the Participant.

(kk) "Termination of Service" means the time when the employee-employer relationship or directorship, or other service relationship (sufficient to constitute service as an Eligible Person) between the Participant and the Company is terminated for any reason, with or without Cause, including but not limited to any termination by resignation, discharge, Disability, death or Retirement; provided, however, Termination of Service shall not include (i) a termination where there is a simultaneous reemployment of the Participant by the Company or other continuation of service (sufficient to constitute service as an Eligible Person) for the Company or (ii) an employee who is on military leave, sick leave or other bona fide leave of absence (to be determined in the discretion of the Committee). The Committee, in its absolute discretion, shall determine the effects of all matters and questions relating to Termination of Service, including but not limited to the question of whether any Termination of Service was for Cause and all questions of whether particular leaves of absence constitute Terminations of Employment.

ARTICLE III

ADMINISTRATION

Section 3.1. ***General.*** The Plan shall be administered by the Committee.

Section 3.2. ***Committee Meetings***. The Committee shall meet from time to time as determined by its chairman or by the Chairman or Chief Executive Officer of the Company. A majority of the members of the Committee shall constitute a quorum and the acts of a majority of the members present at any meeting of the Committee at which a quorum is present, or acts approved in writing by a majority of the entire Committee, shall be the acts of the Committee for purposes of the Plan. To the extent applicable, no member of the Committee may act as to matters under the Plan specifically relating to such member.

Section 3.3. ***Powers of the Committee***. Subject to the terms and conditions of the Plan and consistent with the Company's intention for the Committee to exercise the greatest permissible flexibility under Rule 16b-3 under the Exchange Act in awarding Grants, the Committee shall have the power:

(a) to determine from time to time the Eligible Persons who are to be awarded Grants and the nature and amount of Grants, and to generally determine the terms, provisions and conditions (which need not be identical) of Grants awarded under the Plan, not inconsistent with the terms of the Plan;

(b) to construe and interpret the Plan and Grants thereunder and to establish, amend, and revoke rules and regulations for administration of the Plan. In this connection, the Committee may correct any defect or supply any omission, or reconcile any inconsistency in the Plan, in any Agreement, or in any related agreements, in the manner and to the extent it shall deem necessary or expedient to make the Plan fully effective. All decisions and determinations by the Committee in the exercise of this power shall be final and binding upon the Company and the Participants and Grantees;

(c) to amend any outstanding Grant, subject to Sections 12.5 and 12.9 hereof, and to accelerate or extend the vesting or exercisability of any Grant, subject to Section 12.3 hereof, and to waive conditions or restrictions on any Grants, to the extent it shall deem appropriate;

(d) to cancel, with the consent of a Participant or as otherwise permitted by the Plan, outstanding Grants;

(e) to provide for the forms of Agreements to be utilized in connection with the Plan, which need not be identical for each Participant;

(f) to appoint agents as the Committee deems necessary or desirable to administer the Plan;

(g) to establish any "blackout" period the Committee in its sole discretion deems necessary or advisable;

(h) to authorize, by written resolution, one or more officers of the Company to make Grants to nonofficer Employees and to determine the terms and conditions of such Grants, provided, however, the Committee (i) shall not delegate such responsibility to any officer for Grants made to an Employee who is considered an insider, (ii) the Committee's resolution providing for such authorization sets forth the total number of Grants such officer may award and any other conditions on the officer's authority to make Grants, and (iii) the officer shall report to the Committee, as the Committee may request, information regarding the nature and scope of the Grants made pursuant to the delegated authority; and

(i) generally to exercise such powers and to perform such acts as are deemed necessary or expedient to carry out the terms of the Plan and to promote the best interests of the Company with respect to the Plan.

Section 3.4. ***Grants to Committee Members***. Notwithstanding Section 3.3, any Grant awarded under the Plan to an Eligible Person who is a member of the Committee shall be made by a majority of the directors of the Company who are not on the Committee; provided that any Grant to such person must satisfy the requirements for exemption under Rule 16b-3 under the Exchange Act and does not cause any member of the Committee to be disqualified as a Non-Employee Director under such Rule.

Section 3.5. ***Committee Decisions and Determinations***. Any determination made by the Committee pursuant to the provisions of the Plan or an Agreement shall be made in its sole discretion in the best interest of the Company, not as a fiduciary. All decisions made by the Committee pursuant to the provisions of the Plan or an Agreement shall be final and binding on all persons, including the Company and Participants. Any determination by the Committee shall not be subject to de novo review if challenged in any court or legal forum.

ARTICLE IV

ELIGIBILITY AND PARTICIPATION

Section 4.1. ***Eligibility***. Any Eligible Person may receive Grants under the Plan.

Section 4.2. ***Participation***. Whether an Eligible Person receives a Grant under the Plan will be determined by the Committee, in its sole discretion, as provided in Section 3.3. To receive a Grant, an Eligible Person must enter into an Agreement evidencing the Grant.

ARTICLE V

SHARES SUBJECT TO PLAN

Section 5.1. ***Common Stock***. Subject to adjustments pursuant to Section 5.4, Grants with respect to an aggregate of not more than 20,000,000 shares of Common Stock may be made under the Plan; provided, however, that no more than an aggregate of 15,000,000 of such shares may be used for Grants for Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares and Other Awards. Shares hereunder may consist, in whole or in part, of authorized and unissued shares or treasury shares or shares purchased by the Company on the open market. The

certificates for Common Stock issued hereunder may include any legend which the Committee deems appropriate to reflect any restrictions on transfer hereunder or under the Agreement, or as the Committee may otherwise deem appropriate.

Section 5.2. ***Previously Granted Shares***. Subject to Sections 5.1 and 5.3, the Committee has full authority to determine the number of shares of Common Stock available for Grants; provided, however, that the full number of Stock Appreciation Rights granted that are settled by the issuance of shares of Common Stock shall be counted against the number of shares of Common Stock available for award under the Plan, regardless of the number of shares of Common Stock actually issued upon settlement of such Stock Appreciation Rights. In its discretion, the Committee may include as available for distribution all of the following:

(a) Common Stock subject to a Grant that has been forfeited;

(b) Common Stock under a Grant that otherwise terminates, expires or lapses without issuance of Common Stock being made to a Participant; and

(c) Common Stock subject to any Grant that settles in cash.

Section 5.3. ***Incentive Stock Option Restriction***. Solely for purposes of determining whether shares are available for the issuance of Incentive Stock Options, and notwithstanding any provision of this Article V to the contrary, the maximum aggregate number of shares that may be issued through Incentive Stock Options under the Plan is 20,000,000. The terms of Section 5.2 apply in determining the number of shares available under this Section for issuance through Incentive Stock Options.

Section 5.4. ***Adjustments***. In the event that the outstanding shares of Common Stock hereafter are changed into or exchanged for a different number or kind of shares or other securities of the Company or of another corporation by reason of merger, consolidation, reorganization, recapitalization, reclassification, combination of shares, stock split-up, or stock dividend, or in the event that there should be any other stock splits, stock dividends or other relevant changes in capitalization occurring after the effective date of this Plan:

(a) The maximum aggregate number and kind of shares that may be issued for Grants hereunder may be adjusted appropriately; and

(b) Rights under outstanding Grants made to Eligible Persons hereunder, both as to the number and kind of subject shares and the Exercise Price, may be adjusted appropriately.

The Committee, in its sole discretion, may also make appropriate adjustments in the terms of any Grants under this Plan to reflect or related to such changes or distributions and to modify any other terms of outstanding Grants, including modifications of performance goals and changes in the length of Performance Periods. The determination of the Committee as to the foregoing adjustments, if any, shall be conclusive and binding on the Participants under this Plan.

Notwithstanding anything else herein to the contrary, without affecting the number of shares of Common Stock reserved or available hereunder, the Committee may authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock, or reorganization upon such terms and conditions as it may deem appropriate (including, but not limited to, a conversion of equity awards in Grants under this Plan in a manner consistent with paragraph 53 of FASB Interpretation No. 44), subject to compliance with the rules under Code Sections 422 and 424, as and where applicable.

The foregoing adjustments and the manner of application of the foregoing provisions to Grants shall be determined solely by the Committee on a case-by-case basis, applied to similarly situation groups or in any other manner as it deems in its sole discretion. Any adjustment hereunder may provide for the elimination of fractional share interests.

Section 5.5. ***Code Section 409A Limitation***. Any adjustment made pursuant to Section 5.4 to any Grant that is considered "deferred compensation" within the meaning of Section 409A of the Code shall be made in compliance with the requirements of Code Section 409A. Any adjustments made pursuant to Section 5.4 to any Grant that is not considered "deferred compensation" shall be made in a manner to ensure that after such adjustment, the Grant either continues not to be subject to Code Section 409A or complies with the requirements of Code Section 409A.

ARTICLE VI

GRANTS IN GENERAL

Section 6.1. ***Agreement***. Each Grant hereunder shall be evidenced by a written Agreement as of the date of the Grant and executed by the Company and the Eligible Person. Each Agreement shall set forth the terms and conditions as may be determined by the Committee consistent with the Plan. The Agreement shall state the number of shares of Common Stock to which the Grant pertains and may provide for adjustment in accordance with Section 5.4. As applicable, each Agreement must state the Exercise Price or other consideration to be paid for any Grant.

Section 6.2. ***Time of Granting of an Award***. The award date of a Grant shall, for all purposes, be the date on which the Committee makes the determination awarding such Grant, or such other date as is determined by the Board. Notice of the determination of a Grant shall be given to each Eligible Person to whom a Grant is awarded within a reasonable period of time after the date of such Grant.

Section 6.3. ***Term and Nontransferability of Grants***. No Grant is exercisable except by the Participant or a Successor of the Participant permitted by the Plan. No Grant is assignable or transferable except by will or the laws of descent and distribution of the state wherein the Participant was domiciled at the time of his or her death; provided, however, that the Committee may permit other transfers where the Committee concludes that such transferability (i) does not result in accelerated taxation, (ii) does not cause any Option intended to be an Incentive Stock Option to fail to be described in Code Section 422(b), (iii) is in no event a transfer for value, and (iv) is otherwise appropriate and desirable.

Section 6.4. ***Termination of Service as Applied to Options and SARs***. Unless otherwise provided in the applicable Agreement or as determined by the Committee, Options and SARs shall be governed by the following provisions:

(a) ***Termination of Service, Except by Death, Retirement or Disability***. Unless Section 6.4(b) applies, upon any Termination of Service, a Participant shall have the right, subject to the restrictions of Section 7.5, to exercise his or her Options or SARs at any time within three months after Termination of Service, but only to the extent that, at the date of Termination of Service, the Participant's right to exercise such Options or SARs had accrued pursuant to the terms of the Agreement(s) and had not previously been exercised; provided, however, that, unless otherwise provided in the Agreement(s), if there occurs a Termination of Service for Cause or a Termination of Service by the Participant (other than on account of death, Retirement or Disability), any Option or SAR not exercised in full prior to such Termination of Service shall be canceled.

(b) ***Death, Disability or Retirement of Participant.*** Notwithstanding Section 6.4(a), if the Participant dies while an Eligible Person or within three months after any Termination of Service other than for Cause or a Termination of Service by the Participant (other than on account of death, Retirement or Disability) or becomes disabled or retires while an Employee, the Participant's Options or SARs may be exercised, subject to the restrictions of Section 7.5, at any time within 12 months after the Participant's death, Disability or Retirement, but only to the extent that, at the date of death, Disability or Retirement, the Participant's right to exercise such Options or SARs had accrued and had not been forfeited pursuant to the terms of the Agreement and had not previously been exercised. Any Option or SAR not vested as of the date of a Participant's death, Disability or Retirement shall immediately vest upon the occurrence of the applicable event; provided, however, that the Participant continuously served as an Employee, director or Advisor for at least three years, or such shorter period as the Committee may prescribe.

(c) ***DERs***. DERs granted in connection with any Option shall be cancelled at the time the related Option terminates or expires.

Section 6.5. ***Termination of Service as Applied to Grants Other Than Options and SARs***. Unless otherwise provided in the applicable Agreement or as determined by the Committee, Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares and Other Awards shall be governed by the following provisions:

(a) ***Termination of Service, Except by Death, Retirement or Disability***. Unless Section 6.5(b) applies, in the event of a Participant's Termination of Service, the Participant's Grants of Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares and Other Awards shall be forfeited upon the Participant's Termination of Service.

(b) ***Death, Retirement or Disability of Participant***. Notwithstanding Section 6.5(a), Restricted Stock, Restricted Stock Units and Other Awards shall fully vest on a Participant's Termination of Service by reason of the Participant's death, Retirement or Disability, provided that the Participant continuously served as an Employee, director or Advisor for at least three years or such shorter period as the Committee may prescribe. Performance Units and Performance Shares or any award tied to performance may be paid out at a target level and paid or distributed at the same time payments are made to other Participants who did not incur such a Termination of Service as determined by the Committee, provided that the Participant continuously served as an Employee, director or Advisor for at least three years, or such shorter period as the Committee may prescribe.

Section 6.6. ***Dividends and Distributions***. Participants awarded Grants of Restricted Stock, Restricted Stock Units, Performance Shares or Performance Units may, if the Committee so determines, be credited with dividends paid with respect to the underlying shares or dividend equivalents while the Grants are held in a manner determined by the Committee in its sole discretion. The Committee may apply any restrictions to the dividends or dividend equivalents that the Committee deems appropriate. The Committee, in its sole discretion, may determine the form of payment of dividends or dividend equivalents, including in the form of cash, Common Stock, Restricted Stock, Restricted Stock Units, Performance Shares, Performance Units or Other Awards.

Section 6.7. ***Participation***. There is no guarantee that any Eligible Person will receive a Grant under the Plan or, having received a Grant, that the Participant will receive a future Grant on similar terms or at all. There is no obligation for uniformity of treatment of Eligible Persons with respect to who receives a Grant or the terms and conditions of Participants' Grants.

Section 6.8. ***Section 83(b) Election***. The Committee may prohibit a Participant from making an election under Section 83(b) of the Code. If the Committee has not prohibited such election, and if the Participant elects to include in such

Participant's gross income in the year of transfer the amounts specified in Section 83(b) of the Code, the Participant shall notify the Company of such election within ten (10) days of filing notice of the election with the Internal Revenue Service, and will provide the required withholding pursuant to Section 12.8, in addition to any filing and notification required pursuant to regulations issued under the authority of Section 83(b) of the Code.

ARTICLE VII

STOCK OPTIONS

Section 7.1. ***Grants***. The Committee may grant Options in accordance with this Article. Options may be awarded alone or in combination with other Grants. The Exercise Price for any Option shall not be less than the Fair Market Value on the date of Grant. Each Agreement for an Option shall state whether such Option is an Incentive Stock Option or a Non-qualified Stock Option. No Incentive Stock Options may be granted to an Eligible Person who is not an Employee of the Company.

Section 7.2. ***Exercise of Options***.

(a) Options may be exercised in whole or part at any time within the period permitted for the exercise thereof, and shall be exercised by written notice of intent to exercise the Option delivered to the Secretary of the Company at its principal executive offices.

(b) Except as may otherwise be provided below, the Purchase Price for each Option granted to an Eligible Person shall be payable in full in United States dollars upon the exercise of the Option. In the event the Company determines that it is required to withhold taxes as a result of the exercise of an Option, as a condition to the exercise thereof, an Employee may be required to make arrangements satisfactory to the Company to enable it to satisfy such withholding requirements in accordance with Section 12.8 hereof. If the applicable Agreement so provides, and the Committee otherwise so permits, the Purchase Price may be paid in one or a combination of the following:

(i) by a certified or bank cashier’s check;

(ii) by the surrender of shares of Common Stock in good form for transfer, owned by the person exercising the Option and having a Fair Market Value on the date of exercise equal to the Purchase Price, or in any combination of cash and shares of Common Stock, as long as the sum of the cash so paid and the Fair Market Value of the shares of Common Stock so surrendered equals the Purchase Price;

(iii) by cancellation of indebtedness owed by the Company to the Participant; or

(iv) by any combination of such methods of payment or any other method acceptable to the Committee in its discretion.

Except in the case of Options exercised by certified or bank cashier's check, the Committee may impose limitations and prohibitions on the exercise of Options as it deems appropriate, including, without limitation, any limitation or prohibition designed to avoid accounting consequences which may result from the use of Common Stock as payment upon exercise of an Option. Any fractional shares of Common Stock resulting from a Participant's election that are accepted by the Company shall in the discretion of the Committee be paid in cash.

Section 7.3. ***Term***. The period during which any Option may be exercised shall not exceed ten (10) years from the Grant Date. No Option shall be exercisable until such time as set forth in the applicable Agreement (but in no event after the expiration of such Option).

Section 7.4. ***Replacement Options***. The Committee may grant a replacement option to any Employee who exercises all or a part of an Option granted under this Plan using qualifying stock as payment for the exercise price (a "Replacement Option"). A Replacement Option gives the Employee the right to purchase, at a price not less than the Fair Market Value of the Company Stock as of the date of the grant of the Replacement Option, the number of shares of Common Stock equal to the sum of the number of whole shares (a) used by the Employee in payment of the Exercise Price for the Option which the Participant exercised and (b) used by the Employee in connection with applicable withholding taxes on such transaction. A Replacement Option may not be exercised for six months following the date of its grant and shall expire on the same date as the Option which it replaces. For this purpose, "qualifying stock" means Common Stock owned by the Participant for at least six months preceding the exercise of the Option that has not been used in a stock-for-stock swap transaction within the preceding six months.

Section 7.5. ***Special Rules For Incentive Stock Options***.

(a) ***Aggregate Fair Market Value***. In the case of Incentive Stock Options granted hereunder, the aggregate Fair Market Value (determined as of the date of the Grant thereof) of the Common Stock with respect to which Incentive Stock Options become exercisable by any Participant for the first time during any calendar year (under the Plan and all other plans maintained by the Company, its parent or Subsidiaries) shall not exceed $100,000.

(b) ***Rules Applicable to Certain Owners***. In the case of an individual described in Section 422(b)(6) of the Code (relating to certain 10% owners), the Exercise Price with respect to an Incentive Stock Option shall not be less than 110% of the Fair Market Value of a share of Common Stock on the day the Option is granted, and the term of an Incentive Stock Option shall be no more than five years from the date of grant.

(c) ***Disqualifying Disposition***. If shares of Common Stock acquired upon exercise of an Incentive Stock Option are disposed of in a disqualifying disposition within the meaning of Section 422 of the Code by a Participant prior to the expiration of either two years from the date of grant of such Option or one year from the transfer of such shares to the Participant pursuant to the exercise of such Option, or in any other disqualifying disposition within the meaning of Section 422 of the Code, such Participant shall notify the Company in writing as soon as practicable thereafter of the date and terms of such disposition and, if the Company thereupon has a tax-withholding obligation, shall pay to the Company an amount equal to any withholding tax the Company is required to pay as a result of the disqualifying disposition.

ARTICLE VIII

STOCK APPRECIATION RIGHTS

Section 8.1. ***General.*** The Committee shall have authority to grant Stock Appreciation Rights ("SARs") under the Plan at any time or from time to time. A SAR shall entitle the Participant to receive Common Stock or cash upon exercise of the SAR equal in value to the excess of the Fair Market Value per share of Common Stock over the exercise price per share of Common Stock specified in the related Agreement, multiplied by the number of shares in respect of which the SAR is exercised, less any amount retained to cover tax withholdings, if necessary. The Fair Market Value per share of Common Stock shall be determined as of the date of exercise of such SAR. Settlement of a SAR shall be subject to the Participant's satisfaction in full of any conditions, restrictions or limitations imposed in accordance with the Plan or any Agreement including, without limitation, payment of the Exercise Price. SARs may be awarded alone or in addition to other Grants made under the Plan.

Section 8.2. ***Required Terms and Conditions***. SARs shall be subject to the following terms and conditions and to such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee deems desirable.

(a) ***Price***. The grant price of a SAR may not be less than 100% of the Fair Market Value per share of Common Stock on the date of grant, and the exercise price of a SAR may not be less than 100% of the Fair Market Value per share of Common Stock on the date of exercise.

(b) ***Term and Exercisability***. The term and exercisability of a SAR shall be no longer than ten (10) years after the Grant Date. The Committee may provide in a SAR Agreement or thereafter for an accelerated exercise of all or part of a SAR upon such events or standards that it may determine, including one or more performance measures.

(c) ***Method of Exercise***. A Participant shall exercise a SAR by giving written notice of exercise to the Company specifying in whole shares the portion of the SAR to be exercised and if the Participant has more than one Grant of SARS which could be exercised, designating the particular Grant to be exercised.

(d) ***No Deferral Features***. To the extent necessary to comply with Code Section 409A, the SAR Agreement shall not include any features allowing the Participant to defer recognition of income past the date of exercise.

Section 8.3. ***Standard Terms and Conditions***. Unless the Committee specifies otherwise in the SAR Agreement, the terms set forth in this Section 8.3 shall apply to all SARs granted under the Plan. An SAR Agreement that incorporates the terms of the Plan by reference shall be deemed to have incorporated the terms set forth in this Section.

(a) ***Term***. The standard term of a SAR shall be ten (10) years beginning on the Grant Date.

(b) ***Exercisability***. The standard rate at which a SAR shall be exercisable shall be 34 percent of the Grant on the first anniversary of the Grant Date and 33 percent of the Grant on the second and third anniversaries of the Grant Date.

ARTICLE IX

RESTRICTED STOCK

Section 9.1. ***General***. The Committee shall have authority to grant Restricted Stock under the Plan at any time or from time to time. The Committee shall determine the number of shares of Restricted Stock to be awarded to any Eligible Person, the Restriction Period within which such Grants may be subject to forfeiture, and any other terms and conditions of the Grants including, without limitation, providing for either grant or vesting upon the achievement of performance goals. To the extent the Company desires to avoid the deduction limit of Code Section 162(m) as applied to Restricted Stock, such Grants must comply with Section 11.4. Restricted Stock may be awarded alone or in addition to other Grants made under the Plan.

Section 9.2. ***Required Terms and Conditions***. Restricted Stock shall be subject to the following terms and conditions and to such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall deem desirable:

(a) ***Restriction Period***. No Restricted Stock shall become free of restrictions before one year after the granting of the Restricted Stock (unless the Restricted Stock is granted in lieu of or replacement of compensation that is subject to vesting restrictions, in which case the Restricted Stock may be subject to the same vesting restrictions as was the compensation).

(b) ***Delivery***. The Company shall issue the shares of Restricted Stock to each recipient who is awarded a Grant of Restricted Stock either in certificate form or in book entry form, registered in the name of the recipient, with legends or notations, as applicable, referring to the terms, conditions and restrictions applicable to any such Grant and record the transfer on the Company's official shareholder records; provided that the Company may require that any stock certificates evidencing Restricted Stock granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that as a condition of any Grant of Restricted Stock, the Participant shall have delivered a stock power, endorsed in blank, relating to the Common Stock covered by such Grant.

Section 9.3. ***Standard Terms and Conditions***. Unless the Committee specifies otherwise in the Restricted Stock Agreement, the terms set forth in this Section 9.3 shall apply to all Restricted Stock granted under the Plan. A Restricted Stock Agreement that incorporates the terms of the Plan by reference shall be deemed to have incorporated the terms set forth in this Section.

(a) ***Restriction Period***. The standard Restriction Period shall be three years from the Grant Date.

(b) ***Restrictions***. The standard restrictions applicable to Restricted Stock are continued service of the Participant for the Company during the Restriction Period.

(c) ***Rights***. The standard terms of a Restricted Stock Agreement shall provide that the Participant shall have, with respect to the Restricted Stock, all of the rights of a shareholder of the Company holding the class of Common Stock that is the subject of the Restricted Stock, including, if applicable, the right to vote the shares and the right to receive any cash dividends, subject to Section 6.3.

Section 9.4. ***Price***. The Committee may require a Participant to pay a stipulated purchase price for each share of Restricted Stock.

ARTICLE X

RESTRICTED STOCK UNITS

Section 10.1. ***General.*** The Committee shall have authority to grant Restricted Stock Units under the Plan at any time or from time to time. A Restricted Stock Unit Grant is denominated in Common Stock that will be settled either by delivery of Common Stock or the payment of cash based upon the Fair Market Value of a specified number of Common Stock. The Committee shall determine the number of Restricted Stock Units to be awarded to any Participant, the Restriction Period within which such Grants may be subject to forfeiture, and any other terms and conditions of the Grants including without limitation providing for either grant or vesting upon the achievement of performance goals. To the extent the Company desires to avoid the deduction limit of Code Section 162(m) as applied to Restricted Stock Units, such Grants must comply with Section 11.4. Restricted Stock Units may be awarded alone or in addition to other Grants made under the Plan.

Section 10.2. ***Required Terms and Conditions***. Restricted Stock Units shall be subject to the following terms and conditions and to such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall deem desirable:

(a) ***Restriction Period***. No Restricted Stock Unit shall become free of restrictions before one year of the granting of the Restricted Stock Unit, unless the Restricted Stock Unit is granted in lieu of other compensation that is subject to vesting restrictions, in which case the Restricted Stock Units may be subject to the same vesting restrictions as was the compensation.

(b) ***Rights***. The Committee shall be entitled to specify in a Restricted Stock Unit Agreement the extent to which and on what terms and conditions the applicable Participant shall be entitled to receive current or deferred payments corresponding to the dividends payable on the Common Stock.

Section 10.3. ***Standard Terms and Conditions***. Unless the Committee specifies otherwise in the Restricted Stock Unit Agreement, the terms set forth in this Section 10.3 shall apply to all Restricted Stock Unit granted under the Plan. A Restricted Stock Unit Agreement that incorporates the terms of the Plan by reference shall be deemed to have incorporated the terms set forth in this Section:

(a) ***Restriction Period***. The standard Restriction Period shall be three years from the Grant Date.

(b) ***Restrictions***. The standard restrictions applicable to a Restricted Stock Unit are continued service of the Participant for the Company during the Restriction Period.

(c) ***Rights***. The standard terms of the Restricted Stock Units shall provide that the Participant is entitled to receive current payments corresponding to the dividends payable on the Common Stock.

ARTICLE XI

PERFORMANCE-BASED GRANTS AND OTHER AWARDS

Section 11.1. ***Performance Units***. The Committee shall have authority to grant Performance Units under the Plan at any time or from time to time. A Performance Unit consists of the right to receive cash upon achievement of a

performance goal or goals (as the case may be) and satisfaction of such other terms and conditions as the Committee determines. The Committee shall have complete discretion to determine the number of Performance Units granted to each Participant and any applicable conditions. A Grant of Performance Units shall be earned in accordance with the Agreement over a specified period of performance, as determined by the Committee. Unless expressly waived in the Agreement, an award of Performance Units must vest solely on the attainment of one or more performance goals. Performance Units may be awarded alone or in addition to other Grants made under the Plan. The Committee, in its absolute discretion, may substitute actual shares of Common Stock for the cash payment otherwise required to be made to a Participant pursuant to a Performance Unit. To the extent the Company desires to avoid the deduction limit of Code Section 162(m) as applied to Performance Units, such Grants must comply with Section 11.4.

Section 11.2. ***Performance Shares***. The Committee shall have authority to grant Performance Shares under the Plan at any time or from time to time. A Performance Share consists of the right to receive Common Stock upon achievement of a performance goal or goals (as the case may be) and satisfaction of such other terms and conditions as the Committee determines. The Committee shall have complete discretion to determine the number of Performance Shares granted to each Participant and any applicable conditions. A Grant of Performance Shares shall be earned in accordance with the Agreement over a specified period of performance, as determined by the Committee. Unless expressly waived in the Agreement, an award of Performance Shares must vest solely on the attainment of one or more performance goals. Performance Shares may be awarded alone or in addition to other Grants made under the Plan. The Committee, in its absolute discretion, may make a cash payment equal to the Fair Market Value of the Common Stock otherwise required to be transferred to a Participant pursuant to a Performance Share. To the extent the Company desires to avoid the deduction limit of Code Section 162(m) as applied to Performance Shares, such Grants must comply with Section 11.4.

Section 11.3. ***Other Awards***. The Committee shall have authority to grant Other Awards under the Plan at any time and from time to time. An Other Award is a Grant not otherwise specifically provided for under the terms of the Plan that is valued in whole or in part by reference to, or is otherwise based upon or settled in, Common Stock. The Grant of an Other Award shall be evidenced by an Agreement, setting forth the terms and conditions of the Grant as the Committee, in its sole discretion within the terms of the Plan, deems desirable. Other Awards may be awarded alone or in addition to other Grants made under the Plan.

Section 11.4. ***Provisions Relating to Code Section 162(m)***. Except as otherwise provided in the Plan and unless expressly waived (either with respect to an individual Participant or a class of individual Participants) in writing by the Committee, it is the intent of the Company that Grants made to persons who are (or may become) Covered Employees within the meaning of Section 162(m) of the Code shall constitute "qualified performance-based compensation" satisfying the relevant requirements of Code Section 162(m) and the guidance thereunder. Accordingly, the Plan shall be administered and the provisions of the Plan shall be interpreted in a manner consistent with Code Section 162(m). If any provision of the Plan or any Agreement relating to such a Grant does not comply or is inconsistent with the requirements of Code Section 162(m), unless expressly waived as described above, such provision shall be construed or deemed amended to the extent necessary to conform to such requirements. In addition, the following provisions shall apply to the Plan or a Grant to the extent necessary to obtain a tax deduction for the Company:

(a) Awards subject to this Section must vest (or may be granted or vest) solely on the attainment of one or more objective performance goals unrelated to term of employment. Grants will also be subject to the general vesting provisions provided in the Agreement and this Plan.

(b) Prior to completion of 25% of the Performance Period or such earlier date as required under Section 162(m), the Committee must establish performance goals (in accordance with subsection (e) below) in writing (including but not limited to Committee minutes) for Covered Employees who will receive Grants that are intended as qualified performance-based compensation. The outcome of the goal must be substantially uncertain at the time the Committee

actually establishes the goal.

(c) The performance goal must state, in terms of an objective formula or standard, the method for computing the Grant payable to the Participant if the goal is attained.

(d) The terms of the objective formula or standard must prevent any discretion being exercised by the Committee to later increase the amount payable that otherwise would be due upon attainment of the goal, but may allow discretion to decrease the amount payable.

(e) The material terms of the performance goal must be disclosed to and subsequently approved in a separate vote by the stockholders before the payout is executed, unless they conform to one or any combination of the following goals/targets each determined in accordance with generally accepted accounting principles or similar objective standards (and/or each as may appear in the annual report to stockholders, Form 10K, or Form 10Q): revenue; earnings (including earnings before interest, taxes, depreciation, and amortization, earnings before interest and taxes, and earnings before or after taxes); operating income; net income; funds from operations ("FFO"), profit margins; earnings per share; FFO per share, return on assets; return on equity; return on invested capital; economic value-added; stock price; gross dollar volume; total shareholder return; market share; book value; expense management; cash flow; and customer satisfaction.

The foregoing criteria may relate to the Company, one or more of its Subsidiaries or one or more of its divisions or units, or any combination of the foregoing, and may be applied on an absolute basis and/or be relative to one or more peer group companies or indices, or any combination thereof, all as the Committee shall determine.

(f) A combination of the above performance goals may be used with a particular Agreement evidencing a Grant.

(g) The Committee in its sole discretion in setting the goals/targets in the time prescribed above may provide for the making of equitable adjustments (singularly or in combination) to the goals/targets in recognition of unusual or non-recurring events for the following qualifying objective items: asset impairments under Statement of Financial Accounting Standards No. 121, as amended or superseded; acquisition-related charges; accruals for restructuring and/or reorganization program charges; merger integration costs; merger transaction costs; any profit or loss attributable to the business operations of any entity or entities acquired during the period of service to which the performance goal relates; tax settlements; any extraordinary, unusual in nature, infrequent in occurrence, or other non-recurring items (not otherwise listed) as described in Accounting Principles Board Opinion No. 30; any extraordinary, unusual in nature, infrequent in occurrence, or other non-recurring items (not otherwise listed) in management's discussion and analysis of financial condition results of operations, selected financial data, financial statements and/or in the footnotes each as appearing in the annual report to stockholders; unrealized gains or losses on investments; charges related to derivative transactions contemplated by Statement of Financial Accounting Standards No. 133, as amended or superseded; and compensation charges related to FAS 123 (Revised) or its successor provision.

(h) The Committee must certify in writing prior to payout that the performance goals and any other material terms were in fact satisfied. In the manner required by Section 162(m) of the Code, the Committee shall, promptly after the date on which the necessary financial and other information for a particular Performance Period becomes available, certify the extent to which performance goals have been achieved with respect to any Grant intended to qualify as "performance-based compensation" under Section 162(m) of the Code. In addition, the Committee may, in its discretion, reduce or eliminate the amount of any Grant payable to any Participant, based on such factors as the Committee may deem relevant.

(i) ***Limitation on Grants***.

(i) If an Option is canceled, the canceled Option continues to be counted against the maximum number of shares for which Options may be granted to the Participant under the Plan, but not towards the total number of shares reserved and available under the Plan pursuant to Section 5.1.

(ii) During any fiscal year, the maximum number of shares of Common Stock for which Options and Stock Appreciation Rights may be granted to any Covered Employee shall not exceed 2,000,000 shares.

(iii) During any fiscal year, the maximum number of shares of Common Stock for which Restricted Stock, Restricted Stock Units, Performance Units and Other Awards may be granted to any Covered Employee shall not exceed 500,000 shares.

(iv) During any fiscal year, the maximum cash payment hereunder for performance-based compensation purposes under Code Section 162(m) to any Covered Employee shall not exceed $250,000.

(v) In the case of an outstanding Grant intended to qualify for the performance-based compensation exception under Section 162(m), the Committee shall not, without approval of a majority of the shareholders of the Company, amend the Plan or the Grant in a manner that would adversely affect the Grant's continued qualification for the performance-based exception.

ARTICLE XII

MISCELLANEOUS

Section 12.1. ***Effect of a Change in Control***. Notwithstanding any other provision of this Plan to the contrary, all unvested, unexercisable or restricted Grants shall automatically vest, become exercisable and become unrestricted and performance-based Grants shall be paid out on a pro rata basis at a target level without further action by the Board or Committee upon a Change in Control, unless provisions are made in connection with the transaction resulting in the Change in Control for the assumption of Grants theretofore awarded, or the substitution for such Grants of new grants, by the successor entity or parent thereof, with appropriate adjustment as to the number and kind of shares and the per share exercise prices, as provided in Section 5.4.

Section 12.2. ***Rights as a Shareholder***. Other than certain voting rights permitted by the Plan or an Agreement, no person shall have any rights of a shareholder as to Common Stock subject to a Grant until, after proper transfer of the Common Stock subject to a Grant or other required action, such shares have been recorded on the Company's official shareholder records as having been issued and transferred. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date such shares are recorded as issued and transferred in the company's official shareholder records.

Section 12.3. ***Modification, Extension and Renewal of Grants***.

(a) ***Ability***. Within the limitations of the Plan, the Committee may modify, extend or renew outstanding Grants or accept the cancellation of outstanding Grants (to the extent not previously exercised) to make new Grants in substitution therefor, unless such modification, extension or renewal would not satisfy any applicable requirements of Rule 16b-3 of the Exchange Act; provided, however, no such action shall result in an adjustment to the performance goals of any Grant intended to avoid the deduction limit of Code Section 162(m) if the action results in such Grant not being deductible or increases the amount of compensation otherwise payable to a Participant. The foregoing notwithstanding, no modification of a Grant shall, without the consent of the Participant, alter or impair any rights or obligations under any Grant previously made.

(b) ***Code Section 409A Limitation***. Any modification, extension or renewal hereunder to any Grant that is considered "deferred compensation" within the meaning of Section 409A of the Code shall be made in compliance with the requirements of Code Section 409A. Any modification, extension or renewal hereunder to any Grant that is not considered "deferred compensation" within the meaning of Code Section 409A shall be made in a manner to ensure that after such action, the Grant either continues not to be subject to Code Section 409A or complies with the requirements of Code Section 409A.

Section 12.4. ***Term of Plan***. Grants may be made pursuant to the Plan until the expiration of ten (10) years from the Effective Date of the Plan.

Section 12.5. ***Securities Law Requirements***.

(a) ***Legality of Issuance***. The issuance of any Common Stock in connection with a Grant shall be contingent upon the following:

(i) the obligation of the Company to sell Common Stock with respect to Grants shall be subject to all applicable laws, rules and regulations, including all applicable federal and state securities laws, and the obtaining of all such approvals by governmental agencies as may be deemed necessary or appropriate by the Committee;

(ii) the Committee may make such changes to the Plan as may be necessary or appropriate to comply with the rules and regulations of any government authority or to obtain tax benefits; and

(iii) each Grant is subject to the requirement that, if at any time the Committee determines, in its discretion, that the listing, registration or qualification of Common Stock issuable pursuant to the Plan is required by any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the Grant or the issuance of Common Stock, no Grant shall be awarded or payment made or Common Stock issued, in whole or in part, unless listing, registration, qualification, consent or approval has been effected or obtained free of any conditions in a manner acceptable to the Committee.

(b) ***Restrictions on Transfer***. Regardless of whether the offering and sale of Common Stock under the Plan has been registered under the Act or has been registered or qualified under the securities laws of any state, the Company may impose restrictions on the sale, pledge or other transfer of shares of Common Stock (including the placement of appropriate legends on stock certificates) if, in the judgment of the Company and its counsel, such restrictions are necessary or desirable in order to achieve compliance with the provisions of the Act, the securities laws of any state or any other law. In the event that the sale of Common Stock under the Plan is not registered under the Act but an exemption is available which requires an investment representation or other representation, each Participant shall be required to represent that such shares of Common Stock are being acquired for investment, and not with a view to the sale or distribution thereof, and to make such other representations as are deemed necessary or appropriate by the Company and its counsel. Any determination by the Company and its counsel in connection with any of the matters set forth in this Section shall be conclusive and binding on all persons.

(c) ***Registration or Qualification of Securities***. The Company may, but shall not be obligated to, register or qualify the issuance of Grants and/or the sale of Common Stock under the Act or any other applicable law. The Company shall not be obligated to take any affirmative action in order to cause the issuance of Grants or the sale of Common Stock under the Plan to comply with any law.

(d) ***Exchange of Certificates***. If, in the opinion of the Company and its counsel, any legend placed on a stock certificate representing Common Stock sold under the Plan is no longer required, the holder of such certificate shall be entitled to exchange such certificate for a certificate representing the same number of shares of Common Stock but lacking such legend.

Section 12.6. ***Amendment of the Plan***. The Board may from time to time, with respect to any Common Stock at the time not subject to Grants, suspend or discontinue the Plan or revise or amend it in any respect whatsoever. The Board may amend the Plan as it shall deem advisable, except that no amendment may adversely affect a Participant with respect to Grants previously made without the written consent of the Participant holding such Grants or unless such amendments are in connection with compliance with applicable laws (including Code Section 409A), stock exchange rules or accounting rules; provided that the Board may not make any amendment in the Plan, including, but not limited to, the repricing, replacement or regranting through cancellation of Options or SARs, that would, if such amendment were not approved by the holders of the Common Stock, cause the Plan to fail to comply with any requirement or applicable law or regulation, unless and until the approval of the holders of such Common Stock is obtained.

Section 12.7. ***Application of Funds***. The proceeds received by the Company from the sale of Common Stock pursuant to the exercise of an Option will be used for general corporate purposes.

Section 12.8. ***Tax Withholding***. Each recipient of a Grant shall, no later than the date as of which the value of any Grant first becomes includable in the gross income of the recipient for federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any federal, state or local taxes of any kind that are required by law to be withheld with respect to such income. A Participant may elect to have such tax withholding satisfied, in whole or in part, by (i) authorizing the Company to withhold a number of shares of Common Stock to be issued pursuant to a Grant equal to the Fair Market Value as of the date withholding is effected that would satisfy the withholding amount due, (ii) transferring to the Company shares of Common Stock owned by the Participant with a Fair Market Value equal to the amount of the required withholding tax, or (iii) in the case of a Participant who is an Employee of the Company at the time such withholding is effected, withholding from the Participant's cash compensation. Notwithstanding anything contained in the Plan to the contrary, the Participant's satisfaction of any tax-withholding requirements imposed by the Committee shall be a condition precedent to the Company's obligation as may otherwise be provided hereunder to provide shares of Common Stock to the Participant, and the failure of the Participant to satisfy such requirements with respect to Grants shall cause such Grants to be forfeited. Any Participant who surrenders previously owned shares of Common Stock to satisfy withholding obligations incurred in connection with a Grant must comply with the applicable provisions of Rule 16b-3 of the Exchange Act, if applicable.

Section 12.9. ***No Repricings***. In no event shall the Company permit the repricing of Grants unless approved pursuant to a vote of the shareholders. Any repricings in contravention of this Section are void.

Section 12.10. ***Notices***. All notices under the Plan shall be in writing, and if to the Company, shall be delivered personally to the Secretary of the Company or mailed to its principal office, addressed to the attention of the Secretary; and if to a Participant or recipient of a Grant, shall be delivered personally or mailed to the Participant or recipient of a Grant at the address appearing in the records of the Company. Such addresses may be changed at any time by written notice to the other party given in accordance with this Section.

Section 12.11. ***Rights to Employment or Other Service***. Nothing in the Plan or in any Option or Grant granted pursuant to the Plan shall confer on any individual any right to continue in the employ or other service of the Company (if applicable) or interfere in any way with the right of the Company and its shareholders to terminate the individual's employment or other service at any time.

Section 12.12. ***Exculpation and Indemnification***. To the maximum extent permitted by law, the Company shall indemnify and hold harmless the members of the Board and the members of the Committee from and against any and all liabilities, costs and expenses incurred by such persons as a result of any act or omission to act in connection with the performance of such person's duties, responsibilities and obligations under the Plan, other than such liabilities, costs and expenses as may result from the gross negligence, bad faith, willful misconduct or criminal acts of such persons.

Section 12.13. ***No Fund Created***. Any and all payments hereunder to recipients of Grants hereunder shall be made from the general funds of the Company and no special or separate fund shall be established or other segregation of assets made to assure such payments, provided that bookkeeping reserves may be established in connection with the satisfaction of payment obligations hereunder. The obligations of the Company under the Plan are unsecured and constitute a mere promise by the Company to make benefit payments in the future, and, to the extent that any person acquires a right to receive payments under the Plan from the Company, such right shall be no greater than the right of a general unsecured creditor of the Company.

Section 12.14. ***Additional Arrangements***. Nothing contained herein precludes the Company from adopting other or additional compensation or benefit arrangements.

Section 12.15. ***Code Section 409A Savings Clause***.

(a) It is the intention of the Company that no Grant shall be "deferred compensation" subject to Section 409A of the Code, unless and to the extent that the Committee specifically determines otherwise as provided below, and the Plan and the terms and conditions of all Grants shall be interpreted accordingly.

(b) The terms and conditions governing any Grants that the Committee determines will be subject to Section 409A of the Code, including any rules for elective or mandatory deferral of the delivery of cash or Common Stock pursuant thereto and any rules regarding treatment of such Grants in the event of a Change in Control, shall be set forth in the applicable Agreement and shall comply in all respects with Section 409A of the Code.

(c) Following a Change in Control, no action shall be taken under the Plan that will cause any Grant that the Committee has previously determined is subject to Section 409A of the Code to fail to comply in any respect with Section 409A of the Code without the written consent of the Participant.

Section 12.16. ***Captions***. The use of captions in the Plan is for convenience. The captions are not intended to provide substantive rights and shall not be used in construing the terms of the Plan.

Section 12.17. ***Governing Law***. The laws of Delaware shall govern the plan, without reference to principles of conflict of laws.

Section 12.18. ***Execution***. The Company has caused the Plan to be executed in the name and on behalf of the Company by an officer of the Company thereunto duly authorized as of _____, 2014.

TRANSGENOMIC, INC., a Delaware corporation

By:
Name: Paul Kinnon
Title: President and Chief Executive Officer