
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

November 30, 2005

The Toro Company

(Exact name of registrant as specified in its charter)

Delaware

1-8649

41-0580470

(State or other jurisdiction
of incorporation)

(Commission
File Number)

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

8111 Lyndale Avenue South, Bloomington,
Minnesota

55420

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

952-888-8801

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

Stock Option Plan. On November 30, 2005, the Compensation and Human Resources Committee of the Board of Directors of the Company (the "Committee") adopted an amended Nonqualified Stock Option Agreement to be used for the award of stock options under The Toro Company 2000 Stock Option Plan, a stockholder approved plan. The Committee also granted options under this plan. A copy of the amended agreement is Exhibit 1 to this Form 8-K.

Performance Share Plan. On November 30, 2005, the Committee adopted an amended Performance Share Award Agreement to be used for awards made under The Toro Company Performance Share Plan, a stockholder approved plan. A copy of the amended agreement is Exhibit 2 to this Form 8-K.

The Committee also granted Performance Share Awards for the three year Award Term of Fiscal 2006 through 2008, approving participants, targets and performance goals. Performance goals for the new awards are based on cumulative net income plus after tax interest and cumulative average net asset turns.

Annual Management Incentive Plan II. On November 30, 2005, the Committee granted annual incentive awards for Fiscal 2006 under The Toro Company Annual Management Incentive Plan II, a stockholder approved plan. The Committee approved participants, targets and performance goals, as well as terms and conditions for payment of the awards. These awards are not set forth in written agreements.

AMIP II awards provide for a cash payment to be made based on Toro's achievement of corporate performance goals and, for division participants, additional division goals. Corporate performance goals established for Fiscal 2006 for corporate participants are based on earnings per share and average net asset turns. Division participants' awards for Fiscal 2006 are based 50% on Toro's achievement of the corporate performance goals and 50% on achievement of goals specific to each division. Division goals are based on division controllable profit contribution and division average current asset turns.

The amount of each award is based on a percentage of the participant's base salary ("a factor") for Fiscal 2006, and on Toro's and its divisions' actual level of achievement of the performance goals. The factor was set at 70% for the Chief Executive Officer and, for the other executive officers, ranges from 50% to 55%. Award payments are not made until the Committee certifies goal achievement. If a participant retires, becomes disabled or dies during the one year performance period, the amount of an award payment will be prorated based on the number of months the participant was employed through termination. In the case of a participant's leave of absence, an award payment may be reduced in proportion to the absence. If a participant terminates for any other reason, the award will be canceled. In the event of a change of control, all awards will vest and be paid in the amount of the target payout. Awards may not be transferred except upon death.

Executive Chairman of the Board Bonus. On November 30, 2005, the Committee approved a bonus for Kendrick B. Melrose for his service as Executive Chairman of the Board of Directors of Toro from March 15, 2005, the date he resigned as Toro's Chief Executive Officer, to October 31, 2005. The bonus was based on his effectiveness serving as a mentor to Toro's new Chief Executive Officer and in providing other executive support to Toro. The Committee authorized payment of \$89,063 with respect to Fiscal 2005. In addition, on November 30, 2005, the Committee approved payment to Mr. Melrose of a bonus for the first two months of Fiscal 2006 (November and December 2005), in the amount of \$23,750.

Named Executive Officer Salary Increases. The Committee also reviewed the base salaries of the executive officers. Salaries for the officers who are expected to be named in Toro's 2006 Proxy Statement as Named Executive Officers are as follows: Michael J. Hoffman, President and Chief Executive Officer, \$650,000; Stephen P. Wolfe, Vice President and Chief Financial Officer, \$363,000; Timothy A. Ford, Executive Vice President, \$346,400; Karen M. Meyer, Vice President - Administration, \$330,800; and J. Lawrence McIntyre, Vice President, Secretary and General Counsel, \$282,200. The new base salaries are effective as of November 1, 2005. Salary increases for other executive officers may also be approved during Fiscal 2006. No adjustments were made in the base salary level for Mr. Melrose, the Executive Chairman of the Board, because he is expected to retire as an officer and employee of Toro effective December 31, 2005. His base salary for November and December 2005 will continue to be based on an annual base salary of \$500,000. Salary increases are based on one or more of the following factors, as applicable: individual performance; business unit performance; assumption of new responsibilities; the Company's annual salary budget guidelines; other performance measures, such as improvements in customer service, faster product development, market share improvements, geographic expansion and productivity increases, and external market comparisons. Salary increases adopted on November 30, 2005 ranged from 2.6 to 5.5%, except that Mr. Hoffman's increase was 18.2%, reflecting his increasing responsibilities as Toro's President and Chief Executive Officer. The increases on November 30, 2005 were intended to bring Toro's base salary levels for its officers into line with a competitive market index.

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

On November 30, 2005, the Board of Directors adopted an amendment to the Toro Bylaws to revise the provision of Section 2.5 governing stockholder voting on nominees for director to the Board of Directors. Prior to the amendment, Section 2.5 stated that a plurality vote of shares present was required to elect a nominee to the Board. Following the amendment, Section 2.5 provides that if a majority of shares present are "withheld" from or are voted "against" a nominee for director in an uncontested election, that nominee is required to tender his or her resignation for consideration by the Nominating and Governance Committee. The committee is then required to evaluate the best interests of the company and its stockholders and to recommend to the Board the action to be taken with respect to the tendered resignation. A copy of the Bylaws as amended is Exhibit 3 to this Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits
Exhibit Description

1 Nonqualified Stock Option Agreement

2 Performance Share Award Agreement

3 The Toro Company Bylaws

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

The Toro Company

December 6, 2005

By: *J. Lawrence McIntyre*

Name: J. Lawrence McIntyre

Title: Vice President, Secretary and General Counsel

Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
1	Nonqualified Stock Option Agreement
2	Performance Share Award Agreement
3	The Toro Company Bylaws

NONQUALIFIED STOCK OPTION AGREEMENT
THE TORO COMPANY 2000 STOCK OPTION PLAN

Agreement dated November 30, 2005, between The Toro Company, a Delaware corporation (“Toro”), and <Name> (“you”) setting forth the terms and conditions of the grant to you of a nonqualified option to purchase < # > shares of Toro Common Stock, at an exercise price of < price> per share, under The Toro Company 2000 Stock Option Plan (“Plan”).

1. Expiration Date. This option shall expire on November 30, <year>.

2. Vesting. Except as provided in Sections 3 and 6, this option shall vest and become exercisable in full on the <vesting terms> after the date of grant.

3. Exercise. Except as provided in Section 2 or as otherwise provided in this section, you may exercise the option only while you are an employee of Toro or a parent or subsidiary of Toro and only if you have been continuously employed since the date of grant, except as follows:

(a) Disability. If you become disabled, this option will vest immediately prior to your termination of employment by reason of such disability, and you or your guardian or legal representative may exercise the option until the earlier of the date the option expires or one year after the date your employment terminates by reason of your disability.

(b) Death. If you die, this option will vest immediately, and your legal representatives, heirs or legatees may exercise the option until the earlier of the date it expires or one year after the date of your death.

(c) Retirement. If you cease to be an employee by reason of retirement as defined in this Section 3(c) on or after November 1, 2006, this option will remain outstanding for up to four years after the date of your retirement, but not later than the date the option expires, and will continue to vest under Section 2; provided, however, that if you become employed or retained to render services or assume responsibilities similar to those of the Toro position from which you retire, your option shall be canceled and shall automatically be canceled and shall automatically expire and be forfeited. For purposes of this Section 3(c) and Section 3(d), your termination of employment shall be deemed to be “retirement” if you meet both of the following conditions: (i) you terminate employment at or after age 55 and (ii) your age and the number of years of your service to Toro, when added together, equal at least 65.

(d) Termination. Except as provided otherwise in this Section 3 with respect to disability, death and retirement, if you cease to be an employee including retiring on or before October 31, 2006, you may exercise the vested portion of this option, if any, for up to three months after the date your employment terminates, but not later than the date the option expires, and any unvested portion of this option will be canceled on the date your employment terminates.

(e) Leave. Your absence on leave or other interruption in your performance of services will not be deemed a cessation or interruption of employment for purposes of the Plan, if approved by Toro’s Compensation & Human Resources Committee.

4. No Transfer. You may not transfer this option other than by will or applicable laws of descent and distribution.

5. Non-Compete. Notwithstanding any other provision of this agreement, if within one year after you terminate employment with or performance of services to Toro, including by reason of retirement, you (a) are employed or retained by, or render services to, any organization that directly or indirectly competes with or becomes competitive with Toro, or if the rendering of such services is prejudicial to or in conflict with the interests of Toro, or (b) you violate any confidentiality agreement, or agreement governing the ownership or assignment of intellectual property rights with Toro, or (c) you engage in any other conduct or act determined to be injurious, detrimental or prejudicial to any interest of Toro, Toro may cancel and rescind all options you may then hold, including this option, and shall have the right to the return of the economic value of any option you realized or obtained (measured at the date of exercise) at any time during the period beginning on the date twelve months prior to the date of termination to the date of the last exercise, provided that this provision shall not be applicable in the event of a Change of Control.

6. Change of Control. This option will vest in full if there is a Change of Control of Toro, as defined in the Plan as in effect at the date of such event, and will remain exercisable for three years following the Change of Control, but not later than the date the option expires.

7. Methods of Exercise. In order to exercise this option, you must deliver to the office of the Secretary of Toro a written notice of exercise specifying the number of whole shares with respect to which you wish to exercise this option, accompanied by payment in full of the exercise price for the shares to be purchased. Payment may be made in (a) cash, (b) by tendering shares of Common Stock already owned for at least six months, valued at the 4 p.m. Eastern Time closing price on the date of exercise (or if a holiday, the most recent closing price), (c) in a combination of cash and Common Stock, or (d) by tendering a notice of exercise of options and irrevocable instructions to a brokerage firm and Toro to execute a cashless exercise in accordance with the terms of the Plan.

8. General Restriction. If at any time the Board of Directors determines that the listing, registration or qualification of the Common Stock subject to the option on any securities exchange or under any state or federal law, or the consent or approval of any government regulatory body, is necessary or desirable as a condition of, or in connection with, the issue or purchase of Common

Stock under this option, this option may not be exercised unless such listing, registration, qualification, consent or approval has been obtained free of conditions not acceptable to the Board.

9. Tax Withholding. Toro has the right to deduct from any settlement made upon exercise of the option or the sale of shares of Common Stock acquired upon exercise of the option, any federal, state or local taxes of any kind required by law to be withheld with respect to income recognized or to require you to pay the amount of any such taxes or to take such other action as may be necessary in the opinion of the Company to satisfy all obligations for payment of such taxes. If Common Stock is withheld or surrendered to satisfy tax withholding, such stock will be valued at its fair market value as of the date it is withheld or surrendered. Toro may also deduct from any such settlement any amounts you may owe the Company.

10. Governing Law. This Agreement shall be construed, administered and governed in all respects under and by the applicable laws of the State of Delaware, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation to the substantive law of another jurisdiction.

11. Conflict. To the extent the terms of this agreement are inconsistent with the Plan, the provisions of the Plan shall control and supersede any inconsistent provision of this agreement.

12. Non-negotiable Terms. The terms of this option are not negotiable, but you may refuse to accept this option by notifying Toro's Corporate Secretary in writing.

IN WITNESS WHEREOF, this option agreement has been executed and delivered by The Toro Company.

November 30, 2005 By:
President and Chief Executive Officer

I hereby agree to the terms and conditions governing this option grant as set forth in this agreement, acknowledge that I have received electronically a copy of the Prospectus relating to the Toro Common Stock and agree to accept electronic delivery of the Prospectus, Toro's Annual Report on Form 10-K and Quarterly Report on Form 10-Q and Current Reports on Form 8-K by email directed to my Toro email address.

Note: If you do not wish to accept this option on the terms stated in this agreement, please contact Toro's Corporate Secretary immediately to decline the grant.

<Name>

THE TORO COMPANY
PERFORMANCE SHARE AWARD AGREEMENT

This Agreement is entered into as of November 30, 2005, by and between (“Employee” or “you”) and The Toro Company, a Delaware corporation (“Toro” or “we”), to set forth the terms and conditions of a Performance Share Award granted to you by the Compensation and Human Resources Committee of the Board of Directors of Toro (the “Committee”) pursuant to The Toro Company Performance Share Plan (the “Plan”).

1. Performance Share Award. Toro hereby grants you Performance Shares (your “Maximum Potential Payout”) for Fiscal Years 2006 to 2008 (the “Award Term”), subject to the terms and conditions of this Agreement and of the Plan and to your consent to those terms and conditions.

a. Performance Share Definition. A Performance Share is a right to receive one share of Toro Common Stock, par value \$1.00 per share, and Preferred Share Purchase Rights attached thereto, (the “Common Stock”), contingent on the achievement of Performance Goals.

b. Performance Goal Achievement Required. You will receive shares of Common Stock for Performance Shares under this Performance Share Award only if Toro achieves Performance Goals for the Award Term established by the Committee and the Committee certifies in writing that the Performance Goals have been achieved. If the Performance Goals are not achieved, a portion or all of your Performance Shares will be canceled and you will receive no Common Stock for canceled shares.

c. Performance Goals. The Performance Goals to be achieved with respect to the Award Term are cumulative net income plus after-tax interest of \$< ___ > and cumulative average net asset turns of < ___ > (the “Target Levels”).

2. Number of Shares Delivered. If the Performance Goals are achieved at the Target Levels, you will receive shares of Common Stock (your “Target Payout”). If the Performance Goals are achieved at levels above or below the Target Levels, the number of shares of Common Stock you will receive will be increased or reduced, including to zero, in accordance with the matrix set forth in Exhibit ___, which is attached to and forms a part of this Agreement, subject further to adjustment and proration as provided in the Plan and the Committee’s resolutions of November 30, 2005. You may not receive a greater number of shares of Common Stock than your Maximum Potential Payout.

3. Payment of Awards. Performance Shares payable to you will be paid solely in shares of Common Stock.

4. Vesting and Cancellation Under Special Circumstances.

a. Death or Disability. If you retire at or after age 65 or die or become permanently disabled and unable to work, shares of Common Stock will be delivered with respect to your Performance Share Award only if otherwise earned and the number of shares to be delivered will be prorated based on the number of days you were employed during the Award Term through the date of such event. Such shares will be delivered only after the conclusion of the Award Term.

b. Retirement. If prior to the end of the Award Term, you cease to be an employee by reason of retirement at age 55 or older and with at least 10 years of service to Toro, but after the conclusion of not less than 33% of the Award Term, the Committee may, in its sole discretion and subject to the provisions of paragraph 3.e.(ii) and paragraph 3.e.(ii)(A) of the Plan, cause shares of Common Stock to be delivered with respect to this Performance Share Award, but only if otherwise earned and only with respect to the portion of the applicable Award Term completed at the date of retirement.

i. Non-compete. If within one year after such retirement or after the shares are delivered pursuant to paragraph 3.e.(ii) of the Plan, you engage in any conduct specified in paragraph 3.e.(ii)(A) of the Plan, Toro may rescind or restrict the special vesting under paragraph 3.e.(ii) or withhold or have the right to the return of the economic value of the Performance Shares that vested under this provision of this Agreement and paragraph 3.e.(ii) of the Plan, except in the event of a Change of Control.

c. Other Termination. In the event that you terminate employment other than by reason of death, disability or retirement as provided in paragraphs 3.e.(i) and 3.e.(ii) of the Plan, Performance Shares in your name that have not yet vested shall not vest and shall be canceled.

d. Change of Control. Notwithstanding any other provision of this Agreement, all Performance Shares that have not yet vested shall vest and become immediately payable if there is a Change of Control of Toro, as defined in the Plan.

e. Scale Back. The Committee may, in its discretion, cancel a portion of the Performance Shares covered by this Agreement prior to the conclusion of the Award Term, if the Committee determines that the Performance Goals for the Award Term cannot be achieved at the maximum levels established, in accordance with paragraph 3.e.(v) of the Plan.

5. Dividends and Voting. You will have no rights as a stockholder with respect to Performance Shares unless and until

Common Stock is issued in settlement of this award. Except as expressly provided in the Plan, no adjustments will be made for dividends or other rights for which the record date is prior to issuance of the Common Stock.

6. **Non-transferability.** Neither your Performance Shares nor this Performance Share Award nor any interest in the shares or award may be anticipated, alienated, encumbered, sold, pledged, assigned, transferred or subjected to any charge or legal process, other than by will or the laws of descent and distribution, so long as the Performance Shares have not vested and shares of Common Stock have not been distributed in accordance with the Plan, and any sale, pledge, assignment or other attempted transfer shall be null and void.
7. **Successors and Heirs.** This Agreement shall be binding upon and inure to the benefit of Toro and its successors and assigns, and upon any person acquiring, whether by merger, consolidation, purchase of assets or otherwise, all or substantially all of Toro's assets and business. In the event of your death, any shares of Common Stock to which you may become entitled will be delivered to your heirs or personal representative in accordance with the terms of the Plan.
8. **Governing Law.** This Performance Share Award Agreement and the Performance Shares will be construed, administered and governed in all respects under and by the applicable laws of the State of Delaware, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this agreement, the Plan, the award or the Performance Shares to the substantive law of another jurisdiction.
9. **Tax Withholding.** Toro has the right to deduct from any award payment made under this Agreement or to require you to pay the amount of any federal, state or local taxes of any kind required by law to be withheld with respect to the grant, vesting, payment or settlement of an award under this Agreement, or to take such other action as may be necessary in the opinion of Toro to satisfy all obligations for the payment of such taxes. If Common Stock is withheld or surrendered to satisfy tax withholding, such stock will be valued at fair market value as of the date such Common Stock is withheld or surrendered. Toro may also deduct from any award payment any other amounts due by you to Toro.
10. **Miscellaneous.** Notwithstanding anything in this Agreement to the contrary, the terms of this Agreement shall be subject to the terms of the Plan. In accordance with the Plan, all decisions of the Committee shall be final and binding upon you and Toro.

IN WITNESS WHEREOF, this Performance Share Award Agreement has been executed and delivered by Toro on the terms and conditions set forth above.

THE TORO COMPANY

By:____
Its: President and CEO

I hereby agree to the terms and conditions of this Performance Share Award Agreement as a condition to the grant made to me.

—

Employee

**BYLAWS
OF
THE TORO COMPANY
(A Delaware Corporation)**

**ARTICLE I
Offices, Corporate Seal, and Records**

Section 1.1 The registered office of the Corporation shall be established and maintained in the City of Dover, in the County of Kent, in the State of Delaware, and the Corporation may have other offices, either within or without the State of Delaware, at such place or places as the Board of Directors may from time to time determine. Unless otherwise determined by the Board of Directors, the principal executive office of the Corporation shall be at 8111 Lyndale Avenue South, in the City of Bloomington, County of Hennepin, State of Minnesota.

Section 1.2 The Corporation may have a corporate seal in such form as determined by the Board of Directors, which may be altered at its pleasure, and the seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 1.3 The Corporation shall at all times keep at its principal executive office, or at such other place or places as the Board of Directors may determine, a share register giving the names and addresses of the stockholders, the number and classes of shares held by each, and the dates on which the certificates therefor were issued, or, in the case of uncertificated shares, the date the electronic entry evidencing the ownership of the shares was made in the Company's records.

Section 1.4 The Corporation shall at all times keep at its principal executive office the following records:

- (a) The original or copies of records of all proceedings of stockholders and directors, of its Bylaws and all amendments thereto, and of reports made to stockholders or any of them within the next preceding three years;
- (b) A statement of names and usual business addresses of its directors and principal officers;
- (c) Appropriate financial statements.

Section 1.5 Subject to law and any order of the Court of Chancery, any stockholder of record shall have the right to inspect and make copies or extracts therefrom, upon proper written demand under oath stating the purpose thereof, in person or by attorney or other agent, at any reasonable time or times, for any proper purpose, and at the principal executive offices of the corporation, the stock ledger, a list of stockholders, and other books and records, required financial statements, and the records of the proceedings of the stockholders and directors.

ARTICLE II

Meeting of Stockholders

Section 2.1 All meetings of the stockholders shall be held at such place within or without the State of Delaware as may be designated by the Board of Directors in the notice of the meeting.

Section 2.2 The Regular Meetings of the stockholders, if any, shall be held on the day or date and at the time and place as the Board of Directors may fix from time to time in its discretion, for the election of directors and the transaction of such other business as may come before the meeting; provided, however, that any previously scheduled regular meeting of the stockholders may be postponed by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such regular meeting of the stockholders; and provided, further, that no business with respect to which special notice is required by law shall be transacted at a regular meeting unless such notice shall have been given.

Section 2.3 Special meetings of the stockholders for any purpose or purposes may be called only by the Board of Directors, pursuant to a resolution approved by a majority of the entire Board of Directors; provided, however, that any previously scheduled special meeting of the stockholders may be postponed by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such special meeting of the stockholders. Business transacted at a special meeting shall be confined to the purposes stated in the call and notice thereof.

Section 2.4 Notice of each regular and special meeting of stockholders stating the date, time and place thereof, and the general nature of the business to be considered thereat, shall be given at least ten (10) days and not more than sixty (60) days before the date of the meeting to each stockholder entitled to vote thereat. Such notice shall be deemed delivered when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation.

Section 2.5 Each stockholder who is entitled to vote pursuant to the terms of the Certificate of Incorporation and these Bylaws, or who is entitled to vote pursuant to the laws of the State of Delaware, shall be entitled to vote in person or by proxy, but no proxy shall be voted after three years from its date unless such proxy provides for a longer period. Any nominee for director in an uncontested election as to whom a majority of the votes of the shares present in person or represented by proxy at the meeting and

entitled to vote on the election of directors are designated to be “withheld” from, or are voted “against”, that director’s election shall tender his or her resignation for consideration by the Nominating and Governance Committee. The Nominating and Governance Committee shall evaluate the best interests of the Corporation and its stockholders and shall recommend to the Board the action to be taken with respect to such tendered resignation. All other questions shall be decided by the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on such question.

A complete list of the stockholders entitled to vote at any meeting of stockholders at which directors are to be elected, arranged in alphabetical order, with the address of each, and the number of shares held by each, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including without limitation as officers, employees, agents of representatives of the Corporation, to act at the meeting and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate inspector has been appointed to act or is able to act at a meeting of stockholders, the Chair of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by law.

The Chair of the meeting shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at the meeting.

Section 2.6 Except as otherwise required by law, by the Certificate of Incorporation or by these Bylaws, the presence, in person or by proxy, of stockholders holding a majority of the voting power of the outstanding stock of the Corporation shall constitute a quorum at all meetings of the stockholders. The Chair of any regular or special meeting of the stockholders or a majority in interest of the stockholders entitled to vote thereat shall have the power to adjourn such meeting from time to time, without notice other than announcement at the meeting, whether or not there is such a quorum. No notice of the time and place of adjourned meetings need be given except as required by law; provided, however, that if such adjournment is for more than thirty (30) days, or if after such adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such adjourned meeting. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted which might have been transacted at the meeting as originally noticed; but only those stockholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof unless the Board of Directors shall have fixed a new record date for such adjournment or adjournments pursuant to Section 2.7 of these Bylaws.

The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.7 In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect to any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be less than ten nor more than sixty days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment or adjournments of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 2.8 (A) (1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at a regular meeting of stockholders (a) pursuant to the Corporation’s notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this Bylaw, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Bylaw.

(2) For nominations or other business to be properly brought before a regular meeting by a stockholder pursuant to clause (c) of paragraph (A) (1) of this Bylaw, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder’s notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than forty-five (45) days nor more than ninety (90) days prior to the first anniversary of the date on which the Corporation first mailed its proxy materials for the preceding year’s regular meeting; provided, however, that in the event that the date of the regular meeting is advanced by more than thirty (30) days or delayed by more than sixty (60) days from the anniversary date of the preceding year’s regular meeting, notice by the stockholder to be timely must be so delivered not earlier than the 90th day prior to such rescheduled regular meeting and not later than the close of business on the later of the 60th day prior to such rescheduled regular meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Such stockholder’s notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) (including such person’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and

any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner.

(3) Notwithstanding anything in paragraph (A) (2) of this Bylaw, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Corporation at least seventy (70) days prior to the first anniversary of the preceding year's regular meeting, a stockholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(B) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Bylaw, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Bylaw. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (A) (2) at the principal executive offices of the Corporation not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 60th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by; the Board of Directors to be elected at such meeting.

(C) (1) Only such persons who are nominated in accordance with the procedures set forth in this Bylaw shall be eligible to serve as directors and only such business shall be conducted at a regular meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Bylaw and, if any proposed nomination or business is not in compliance with this Bylaw, to declare that such defective proposal shall be disregarded. The Chair of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Bylaw and, if any proposed nomination or business is not in compliance with this Bylaw, to declare that such defective proposal shall be disregarded.

(2) Notwithstanding the foregoing provisions of this Bylaw, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bylaw. Nothing in this Bylaw shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(3) For purposes of this Bylaw, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

ARTICLE III **Directors**

Section 3.1 The business and affairs of the Corporation shall be managed under the direction of a Board of Directors which, subject to any right of the holders of any series of Preferred Stock then outstanding to elect additional directors under specified circumstances, shall consist of not less than eight (8) nor more than twelve (12) persons. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board pursuant to a resolution adopted by a majority of its members. The directors shall be divided into three classes, as nearly equal in number as possible, with the term of office of Class A to expire at the 1984 Annual Meeting of Stockholders, the term of office of Class B to expire at the 1985 Annual Meeting of Stockholders and the term of office of Class C to expire at the 1986 Annual Meeting of Stockholders. At each Annual Meeting of Stockholders following such initial classification and election, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding Annual Meeting of Stockholders after their election.

Section 3.2 Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled only by majority vote of the directors then in office, and directors so chosen shall hold office for a term expiring at the Annual Meeting of Stockholders at which the term of the Class to which they have been elected expires. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 80% of the voting power of the then outstanding Common Stock of the Company.

Section 3.3 Regular meetings of the Board shall be held at bi-monthly intervals during each fiscal year, or on such alternate intervals or dates as the Board may fix from time to time in its discretion, and at such time and place as the Chairman of the Board of Directors or, in his absence, the President shall determine, preferably at the principal executive office of the Corporation during

the third week of the month. At least three (3) days' notice thereof shall be given by the Secretary to each director, either personally or by telephone, mail, electronic mail or facsimile transmission.

Section 3.4 Special meetings of the Board may be called by the Chief Executive Officer or by any two directors, and not less than twenty-four (24) hours' notice thereof shall be given by the Secretary to any director, either personally or by telephone, mail, telegram or facsimile transmission.

Section 3.5 Any action taken by the Board or any committee thereof at any meeting where all members are present shall be valid whether or not notice of such meeting was in fact given, except as provided by law. Any action which might be taken at a meeting of the Board, or at a meeting of any committee thereof as the case may be, may be taken without meeting as provided by law.

Section 3.6 At all meetings of the Board a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, but if less than a quorum are present, those present may adjourn the meeting from time to time until a quorum shall be present.

Section 3.7 The Board may unanimously elect from among the directors an Executive Committee, a Compensation and Human Resources Committee, an Audit Committee, and a Nominating and Governance Committee, and such other committees as the Board may from time to time determine, to serve at the pleasure of the Board. The members of the Board of Directors and of said Committees shall have the role of monitoring the conduct of the business and affairs of the corporation on behalf of all of the constituencies of the Corporation, including in particular, those who invest in the stock of the Corporation, in an environment of loyal but independent oversight. Each Committee shall maintain independent minutes of action, and with the exception of the Audit Committee, and resolutions of the Compensation and Human Resources Committee relating to matters governed by or within the scope of Section 16 of the Securities and Exchange Act of 1934 or Section 162(m) of the Internal Revenue Code of 1986, or its successor provision, such minutes shall be subject to approval by the Board.

Section 3.8 The Executive Committee shall consist of a minimum of three directors of the Corporation, including the Chairman of the Board of Directors, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Executive Committee shall preside at all meetings of the Executive Committee and shall perform such other duties as may be prescribed by the Board of Directors. The underlying purpose of the Executive Committee is to exercise all of the powers and authority of the Board during intervals between meetings of the Board, including the power to declare dividends on the Corporation's common stock. The Committee shall have discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.9 The Audit Committee shall consist of a minimum of three directors of the Corporation, none of whom shall be officers or employees of the Corporation, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Audit Committee shall preside at all meetings of the Audit Committee and shall perform such other duties as may be prescribed by the Board of Directors. The purpose of the Audit Committee is to assist the Board of Directors in fulfilling the Board's responsibility to oversee the Corporation's financial reports and accounting and reporting practices and to perform its duties and responsibilities as outlined in the Audit Committee Charter. The manager of the Corporation's internal auditing function, when operative, shall have an indirect reporting relationship to the Audit Committee, and shall perform such duties as may be prescribed by the Board of Directors or by the Audit Committee. The Committee shall have discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.10 The Compensation and Human Resources Committee shall consist of a minimum of three directors of the Corporation, none of whom shall be officers or employees of the Corporation, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Compensation and Human Resources Committee shall preside at all meetings of the Compensation and Human Resources Committee and shall perform such other duties as may be prescribed by the Board of Directors. The purposes of the Compensation and Human Resources Committee include: to administer all employee benefit plans heretofore or hereafter established including the granting of stock options and incentive awards authorized under employee benefit plans governed by or within the scope of Section 16 of the Securities and Exchange Act of 1934 or Section 162(m) of the Internal Revenue Code of 1986, or its successor provision; to study and analyze specific and general matters of management compensation; to periodically review management compensation policies and practices; to make recommendations to the Board respecting incentive compensation awards; and to consider and approve officer salary adjustments of elected officers of the Corporation at the level of Vice President and above.

Section 3.11 The Nominating and Governance Committee shall consist of a minimum of three directors of the Corporation who do not have any direct or indirect material economic or personal association with the Corporation, or with any of its affiliates or the employees thereof. One of the members of the Committee shall be designated as its Chair by the Board of Directors. The Chair of the Nominating and Governance Committee shall preside at all meetings of the Nominating and Governance Committee and shall perform such other duties as may be prescribed by the Board of Directors. The primary functions of the Nominating and Governance Committee are to review with the Chief Executive Officer of the Corporation an appropriate size and makeup for the Board of Directors, including individuals having such background and business experience as are consistent with and compatible to the long-range interests and future direction of the Corporation; to consider the qualifications of persons identified as prospective Directors to either fill vacancies on the Board or enlarge its membership; to conduct research to identify and recommend nomination of suitable candidates who are willing to serve as members of the Board of Directors and who will make a substantial contribution to the Corporation based upon a careful review of their experience, background, interests, ability and availability to meet time commitments for board and committee responsibilities; and to determine whether any prospective or seated member of the Board has any economic or familial relationship with the Corporation which may negate his/her suitability for such service and to name a lead director to oversee the non-management executive sessions of the Board and to serve as an ongoing liaison between

the directors and the employees. The Committee shall also monitor current members of the Board in light of the same guidelines used to select candidates, shall direct the activities of the Board and management in matters of corporate governance, and shall have general discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.12 Meetings of each committee shall be held from time to time as the Chair of such committee, the Chairman of the Board of Directors, or any two members of such committee shall determine, preferably at the principal executive office of the Corporation. All members of each committee shall be given written notice of any meeting by the Secretary, such notice to be mailed to each member at least three (3) days prior to the date thereof; provided, however, such written notice shall not be required as to any member who shall receive notice in person at least twenty-four (24) hours prior to the time of the meeting. Any member may in writing, before or after any meeting, waive notice thereof, and any member by his attendance at, and participation in, the action taken at any meeting shall be deemed to have waived notice thereof. A majority of the members of a committee shall constitute a quorum. Any action which might be taken at a meeting of a committee may be taken without meeting if evidenced by a resolution signed by all members. The Chair of each Board committee shall preside at all meetings of such committee and shall perform such other duties as may be prescribed by the Board of Directors or the Chairman thereof.

Section 3.13 All action taken by the Board committees shall be reported to the Board of Directors at its meeting next succeeding such action and shall be subject to revision by the Board of Directors provided that no acts or rights of third parties shall be prejudiced thereby. All such action shall also be recorded in the minute books of the Corporation in the same manner in which action taken by the Board of Directors is recorded. The affirmative vote of the majority of all members of each committee shall be necessary to its adoption of any resolution.

ARTICLE IV

Officers

Section 4.1 The officers of this Corporation shall be elected by the Board from time to time as it deems appropriate, and shall include a Chairman of the Board of Directors, who shall serve as Chief Executive Officer, to be elected by the Board of Directors from among its members, a president, and one or more vice presidents one of whom shall perform the duties of the Chief Financial Officer, a secretary, a treasurer, and such other officers, including one or more group vice presidents or one or more executive vice presidents, and agents as may from time to time be elected by the Board of Directors. Any two offices except those of the President and Vice President may be held by the same person. All officers shall hold office at the pleasure of the Board of Directors and be subject to dismissal by it, with or without cause.

Section 4.2 The salary and other compensation of the Chairman of the Board, the President and all elected Vice Presidents shall be fixed by the Board of Directors. If any vacancy shall occur among the elected officers, it shall be filled by the Board.

Section 4.3 The Chairman of the Board of Directors, or in his absence the Chair of the Compensation and Human Resources Committee, shall preside at all meetings of the Board of Directors. The Chairman of the Board has authority to appoint certain officers of the Company, including vice presidents and certain assistant officers whose responsibilities do not warrant election by the Board of Directors, and shall also perform such other duties as may be prescribed by the Board of Directors.

Section 4.4 The President shall be Chief Operating Officer of the Corporation and, as such, shall carry out the plans for the Corporation as approved by the Chairman of the Board and the Board of Directors. In the absence of the Chairman of the Board of Directors, he shall preside at all meetings of the stockholders and otherwise perform the Chief Executive Officer's duties as prescribed by the Board of Directors.

Section 4.5 Each Vice President shall perform such duties as may be prescribed by the Board of Directors. The Vice President of Finance shall be the Chief Financial Officer. In the absence or disability of the Chairman of the Board, the President shall succeed to his powers and duties, and in the absence of the President, the Chief Financial Officer shall first succeed to his powers and duties, then the Executive or Group Vice Presidents in order of seniority and in the event all are unable to serve for any reason, the Vice Presidents shall succeed to their power and duties in the order in which elected.

Section 4.6 The Secretary shall attend all meetings of the Board of Directors, Executive Committee, and of the stockholders, and record all votes and keep minutes of all proceedings. He shall give, or cause to be given, required notices of meetings of the Board of Directors, Executive Committee and of the stockholders. He shall keep in safe custody the seal of the Corporation and, when authorized by the Board, affix the same to any instrument requiring it, and shall perform such other duties as may be prescribed by the Board of Directors.

Section 4.7 The Treasurer shall maintain necessary relationships with banks and other financial institutions and provide for adequate lines of credit; shall plan for and maintain adequate funds in appropriate working and depository accounts to meeting outstanding and planned commitments; and shall be responsible for safe custody and control of all funds and securities of the Corporation. He shall establish policies and procedures in relation to, and supervise management of, the extension of credit, and the collection of receivables. He shall maintain appropriate bond and dividend records, provide for proper signature or endorsement on all financial documents of the Corporation, and shall perform such other duties as may be prescribed by the President.

Section 4.8 The assistant to any officer shall, in the absence or disability of that officer, perform his duties and shall perform such other duties as may be prescribed by the Board of Directors.