TOTAL SA
Form POSASR
November 03, 2011
Table of Contents

As filed with the Securities and Exchange Commission on November 3, 2011

Registration Nos. 333-159335, 333-159335-01, 333-159335-02 and 333-159335-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 2 TO

FORM F-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

TOTAL S.A.

(Exact Name of Registrant as Specified in Its Charter)

Republic of France

(State or Other Jurisdiction of Incorporation or Organization)

Not Applicable

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

2, place Jean Millier

La Défense 6

92400 Courbevoie

France

011-331-4744-4546

(Address and Telephone Number of Registrant s Principal Executive Offices)

TOTAL CAPITAL **(Exact Name of Registrant as Specified in Its Charter)**	**TOTAL CAPITAL CANADA LTD.** **(Exact Name of Registrant as Specified in Its Charter)**	**TOTAL CAPITAL INTERNATIONAL** **(Exact Name of Registrant as Specified in Its Charter)**
Republic of France **(State or Other Jurisdiction of Incorporation or Organization)**	**Alberta, Canada** **(State or Other Jurisdiction of Incorporation or Organization)**	**Republic of France** **(State or Other Jurisdiction of Incorporation or Organization)**
Not Applicable **(I.R.S. Employer Identification No.)**	**Not Applicable** **(I.R.S. Employer Identification No.)**	**Not Applicable** **(I.R.S. Employer Identification No.)**
2, place Jean Millier **La Défense 6** **92400 Courbevoie** **France** **011-331-4744-4546**	**2900, 240 4 Avenue SW** **Calgary, Alberta T2P 4H4** **Canada** **+1 403 571 7599**	**2, place Jean Millier** **La Défense 6** **92400 Courbevoie** **France** **011-331-4744-4546**
(Address and Telephone Number of Registrant s Principal Executive Offices)	**(Address and Telephone Number of the Registrant s Principal Executive Offices)**	**(Address and Telephone Number of Registrant s Principal Executive Offices)**

Corporation Service Company

1180 Avenue of the Americas, Suite 210,

New York, NY 10036

(212) 299-5600

(Name, Address and Telephone Number of Agent for Service)

Table of Contents

Please send copies of all communications to:

Jonathan E. Marsh
Group U.S. Counsel
TOTAL S.A.
2, place Jean Millier
La Défense 6
92078 Paris La Défense Cedex
France
011-331-4744-4546

Krystian Czerniecki
Sullivan & Cromwell LLP
24, rue Jean Goujon
75008 Paris
France
011-331-7304-1000

Andrew A. Bernstein
Cleary Gottlieb Steen & Hamilton LLP
12, rue de Tilsitt

75008 Paris

France

011-331-4074-6800

Jérôme Schmitt
Group Treasurer
TOTAL S.A.
2, place Jean Millier
La Défense 6
92078 Paris La Défense Cedex
France
011-331-4744-4546

Approximate date of commencement of proposed sale to the public: From time to time after the effectiveness of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ¨

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, please check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a registration statement pursuant to General Instruction I.C. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. x

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.C. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. x

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered/ Proposed Maximum Offering Price/Amount of Registration Fee
(Guaranteed) Debt Securities	(1)

(1) An indeterminate aggregate initial offering price or number of securities of each identified class is being registered as may from time to time be issued at indeterminate prices. Separate consideration may not be received for registered securities that are issuable on conversion or exchange of other securities. In accordance with Rules 456(b) and 457(r) under the Securities Act, the Registrants are deferring payment of all of the registration fee.

EXPLANATORY NOTE

This Post-Effective Amendment No. 2 relates to the Automatic Shelf Registration Statement on Form F-3 (File Nos. 333-159335, 333-159335-01 and 333-159335-02) of Total S.A., Total Capital and Total Capital Canada Ltd. pertaining to (guaranteed) debt securities, which was filed with the Securities and Exchange Commission and became effective on May 19, 2009. It is being filed with the Securities and Exchange Commission in order to add Total Capital International as an additional registrant to the Registration Statement, make the necessary changes to the base prospectus and file the required exhibits.

Table of Contents

PROSPECTUS

TOTAL S.A.

TOTAL CAPITAL

(A wholly-owned subsidiary of TOTAL S.A.)

FULLY AND UNCONDITIONALLY GUARANTEED

by

TOTAL S.A.

TOTAL CAPITAL CANADA LTD.

(A wholly-owned subsidiary of TOTAL S.A.)

FULLY AND UNCONDITIONALLY GUARANTEED

by

TOTAL S.A.

TOTAL CAPITAL INTERNATIONAL

(A wholly-owned subsidiary of TOTAL S.A.)

FULLY AND UNCONDITIONALLY GUARANTEED

by

TOTAL S.A.

(GUARANTEED) DEBT SECURITIES

TOTAL S.A., Total Capital, Total Capital Canada Ltd. or Total Capital International may use this prospectus from time to time to offer debt securities. Debt securities offered by Total Capital, Total Capital Canada Ltd. and/or Total Capital International using this prospectus will be fully and unconditionally guaranteed by TOTAL S.A., and are referred to as guaranteed debt securities in this prospectus.

You should read this prospectus and the accompanying prospectus supplement carefully before you invest. We may sell these securities to or through underwriters, and also to other purchasers or through agents. The names of the underwriters will be set forth in the accompanying prospectus supplement.

Investing in these securities involves certain risks. See Risk Factors beginning on page 5.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities, or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

Prospectus dated November 2, 2011.

Table of Contents

TABLE OF CONTENTS

Table of Contents

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the U.S. Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf process, we may sell the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time TOTAL S.A., Total Capital, Total Capital Canada Ltd. or Total Capital International sells securities, we will provide a prospectus supplement that will contain specific information about the terms of those securities and their offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading Where You Can Find More Information About Us .

In this prospectus, the terms we , our and us refer to TOTAL S.A. or, in connection with an offering by Total Capital, both TOTAL S.A. and Total Capital or, in connection with an offering by Total Capital Canada Ltd., both TOTAL S.A. and Total Capital Canada Ltd. or, in connection with an offering by Total Capital International, both TOTAL S.A. and Total Capital International, TOTAL refers to TOTAL S.A., the Total Group refers to TOTAL and its subsidiaries, Total Capital refers to Total Capital, Total Canada refers to Total Capital Canada Ltd. and Total Capital International refers to Total Capital International. Any debt securities of Total Capital, Total Canada or Total Capital International which are offered using this prospectus will be fully and unconditionally guaranteed by TOTAL, and are referred to as guaranteed debt securities.

ENFORCEABILITY OF CERTAIN CIVIL LIABILITIES

TOTAL, Total Capital and Total Capital International are *sociétés anonymes* incorporated under the laws of France. Total Canada is a corporation incorporated under the laws of Alberta, Canada. Many of our directors and officers, and some of the experts named in this document, reside outside the United States, principally in France and Canada. In addition, although we have assets in the United States, a large portion of our assets and the assets of our directors and officers is located outside of the United States. As a result, although we have appointed Corporation Service Company, 1180 Avenue of the Americas, Suite 210, New York, NY 10036 as agent for service of process under the registration statement to which this prospectus relates, U.S. investors may find it difficult in a lawsuit based on the civil liability provisions of the U.S. federal securities laws:

- to effect service within the United States upon us or our directors and officers located outside the United States;
- to enforce in U.S. courts or outside the United States judgments obtained against us or those persons in the U.S. courts;
- to enforce in U.S. courts judgments obtained against us or those persons in courts in jurisdictions outside the United States; and
- to enforce against us or those persons in France, Canada or in other jurisdictions outside the United States, whether in original actions or in actions for the enforcement of judgments of U.S. courts, civil liabilities based solely upon the U.S. federal securities laws.

Table of Contents

RISK FACTORS

Investing in the securities offered using this prospectus involves risk. You should consider carefully the risks described below, together with the risks described in the documents incorporated by reference into this prospectus, and any risk factors included in the prospectus supplement, before you decide to buy our securities. If any of these risks actually occurs, our business, financial condition and results of operations could suffer, and the trading price and liquidity of the securities offered using this prospectus could decline, in which case you may lose all or part of your investment.

Risks Relating to TOTAL s Business

You should read Risk Factors in TOTAL s Annual Report on Form 20-F for the year ended December 31, 2010, which is incorporated by reference in this prospectus, for information on risks relating to TOTAL s business.

Risks related to the offering and owning the debt securities

Since TOTAL is a holding company and currently conducts its operations through subsidiaries, your right to receive payments on the debt securities and the guarantee is subordinated to the other liabilities of TOTAL s subsidiaries.

TOTAL is organized as a holding company, and substantially all of its operations are carried on through subsidiaries. TOTAL s principal source of income is the dividends and distributions it receives from its subsidiaries. On an unconsolidated basis, TOTAL s obligations consisted of 35,672 million of debt as of September 30, 2011. TOTAL s ability to meet its financial obligations is dependent upon the availability of cash flows from its domestic and foreign subsidiaries and affiliated companies through dividends, intercompany advances, management fees and other payments. TOTAL s subsidiaries are not guarantors on the debt securities we may offer, with any of TOTAL, Total Capital, Total Canada or Total Capital International as issuer. Moreover, these subsidiaries and affiliated companies are not required and may not be able to pay dividends to TOTAL. Claims of the creditors of TOTAL s subsidiaries have priority as to the assets of such subsidiaries over the claims of creditors of TOTAL. Consequently, holders of TOTAL s debt securities or Total Capital s debt securities, Total Canada s debt securities or Total Capital International s debt securities, in each case, that are guaranteed by TOTAL, are in fact structurally subordinated, on TOTAL s insolvency, to the prior claims of the creditors of TOTAL s subsidiaries.

In addition, some of TOTAL s subsidiaries are subject to laws restricting the amount of dividends they may pay. For example, these laws may prohibit dividend payments when net assets would fall below subscribed share capital, when the subsidiary lacks available profits or when the subsidiary fails to meet certain capital and reserve requirements. For example, French law prohibits those subsidiaries incorporated in France from paying dividends unless these payments are made out of distributable profits. These profits consist of accumulated, realized profits, which have not been previously utilized, less accumulated, realized losses, which have not been previously written off. Other statutory and general law obligations may also affect the ability of directors of TOTAL s subsidiaries to declare dividends and the ability of our subsidiaries to make payments to us on account of intercompany loans.

Since the debt securities are unsecured, your right to receive payments may be adversely affected.

The debt securities that we are offering will be unsecured. The debt securities are not subordinated to any of our other debt obligations, and therefore they will rank equally with all our other unsecured and unsubordinated indebtedness (save for certain mandatory exceptions provided by French and Canadian law). As of September 30, 2011, TOTAL had approximately 261 million of consolidated secured indebtedness outstanding, and Total Capital, Total Canada and Total Capital International had no secured indebtedness outstanding. If any of TOTAL, Total Capital, Total Canada or Total Capital International, as issuer of the debt securities, defaults on

Table of Contents

the debt securities (or the guarantee in the case of TOTAL if it is relevant), or after bankruptcy, liquidation or reorganization, then, to the extent the relevant obligor has granted security over its assets, the assets that secure that entity s debts will be used to satisfy the obligations under that secured debt before the obligor can make payment on the debt securities or the guarantee. There may only be limited assets available to make payments on the debt securities or the guarantee in the event of an acceleration of the debt securities. If there is not enough collateral to satisfy the obligations of the secured debt, then the remaining amounts on the secured debt would share equally with all unsubordinated unsecured indebtedness (save for certain mandatory exceptions provided by French and Canadian law).

Table of Contents

FORWARD-LOOKING STATEMENTS

Some of the information contained or incorporated by reference in this prospectus and the related prospectus supplement may constitute forward-looking statements within the meaning of the safe harbor provisions of The Private Securities Litigation Reform Act of 1995. Although we have based these forward-looking statements on our expectations and projections about future events, it is possible that actual results may differ materially from our expectations. In many cases, we include a discussion of the factors that are most likely to cause forward-looking statements to differ from actual results together with the forward-looking statements themselves.

Information regarding important factors that could cause actual results to differ, perhaps materially, from those in our forward looking statements is contained under Cautionary Statement Concerning Forward-Looking Statements in our Annual Report on Form 20-F for 2010, which is incorporated in this prospectus by reference (and will be contained in any of our annual reports for a subsequent year that are so incorporated). See Where You Can Find More Information About Us below for information about how to obtain a copy of this annual report.

In light of the factors set forth in the applicable Annual Report on Form 20-F and the other factors described in this prospectus, the forward-looking events might not occur at all or may occur differently than as described. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information or future events or for any other reason.

WHERE YOU CAN FIND MORE INFORMATION ABOUT US

TOTAL files annual reports and other reports and information with the SEC. You may read and copy any document TOTAL files at the SEC s public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. In addition, TOTAL s SEC filings are available to the public at the SEC s web site at http://www.sec.gov.

TOTAL s American depositary shares are listed on the New York Stock Exchange. The principal trading market for TOTAL s shares is Euronext Paris. TOTAL s shares are also listed on Euronext Brussels and the London Stock Exchange. You can consult reports and other information about TOTAL that it files pursuant to the rules of the New York Stock Exchange at such exchange.

TOTAL has filed with the SEC a registration statement on Form F-3 relating to the securities covered by this prospectus. This prospectus is a part of the registration statement and does not contain all the information in the registration statement. Whenever a reference is made in this prospectus to a contract or other document of TOTAL, the reference is only a summary and you should refer to the exhibits that are a part of the registration statement for a copy of the contract or other document. You may review a copy of the registration statement at the SEC s public reference room in Washington, D.C., as well as through the SEC s Internet site.

The SEC allows TOTAL to incorporate by reference into this prospectus the information in documents filed with the SEC. This means that TOTAL can disclose important information to you by referring you to those documents. Each document incorporated by reference is current only as of the date of such document, and the incorporation by reference of such documents shall not create any implication that there has been no change in our affairs since the date thereof or that the information contained therein is current as of any time subsequent to its date. The information incorporated by reference is considered to be a part of this prospectus and should be read with the same care. When TOTAL updates the information contained in documents that have been incorporated by reference by making future filings with the SEC, the information incorporated by reference in this prospectus is considered to be automatically updated and superseded. In other words, in the case of a conflict or inconsistency between information contained in this prospectus and information incorporated by reference into this prospectus, you should rely on the information contained in the document that was filed later.

Table of Contents

TOTAL incorporates by reference the documents listed below and any documents TOTAL files with the SEC in the future under Section 13(a), 13(c) or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act) until the offerings made under this prospectus are completed:

the Annual Report on Form 20-F for the year ended December 31, 2010, filed with the SEC on March 28, 2011; and

the Report on Form 6-K furnished to the SEC on November 2, 2011.

Furthermore, TOTAL incorporates by reference any reports on Form 6-K furnished to the SEC by TOTAL pursuant to the Exchange Act that indicate on their cover page that they are incorporated by reference in this prospectus, both after the date of the initial registration statement, and after the date of this prospectus and before the date that any offering of the securities by means of this prospectus is terminated.

The Annual Report on Form 20-F of TOTAL for the year ended December 31, 2010 contains a summary description of TOTAL s business and audited consolidated financial statements with an auditors report by TOTAL s independent registered public accounting firms. These financial statements were prepared in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB), which we refer to herein as IFRS .

You may request a copy of these filings, other than an exhibit to a filing unless that exhibit is specifically incorporated by reference into that filing, at no cost, by writing to or telephoning TOTAL at the following address:

TOTAL S.A.

2, place Jean Millier

La Défense 6

92078 Paris La Défense Cedex

France

(011) 331 4744 4546

You should rely only on the information that we incorporate by reference or provide in this prospectus or the prospectus supplement. We have not authorized anyone to provide you with different information. We are not making an offer of these securities in any jurisdiction where the offer is not permitted. You should not assume that the information in this prospectus or the prospectus supplement is accurate as of any date other than the date on the front of those documents.

TOTAL S.A.

TOTAL was incorporated on March 28, 1924 and has a duration until March 22, 2099, unless earlier dissolved or extended to a later date. TOTAL engages in all aspects of the petroleum industry, including upstream operations (oil and gas exploration, development and production, LNG) and downstream operations (refining, marketing and the trading and shipping of crude oil and petroleum products). TOTAL also produces base chemicals (petrochemicals and fertilizers) and specialty chemicals for the industrial and consumer markets. TOTAL began its upstream operations in the Middle East in 1924. Since that time, the Company has grown and expanded its operations worldwide. Most notably, in early 1999 TOTAL acquired control of PetroFina S.A. (Petrofina or Fina) and in early 2000, TOTAL acquired control of Elf Aquitaine S.A. (Elf Aquitaine or Elf). TOTAL currently owns 100% of Elf Aquitaine shares and, since early 2002, 100% of PetroFina shares. The Total Group operated under the name TotalFina from June 1999 to March 2000, and then under the name TotalFinaElf. Since May 2003, the Total Group has been operating once again under the name TOTAL.

Table of Contents

TOTAL CAPITAL

Total Capital is a wholly-owned indirect subsidiary of TOTAL. It was incorporated as a *société anonyme* under the laws of France on December 15, 1999 under the name of DAJA 22, renamed TotalFinaElf Capital on July 17, 2000 and renamed Total Capital in May 2003. Total Capital is a financing vehicle for the Total Group and issues debt securities and commercial paper on behalf of the Total Group. Total Capital lends substantially all proceeds of its borrowings to the Total Group. TOTAL will fully and unconditionally guarantee the guaranteed debt securities issued by Total Capital as to payment of principal, premium, if any, interest and any other amounts due.

TOTAL CANADA

Total Canada is a wholly-owned subsidiary of TOTAL. It was incorporated on April 9, 2007 under the Business Corporations Act (Alberta). Total Canada is a financing vehicle for the Total Group and issues debt securities and commercial paper. Total Canada lends substantially all proceeds of its borrowings to the Total Group. TOTAL will fully and unconditionally guarantee the guaranteed debt securities issued by Total Canada as to payment of principal, premium, if any, interest and any other amounts due.

TOTAL CAPITAL INTERNATIONAL

Total Capital International is a wholly-owned subsidiary of TOTAL. It was incorporated as a *société anonyme* under the laws of France on December 13, 2004 under the name of DAJA 56 and renamed Total Capital International on May 5, 2011. Total Capital International is a financing vehicle for the Total Group and issues debt securities. Total Capital International lends substantially all proceeds of its borrowings to the Total Group. TOTAL will fully and unconditionally guarantee the guaranteed debt securities issued by Total Capital International as to payment of principal, premium, if any, interest and any other amounts due.

Table of Contents

USE OF PROCEEDS

Unless otherwise indicated in an accompanying prospectus supplement, the net proceeds from the sale of securities will be used for general corporate purposes. These purposes include working capital for TOTAL or other companies in the Total Group and the repayment of existing borrowings of TOTAL and its subsidiaries.

Table of Contents

DESCRIPTION OF DEBT SECURITIES AND GUARANTEE

General

TOTAL may issue debt securities and Total Capital, Total Canada or Total Capital International may issue guaranteed debt securities using this prospectus. As required by U.S. federal law for all bonds and notes of companies that are publicly offered, the debt securities that TOTAL may issue are governed by a contract between TOTAL and The Bank of New York Mellon, as trustee, called an indenture. In the same manner, the guaranteed debt securities that each of Total Capital, Total Canada or Total Capital International may issue are governed by another, separate indenture, in each case among the respective issuer, TOTAL and The Bank of New York Mellon, as trustee.

The trustee under the indentures has two main roles:

- first, it can enforce your rights against us if we default. There are some limitations on the extent to which the trustee acts on your behalf, described under Default and Related Matters Events of Default Remedies If an Event of Default Occurs below; and
- second, the trustee performs administrative duties for us, such as sending you interest payments, transferring your debt securities to a new buyer if you sell your debt securities and sending you notices.

Under the indenture for the guaranteed debt securities that may be issued by Total Capital, Total Canada or Total Capital International, TOTAL acts as the guarantor. For the guaranteed debt securities that Total Capital, Total Canada or Total Capital International may issue using this prospectus, TOTAL will fully and unconditionally guarantee the payment of the principal of, premium, if any, and interest on the guaranteed debt securities, including certain additional amounts which may be payable under the debt securities and the guarantee, as described under Special Situations Payment of Additional Amounts . TOTAL will guarantee the payment of such amounts when such amounts become due and payable, whether at the stated maturity of the guaranteed debt securities, by declaration or acceleration, call for redemption or otherwise.

In other respects, the guaranteed debt securities are subject to the same material provisions as the other debt securities described below.

Each indenture and its associated documents contain the full legal text governing the matters described in this section. The indentures, the debt securities and the guarantee are governed by New York law. We and the trustee have agreed to, and each holder of a debt security by its acceptance thereof agrees to, waive the right to trial by jury with respect to any legal proceeding directly or indirectly arising out of or relating to the indentures or the debt securities. A form of each indenture is an exhibit to our registration statement. See Where You Can Find More Information About Us for information on how to obtain a copy.

The trustee will not be liable for special, indirect or consequential damages and will not be liable for any failure of its obligations caused by circumstances beyond its reasonable control.

This section summarizes the material provisions of the indentures, the debt securities and, for the case of guaranteed debt securities, the guarantee. However, because it is a summary, it does not describe every aspect of the indentures, the debt securities or the guarantee. This summary is subject to and qualified in its entirety by reference to all the provisions of the indentures, including some of the terms used in the indentures. We describe the meaning for only the more important terms. We also include references in parentheses to some sections of the indentures. Whenever we refer to particular sections or defined terms of the indentures in this prospectus or in the prospectus supplement, those sections or defined terms are incorporated by reference herein or in the prospectus supplement. This summary also is subject to and qualified by reference to the description of the particular terms of your series described in the prospectus supplement.

TOTAL, Total Capital, Total Canada and Total Capital International may issue as many distinct series of debt securities under their respective indentures as we wish. This section summarizes all material terms of the

Table of Contents

debt securities that are common to all series, unless otherwise indicated in the prospectus supplement relating to a particular series. References to we and us in this section refer to either TOTAL, or in connection with an offering of guaranteed debt securities, both TOTAL and Total Capital, TOTAL and Total Canada or TOTAL and Total Capital International unless otherwise indicated.

We may issue the debt securities as original issue discount securities, which are debt securities that are offered and sold at a substantial discount to their stated principal amount. (*Section 101*) Special U.S. federal income tax, accounting and other considerations may apply to original issue discount securities. These considerations are discussed below under Tax Considerations United States Federal Income Taxation . The debt securities may also be issued as indexed securities or securities denominated in foreign currencies or currency units, as described in more detail in the prospectus supplement relating to any such debt securities.

Unless otherwise specified in a prospectus supplement, we may issue debt securities of the same series as an outstanding series of debt securities without the consent of holders of securities in the outstanding series. Any additional debt securities so issued will have the same terms as the existing debt securities of the same series in all respects (except for the first interest payment on the new series, if any), so that such additional debt securities will be consolidated and form a single series with the existing debt securities of the same series.

In addition, the specific financial, legal and other terms particular to a series of debt securities are described in the prospectus supplement and the purchase agreement relating to the series. Those terms may vary from the terms described here. Accordingly, this summary also is subject to and qualified by reference to the description of the terms of the series described in the prospectus supplement.

The prospectus supplement relating to a series of debt securities will describe the following terms of the series:

- the title of the series of debt securities;
- any limit on the aggregate principal amount of the series of debt securities;
- any stock exchange, if any, on which we list the series of debt securities;
- the date or dates on which we will pay the principal of the series of debt securities;
- the rate or rates, which may be fixed or variable, per annum at which the series of debt securities will bear interest, if any, and the date or dates from which that interest, if any, will accrue;
- the dates on which interest, if any, on the series of debt securities will be payable and the regular record dates for the interest payment dates;
- any mandatory or optional sinking funds or analogous provisions or provisions for redemption at the option of the holder;
- the date, if any, after which and the price or prices at which the series of debt securities may, in accordance with any optional or mandatory redemption provisions that are not described in this prospectus, be redeemed and the other detailed terms and provisions of those optional or mandatory redemption provisions, if any;
- the denominations in which the series of debt securities will be issuable if other than denominations of $1,000 and any integral multiple of $1,000;

the currency of payment of principal of, premium, if any, and interest on the series of debt securities if other than the currency of the United States of America and the manner of determining the equivalent amount in the currency of the United States of America, if applicable;

any index used to determine the amount of payment of principal of, premium, if any, and interest on the series of debt securities;

Table of Contents

whether we will be required to pay additional amounts for withholding taxes or other governmental charges and, if applicable, a related right to an optional tax redemption for such a series;

whether the series of debt securities will be issuable in whole or in part in the form of a global security as described under Legal Ownership Global Securities , and the depositary or its nominee with respect

to the series of debt securities, and any special circumstances under which the global security may be registered for transfer or exchange in the name of a person other than the depositary or its nominee; and

any other special features of the series of debt securities.

The debt securities will be issued only in fully registered form without interest coupons.

Legal Ownership

Street Name and Other Indirect Holders

We generally will not recognize investors who hold securities in accounts at banks or brokers as legal holders of securities. When we refer to the holders of securities, we mean only the actual legal and (if applicable) record holder of those securities. Holding securities in accounts at banks or brokers is called holding in street name. If you hold securities in street name, we will recognize only the bank or broker or the financial institution the bank or broker uses to hold its securities. These intermediary banks, brokers and other financial institutions pass along principal, interest and other payments on the securities, either because they agree to do so in their customer agreements or because they are legally required to do so. If you hold securities in street name, you should check with your own institution to find out:

how it handles securities payments and notices;

whether it imposes fees or charges;

how it would handle voting if it were ever required to vote;

whether and how you can instruct it to send you securities registered in your own name so you can be a direct holder as described below; and

how it would pursue rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests.

Direct Holders

Our obligations, as well as the obligations of the trustee and those of any third parties employed by us or the trustee, under the securities run only to persons who are registered as holders of securities. As noted above, we do not have obligations to you if you hold in street name or other indirect means, either because you choose to hold securities in that manner or because the securities are issued in the form of global securities as described below. For example, once we make payment to the registered holder, we have no further responsibility for the payment even if that holder is legally required to pass the payment along to you as a street name customer but does not do so.

Global Securities

What is a Global Security? A global security is a special type of indirectly held security, as described above under Street Name and Other Indirect Holders . If we choose to issue securities in the form of global securities, the ultimate beneficial owners can only be indirect holders.

We require that the securities included in the global security not be transferred to the name of any other direct holder unless the special circumstances described below occur. The financial institution that acts as the sole direct holder of the global security is called the depositary. Any person wishing to own a security must do so

Table of Contents

indirectly by virtue of an account with a broker, bank or other financial institution that in turn has an account with the depositary. The prospectus supplement relating to an offering of a series of securities will indicate whether the series will be issued only in the form of global securities.

Special Investor Considerations for Global Securities. As an indirect holder, an investor s rights relating to a global security will be governed by the account rules of the investor s financial institution and of the depositary, as well as general laws relating to securities transfers. We do not recognize this type of investor as a holder of securities and instead deal only with the depositary that holds the global security.

If you are an investor in securities that are issued only in the form of global securities, you should be aware that:

- You cannot get securities registered in your own name.
- You cannot receive physical certificates for your interest in the securities.
- You will be a street name holder and must look to your own bank or broker for payments on the securities and protection of your legal rights relating to the securities, as explained earlier under Street Name and Other Indirect Holders .
- You may not be able to sell interests in the securities to some insurance companies and other institutions that are required by law to own their securities in the form of physical certificates.
- The depositary s policies will govern payments, transfers, exchange and other matters relating to your interest in the global security. We and the trustee have no responsibility for any aspect of the depositary s actions or for its records of ownership interests in the global security. We and the trustee also do not supervise the depositary in any way.

Special Situations When the Global Security Will Be Terminated. In a few special situations described below, the global security will terminate and interests in it will be exchanged for physical certificates representing securities. After that exchange, the choice of whether to hold securities directly or in street name will be up to the investor. Investors must consult their own bank or brokers to find out how to have their interests in securities transferred to their own name so that they will be direct holders. The rights of street name investors and direct holders in the securities have been previously described in the subsections entitled Street Name and Other Indirect Holders and Direct Holders .

The special situations for termination of a global security are:

- When the depositary notifies us that it is unwilling, unable or no longer qualified to continue as depositary.
- When an event of default on the securities has occurred and has not been cured. Defaults on debt securities are discussed below under Description of Debt Securities and Guarantee Default and Related Matters Events of Default .
- When the issuer or guarantor notifies the trustee that the global security is exchangeable for physical certificates.

The prospectus supplement may also list additional situations for terminating a global security that would apply only to the particular series of securities covered by the prospectus supplement. When a global security terminates, the depositary, and not we or the trustee, is responsible for deciding the names of the institutions that will be the initial direct holders.

Table of Contents

In the remainder of this description of debt securities you means direct holders and not street name or other indirect holders of securities. Indirect holders should read the previous subsection entitled Street Name and Other Indirect Holders .

Overview of Remainder of This Description

The remainder of this description summarizes:

Additional mechanics relevant to the debt securities under normal circumstances, such as how you transfer ownership and where we make payments.

Your rights under several ***special situations***, such as if we merge with another company or if we want to change a term of the debt securities.

Your rights to receive ***payment of additional amounts*** due to changes in French tax withholding or deduction requirements.

Your rights if we ***default*** or experience other financial difficulties.

Our relationship with the ***trustee***.

Additional Mechanics

Exchange and Transfer

The debt securities will be issued:

only in fully registered form;

without interest coupons; and

unless otherwise indicated in the prospectus supplement, in denominations that are even multiples of $1,000.

You may have your debt securities broken into more debt securities of smaller denominations or combined into fewer debt securities of larger denominations, as long as the total principal amount is not changed. (*Section 305*) This is called an exchange.

You may exchange or transfer registered debt securities at the office of the trustee. The trustee acts as our agent for registering debt securities in the names of holders and transferring registered debt securities. We may change this appointment to another entity or perform the service ourselves. The entity performing the role of maintaining the list of registered holders is called the security registrar. It will also register transfers of the registered debt securities. (*Section 305*)

You will not be required to pay a service charge to transfer or exchange debt securities, but you may be required to pay for any tax or other governmental charge associated with the exchange or transfer. The transfer or exchange of a registered debt security will only be made if the security registrar is satisfied with your proof of ownership.

If we have designated additional transfer agents, they are named in the prospectus supplement. We may cancel the designation of any particular transfer agent. We may also approve a change in the office through which any transfer agent acts. (*Section 1002*)

If the debt securities are redeemable and we redeem less than all of the debt securities of a particular series, we may block the transfer or exchange of debt securities during a specified period of time in order to freeze the list of holders to prepare the mailing. The period begins 15 days before the day we mail the notice of redemption and ends on the day of that mailing. We may also refuse to register transfers or exchanges of debt securities selected for redemption. However, we will continue to permit transfers and exchanges of the unredeemed portion of any security being partially redeemed. (*Section 305*)

Table of Contents

Payment and Paying Agents

We will pay interest to you if you are a direct holder listed in the trustee s records at the close of business on a particular day in advance of each due date for interest, even if you no longer own the security on the interest due date. That particular day, usually about two weeks in advance of the interest due date, is called the regular record date and is stated in the prospectus supplement. (*Section 307*)

We will pay interest, principal and any other money due on the registered debt securities at the corporate trust office of the trustee in New York City. That office is currently located at The Bank of New York Mellon, 101 Barclay Street, New York, New York 10286. You must make arrangements to have your payments picked up at or wired from that office. We may also choose to pay interest by mailing checks. Interest on global securities will be paid to the holder thereof by wire transfer.

Holders buying and selling debt securities must work out between them how to compensate for the fact that we will pay all the interest for an interest period to the one who is the registered holder on the regular record date. The most common manner is to adjust the sales price of the debt securities to pro rate interest fairly between buyer and seller. This pro rated interest amount is called accrued interest.

Street name and other indirect holders should consult their banks or brokers for information on how they will receive payments.

We may also arrange for additional payment offices, and may cancel or change these offices, including our use of the trustee s corporate trust office. These offices are called paying agents. We may also choose to act as our own paying agent. We must notify you through the trustee of changes in the paying agents for any particular series of debt securities. (*Section 1002*)

Notices

We and the trustee will send notices only to direct holders, using their addresses as listed in the trustee s records. (*Section 106*)

Regardless of who acts as paying agent, all money that we pay to a paying agent that remains unclaimed at the end of two years after the amount is due to direct holders will be repaid to us. After that two-year period, you may look only to us for payment and not to the trustee, any other paying agent or anyone else. (*Section 1006*)

Special Situations

Mergers and Similar Events

We are generally permitted to consolidate or merge with another company or firm. We are also permitted to sell or lease substantially all of our assets to another corporation or other entity or to buy or lease substantially all of the assets of another corporation or other entity. In addition, we are permitted to transfer:

- the obligations of Total Capital, Total Canada and/or Total Capital International to TOTAL or any majority-owned subsidiary of TOTAL; and

- the obligations of TOTAL, as issuer of debt securities, to any majority-owned subsidiary of TOTAL, so long as the obligations of that subsidiary are guaranteed by TOTAL on the same terms as TOTAL s guarantee of Total Capital s, Total Canada s and Total Capital International s debt securities.

Solely in the case of a transfer of Total Capital s, Total Canada s or Total Capital International s obligations to TOTAL, the relevant guarantee of TOTAL will cease to exist without further action on our part.

Table of Contents

No vote by holders of debt securities approving any of these actions is required, unless as part of the transaction we make changes to the applicable indenture requiring your approval, as described below under Modification and Waiver . We may take these actions as part of a transaction involving outside third parties or as part of an internal corporate reorganization. We may take these actions even if they result in:

- a lower credit rating being assigned to the debt securities; or
- additional amounts becoming payable in respect of withholding tax.

Except as provided below, we have no obligation under the indentures to seek to avoid these results, or any other legal or financial effects that are disadvantageous to you, in connection with a merger, consolidation or sale or lease of assets that is permitted under the indentures. However, we may not take any of these actions unless all the following conditions are met:

- Where TOTAL, Total Capital, Total Canada or Total Capital International merges out of existence or sells or leases substantially all of its assets, or transfers its obligations to a substitute obligor, the other entity must be duly organized and validly existing under the laws of the relevant jurisdiction.
- The merger, sale or lease of assets or other transaction, or the transfer of obligations to a substitute obligor, must not cause a default on the debt securities, and we must not already be in default. For purposes of this no-default test, a default would include an event of default that has occurred and not been cured, as described below under Default and Related Matters Events of Default What is An Event of Default? A default for this purpose would also include any event that would be an event of default if the requirements for giving us default notice or our default having to exist for a specific period of time were disregarded.
- If any of TOTAL, Total Capital, Total Canada or Total Capital International merges out of existence or sells or leases substantially all of its assets, or transfers its obligations to a substitute obligor, the other entity must assume its obligations under the applicable indenture, debt securities and guarantee, including TOTAL s, Total Capital s, Total Canada s and Total Capital International s obligations to pay additional amounts described below under Payment of Additional Amounts . In the event the jurisdiction of incorporation of the successor or substitute obligor is not the Republic of France with respect to TOTAL, Total Capital and Total Capital International or Canada with respect to Total Canada, such successor or substitute obligor shall also agree to be bound to the obligations described below under Payment of Additional Amounts and Optional Tax Redemption but shall substitute the successor s or substitute obligor s jurisdiction of incorporation for the Republic of France or Canada, as the case may be.

In the case of debt securities issued by Total Canada, the above conditions shall not apply to any consolidation, amalgamation or merger under the laws of Canada or any province or territory thereof in which Total Canada is the successor corporation and continues to be liable by operation of law for the due and punctual payment of the principal of, and premium, if any, and interest on all the debt securities then outstanding and for all other obligations of Total Canada under the indenture and under such debt securities.

In addition, in the case of debt securities issued by Total Canada, Total Canada may, notwithstanding anything contained in the indenture, enter into any transaction with any direct or indirect wholly-owned subsidiary of TOTAL without complying with the conditions set forth above in a transaction or series of transactions in which Total Canada retains all of its obligations under and in respect of all outstanding debt securities (a Permitted Reorganization) provided that, as of the date of the Permitted Reorganization:

(a) substantially all of the unsubordinated and unsecured indebtedness for borrowed money of Total Canada which ranked *pari passu* with the then outstanding debt securities immediately prior to the proposed Permitted Reorganization will rank no better than *pari passu* with the then outstanding debt securities after the Permitted Reorganization; or

Table of Contents

(b) at least two of Total Canada s then current credit rating agencies (or if only one credit rating agency maintains ratings in respect of the debt securities at such time, that one credit rating agency) have affirmed that the rating assigned by them to the debt securities shall not be downgraded as a result of the Permitted Reorganization.

It is possible that the U.S. Internal Revenue Service may deem a merger or other similar transaction to cause an exchange for U.S. federal income tax purposes of debt securities for new securities by the holders of the debt securities. This could result in the recognition of taxable gain or loss for U.S. federal income tax purposes and possible other adverse tax consequences.

Modification and Waiver

There are three types of changes we can make to the indentures and the debt securities.

Changes Requiring Your Approval. First, there are changes that cannot be made to your debt securities without your specific approval, for example, by calling a meeting of holders and seeking a 100% quorum and unanimous consent, or, more likely, by obtaining written consents from each holder. We must obtain your specified approval in order to:

- change the stated maturity of the principal or interest on a debt security;
- reduce any amounts due on a debt security;
- reduce the amount of principal payable upon acceleration of the maturity of a debt security following a default;
- change the place or currency of payment on a debt security;
- impair your right to sue for payment;
- reduce the percentage of holders of debt securities whose consent is needed to modify or amend the applicable indenture;
- reduce the percentage of holders of debt securities whose consent is needed to waive compliance with various provisions of the applicable indenture or to waive various defaults;
- modify any other aspect of the provisions dealing with modification and waiver of the applicable indenture; and
- in the case of guaranteed debt securities, change in any manner adverse to the interests of holders the obligations of TOTAL to pay any principal, premium or interest under the guarantee. (*Section 902*)

Changes Requiring a Majority Vote. The second type of change to the indentures and the debt securities is the kind that requires a vote in favor by holders of debt securities owning a majority of the principal amount of the particular series affected. Most changes fall into this category, except for clarifying changes and other changes that would not adversely affect holders of the debt securities in any material respect. (*Section 901*) The same vote would be required for us to obtain a waiver of all or part of the covenants described below, or a waiver of a past default. However, we cannot obtain a waiver of a payment default or any other aspect of the indentures or the debt securities described previously under Changes Requiring Your Approval unless we obtain your individual consent, for example, by calling a meeting of holders and seeking a 100% quorum and unanimous consent, or, more likely, by obtaining written consents from each holder, to the waiver. (*Section 513*)

Changes Not Requiring Approval. The third type of change does not require any vote by holders of debt securities. This type is limited to clarifications and other changes that would not adversely affect holders of the debt securities in any material respect. (*Section 901*)

Further Details Concerning Voting. When taking a vote, we will use the following rules to decide how much principal amount to attribute to a security:

For original issue discount securities, we will use the principal amount that would be due and payable on the voting date if the maturity of the debt securities were accelerated to that date because of a default.

Table of Contents

For debt securities whose principal amount is not known (for example, because it is based on an index), we will use a special rule for that security described in the prospectus supplement.

For debt securities denominated in one or more foreign currencies or currency units, we will use the U.S. dollar equivalent as of the date of original issuance.

Debt securities will not be considered outstanding, and therefore not eligible to vote, if we have deposited or set aside in trust for you money for their payment or redemption. Debt securities will also not be eligible to vote if they have been fully defeased as described later under Covenants Defeasance and Discharge . (*Section 101*)

We will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding debt securities that are entitled to vote or take other action under the applicable indenture (or failing us in certain circumstances, the trustee). If we set a record date for a vote or other action to be taken by holders of a particular series, that vote or action may be taken only by persons who are holders of outstanding debt securities of that series on the record date and must be taken within 90 days following the record date or another period that we may specify (or as the trustee may specify, if it set the record date). We may shorten or lengthen (but not beyond 90 days) this period from time to time. (*Sections 501, 502, 512, 513 and 902*)

Street name and other indirect holders should consult their banks or brokers for information on how approval may be granted or denied if we seek to change the indentures or the debt securities or request a waiver.

Redemption and Repayment

Unless otherwise indicated in the prospectus supplement, your debt security will not be entitled to the benefit of any sinking fund that is, we will not deposit money on a regular basis into any separate custodial account to repay your debt securities. In addition, we will not be entitled to redeem your debt security before its stated maturity, other than as described below under Optional Tax Redemption , unless the prospectus supplement specifies a redemption commencement date or other specific conditions upon which we may redeem the debt securities. You will not be entitled to require us to buy your debt security from you, before its stated maturity, unless the related prospectus supplement specifies one or more repayment dates.

In the event that we exercise an option to redeem any debt security, we will give written notice of the principal amount of the debt security to be redeemed to the trustee at least 45 days before the applicable redemption date and to the holder not less than 30 days nor more than 60 days before the applicable redemption date. We will give the notice in the manner described above under Additional Mechanics Notices .

If a debt security represented by a global security is subject to repayment at the holder s option, the depositary or its nominee, as the holder, will be the only person that can exercise the right to repayment. Any indirect holders who own beneficial interests in the global security and wish to exercise a repayment right must give proper and timely instructions to their banks or brokers through which they hold their interests, requesting that they notify the depositary to exercise the repayment right on their behalf. Different firms have different deadlines for accepting instructions from their customers, and you should take care to act promptly enough to ensure that your request is given effect by the depositary before the applicable deadline for exercise.

Street name and other indirect holders should contact their banks or brokers for information about how to exercise a repayment right in a timely manner.

We or our affiliates may purchase debt securities from investors who are willing to sell from time to time, either in the open market at prevailing prices or in private transactions at negotiated prices. Debt securities that we or they purchase may, in our discretion, be held, resold or canceled.

Table of Contents

Payment of Additional Amounts

We will make payments on the debt securities without withholding any taxes unless otherwise required to do so by law or by the interpretation or administration thereof. If the Republic of France or, in the case of debt securities issued by Total Canada, Canada, or any tax authority in these jurisdictions requires TOTAL, Total Capital, Total Canada or Total Capital International to withhold or deduct amounts from payment on a debt security or any amounts to be paid under the guarantee in respect of guaranteed debt securities or as additional amounts for or on account of taxes or any other governmental charges, or any other jurisdiction requires such withholding or deduction as a result of a merger or similar event, TOTAL, Total Capital, Total Canada or Total Capital International as the case may be, may be required to pay you an additional amount so that the net amount you receive will be the amount specified in the debt security to which you are entitled.

Total Capital, Total Canada, Total Capital International or TOTAL, as the case may be, will not have to pay additional amounts under any of the following circumstances:

The holder of the debt securities (or a third party holding on behalf of the holder) is subject to such tax or governmental charge by reason of having some present or former connection to the Republic of France or, in the case of debt securities issued by Total Canada, Canada, or the other jurisdiction requiring such withholding or deduction, other than the mere holding of the debt security.

In the case of debt securities issued by Total Canada, the holder of the debt securities (or the beneficial owner thereof) does not deal at arm s length with Total Canada or with TOTAL, within the meaning of the applicable tax legislation, at the time the amount is paid or payable.

The tax or governmental charge is imposed due to the presentation of a debt security, if presentation is required, for payment on a date more than 30 days after the security became due or after the payment was provided for, whichever occurs later.

The tax or governmental charge is on account of an estate, inheritance, gift, sale, transfer, personal property or similar tax or other governmental charge.

The tax or governmental charge is for a tax or governmental charge that is payable in a manner that does not involve withholding or deduction.

The tax or governmental charge is imposed or withheld because the holder or beneficial owner failed:

- to provide information about the nationality, residence or identity of the holder or beneficial owner; or
- to make a declaration or satisfy any information requirements that the statutes, treaties, regulations or administrative practices of the taxing jurisdiction require as a precondition to exemption from all or part of such tax or governmental charge.

The withholding or deduction is imposed pursuant to the European Union Directive 2003/48/EC regarding the taxation of savings income or any other directive amending, supplementing or replacing such directive, or any law implementing or complying with, or introduced in order to conform to, such directive or directives.

The withholding or deduction is imposed on a holder or beneficial owner who could have avoided such withholding or deduction by presenting its debt securities to another paying agent.

The holder is a fiduciary or partnership or an entity that is not the sole beneficial owner of the payment of the principal of, or any interest on, any debt security, and the laws of the jurisdiction require the payment to be included in the income of a beneficiary or settlor for tax purposes with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the holder of such security.

Table of Contents

These provisions will also apply to any taxes or governmental charges imposed by any jurisdiction in which a successor to, or substitute obligor of, Total Capital, Total Canada, Total Capital International or TOTAL is organized, except that the name of the jurisdiction of the successor or substitute obligor shall be substituted for the Republic of France or Canada, as the case may be.

The prospectus supplement relating to the debt securities may describe additional circumstances in which Total Capital, Total Canada or Total Capital International would not be required to pay additional amounts. (*Section 1010*) By the terms of the guarantee, if under the terms of the debt securities set forth in the prospectus supplement Total Capital, Total Canada or Total Capital International is not required to pay any additional amounts, then TOTAL as guarantor shall not be required to pay additional amounts under the guarantee, unless the guarantee has been modified or amended as described in the applicable prospectus supplement.

Please see the discussion under Tax Considerations French Taxation Taxation of Income Additional Amounts for a summary of the treatment of additional amounts under French tax law.

Optional Tax Redemption

We may also have the option to redeem the debt securities of a given series if, as a result of any change in French tax treatment with respect to Total Capital, Total Capital International and TOTAL or Canadian tax treatment with respect to Total Canada (or treatment of any jurisdiction in which a successor to, or substitute obligor of, Total Capital, TOTAL or Total Canada is organized), Total Capital, Total Capital International, TOTAL or Total Canada would be required to pay additional amounts as described above under Payment of Additional Amounts . This option applies only in the case of changes in such tax treatment that occur on or after the date specified in the prospectus supplement for the applicable series of debt securities (or in the case of a successor entity, after the date of succession). The redemption price for the debt securities, other than original issue discount debt securities, will be equal to the principal amount of the debt securities being redeemed plus accrued interest. The redemption price for original issue discount debt securities will be specified in the prospectus supplement for such securities. (*Section 1108*)

Defeasance and Discharge

The following discussion of defeasance and discharge will be applicable to your series of debt securities, unless the related prospectus supplement states otherwise. (*Section 403*)

Each indenture contains a provision that permits us to elect:

- to be discharged after 90 days from all our obligations (subject to limited exceptions) with respect to any series of debt securities then outstanding; and/or

- to be released from our obligations under some of the covenants and from the consequences of an event of default resulting from a breach of such covenants.

We can legally release ourselves from any payment or other obligations on the debt securities under either of the above elections, except for various obligations described below, if we, in addition to other actions, put in place the following arrangements for you to be repaid:

- We must deposit in trust for your benefit and the benefit of all other direct holders of the debt securities a combination of money and U.S. government or U.S. government agency notes or bonds that will generate enough cash to make interest, principal and any other payments on the debt securities on their various due dates. In addition, on the date of such deposit, we must not be in default. For purposes of this no-default test, a default would include an event of default that has occurred and not been cured, as described below under Default and Related Matters Events of Default What is An Event of Default? A default for this purpose would also include any event that would be an event of default if the requirements for giving us default notice or our default having to exist for a specific period of time were disregarded.

Table of Contents

We must deliver to the trustee a legal opinion of our counsel confirming that under current U.S. federal income tax law we may make the above deposit without causing you to be taxed on the debt securities any differently than if we did not make the deposit and just repaid the debt securities ourselves in accordance with their terms. In the case of debt securities being discharged, we must deliver along with this opinion a private letter ruling from the U.S. Internal Revenue Service to this effect or a revenue ruling pertaining to a comparable form of transaction published by the U.S. Internal Revenue Service to the same effect.

If the debt securities are listed on the New York Stock Exchange, we must deliver to the trustee a legal opinion of our counsel confirming that the deposit, defeasance and discharge will not cause the debt securities to be delisted.

However, even if we take these actions, a number of our obligations relating to the debt securities will remain. These include the following obligations:

to register the transfer and exchange of debt securities;

to replace mutilated, destroyed, lost or stolen debt securities;

to maintain paying agencies; and

to hold money for payment in trust.

Default and Related Matters

Ranking

The debt securities are not secured by any of our property or assets. Accordingly, your ownership of debt securities means you are one of our unsecured creditors. The debt securities are not subordinated to any of our other debt obligations and therefore they rank equally with all our other unsecured and unsubordinated indebtedness (save for certain mandatory exceptions provided by French and Canadian law).

Events of Default

You will have special rights if an event of default occurs and is not cured, as described later in this subsection.

What Is an Event of Default? The term event of default means any of the following:

We do not pay the principal or any premium on a debt security at maturity.

We do not pay interest on a debt security within 30 days of its due date.

We remain in breach of a covenant or any other term of the applicable indenture for 90 days after we receive a notice of default stating we are in breach. The notice must be sent by either the trustee or holders of 25% of the principal amount of debt securities of the affected series.

We file for bankruptcy or certain other events in bankruptcy, insolvency or reorganization occur.

In respect of guaranteed debt securities issued by Total Capital or Total Canada, the guarantee is not (or is claimed by TOTAL, Total Capital or Total Canada not to be) in full force and effect.

Any other event of default described in the prospectus supplement occurs. (*Section 501*)

Remedies If an Event of Default Occurs. If an event of default has occurred and has not been cured, the trustee or the holders of 25% in principal amount of the debt securities of the affected series may declare the entire principal amount of all the debt securities of that series to be due and immediately payable. This is called a declaration of acceleration of maturity. A declaration of acceleration of maturity may be canceled by the holders of at least a majority in principal amount of the debt securities of the affected series if certain conditions are met. (*Section 502*)

Table of Contents

Except in cases of default, where the trustee has some special duties, the trustee is not required to take any action under the indentures at the request of any holders unless the holders offer the trustee reasonable protection from expenses and liability. This protection is called an indemnity. (*Section 603*) If reasonable indemnity is provided, the holders of a majority in principal amount of the outstanding debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee. These majority holders may also direct the trustee in performing any other action under the indentures. (*Section 512*)

Before you bypass the trustee and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to the debt securities, the following must occur:

- You must give the trustee written notice that an event of default has occurred and remains uncured.
- The holders of 25% in principal amount of all outstanding debt securities of the relevant series must make a written request that the trustee take action because of the default, and must offer reasonable indemnity to the trustee against the cost and other liabilities of taking that action.
- The trustee must have not taken action for 60 days after receipt of the above notice and offer of indemnity.
- No direction inconsistent with such written request must have been given to the trustee during such 60-day period by holders of a majority in principal amount of all outstanding debt securities of that series. (*Section 507*)

Nothing, however, will prevent an individual holder from bringing suit to enforce payment.

Street name and other indirect holders should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee and to make or cancel a declaration of acceleration.

We will furnish to the trustee every year a written statement of certain of our officers certifying that, to their knowledge, we are in compliance with the indentures and the debt securities, or else specifying any default. (*Section 1008*)

Regarding the Trustee

TOTAL and several of its subsidiaries maintain banking relations with the trustee and its affiliates in the ordinary course of their business.

If an event of default occurs, or an event occurs that would be an event of default if the requirements for giving us default notice or our default having to exist for a specific period of time were disregarded, the trustee may be considered to have a conflicting interest with respect to the debt securities or the applicable indenture for purposes of the Trust Indenture Act of 1939, as amended. In that case, the trustee may be required to resign as trustee under the applicable indenture and we would be required to appoint a successor trustee.

Table of Contents

CLEARANCE AND SETTLEMENT

Securities we issue may be held through one or more international and domestic clearing systems. The principal clearing systems we will use are the book-entry systems operated by DTC in the United States, Clearstream Banking, *société anonyme*, in Luxembourg (Clearstream) and Euroclear Bank S.A./N.V. in Brussels, Belgium (Euroclear). These systems have established electronic securities and payment, transfer, processing, depositary and custodial links among themselves and others, either directly or through custodians and depositaries. These links allow securities to be issued, held and transferred among the clearing systems without the physical transfer of certificates.

Special procedures to facilitate clearance and settlement have been established among these clearing systems to trade securities across borders in the secondary market. Where payments for securities we issue in global form will be made in U.S. dollars, these procedures can be used for cross-market transfers and the securities will be cleared and settled on a delivery against payment basis.

Investors in securities that are issued outside of the United States, its territories and possessions must initially hold their interests through Euroclear, Clearstream or the clearance system that is described in the applicable prospectus supplement.

Cross-market transfers of securities that are not in global form may be cleared and settled in accordance with other procedures that may be established among the clearing systems for these securities.

The policies of DTC, Clearstream and Euroclear will govern payments, transfers, exchange and other matters relating to the investor s interest in securities held by them. This is also true for any other clearance system that may be named in a prospectus supplement.

We have no responsibility for any aspect of the actions of DTC, Clearstream or Euroclear or any of their direct or indirect participants. We have no responsibility for any aspect of the records kept by DTC, Clearstream or Euroclear or any of their direct or indirect participants. We also do not supervise these systems in any way. This is also true for any other clearing system indicated in a prospectus supplement.

DTC, Clearstream, Euroclear and their participants perform these clearance and settlement functions under agreements they have made with one another or with their customers. You should be aware that they are not obligated to perform these procedures and may modify them or discontinue them at any time.

The description of the clearing systems in this section reflects our understanding of the rules and procedures of DTC, Clearstream and Euroclear as they are currently in effect. Those systems could change their rules and procedures at any time.

The Clearing Systems

DTC

DTC has advised us as follows:

DTC is:

- a limited purpose trust company organized under the laws of the State of New York;
- a member of the Federal Reserve System;
- a clearing corporation within the meaning of the Uniform Commercial Code; and
- a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934.

24

Table of Contents

DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes to accounts of its participants. This eliminates the need for physical movement of certificates.

Participants in DTC include securities brokers and dealers, banks, trust companies and clearing corporations and may include certain other organizations. DTC is partially owned by some of these participants or their representatives.

Indirect access to the DTC system is also available to banks, brokers, dealers and trust companies that have relationships with participants.

The rules applicable to DTC and DTC participants are on file with the SEC.

Clearstream

Clearstream has advised us as follows:

Clearstream is a duly licensed bank organized as a *société anonyme* incorporated under the laws of Luxembourg and is subject to regulation by the Luxembourg Commission for the Supervision of the Financial Sector (*Commission de Surveillance du Secteur Financier*).

Clearstream holds securities for its customers and facilitates the clearance and settlement of securities transactions among them. It does so through electronic book-entry changes to the accounts of its customers. This eliminates the need for physical movement of certificates.

Clearstream provides other services to its participants, including safekeeping, administration, clearance and settlement of internationally traded securities and lending and borrowing of securities. It interfaces with the domestic markets in over 30 countries through established depositary and custodial relationships.

Clearstream s customers include worldwide securities brokers and dealers, banks, trust companies and clearing corporations and may include professional financial intermediaries. Its U.S. customers are limited to securities brokers and dealers and banks.

Indirect access to the Clearstream system is also available to others that clear through Clearstream customers or that have custodial relationships with its customers, such as banks, brokers, dealers and trust companies.

Euroclear

Euroclear has advised us as follows:

Euroclear is incorporated under the laws of Belgium as a bank and is subject to regulation by the Belgian Banking and Finance Commission (*Commission Bancaire et Financière*) and the National Bank of Belgium (*Banque Nationale de Belgique*).

Euroclear holds securities for its customers and facilitates the clearance and settlement of securities transactions among them. It does so through simultaneous electronic book-entry delivery against payment, thereby eliminating the need for physical movement of

certificates.

Euroclear provides other services to its customers, including credit custody, lending and borrowing of securities and tri-party collateral management. It interfaces with the domestic markets of several other countries.

Euroclear customers include banks, including central banks, securities brokers and dealers, trust companies and clearing corporations and may include certain other professional financial intermediaries.

Indirect access to the Euroclear system is also available to others that clear through Euroclear customers or that have relationships with Euroclear customers.

All securities in Euroclear are held on a fungible basis. This means that specific certificates are not matched to specific securities clearance accounts.

Table of Contents

Other Clearing Systems

We may choose any other clearing system for a particular series of securities. The clearance and settlement procedures for the clearing system we choose will be described in the applicable prospectus supplement.

Primary Distribution

The distribution of the securities will be cleared through one or more of the clearing systems that we have described above or any other clearing system that is specified in the applicable prospectus supplement. Payment for securities will be made on a delivery versus payment or free delivery basis. These payment procedures will be more fully described in the applicable prospectus supplement.

Clearance and settlement procedures may vary from one series of securities to another according to the currency that is chosen for the specific series of securities. Customary clearance and settlement procedures are described below.

Clearance and Settlement Procedures DTC

DTC participants that hold securities through DTC on behalf of investors will follow the settlement practices applicable to United States corporate debt obligations.

For payments in U.S. dollars, securities will be credited to the securities custody accounts of these DTC participants against payment on the settlement date. For payments in a currency other than U.S. dollars, securities will be credited free of payment on the settlement date.

Clearance and Settlement Procedures Euroclear and Clearstream

We understand that investors that hold their securities through Euroclear or Clearstream accounts will follow the settlement procedures that are applicable to conventional Eurobonds in registered form for debt securities, or such other procedures as are applicable for other securities.

Securities will be credited to the securities custody accounts of Euroclear and Clearstream participants on the business day following the settlement date, for value on the settlement date. They will be credited either free of payment or against payment for value on the settlement date.

Secondary Market Trading

Trading between DTC Participants

Secondary market trading between DTC participants will occur in the ordinary way in accordance with DTC s rules. Secondary market trading will be settled using procedures applicable to United States corporate debt obligations.

If payment is made in U.S. dollars, settlement will be made versus payment. If payment is made in a currency other than U.S. dollars, settlement will be free of payment. If payment is made other than in U.S. dollars, separate payment arrangements outside of the DTC system must be made between the DTC participants involved.

Trading between Euroclear and/or Clearstream Participants

We understand that secondary market trading between Euroclear and/or Clearstream participants will occur in the ordinary way following the applicable rules and operating procedures of Euroclear and Clearstream. Secondary market trading will be settled using procedures applicable to conventional Eurobonds in registered form for debt securities, or such other procedures as are applicable for other securities.

Table of Contents

Transfers Between DTC and Clearstream or Euroclear

Cross-market transfers between persons holding directly or indirectly through DTC, on the one hand, and directly or indirectly through Clearstream participants or Euroclear participants, on the other, will be effected in DTC in accordance with DTC rules on behalf of the relevant European international clearing system by its U.S. depositary. However, such cross-market transactions will require delivery of instructions to the relevant European international clearing system by the counterparty in such system in accordance with its rules and procedures and within its established deadlines (European time). The relevant European international clearing system will, if the transaction meets its settlement requirements, deliver instructions to its U.S. depositary to take action to effect final settlement on its behalf by delivering or receiving securities in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Clearstream participants and Euroclear participants may not deliver instructions directly to the respective U.S. depositaries.

Because of time-zone differences, credits of securities received by Clearstream or Euroclear as a result of a transaction with a DTC participant will be made during subsequent securities settlement processing and will be dated the business day following DTC settlement date. Such credits or any transactions in such securities settled during such processing will be reported to the relevant Clearstream participants or Euroclear participants on such business day. Cash received in Clearstream or Euroclear as a result of sales of securities by or through a Clearstream or Euroclear participant to a DTC participant will be received with value on the DTC settlement date but will be generally available to the relevant Clearstream or Euroclear cash account only as of the business day following settlement in DTC.

Although DTC, Clearstream and Euroclear have agreed to the foregoing procedures in order to facilitate transfers of securities among their respective participants, they are under no obligation to perform or continue to perform such procedures and such procedures may be changed or discontinued at any time.

Table of Contents

TAX CONSIDERATIONS

French Taxation

This section describes the material French tax consequences of acquiring, owning and disposing of the debt securities described in this prospectus and is the opinion of Sullivan & Cromwell LLP, our French tax counsel. It applies only to holders of debt securities issued by TOTAL, Total Capital or Total Capital International that are not residents of France for the purpose of French taxation, that are not shareholders of TOTAL, Total Capital or Total Capital International and that do not hold the debt securities in connection with a permanent establishment or a fixed base in France through which the holder carries on a business or performs personal services.

This summary is based on the laws in force as of the date hereof, and is subject to any changes in applicable French tax laws or in any applicable double taxation conventions or treaties with France occurring after such date. This discussion does not purport to be a complete analysis of all potential French tax effects of the acquisition, ownership and disposition of debt securities.

Prospective purchasers of debt securities are urged to consult their own tax advisors concerning the French and other tax consequences of acquiring, owning and disposing of debt securities and their eligibility for the benefits of any tax treaty.

Taxation of Income

Interest. Following the introduction of the French *loi de finances rectificative pour 2009 no. 3* (n°2009-1674 dated 30 December 2009) (the Law), payments of interest and other revenues with respect to debt securities issued on or after March 1, 2010 (other than debt securities which are consolidated (*assimilables* for the purpose of French law) and form a single series with debt securities issued prior to March 1, 2010 having the benefit of Article 131 *quater* of the French General Tax Code, the tax considerations of which are not described herein) will not be subject to the withholding tax set out under Article 125 A III of the French General Tax Code unless such payments are made outside France in a non-cooperative State or territory (*Etat ou territoire non coopératif*) within the meaning of Article 238-0 A of the French General Tax Code (a Non-Cooperative State). If such payments under the debt securities are made in a Non-Cooperative State, a 50% withholding tax will be applicable (subject to certain exceptions and to the more favorable provisions of any applicable double tax treaty) by virtue of Article 125 A III of the French General Tax Code. The list of Non-Cooperative States is published in a ministerial decree and updated annually.

Furthermore, pursuant to Article 238 A of the French General Tax Code, interest and other revenues on such debt securities will no longer be deductible from the taxable income of TOTAL, Total Capital or Total Capital International as from the fiscal years starting on or after January 1, 2011, if they are paid or accrued to persons established or domiciled in a Non-Cooperative State or paid on a bank account opened in a financial institution located in such a Non-Cooperative State. Under certain conditions, any such non-deductible interest and other revenues may be re-characterized as constructive dividends pursuant to Articles 109 *et seq.* of the French General Tax Code, in which case such non- deductible interest and other revenues may be subject to the withholding tax set out under Article 119 bis 2 of the French General Tax Code, at a rate of 25% or 50%, subject to more favorable provisions of any applicable tax treaty.

Notwithstanding the foregoing, none of the 50% withholding tax set out under Article 125 A III of the French General Tax Code, the non-deductibility of the interest and other revenues of such debt securities or the withholding tax provided under Article 119 bis 2 of the French General Tax Code that may be levied as a result of such non-deductibility, to the extent the relevant interest or revenues relate to genuine transactions and are not in an abnormal or exaggerated amount, will apply if TOTAL, Total Capital or Total Capital International can prove that the principal purpose and effect of a particular issue of debt securities was not that of allowing the payments of interest or other revenues to be made in a Non-Cooperative State (the Exception). Pursuant to the ruling (*rescrit*) RES 2010/11) of the *Direction générale des finances publiques* published on February 22, 2010,

Table of Contents

an issue of debt securities will benefit from the Exception without TOTAL, Total Capital or Total Capital International having to provide any proof of the purpose and effect of such issue of debt securities, if such debt securities are:

(a) offered by means of a public offer within the meaning of Article L.411.1 of the French Monetary and Financial Code or pursuant to an equivalent offer in a State other than a Non-Cooperative State. For this purpose, an equivalent offer means any offer requiring registration or submission of an offer document by or with a foreign securities market authority; or

(b) admitted to trading on a regulated market or on a French or foreign multilateral securities trading system provided that such market or system is not located in a Non-Cooperative State, and the operation of such market is carried out by a market operator or an investment services provider, or by such other similar foreign entity, provided further that such market operator, investment services provider or entity is not located in a Non-Cooperative State; or

(c) admitted, at the time of their issue, to the operations of a central depositary or of a securities clearing and delivery and payments systems operator within the meaning of Article L.561-2 of the French Monetary and Financial Code, or of one of more similar foreign depositaries or operators provided that such depositary or operator is not located in a Non-Cooperative State.

As the debt securities issued pursuant to this Prospectus are offered by means of an offer equivalent to a public offer, payments of interest or other revenues made by or on behalf of TOTAL, Total Capital or Total Capital International with respect to the debt securities will not be subject to the withholding tax set out under Article 125 A III of the French General Tax Code. In addition, they will be subject neither to the non-deductibility set out under Article 238 A of the same Code nor to the withholding tax set out under Article 119 bis 2 of the same Code solely on account of their being paid on a bank account opened in a financial institution located in a Non-Cooperative State or accrued or paid to persons established or domiciled in a Non-Cooperative State.

The European Union (EU) has adopted the Directive 2003/48/EC (the Tax Directive) regarding the taxation of savings income in the form of interest payments. Under the Tax Directive, paying agents shall provide to the competent authority of the State in which they are established details of the payment of interest and other similar income within the meaning of the Tax Directive made to, or for the benefit of, any individual resident in another EU Member State as the beneficial owner of the interest. The competent authority of the EU Member State of the paying agent is then required to communicate this information to the competent authority of the EU Member State of which the beneficial owner of the interest is a resident.

For a transitional period, however, Austria and Luxembourg will (unless during such period they elect otherwise) instead apply a withholding tax system in relation to interest payments pursuant to which tax will be levied, unless the recipient of such payments elects instead for an exchange of information procedure. The withholding tax rate is currently of 20% for a period of three years starting July 1, 2008 and 35% thereafter. The transitional period shall end at the end of the first full fiscal year following the year during which certain non-EU countries (i.e., Switzerland, Liechtenstein, San Marino, Monaco, Andorra and the United States) will each enter into an agreement with the EU providing for an exchange of information upon request as defined in the OECD Model Agreement on Exchange of Information on Tax Matters released on April 18, 2002 with respect to interest payments made by paying agents established within those countries to beneficial owners located within the EU. The same transitional period applied with respect to Belgium but it has elected, as from January 1, 2010, for the exchange of information system under which no withholding tax should apply to interest payments or similar income made by paying agents located within its territory.

Article 242 ter and Article 49 I ter to 49 I sexies of the Schedule III of the French General Tax Code implements the Tax Directive and therefore imposes on paying agents based in France an obligation to report to the French tax authorities certain information with respect to interest payments made to beneficial owners

Table of Contents

domiciled in another EU Member State, including, among other things, the identity and address of the beneficial owner and a detailed list of the different categories of interest paid to that beneficial owner.

Investors should rely on their own analysis of the terms of the Tax Directive and should consult appropriate legal or taxation professionals.

Taxation on Sale or Other Disposition. Under article 244 *bis* C of the French General Tax Code, a person that is not a resident of France for the purpose of French taxation generally is not subject to any French income tax or capital gains tax on any gain derived from the sale or other disposition of a debt security, unless such debt security forms part of the business property of a permanent establishment or a fixed base that such person maintains in France.

Additional Amounts. If the French tax laws or regulations applicable to us (or to any of our successors) change and payments in respect of the debt securities become subject to withholding or deduction, we will, to the extent permitted by applicable law, be responsible for the payment of any additional amounts to offset such withholding, except as provided above in Description of the Debt Securities and Guarantee Special Situations Payment of Additional Amounts or in any applicable prospectus supplement.

Under French law, an issuer may not bear on behalf of a holder of its debt securities any withholding tax due in respect of interest payments on such securities. It is unclear whether additional amounts payable (as described above in Description of the Debt Securities and Guarantee Special Situations Payment of Additional Amounts or in any applicable prospectus supplement) in respect of withholding or deduction for taxes imposed on payments on the debt securities may be validly paid in accordance with French law.

Stamp Duty and Other Transfer Taxes

Transfers of debt securities outside France will not be subject to any stamp duty or other transfer tax imposed in France, provided such transfer is not recorded or referred to in any manner whatsoever in a deed executed in France.

Estate and Gift Tax

France imposes estate and gift tax on securities of a French company that are acquired by inheritance or gift. According to article 750 *ter* of the French General Tax Code, the taxation is triggered without regard to the residence of the transferor. However, France has entered into estate and gift tax treaties with a number of countries pursuant to which, assuming certain conditions are met, residents of the treaty country may be exempted from such tax or obtain a tax credit.

As a result from the combination of the French domestic tax law and the estate and gift tax convention between the United States and France, a transfer of debt securities by gift or by reason of the death of a United States holder entitled to benefits under that convention will not be subject to French gift or inheritance tax, so long as, among other conditions, the donor or decedent was not domiciled in France at the time of the transfer and the debt securities were not used or held for use in the conduct of a business or profession through a permanent establishment or fixed base in France.

Wealth Tax

French wealth tax (*impôt de solidarité sur la fortune*) generally does not apply to debt securities owned by non-French residents according to article 885 L of the French General Tax Code. Subject to certain exceptions, a United States holder that is resident in the United States within the meaning of the income tax convention between the United States and France generally is exempt from French wealth tax.

Prospective purchasers who are individuals are urged to consult with their own tax advisers.

Table of Contents

Canadian Taxation

This section describes the material Canadian federal income tax consequences of acquiring, owning and disposing of the debt securities described in this prospectus and is the opinion of Bennett Jones LLP, our Canadian tax counsel (Canadian Counsel). This section applies to you only if you acquire your debt securities in the offering or offerings contemplated by this prospectus, and if at all relevant times, and for the purposes of the Income Tax Act (Canada) (the Tax Act) and any applicable income tax treaty or convention, you deal with TOTAL, Total Canada, Total Capital and Total Capital International at arm s length, are not and are not deemed to be a resident of Canada, will hold the debt securities as capital property, and will not use or hold and will not be deemed to use or hold the debt securities in connection with a business carried on in Canada (a Non-Resident Holder). Special rules which are not discussed in this summary may apply to a Non-Resident Holder that is an insurer carrying on business in Canada and elsewhere.

This section is based upon the current provisions of the Tax Act and the regulations thereunder, all specific proposals to amend such provisions publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date of this prospectus, and Canadian Counsel s understanding of the current published administrative practices and assessing policies of the Canada Revenue Agency. This summary is not exhaustive of all possible Canadian federal income tax consequences, and except as noted above, does not take into account or anticipate any changes in law, whether by legislative, governmental or judicial action, and does not take into account tax legislation or considerations of any province, territory or foreign jurisdiction, which may differ from the federal income tax considerations.

This summary is of a general nature only and is not intended to be, nor should it be construed to be, legal or tax advice to any particular Non-Resident Holder, and no representation with respect to the income tax consequences to any particular Non-Resident Holder is made.

Under the Tax Act, provided that the interest paid or payable on any debt securities is not participating debt interest , within the meaning of the Tax Act, a Non-Resident Holder will not be subject to Canadian withholding tax in respect of any amounts paid or credited by Total Canada as, on account of, in lieu of, or in satisfaction of interest on the debt securities and there will be no other Canadian income taxes payable under the Tax Act in respect of the holding, redemption or disposition of the debt securities or the receipt of interest, premium or penalty on the debt securities by a Non-Resident Holder from Total Canada.

United States Federal Income Taxation

This section describes the material United States federal income tax consequences of acquiring, owning and disposing of the debt securities described in this prospectus and is the opinion of Sullivan & Cromwell LLP, our U.S. tax counsel. This section applies to you only if you acquire your debt securities in the offering or offerings contemplated by this prospectus and hold your debt securities as capital assets for tax purposes. This section does not apply to you if you are a member of a class of holders subject to special rules, such as:

- a dealer in securities or currencies;
- a trader in securities that elects to use a mark-to-market method of accounting for its securities holdings;
- a bank;
- a life insurance company;
- a tax-exempt organization;
- a person that owns debt securities that are a hedge or that are hedged against interest rate or currency risks;

a person that owns debt securities as part of a straddle or conversion transaction for tax purposes; or

a United States holder (as defined below) whose functional currency for tax purposes is not the U.S. dollar.

Table of Contents

This section is based on the Internal Revenue Code of 1986, as amended, its legislative history, existing and proposed regulations under the Internal Revenue Code, published rulings and court decisions, as well as on the income tax treaty between the United States of America and France and on the income tax treaty between the United States and Canada, all as currently in effect. These laws are subject to change, possibly on a retroactive basis.

This section deals only with debt securities that are due to mature 30 years or less from the date on which they are issued. The United States federal income tax consequences of owning debt securities that are due to mature more than 30 years from their date of issue will be discussed in an applicable prospectus supplement.

If a partnership holds the debt securities, the United States federal income tax treatment of a partner will generally depend on the status of the partner and the tax treatment of the partnership. A partner in a partnership holding the debt securities should consult its tax advisor with regard to the United States federal income tax treatment of an investment in the debt securities.

You are urged to consult your own tax advisor concerning the United States federal, state and local income, and other tax consequences of acquiring, owning and disposing of the debt securities in your particular circumstances, as well as your eligibility for the benefits of the applicable tax treaties between the United States and France.

United States Holders

This subsection describes the material United States federal income tax consequences to a United States holder. You are a United States holder if you are a beneficial owner of a debt security and you are:

a citizen or resident, for United States federal income tax purposes, of the United States;

a domestic corporation;

an estate whose income is subject to United States federal income tax regardless of its source; or

a trust if a United States court can exercise primary supervision over the trust s administration and one or more United States persons are authorized to control all substantial decisions of the trust.

If you are not a United States holder, this subsection does not apply to you, and you should refer to United States Alien Holders below for information that may apply to you.

Payments of Interest. Except as described below in the case of interest on a discount debt security that is not qualified stated interest, each as defined below under Original Issue Discount , you will be taxed on any interest on your debt security, whether payable in U.S. dollars or a currency, composite currency or basket of currencies other than U.S. dollars, as ordinary income at the time you receive the interest or when it accrues, depending on your method of accounting for tax purposes. We will refer to a currency, composite currency or basket of currencies other than the U.S. dollar as foreign currency.

Interest paid by us on debt securities and original issue discount, if any, accrued with respect to the debt securities (as described below under Original Issue Discount) is income from sources outside the United States subject to the rules regarding the foreign tax credit allowable to a United States holder. Under the foreign tax credit rules, interest paid will, depending on your circumstances, be either passive or general income for purposes of computing the foreign tax credit allowable to you.

Cash Basis Taxpayers. If you are a taxpayer that uses the cash receipts and disbursements method of accounting for tax purposes and you receive an interest payment that is denominated in, or determined by reference to, a foreign currency, you must recognize income equal to the U.S. dollar value of the interest payment, based on the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

32

Table of Contents

Accrual Basis Taxpayers. If you are a taxpayer that uses an accrual method of accounting for tax purposes, you may determine the amount of income that you recognize with respect to an interest payment denominated in, or determined by reference to, a foreign currency by using one of two methods. Under the first method, you will determine the amount of income accrued based on the average exchange rate in effect during the interest accrual period or, with respect to an accrual period that spans two taxable years, that part of the period within the taxable year.

If you elect the second method, you will determine the amount of income accrued on the basis of the exchange rate in effect on the last day of the accrual period or, in the case of an accrual period that spans two taxable years, the exchange rate in effect on the last day of the part of the period within the taxable year. Additionally, under this second method, if you receive a payment of interest within five business days of the last day of your accrual period or taxable year, you may instead translate the interest accrued into U.S. dollars at the exchange rate in effect on the day that you actually receive the interest payment. If you elect the second method, it will apply to all debt instruments that you hold at the beginning of the first taxable year to which the election applies and to all debt instruments that you subsequently acquire. You may not revoke this election without the consent of the Internal Revenue Service.

When you actually receive an interest payment, including a payment attributable to accrued but unpaid interest upon the sale or retirement of your debt security, denominated in, or determined by reference to, a foreign currency for which you accrued an amount of income, you will recognize ordinary income or loss measured by the difference, if any, between the exchange rate that you used to accrue interest income and the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

Original Issue Discount

General. If you own a debt security, other than a short-term debt security with a term of one year or less, it will be treated as a discount debt security issued at an original issue discount, if the amount by which the debt security s stated redemption price at maturity exceeds its issue price is more than a *de minimis* amount. Generally, a debt security s issue price will be the first price at which a substantial amount of debt securities included in the issue of which the debt security is a part is sold to persons other than bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers. A debt security s stated redemption price at maturity is the total of all payments provided by the debt security that are not payments of qualified stated interest. Generally, an interest payment on a debt security is qualified stated interest if it is one part of a series of stated interest payments on a debt security that are unconditionally payable at least annually at a single fixed rate, with certain exceptions for lower rates paid during some periods, applied to the outstanding principal amount of the debt security. There are special rules for variable rate debt securities that are discussed below under Variable Rate Debt Securities .

In general, your debt security is not a discount debt security if the amount by which its stated redemption price at maturity exceeds its issue price is less than the *de minimis* amount of 1/4 of one percent of its stated redemption price at maturity multiplied by the number of complete years to its maturity. Your debt security will have *de minimis* original issue discount if the amount of the excess is less than the *de minimis* amount. If your debt security has *de minimis* original issue discount, you must include the *de minimis* amount in income as stated principal payments are made on the debt security, unless you make the election described below under Election to Treat All Interest as Original Issue Discount. You can determine the includible amount with respect to each such payment by multiplying the total amount of your debt security s *de minimis* original issue discount by a fraction equal to

the amount of the principal payment made
divided by:

the stated principal amount of the debt security.

Table of Contents

Generally, if your discount debt security matures more than one year from its date of issue, you must include original issue discount, or OID , in income before you receive cash attributable to that income. The amount of OID that you must include in income is calculated using a constant-yield method, and generally you will include increasingly greater amounts of OID in income over the life of your debt security. More specifically, you can calculate the amount of OID that you must include in income by adding the daily portions of OID with respect to your discount debt security for each day during the taxable year or portion of the taxable year that you hold your discount debt security. You can determine the daily portion by allocating to each day in any accrual period a pro rata portion of the OID allocable to that accrual period. You may select an accrual period of any length with respect to your discount debt security and you may vary the length of each accrual period over the term of your discount debt security. However, no accrual period may be longer than one year and each scheduled payment of interest or principal on the discount debt security must occur on either the first or final day of an accrual period.

You can determine the amount of OID allocable to an accrual period by:

- multiplying your discount debt security s adjusted issue price at the beginning of the accrual period by your debt security s yield to maturity, and then
- subtracting from this figure the sum of the payments of qualified stated interest on your debt security allocable to the accrual period.

You must determine the discount debt security s yield to maturity on the basis of compounding at the close of each accrual period and adjusting for the length of each accrual period. Further, you determine your discount debt security s adjusted issue price at the beginning of any accrual period by:

- adding your discount debt security s issue price and any accrued OID for each prior accrual period, and then
- subtracting any payments previously made on your discount debt security that were not qualified stated interest payments.

If an interval between payments of qualified stated interest on your discount debt security contains more than one accrual period, then, when you determine the amount of OID allocable to an accrual period, you must allocate the amount of qualified stated interest payable at the end of the interval, including any qualified stated interest that is payable on the first day of the accrual period immediately following the interval, pro rata to each accrual period in the interval based on their relative lengths. In addition, you must increase the adjusted issue price at the beginning of each accrual period in the interval by the amount of any qualified stated interest that has accrued prior to the first day of the accrual period but that is not payable until the end of the interval. You may compute the amount of OID allocable to an initial short accrual period by using any reasonable method if all other accrual periods, other than a final short accrual period, are of equal length.

The amount of OID allocable to the final accrual period is equal to the difference between:

- the amount payable at the maturity of your debt security, other than any payment of qualified stated interest; and
- your debt security s adjusted issue price as of the beginning of the final accrual period.

Acquisition Premium. If you purchase your debt security for an amount that is less than or equal to the sum of all amounts, other than qualified stated interest, payable on your debt security after the purchase date but is greater than the amount of your debt security s adjusted issue price, as determined above under General , the excess is acquisition premium. If you do not make the election described below under Election to Treat All Interest as Original Issue Discount , then you must reduce the daily portions of OID by a fraction equal to:

- the excess of your adjusted basis in the debt security immediately after purchase over the adjusted issue price of the debt security, divided by,

34

Table of Contents

the excess of the sum of all amounts payable, other than qualified stated interest, on the debt security after the purchase date over the debt security s adjusted issue price.

Pre-Issuance Accrued Interest. An election may be made to decrease the issue price of your debt security by the amount of pre-issuance accrued interest if:

a portion of the initial purchase price of your debt security is attributable to pre-issuance accrued interest;

the first stated interest payment on your debt security is to be made within one year of your debt security s issue date; and

the payment will equal or exceed the amount of pre-issuance accrued interest.

If this election is made, a portion of the first stated interest payment will be treated as a return of the excluded pre-issuance accrued interest and not as an amount payable on your debt security.

Debt Securities Subject to Contingencies Including Optional Redemption. Your debt security is subject to a contingency if it provides for an alternative payment schedule or schedules applicable upon the occurrence of a contingency or contingencies, other than a remote or incidental contingency, whether such contingency relates to payments of interest or of principal. In such a case, you must determine the yield and maturity of your debt security by assuming that the payments will be made according to the payment schedule most likely to occur if:

the timing and amounts of the payments that comprise each payment schedule are known as of the issue date; and

one of such schedules is significantly more likely than not to occur.

If there is no single payment schedule that is significantly more likely than not to occur, other than because of a mandatory sinking fund, you must include income on your debt security in accordance with the general rules that govern contingent payment obligations. These rules will be discussed in the applicable prospectus supplement.

Notwithstanding the general rules for determining yield and maturity, if your debt security is subject to contingencies, and either you or we have an unconditional option or options that, if exercised, would require payments to be made on the debt security under an alternative payment schedule or schedules, then:

in the case of an option or options that we may exercise, we will be deemed to exercise or not to exercise an option or combination of options in the manner that minimizes the yield on your debt security; and

in the case of an option or options that you may exercise, you will be deemed to exercise or not to exercise an option or combination of options in the manner that maximizes the yield on your debt security.

If both you and we hold options described in the preceding sentence, those rules will apply to each option in the order in which they may be exercised. You may determine the yield on your debt security for the purposes of those calculations by using any date on which your debt security may be redeemed or repurchased as the maturity date and the amount payable on the date that you chose in accordance with the terms of your debt security as the principal amount payable at maturity.

If a contingency, including the exercise of an option, actually occurs or does not occur contrary to an assumption made according to the above rules, then, except to the extent that a portion of your debt security is repaid as a result of the change in circumstances and solely to determine the amount and accrual of OID, you must redetermine the yield and maturity of your debt security by treating your debt security as having been retired and reissued on the date of the change in circumstances for an amount equal to your debt security s adjusted issue price on that date.

35

Table of Contents

Election to Treat All Interest as Original Issue Discount. You may elect to include in gross income all interest that accrues on your debt security using the constant-yield method described above under General , with the modifications described below. For purposes of this election, interest will include stated interest, OID, *de minimis* OID, market discount, described below under Market Discount , *de minimis* market discount and unstated interest, as adjusted by any amortizable bond premium, described below under Debt Securities Purchased at a Premium , or acquisition premium.

If you make this election for your debt security, then, when you apply the constant-yield method:

- the issue price of your debt security will equal your cost;
- the issue date of your debt security will be the date you acquired it; and
- no payments on your debt security will be treated as payments of qualified stated interest.

Generally, this election will apply only to the debt security for which you make it; however, if the debt security has amortizable bond premium, you will be deemed to have made an election to apply amortizable bond premium against interest for all debt instruments with amortizable bond premium, other than debt instruments the interest on which is excludible from gross income, that you hold as of the beginning of the taxable year to which the election applies or any taxable year thereafter. Additionally, if you make this election for a market discount debt security, you will be treated as having made the election discussed below under Market Discount to include market discount in income currently over the life of all debt instruments that you currently own or later acquire. You may not revoke any election to apply the constant-yield method to all interest on a debt security or the deemed elections with respect to amortizable bond premium or market discount debt securities without the consent of the Internal Revenue Service.

Variable Rate Debt Securities. Your debt security will be a variable rate debt security if:

- your debt security s issue price does not exceed the total noncontingent principal payments by more than the lesser of:
  - 1.5 percent of the product of the total noncontingent principal payments and the number of complete years to maturity from the issue date; or
  - 15 percent of the total noncontingent principal payments; and
- your debt security provides for stated interest, compounded or paid at least annually, only at:
  - one or more qualified floating rates;
  - a single fixed rate and one or more qualified floating rates;
  - a single objective rate; or

a single fixed rate and a single objective rate that is a qualified inverse floating rate.

Your debt security will have a variable rate that is a qualified floating rate if:

variations in the value of the rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which your debt security is denominated; or

the rate is equal to such a rate multiplied by either:

a fixed multiple that is greater than 0.65 but not more than 1.35; or

a fixed multiple greater than 0.65 but not more than 1.35, increased or decreased by a fixed rate; and

the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

Table of Contents

If your debt security provides for two or more qualified floating rates that are within 0.25 percentage points of each other on the issue date or can reasonably be expected to have approximately the same values throughout the term of the debt security, the qualified floating rates together constitute a single qualified floating rate.

Your debt security will not have a qualified floating rate, however, if the rate is subject to certain restrictions, including caps, floors, governors, or other similar restrictions, unless such restrictions are fixed throughout the term of the debt security or are not reasonably expected to significantly affect the yield on the debt security.

Your debt security will have a variable rate that is a single objective rate if:

- the rate is not a qualified floating rate;
- the rate is determined using a single, fixed formula that is based on objective financial or economic information that is not within the control of, or unique to the circumstances of, the issuer or a related party; and
- the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

Your debt security will not have a variable rate that is an objective rate, however, if it is reasonably expected that the average value of the rate during the first half of your debt security s term will be either significantly less than or significantly greater than the average value of the rate during the final half of your debt security s term.

An objective rate as described above is a qualified inverse floating rate if:

- the rate is equal to a fixed rate minus a qualified floating rate; and
- the variations in the rate can reasonably be expected to inversely reflect contemporaneous variations in the cost of newly borrowed funds.

Your debt security will also have a single qualified floating rate or an objective rate if interest on your debt security is stated at a fixed rate for an initial period of one year or less followed by either a qualified floating rate or an objective rate for a subsequent period, and either:

- the fixed rate and the qualified floating rate or objective rate have values on the issue date of the debt security that do not differ by more than 0.25 percentage points; or
- the value of the qualified floating rate or objective rate is intended to approximate the fixed rate.

In general, if your variable rate debt security provides for stated interest at a single qualified floating rate or objective rate, or one of those rates after a single fixed rate for an initial period, all stated interest on your debt security is qualified stated interest. In this case, the amount of OID, if any, is determined by using, in the case of a qualified floating rate or qualified inverse floating rate, the value as of the issue date of the qualified floating rate or qualified inverse floating rate, or, for any other objective rate, a fixed rate that reflects the yield reasonably expected for your debt security.

If your variable rate debt security does not provide for stated interest at a single qualified floating rate or a single objective rate, and also does not provide for interest payable at a fixed rate other than a single fixed rate for an initial period, you generally must determine the interest and OID accruals on your debt security by:

determining a fixed rate substitute for each variable rate provided under your variable rate debt security;

constructing the equivalent fixed rate debt instrument, using the fixed rate substitute described above;

Table of Contents

determining the amount of qualified stated interest and OID with respect to the equivalent fixed rate debt instrument; and

adjusting for actual variable rates during the applicable accrual period.

When you determine the fixed rate substitute for each variable rate provided under the variable rate debt security, you generally will use the value of each variable rate as of the issue date or, for an objective rate that is not a qualified inverse floating rate, a rate that reflects the reasonably expected yield on your debt security.

If your variable rate debt security provides for stated interest either at one or more qualified floating rates or at a qualified inverse floating rate, and also provides for stated interest at a single fixed rate, other than at a single fixed rate for an initial period, you generally must determine interest and OID accruals by using the method described in the previous paragraph. However, your variable rate debt security will be treated, for purposes of the first three steps of the determination, as if your debt security had provided for a qualified floating rate, or a qualified inverse floating rate, rather than the fixed rate. The qualified floating rate, or qualified inverse floating rate, that replaces the fixed rate must be such that the fair market value of your variable rate debt security as of the issue date approximates the fair market value of an otherwise identical debt instrument that provides for the qualified floating rate, or qualified inverse floating rate, rather than the fixed rate.

Short-Term Debt Securities. In general, if you are an individual or other cash basis United States holder of a short-term debt security, you are not required to accrue OID, as specifically defined below for the purpose of this paragraph, for United States federal income tax purposes unless you elect to do so (although it is possible that you may be required to include any stated interest in income as you receive it). If you are an accrual basis taxpayer, a taxpayer in a special class, including, but not limited to, a regulated investment company, common trust fund, or a certain type of pass-through entity, or a cash basis taxpayer who so elects, you will be required to accrue OID on short-term debt securities on either a straight-line basis or under the constant-yield method, based on daily compounding. If you are not required and do not elect to include OID in income currently, any gain you realize on the sale or retirement of your short-term debt security will be ordinary income to the extent of the accrued OID, which will be determined on a straight-line basis unless you make an election to accrue the OID under the constant-yield method, through the date of sale or retirement. However, if you are not required and do not elect to accrue OID on your short-term debt securities, you will be required to defer deductions for interest on borrowings allocable to your short-term debt securities in an amount not exceeding the deferred income until the deferred income is realized.

When you determine the amount of OID subject to these rules, you must include all interest payments on your short-term debt security, including stated interest, in your short-term debt security s stated redemption price at maturity.

Foreign Currency Discount Debt Securities. If your discount debt securities are denominated in, or their return is determined by reference to, a foreign currency, you must determine OID for any accrual period on your discount debt security in the foreign currency and then translate the amount of OID into U.S. dollars in the same manner as stated interest accrued by an accrual basis United States holder, as described above under Payments of Interest . You may recognize ordinary income or loss when you receive an amount attributable to OID in connection with a payment of interest or the sale or retirement of your debt security.

Market Discount

You will be treated as if you purchased your debt security, other than a short-term debt security, at a market discount, and your debt security will be a market discount debt security, if:

you purchase your debt security for less than its issue price as determined above under Original Issue Discount ; and

the difference between the debt security s stated redemption price at maturity or, in the case of a discount debt security, the debt security s revised issue price, and the price you paid for your debt

Table of Contents

security is equal to greater than 1/4 of one percent of your debt security s stated redemption price at maturity or revised issue price, respectively, multiplied by the number of complete years to the debt security s maturity. To determine the revised issue price of your debt security for these purposes, you generally add any OID that has accrued on your debt security to its issue price.

If your debt security s stated redemption price at maturity or, in the case of a discount debt security, its revised issue price, exceeds the price you paid for the debt security by less than 1/4 of one percent multiplied by the number of complete years to the debt security s maturity, the excess constitutes *de minimis* market discount, and the rules discussed below are not applicable to you.

You must treat any gain you recognize on the maturity or disposition of your market discount debt security as ordinary income to the extent of the accrued market discount on your debt security. Alternatively, you may elect to include market discount in income currently over the life of your debt security. If you make this election, it will apply to all debt instruments with market discount that you acquire on or after the first day of the first taxable year to which the election applies. You may not revoke this election without the consent of the Internal Revenue Service. If you own a market discount debt security and do not make this election you will generally be required to defer deductions for interest on borrowings allocable to your debt security in an amount not exceeding the accrued market discount on your debt security until the maturity or disposition of your debt security.

You will accrue market discount on your market discount debt security on a straight-line basis unless you elect to accrue market discount using a constant-yield method. If you make this election, it will apply only to the debt security with respect to which it is made and you may not revoke it.

Debt Securities Purchased at a Premium

If you purchase your debt security for an amount in excess of its principal amount, you may elect to treat the excess as amortizable bond premium. If you make this election, you will reduce the amount required to be included in your income each year with respect to interest on your debt security by the amount of amortizable bond premium allocable to that year, based on your debt security s yield to maturity. If your debt security is denominated in, or determined by reference to, a foreign currency, you will compute your amortizable bond premium in units of the foreign currency, and your amortizable bond premium will reduce your interest income in units of the foreign currency. Gain or loss recognized that is attributable to changes in exchange rates between the time your amortized bond premium offsets interest income and the time of the acquisition of your debt security is generally taxable as ordinary income or loss. If you make an election to amortize bond premium, it will apply to all debt instruments, other than debt instruments the interest on which is excludible from gross income, that you hold at the beginning of the first taxable year to which the election applies, or that you thereafter acquire, and you may not revoke it without the consent of the Internal Revenue Service. See also Original Issue Discount Election to Treat All Interest as Original Issue Discount .

Purchase, Sale and Retirement of the Debt Securities

Your tax basis in your debt security will generally be the U.S. dollar cost, as defined below, of your debt security, adjusted by:

adding any amounts that you are required to include in income under the rules governing OID and market discount (the rules governing these amounts are discussed above); and then

subtracting any payments on your debt security that are not qualified stated interest payments and any amortizable bond premium applied to reduce interest on your debt security.

If you purchase your debt security with foreign currency, the U.S. dollar cost of your debt security will generally be the U.S. dollar value of the purchase price on the date of purchase. However, if you are a cash basis taxpayer, or an accrual basis taxpayer if you so elect, and your debt security is traded on an established securities market, as defined in the applicable Treasury regulations, the U.S. dollar cost of your debt security will be the U.S. dollar value of the purchase price on the settlement date of your purchase.

Table of Contents

You will generally recognize gain or loss on the sale or retirement of your debt security equal to the difference between the amount you realize on the sale or retirement and your tax basis in your debt security. If your debt security is sold or retired for an amount in foreign currency, the amount you realize will be the U.S. dollar value of such amount on the date the debt security is disposed of or retired, except that in the case of a debt security that is traded on an established securities market, as defined in the applicable Treasury regulations, a cash basis taxpayer, or an accrual basis taxpayer that so elects, will determine the amount realized based on the U.S. dollar value of the foreign currency on the settlement date of the sale.

You will recognize capital gain or loss when you sell or retire your debt security, except to the extent:

described above under Short-Term Debt Securities or Market Discount ;

attributable to accrued but unpaid interest;

the rules governing contingent payment obligations apply; or

attributable to changes in exchange rates as described below.

Capital gain of a non-corporate United States holder is generally taxed at preferential rates where the property is held for more than one year.

You must treat any portion of the gain or loss that you recognize on the sale or retirement of a debt security as ordinary income or loss to the extent attributable to changes in exchange rates. However, you take exchange gain or loss into account only to the extent of the total gain or loss you realize on the transaction.

Medicare Tax

For taxable years beginning after December 31, 2012, a United States person that is an individual or estate, or a trust that does not fall into a special class of trusts that is exempt from such tax, will be subject to a 3.8% tax on the lesser of (1) the United States person s net investment income for the relevant taxable year and (2) the excess of the United States person s modified adjusted gross income for the taxable year over a certain threshold (which in the case of individuals will be between $125,000 and $250,000, depending on the individual s circumstances). A holder s net investment income will generally include its interest income and its net gains from the disposition of debt securities, unless such interest income or net gains are derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). If you are a United States person that is an individual, estate or trust, you are urged to consult your tax advisors regarding the applicability of the Medicare tax to your income and gains in respect of your investment in the debt securities.

Exchange of Amounts in Other Than U.S. Dollars

If you receive foreign currency as interest on your debt security or on the sale or retirement of your debt security, your tax basis in the foreign currency will equal its U.S. dollar value when the interest is received or at the time of the sale or retirement. If you purchase foreign currency, you generally will have a tax basis equal to the U.S. dollar value of the foreign currency on the date of your purchase. If you sell or dispose of a foreign currency, including if you use it to purchase debt securities or exchange it for U.S. dollars, any gain or loss recognized generally will be ordinary income or loss.

Indexed Debt Securities

The applicable prospectus supplement will discuss any special United States federal income tax rules with respect to debt securities the payments on which are determined by reference to any index and other debt securities that are subject to the rules governing contingent payment obligations which are not subject to the rules governing variable rate debt securities.

40

Table of Contents

United States Alien Holders

This subsection describes the material United States federal income tax consequences to a United States alien holder. You are a United States alien holder if you are the beneficial owner of a debt security and are, for United States federal income tax purposes:

- a non-resident alien individual;
- a foreign corporation;
- a foreign partnership; or
- an estate or trust that in either case is not subject to United States federal income tax on a net income basis on income or gain from the debt security.

If you are a United States holder, this section does not apply to you.

Interest. Under United States federal income and estate tax law, and subject to the discussion of backup withholding below, if you are a United States alien holder, interest on a debt security paid to you is exempt from United States federal income tax, including withholding tax, whether or not you are engaged in a trade or business in the United States, unless:

- you are an insurance company carrying on a United States insurance business to which the interest is attributable, within the meaning of the Internal Revenue Code, or
- you have an office or other fixed place of business in the United States to which the interest is attributable and derive the interest in the active conduct of a banking, financing or similar business within the United States.

Purchase, Sale and Retirement of the Debt Securities. If you are a United States alien holder, you generally will not be subject to United States federal income tax on gain realized on the sale, exchange or retirement of your debt security unless:

- the gain is effectively connected with your conduct of a trade or business in the United States and, if required by an applicable income tax treaty as a condition for subjecting you to United States taxation on a net income basis, attributable to a permanent establishment that you maintain in the United States; or
- you are an individual, you are present in the United States for 183 or more days during the taxable year in which the gain is realized and certain other conditions exist.

If you are a corporate non-United States holder, effectively connected gains that you recognize may also, under certain circumstances, be subject to an additional branch profits tax at a 30% rate or at a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate.

For purposes of the United States federal estate tax, the debt securities will be treated as situated outside the United States and will not be includible in the gross estate of a holder who is neither a citizen nor a resident of the United States at the time of death.

Treasury Regulations Requiring Disclosure of Reportable Transactions

Treasury regulations require United States taxpayers to report certain transactions that give rise to a loss in excess of certain thresholds (a Reportable Transaction). Under these regulations, if the debt securities are denominated in a foreign currency, a United States holder (or a United States alien holder that holds the debt securities in connection with a U.S. trade or business) that recognizes a loss with respect to the debt securities that is characterized as an ordinary loss due to changes in currency exchange rates (under any of the rules discussed above) would be required to report the loss on Internal Revenue Service Form 8886 (Reportable Transaction Statement) if the loss exceeds the thresholds set forth in the regulations. For individuals and trusts,

Table of Contents

this loss threshold is $50,000 in any single taxable year. For other types of taxpayers and other types of losses, the thresholds are higher. You should consult with your tax advisor regarding any tax filing and reporting obligations that may apply in connection with acquiring, owning and disposing of debt securities.

Information with Respect to Foreign Financial Assets

Under recently enacted legislation, individuals that own specified foreign financial assets with an aggregate value in excess of $50,000 in taxable years beginning after March 18, 2010 will generally be required to file an information report with respect to such assets with their tax returns. Specified foreign financial assets include any financial accounts maintained by foreign financial institutions, as well as any of the following, but only if they are not held in accounts maintained by financial institutions: (i) stocks and securities issued by non-United States persons, (ii) financial instruments and contracts held for investment that have non-United States issuers or counterparties, and (iii) interests in foreign entities. United States holders that are individuals are urged to consult their tax advisors regarding the application of this legislation to their ownership of the shares or ADSs.

United States Backup Withholding and Information Reporting

United States Holders

If you are a non-corporate United States holder, information reporting requirements, on Internal Revenue Service Form 1099, generally will apply to:

- payments of principal and interest within the United States, including payments made by wire transfer from outside the United States to an account you maintain in the United States; and
- the payment of the proceeds from the sale of a debt security effected at a United States office of a broker.

Additionally, backup withholding will apply to such payments if you are a non-corporate United States holder and:

- you fail to provide an accurate taxpayer identification number;
- you are notified by the Internal Revenue Service that you have failed to report all interest and dividends required to be shown on your federal income tax returns; or
- in certain circumstances, you fail to comply with applicable certification requirements.

Pursuant to recently enacted legislation, certain payments in respect of debt securities made to corporate United States holders after December 31, 2011 may be subject to information reporting and backup withholding.

United States Alien Holders

If you are a United States alien holder, you are generally exempt from backup withholding and information reporting requirements with respect to:

- payments of principal and interest made to you outside the United States by us or another non-United States payor; and

other payments of principal, interest and proceeds from the sale of a debt security effected at a United States office of a broker, as long as the income associated with such payments is otherwise exempt from United States federal income tax, and:

the payor or broker does not have actual knowledge or reason to know that you are a United States person and you have furnished to the payor or broker:

an Internal Revenue Service Form W-8BEN or an acceptable substitute form upon which you certify, under penalties of perjury, that you are (or, in the case of a United States alien holder that

Table of Contents

is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) a non-United States person; or

other documentation upon which it may rely to treat the payments as made to a non-United States person in accordance with U.S. Treasury regulations, or

you otherwise establish an exemption.

In general, payments of the proceeds from the sale of a debt security effected at a foreign office of a broker will not be subject to information reporting or backup withholding. However, a sale of a debt security effected at a foreign office of a broker will be subject to information reporting and backup withholding if:

the proceeds are transferred to an account maintained by you in the United States;

the payment of proceeds or the confirmation of the sale is mailed to you at a United States address; or

the sale has some other specified connection with the United States as provided in U.S. Treasury regulations,

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above are met or you otherwise establish an exemption.

In addition, a sale of a debt security effected at a foreign office of a broker will be subject to information reporting if the broker is:

a United States person;

a controlled foreign corporation for United States tax purposes;

a foreign person 50% or more of whose gross income was effectively connected with the conduct of a United States trade or business for a specified three-year period; or

a foreign partnership, if at any time during its tax year:

one or more of its partners are U.S. persons , as defined in U.S. Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership; or

such foreign partnership is engaged in the conduct of a United States trade or business,

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above are met, or you otherwise establish an exemption. Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a United States person.

You generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed your income tax liability by filing a refund claim with the U.S. Internal Revenue Service.

43

Table of Contents

PLAN OF DISTRIBUTION

We may sell the securities offered by this prospectus:

- through underwriters;
- through dealers;
- through agents; or
- directly to purchasers.

The prospectus supplement relating to any offering will identify or describe:

- any underwriter, dealers or agents;
- their compensation;
- the net proceeds to us;
- the purchase price of the securities;
- the initial public offering price of the securities; and
- any exchange on which the securities will be listed, if applicable.

Underwriters

If we use underwriters in the sale, they will acquire securities for their own account and may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Unless we otherwise state in the prospectus supplement, various conditions to the underwriters obligation to purchase securities apply, and the underwriters will be obligated to purchase all of the securities contemplated in an offering if they purchase any of such securities. Any initial public offering price and any discounts or concessions allowed or reallowed or paid to dealers may be changed from time to time.

Dealers

If we use dealers in the sale, unless we otherwise indicate in the prospectus supplement, we will sell securities to the dealers as principals. The dealers may then resell the securities to the public at varying prices that the dealers may determine at the time of resale.

Agents and Direct Sales

We may sell securities directly or through agents that we designate. The prospectus supplement will name any agent involved in the offering and sale and state any commissions we will pay to that agent. Unless we indicate otherwise in the prospectus supplement, any agent is acting on a best efforts basis for the period of its appointment.

Contracts with Institutional Investors for Delayed Delivery

If we indicate in the prospectus supplement, we will authorize underwriters, dealers or agents to solicit offers from various institutional investors to purchase securities. In this case, payment and delivery will be made on a future date that the prospectus supplement specifies. The underwriters, dealers or agents may impose limitations on the minimum amount that the institutional investor can purchase. They may also impose limitations on the portion of the aggregate amount of the securities that they may sell. These institutional investors include:

commercial and savings banks;

insurance companies;

Table of Contents

pension funds;

investment companies;

educational and charitable institutions; and

other similar institutions as we may approve.

The obligations of any of these purchasers pursuant to delayed delivery and payment arrangements will not be subject to any conditions. However, one exception applies. An institution s purchase of the particular securities cannot at the time of delivery be prohibited under the laws of any jurisdiction that governs:

the validity of the arrangements; or

the performance by us or the institutional investor.

Indemnification

Agreements that we will enter into with underwriters, dealers or agents may entitle them to indemnification by us against various civil liabilities. These include liabilities under the Securities Act of 1933. The agreements may also entitle them to contribution for payments which they may be required to make as a result of these liabilities. Underwriters, dealers and agents may be customers of, engage in transactions with, or perform services for, us in the ordinary course of business.

Market Making

In the event that we do not list securities of any series on a U.S. national securities exchange, various broker-dealers may make a market in the securities, but will have no obligation to do so, and may discontinue any market making at any time without notice. Consequently, it may be the case that no broker-dealer will make a market in securities of any series or that the liquidity of the trading market for the securities will be limited.

Table of Contents

VALIDITY OF SECURITIES

The General Counsel of TOTAL will pass upon the validity of the debt securities and guarantees as to matters of French law. The Group U.S. Counsel of TOTAL will pass upon the validity of the debt securities and guarantees as to matters of United States law. Bennett Jones LLP will pass upon the validity of the debt securities issued by Total Canada as to matters of Canadian law.

In connection with particular offerings of debt securities in the future, the General Counsel of TOTAL, or other counsel named in the applicable prospectus supplement, will pass upon the validity of the debt securities and guarantee as to matters of French law and the Group U.S. Counsel of TOTAL, or other counsel named in the applicable prospectus supplement, will pass upon the validity of the debt securities and guarantee as to matters of New York law. In addition, in connection with particular offerings of guaranteed debt securities of Total Canada, Bennett Jones LLP, or other counsel named in the applicable prospectus supplement, will pass upon the validity of the guaranteed debt securities as to matters of Canadian law. Cleary Gottlieb Steen & Hamilton LLP or any other law firm named in the applicable prospectus supplement will pass upon the validity of the debt securities and guarantee for any underwriters or agents.

EXPERTS

The consolidated financial statements of TOTAL S.A., as of and for the years ending December 31, 2010, 2009 and 2008, appearing in TOTAL S.A. s Annual Report on Form 20-F for the year ended December 31, 2010 and the effectiveness of internal control over financial reporting as of December 31, 2010, have been audited by Ernst & Young Audit and KPMG Audit, a division of KPMG S.A., independent registered public accounting firms, as set forth in their reports incorporated herein by reference. Such consolidated financial statements and TOTAL S.A. management s assessment of the effectiveness of internal control over financial reporting as of December 31, 2010 are incorporated herein by reference in reliance upon such reports given on the authority of said firms as experts in accounting and auditing.

The audit report on the consolidated financial statements of TOTAL S.A. as of and for the years ended December 31, 2010, 2009 and 2008 refers to the change in TOTAL S.A. s accounting policy regarding jointly controlled entities under standard IAS 31 Interests in Joint Ventures.

Table of Contents

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 8. ***Indemnification of Directors and Officers***

Under French law, provisions of *statuts* that limit the liability of directors are prohibited. French law also prohibits a company from indemnifying its directors against liability. However, if a director is sued by a third party and ultimately prevails in the litigation on all counts, but is nevertheless required to bear attorneys fees and costs, the company may reimburse those fees and costs pursuant to an indemnification arrangement with the director.

Under the Business Corporations Act (Alberta) (the ABCA), Total Canada may indemnify a present or former director or officer or a person who acts or acted at Total Canada s request as a director or officer of a body corporate of which Total Canada is or was a shareholder or creditor, and his heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of Total Canada or that body corporate, if the director or officer acted honestly and in good faith with a view to the best interests of Total Canada, and, in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that his conduct was lawful. Such indemnification may be in connection with a derivative action only with court approval. A director or officer is entitled to indemnification from Total Canada as a matter of right if he or she was substantially successful on the merits, fulfilled the conditions set forth above, and is fairly and reasonably entitled to indemnity.

The by-laws of Total Canada provide that, subject to the limitations contained in the ABCA, Total Canada shall indemnify a director or officer, a former director or officer, or a person who acts or acted at Total Canada s request as a director or officer of a body corporate of which Total Canada is or was a shareholder or creditor, and his heirs and legal representatives against: (a) all costs, charges and expenses, including an amount paid to settle an action or judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of Total Canada or such other body corporate; and (b) subject to the approval of the court, all other costs, charges and expenses reasonably incurred by him in connection with such action, except in respect of an action by or on behalf of Total Canada, or such body corporate, to procure a judgment in its favor. In each case, the indemnity is conditioned upon the indemnitee: (i) having acted honestly and in good faith with a view to the best interests of Total Canada; and (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, having had reasonable grounds for believing that his conduct was lawful. Notwithstanding the foregoing, each indemnitee shall be entitled to indemnification from Total Canada in respect of all costs, charges and expenses reasonably incurred by him in connection with the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of Total Canada or such other body corporate if he was substantially successful on the merits of his defence of the action or proceeding and fulfills the conditions described in (i) and (ii) above.

TOTAL, Total Capital, Total Canada and Total Capital International maintain liability insurance for their respective directors and officers, including insurance against liabilities under the U.S. Securities Act of 1933, as amended.

Table of Contents

Item 9. ***Exhibits***

Exhibit Number	Description of Document
1.1	Form of Underwriting Agreement for Total Capital Guaranteed Debt Securities.*
1.2	Form of Underwriting Agreement for TOTAL S.A. Debt Securities.*
1.3	Form of Underwriting Agreement for Total Capital Canada Ltd. Guaranteed Debt Securities.***
1.4	Form of Underwriting Agreement for Total Capital International Guaranteed Debt Securities.
4.1	Form of Indenture, among Total Capital, TOTAL S.A., and The Bank of New York Mellon.*
4.2	Form of Indenture, between TOTAL S.A. and The Bank of New York Mellon.*
4.3	Form of Debt Securities for Total Capital and Guarantee relating thereto (included in Exhibit 4.1).*
4.4	Form of Debt Securities for TOTAL S.A. (included in Exhibit 4.2).*
4.5	*Statuts* of TOTAL S.A.**
4.6	Form of Indenture among Total Capital Canada Ltd., TOTAL S.A., and the Bank of New York Mellon.***
4.7	Form of Debt Securities for Total Capital Canada Ltd. and Guarantee relating thereto (included in Exhibit 4.6).
4.8	Form of Indenture among Total Capital International, TOTAL S.A., and the Bank of New York Mellon.
4.9	Form of Debt Securities for Total Capital International and Guarantee relating thereto (included in Exhibit 4.8).
5.1	Opinion of Peter Herbel, General Counsel of TOTAL S.A., as to the validity of the Debt Securities and the Guarantees as to certain matters of French law.
5.2	Opinion of Jonathan E. Marsh, Group U.S. Counsel of TOTAL S.A. as to the validity of the Debt Securities and the Guarantees as to certain matters of United States law.
5.3	Opinion of Bennett Jones LLP as to the validity of the Debt Securities as to certain matters of Canadian law.
8.1	Opinion of Sullivan & Cromwell LLP as to certain matters of French taxation.
8.2	Opinion of Sullivan & Cromwell LLP as to certain matters of U.S. taxation.
8.3	Opinion of Bennett Jones LLP as to certain matters of Canadian taxation.***
12.1	Computation of ratio of earnings to fixed charges (incorporated by reference to Exhibit 99.4 to Form 6-K furnished to the SEC on November 2, 2011).
23.1	Consent of Ernst & Young Audit and KPMG AUDIT, a division of KPMG S.A., concerning financial statements of TOTAL S.A. as of and for the three years ended December 31, 2010.
23.2	Consent of Peter Herbel, General Counsel of TOTAL S.A. (included in Exhibit 5.1 above).
23.3	Consent of Jonathan E. Marsh, Group U.S. Counsel of TOTAL S.A. (included in Exhibit 5.2 above).
23.4	Consent of Sullivan & Cromwell LLP, French tax counsel to TOTAL S.A., Total Capital and Total Capital International (included in Exhibit 8.1 above).
23.5	Consent of Sullivan & Cromwell LLP, U.S. tax counsel to TOTAL S.A., Total Capital, Total Capital Canada Ltd. and Total Capital International (included in Exhibit 8.2 above).
23.6	Consent of Bennett Jones LLP, Canadian counsel to TOTAL S.A. and Total Capital Canada Ltd. (included in Exhibit 5.3 above).

Table of Contents

Exhibit Number	Description of Document
23.7	Consent of Bennett Jones LLP, Canadian tax counsel to TOTAL S.A. and Total Capital Canada Ltd. (included in Exhibit 8.3 above).
24.1	Power of attorney TOTAL S.A.***
24.2	Power of attorney Total Capital.***
24.3	Power of attorney Total Capital Canada Ltd.***
24.4	Power of attorney Total Capital International
25.1	Statement of eligibilitom:2px;">

	1,781,537	-0-	$446,557	$ 511,382		$18,810		$3,371,786	
Chief Financial Officer	2010	$ 600,000	-0-	$1,716,581	-0-	$ 136,530	$ 218,289	$ 16,360	$2,687,760
Eric I Cohen Senior Vice President, Secretary and General Counsel	2012	$ 519,409	-0-	$1,091,875	-0-	$ 344,380	$ 747,341	$ 19,285	$2,722,940
Timothy A. Ford President, Cranes	2012	$ 524,481	-0-	$1,235,835	-0-	$ 434,437	$ 3,866	$ 100,421	$2,299,040
	2011	$ 508,918	-0-	$1,000,937	-0-	$ 350,222	$ 1,796	$ 77,934	$1,939,807
Steve Filipov President, Terex Material Handling & Port Solutions	2012	$ 502,620	-0-	$1,056,615	-0-	$ 416,561	$ 216,736	$ 89,397	$2,281,929
	2011	$ 489,777	-0-	$867,511	-0-	$ 321,668	$ 595,774	$ 84,740	$2,359,470
	2010	$ 479,000	-0-	$929,810	-0-	$ 108,996	$ 137,161	$ 380,239	$2,035,206

(1) See Note P – “Stockholders’ Equity” in the Company’s Annual Report on Form 10-K for the year ended December 31, 2012 for a detailed description of the assumptions that the Company used in determining the dollar amounts recognized for financial statement reporting purposes of its stock awards.

(2) The amounts listed in the Stock Awards column are the aggregate grant date fair value amounts computed in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 718. The amounts listed in the Stock Awards column include awards that are subject to performance conditions. For the 2012 awards, if the maximum performance is achieved, the stock award amounts for Messrs. DeFeo, Widman, Cohen, Ford and Filipov would be $11,084,579, $2,338,344, $1,382,885, $1,565,221 and $1,338,233, respectively. Approximately $6.7 million in stock awards granted in 2008 and 2009 were forfeited in 2011 by Mr. DeFeo and approximately $4.5 million in stock awards granted in 2008 and 2009 were forfeited in 2011 by the other Named Executive Officers as a result of the Company's failure to achieve performance targets set by the Committee. Approximately $1.1 million in stock awards granted in 2009 and 2011 were forfeited in 2012 by Mr. DeFeo and approximately $0.7 million in stock awards granted in 2009 and 2011 were forfeited in 2012 by the other Named Executive Officers as a result of the Company's failure to achieve performance targets set by the Committee.

(3) The amount in this column for 2012 for Mr. DeFeo is comprised of a cash award that was granted in 2009 under the Omnibus Plan and vested and became payable in February 2012 ($2,151,905) and the 2012 annual incentive award granted under the Omnibus Plan ($1,755,339). The 2012 amounts for Messrs. Widman, Cohen, Ford and Filipov reflect annual incentive awards earned during fiscal year 2012 under the Omnibus Plan. The amounts included in this column for 2011 are comprised of cash awards that were granted in 2009 under the Omnibus Plan and vested and became payable upon completion of the Company's Annual Report on Form 10-K for the year ended December 31, 2011 and the 2011 annual incentive award granted under the Omnibus Plan. The amount of the 2009 cash award that was earned by the executives was only 1/6 of the initial grant amount as the Company's performance in 2009, 2010 and 2011 were below the Committee's expectations. The amounts in this column for 2010 reflect annual incentive awards earned during fiscal year 2010 under the Omnibus Plan.

(4) The amounts in this column for Messrs. DeFeo, Widman, Cohen and Filipov reflect the actuarial increase in the present value of the Named Executive Officers’ benefits under all defined benefit pension plans. No Named Executive Officer received preferential or above-market earnings on deferred compensation, except for Mr. Ford who received $3,866 in earnings that were above-market or preferential.

(5) As part of its competitive compensation program, the Company in 2012 provided its Named Executive Officers with certain perquisites and other personal benefits. The amounts listed below are the aggregate incremental cost of the benefits and perquisites paid by the Company. The aggregate incremental cost to the Company is computed as the actual out-of-pocket cost to the Company of supplying such perquisite. For example, the amount listed under the Company Paid

Life Insurance column is the amount that the Company paid to a third party as a result of providing the life insurance to the Named Executive Officer. As part of their compensation, each of the Named Executive Officers in 2012 received the benefits and perquisites listed in the table below:

Name	Disability Premiums	401(k) Matching Contributions	Employee Stock Purchase Plan Company Contributions	Company Paid Life Insurance	Other*	Total
Ronald M. DeFeo	$8,951	$12,500	$1,800	$166,013	-0-	$189,264
Phillip C. Widman	$4,919	$12,500	$1,800	$2,979	-0-	$22,198
Eric I Cohen	$4,229	$12,500	-0-	$2,506	$50	$19,285
Timothy A. Ford	$4,248	$12,500	$975	$2,506	$80,192	$100,421
Steve Filipov	$4,124	$12,500	-0-	$2,506	$70,267	$89,397

* The amount shown for Mr. Cohen is for a wellness award, the amount shown for Mr. Ford consists of the Company's contribution to the DC SERP and the amount shown for Mr. Filipov is for the reimbursement of Mr. Filipov's children's education.

(6) Mr. Widman stepped down from his position as Senior Vice President and Chief Financial Officer effective March 20, 2013 and will be retiring from the Company effective March 31, 2013.

Grants of Plan-Based Awards

The following table sets forth information on grants of awards under the Company's equity and non-equity incentive plans during 2012 to the Named Executive Officers. The amount of stock awards, option awards and non-equity incentive plan compensation recognized for financial reporting purposes by the Company for the Named Executive Officers during 2012 is also listed in the Summary Compensation Table.

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards			Estimated Future Payouts Under Equity Incentive Plan Awards			All Other Stock Awards: Number of Shares of Stock or Units (#)	All Other Option Awards: Number of Securities Underlying Options (#)	Exercise or Base Price of Option Awards ($/Sh)	Grant Date Fair Value of Stock and Option Awards
		Threshold ($)	Target ($)	Maximum ($)	Threshold (#)	Target (#)	Maximum (#)				
Ronald M. DeFeo	3/27/2012				15,918	31,836	47,754				$749,738
	3/27/2012				15,919	31,837	47,756				$808,341
	3/27/2012				15,919	31,837	47,756				$808,341
	3/27/2012				47,755	95,510	143,265				$2,817,545
	3/27/2012							47,755			$1,124,630
	8/9/2012							100,000			$2,184,000
	N/A	$59,570	$1,588,542	$2,700,521							
Phillip C. Widman	2/29/2012				4,057	8,113	12,170				$191,467
	2/29/2012				4,057	8,113	12,170				$191,467
	2/29/2012				4,057	8,114	12,171				$191,490
	2/29/2012				12,170	24,340	36,510				$792,997
	2/29/2012							12,170			$287,212
	N/A	$69,525	$463,500	$787,950							
Eric I Cohen	2/29/2012				1,673	3,346	5,019				$84,955
	2/29/2012				1,674	3,347	5,021				$84,980
	2/29/2012				1,674	3,347	5,021				$84,980
	2/29/2012				5,020	10,040	15,060				$327,103
	2/29/2012							20,081			$509,857
	N/A	$46,748	$311,656	$529,815							
Timothy A. Ford	2/29/2012				1,894	3,788	5,682				$96,177
	2/29/2012				1,894	3,788	5,682				$96,177
	2/29/2012				1,894	3,788	5,682				$96,177
	2/29/2012				5,682	11,364	17,046				$370,239
	2/29/2012							22,728			$577,064
	N/A	$58,973	$393,156	$668,365							
	2/29/2012				1,619	3,238	4,857				$82,213

Steve Filipov								
	2/29/2012			1,620	3,239	4,859		$82,238
	2/29/2012			1,620	3,239	4,859		$82,238
	2/29/2012			4,858	9,716	14,574		$316,547
	2/29/2012						19,432	$493,378
	N/A	$56,547	$376,978	$640,862				

On February 29, 2012, except for Mr. DeFeo, whose grant was made on March 27, 2012, grants of Common Stock subject to restrictions on transfer, conditions of forfeitability and other limitations and restrictions ("Restricted Stock") with performance-based criteria ("Performance Shares") were made under the Omnibus Plan to Mr. DeFeo (95,510 shares), Mr. Widman (24,340 shares), Mr. Cohen (10,040 shares), Mr. Ford (11,364 shares) and Mr. Filipov (9,716 shares). The value of the Performance Shares set forth in the table above for Messrs. DeFeo, Cohen, Ford and Filipov is based on the closing price on the NYSE of the Common Stock on the date of grant, which was $25.39 per share on February 29, 2012 and $23.55 on March 27, 2012. The value of the Performance Shares set forth in the table above for Mr. Widman is based on the closing price on the NYSE of the Common Stock on the date of the Widman Agreement, which was $23.60 per share on October 19, 2012, as Mr. Widman's grant was modified by the terms of the Widman Agreement. When performance targets are established for future years and the grant date established

per ASC Topic 718, any incremental change will be reflected in the year in which such performance target is set. These Performance Shares will vest in full in 2015 if the Company achieves a targeted EPS in each of 2012, 2013 and 2014. The number of shares in this grant is subject to adjustment, up or down, based upon attainment above or below the targeted EPS measurement. The executives each earned 127.4% of the 2012 performance-based award. See the "Compensation Discussion & Analysis" section above for a detailed description of the performance measures used in this grant. Upon the earliest to occur of a change in control of the Company or the death or disability of the recipient of the grant, any unvested portion of such Performance Shares shall vest immediately. Dividends, if any, are paid on vested Performance Shares at the same rate as paid to all stockholders.

In addition, on February 29, 2012, except for Mr. DeFeo, whose grant was made on March 27, 2012, grants of Performance Shares were made under the Omnibus Plan to Mr. DeFeo (95,510 shares), Mr. Widman (24,340 shares), Mr. Cohen (10,040 shares), Mr. Ford (11,364 shares) and Mr. Filipov (9,716 shares). The value of the Performance Shares granted to such Named Executive Officers set forth in the table above was not based on the closing stock price on the NYSE of the Common Stock on the date of grant, as the Performance Shares were based on a market condition. The Company used the Monte Carlo method to provide grant date fair value for these Performance Shares, determined to be $29.50 per share for Mr. DeFeo's shares and $32.58 for the shares awarded to Messrs. Widman, Cohen, Ford and Filipov. See Note P - "Stockholders' Equity" in the Company's Annual Report on Form 10-K for the year ended December 31, 2012 for a detailed description of the assumptions that the Company used to arrive at this valuation. These Performance Shares will vest in full in 2015 if the Company achieves a targeted percentile rank against a peer group of 28 companies for three year annualized TSR. The number of shares in this grant is subject to adjustment, up or down, based upon attainment above or below the targeted TSR measurement. See the "Compensation Discussion & Analysis" section above for a detailed description of the performance measures used in this grant. Upon the earliest to occur of a change in control of the Company or the death or disability of the recipient of the grant, any unvested portion of such Performance Shares shall vest immediately. Dividends, if any, are paid on vested Performance Shares at the same rate as paid to all stockholders.

In addition, on February 29, 2012, except for Mr. DeFeo, whose grant was made on March 27, 2012, grants of Restricted Stock were made under the Omnibus Plan to Mr. DeFeo (47,755 shares), Mr. Widman (12,170 shares), Mr. Cohen (20,081 shares), Mr. Ford (22,728 shares) and Mr. Filipov (19,432 shares). The value of the Restricted Stock granted to such Named Executive Officers, except for Mr. Widman, set forth in the table above is based on the closing stock price on the NYSE of the Common Stock on the date of grant ($23.55 per share on March 27, 2012 for Mr. DeFeo and $25.39 per share on February 29, 2012 for Messrs. Cohen, Ford and Filipov). The value of the Restricted Stock for Mr. Widman is based on the closing price on the NYSE of the Common Stock on the date of the Widman Agreement, which was $23.60 per share on October 19, 2012, as Mr. Widman's grant was modified by the terms of the Widman Agreement. These shares of Restricted Stock will vest as follows: 1/3 on March 1, 2013, 1/3 on March 1, 2014 and 1/3 on March 1, 2015, to the extent the Named Executive Officer is still employed with the Company, except for Mr. Widman's shares which will vest upon his retirement. Upon the earliest to occur of a change in control of the Company or the death or disability of the recipient of the grant, any unvested portion of such Restricted Stock shall vest immediately. Dividends, if any, are paid on Restricted Stock awards at the same rate as paid to all stockholders.

It is generally the Company's policy not to enter into employment contracts unless it is legally required or customary to do so in a particular country. However, the Board has determined that maintaining Mr. DeFeo's services is important to the long-term strategy of the Company and that the loss of Mr. DeFeo's services could have a significant, negative impact on the Company's business. Therefore, the Company feels it is prudent to have an employment agreement with Mr. DeFeo. Mr. DeFeo's employment agreement expires on December 31, 2015. The Company relies on the management and leadership skills of its other Named Executive Officers, but not to the same extent that it relies on Mr. DeFeo, and accordingly these executives are not bound by employment agreements. The Company's other executive officers are strictly at-will employees. Each of the Company's executive officers, including Mr. DeFeo, have

their compensation reviewed on an annual basis.

Under the DeFeo Agreement, Mr. DeFeo receives an annual base salary, subject to adjustment by the Board, as well as annual bonuses and long-term incentive compensation during his term of employment in accordance with any plan or plans established by the Company. The Company also agreed to use its best efforts to have Mr. DeFeo elected as a member of the Board and, consistent with generally accepted best corporate governance standards, Chairman of the Board during the term of the DeFeo Agreement. For additional information regarding Mr. DeFeo's employment agreement, see “Potential Payments Upon Termination or Change in Control.”

Outstanding Equity Awards at Fiscal Year-End

The table below summarizes the amount of unexercised stock options, Restricted Stock that has not vested and equity incentive plan awards that have not yet vested for each of the Named Executive Officers as of December 31, 2012.

	Option Awards					Stock Awards				
Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested ($) (1)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($) (1)
Ronald M. DeFeo	100,000			$5.59	3/13/2013				
	80,000			$16.35	5/7/2014				
								125,000 (2)	$3,513,750
								125,000 (3)	$3,513,750
						11,046 (4)	$310,503		
								15,201 (5)	$427,300
								15,201 (6)	$427,300
								45,603 (7)	$1,281,900
						47,755 (8)	$1,342,393		
						100,000 (9)	$2,811,000		
								31,836 (10)	$894,910
								31,837 (11)	$894,938
								31,837 (12)	$894,938
								95,510 (13)	$2,684,786
Phillip C. Widman	12,000			$17.35	3/11/2014				
	10,000			$45.75	6/1/2016				
						21,429 (14)	$602,369		
								26,288 (15)	$738,956
								26,288 (16)	$738,956
						4,646 (14)	$130,599		
								6,394 (5)	$179,735
								6,394 (6)	$179,735
								19,181 (7)	$539,178
						12,170 (14)	$342,099		
								8,113 (10)	$228,056
								8,113 (11)	$228,056

8,114	(12)	$228,085
24,340	(13)	$684,197

	Option Awards					Stock Awards				
Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)		Market Value of Shares or Units of Stock That Have Not Vested ($) (1)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($) (1)
Eric I Cohen	5,000			$17.35	3/11/2014					
	16,000			$45.75	6/1/2016					
						10,715	(17)	$301,199		
									13,144	(15) $369,478
									13,144	(16) $369,478
						5,808	(4)	$163,263		
									1,998	(5) $56,164
									1,998	(6) $56,164
									5,994	(7) $168,491
						20,081	(8)	$564,477		
									3,346	(10) $94,056
									3,347	(11) $94,084
									3,347	(12) $94,084
									10,040	(13) $282,224
Timothy A. Ford	10,000			$45.22	10/2/2016					
						13,393	(17)	$376,477		
									16,430	(15) $461,847
									16,430	(16) $461,847
						7,259	(4)	$204,051		
									2,498	(5) $70,219
									2,498	(6) $70,219
									7,493	(7) $210,628
						22,728	(8)	$638,884		
									3,788	(10) $106,481
									3,788	(11) $106,481
									3,788	(12) $106,481
									11,364	(13) $319,442
Steve Filipov	2,500			$17.35	3/11/2014					
	10,000			$ 45.75	6/1/2016					

11,608	(17)	$326,301		
			14,239	(15) $400,258
			14,239	(16) $400,258
6,292	(4)	$176,868		
			2,165	(5) $60,858
			2,165	(6) $60,858
			6,494	(7) $182,546
19,432	(8)	$546,234		
			3,238	(10) $91,020
			3,239	(11) $91,048
			3,239	(12) $91,048
			9,716	(13) $273,117

(1) Values based on the closing price of the Company's Common Stock on the NYSE on December 31, 2012 of $28.11.

(2) The shares of Restricted Stock will vest upon satisfaction of all of the following: (i) the Company's closing stock price is 25% above the closing stock price on the date of grant for 30 consecutive trading days; (ii) the Company's closing stock price equals or exceeds $45.00 for ten consecutive trading days; and (iii) the fourth anniversary of the date of grant shall have occurred. If all of the above criteria are not satisfied on or prior to March 3, 2017, the performance award shall be forfeited.

(3) The shares of Restricted Stock will vest upon satisfaction of all of the following: (i) the Company's closing stock price is 25% above the closing stock price on the date of grant for 30 consecutive trading days; (ii) the Company's closing stock price equals or exceeds $60.00 for ten consecutive trading days; and (iii) the fourth anniversary of the date of grant shall have occurred. If all of the above criteria are not satisfied on or prior to March 3, 2017, the performance award shall be forfeited.

(4) The shares of Restricted Stock will vest as follows: 1/2 on March 22, 2013 and 1/2 on March 22, 2014.

(5) The shares of Restricted Stock will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2013 financial statements are completed and filed with the SEC because the Company exceeded its targeted EPS for 2012. Based on the Company's performance, each executive received 127.4% of the performance award.

(6) The shares of Restricted Stock vest if the Company achieves a targeted EPS in 2013. If the target is achieved, the shares will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2013 financial statements are completed and filed with the SEC. The number of shares in this grant is subject to adjustment, up or down, based upon attainment above or below the targeted EPS. The EPS target for 2013 is $2.50, which is based upon the Company's budget for the 2013 fiscal year.

(7) The shares of Restricted Stock vest if the Company achieves a targeted TSR percentile rank for the period January 1, 2011 through December 31, 2013. If this target is achieved, the shares will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2013 financial statements are completed and filed with the SEC. The number of shares in this grant are subject to adjustment, up or down, based upon attainment above or below the targeted percentile rank.

(8) The shares of Restricted Stock will vest as follows: 1/3 on March 1, 2013; 1/3 on March 1, 2014; and 1/3 on March 1, 2015.

(9) The shares of Restricted Stock will vest in full on December 31, 2015.

(10) The shares of Restricted Stock will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2014 financial statements are completed and filed with the SEC because the Company exceeded its targeted EPS for 2012. Based on the Company's performance, each executive received 127.4% of the performance award.

(11) The shares of Restricted Stock vest if the Company achieves a targeted EPS in 2013. If the target is achieved, the shares will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2014 financial statements are completed and filed with the SEC. The number of shares in this grant is subject to adjustment,

up or down, based upon attainment above or below the targeted EPS. The EPS target for 2013 is $2.50, which is based upon the Company's budget for the 2013 fiscal year.

(12) The shares of Restricted Stock vest if the Company achieves a targeted EPS in 2014. If the target is achieved, the shares will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2014 financial statements are completed and filed with the SEC. The number of shares in this grant is subject to adjustment, up or down, based upon attainment above or below the targeted EPS. The EPS target for 2014 will be based upon the Company's budget for the 2014 fiscal year.

(13) The shares of Restricted Stock vest if the Company achieves a targeted TSR percentile rank for the period January 1, 2012 through December 31, 2014. If this target is achieved, the shares will vest in full on the later of the third anniversary of the date of grant, or after the Company's 2014 financial statements are completed and filed with the SEC. The number of shares in this grant are subject to adjustment, up or down, based upon attainment above or below the targeted percentile rank.

(14) The shares of Restricted Stock will vest upon Mr. Widman's retirement from the Company.

(15) The shares of Restricted Stock will vest upon satisfaction of all of the following: (i) the Company's closing stock price

is 25% above the closing stock price on the date of grant for 30 consecutive trading days; (ii) the Company's closing stock price equals or exceeds $35.00 for ten consecutive trading days; and (iii) the fourth anniversary of the date of grant shall have occurred. As the above performance criteria were satisfied in February 2011, the performance award shall vest on March 3, 2014.

(16) The shares of Restricted Stock will vest upon satisfaction of all of the following: (i) the Company's closing stock price is 25% above the closing stock price on the date of grant for 30 consecutive trading days; (ii) the Company's closing stock price equals or exceeds $50.00 for ten consecutive trading days; and (iii) the fourth anniversary of the date of grant shall have occurred. If all of the above criteria are not satisfied on or prior to March 3, 2017, the performance award shall be forfeited.

(17) The shares of Restricted Stock will vest as follows: 1/3 on March 3, 2013; 1/3 on March 3, 2014; and 1/3 on March 3, 2015.

Option Exercises and Stock Vested

The table below summarizes the stock options exercised and each vesting of Restricted Stock during 2012 for each of the Named Executive Officers.

	Option Awards		Stock Awards	
Name	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise ($)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting ($)
Ronald M. DeFeo	150,000	$1,152,965	75,772	$1,930,769
Phillip C. Widman	25,000	$232,890	35,800	$904,896
Eric I Cohen	12,965	$188,384	36,574	$927,875
Timothy A. Ford	-0-	-0-	42,793	$1,085,093
Steve Filipov	-0-	-0-	24,414	$616,485

Pension Benefits

The table below provides information with respect to each of the Company's pension plans that provide for payments at, following, or in connection with the retirement of a Named Executive Officer.

Name	Plan Name	Number of Years Credited Service (#)	Present Value of Accumulated Benefit ($)	Payments During Last Fiscal Year ($)
Ronald M. DeFeo	Supplemental Executive Retirement Plan	20	$16,324,900	-0-
	Terex Pension Plan	1	(1) $41,433	-0-
Phillip C. Widman	Supplemental Executive Retirement Plan	15	(2) $2,057,548	-0-
Eric I Cohen	Supplemental Executive Retirement Plan	19	(3) $2,289,515	-0-
Timothy A. Ford	Not Applicable	-0-	-0-	-0-
Steve Filipov	Supplemental Executive Retirement Plan	17	$1,811,797	-0-

(1) Participation in the Terex Pension Plan was frozen as of May 7, 1993, and no participants, including Mr. DeFeo, are credited with service for benefit purposes following such date.

(2) Upon completing ten years of service with the Company, Mr. Widman was credited with an additional five years of service for benefit and vesting purposes.

(3) Upon completing 15 years of service with the Company, Mr. Cohen was credited with an additional four years of service for benefit and vesting purposes.

The SERPs are intended to provide certain senior executives of the Company with retirement benefits in recognition of their contributions to the long-term growth of the Company. The DB SERP is closed to new participants. A senior executive participating in the DB SERP is not eligible to participate in the DC SERP.

Participants in the DB SERP with ten or more years of eligible service are vested and entitled to annual pension benefits beginning at a normal retirement age ("NRA") of 65 or when age plus years of service first equal 90 (the "Normal Retirement Benefit"). Previously, the Board had determined that for retention purposes, Messrs. Widman and Cohen would be credited with additional years of service as described above. Participants in the DB SERP who are vested but terminate employment prior to NRA shall receive a retirement benefit that is equal to the actuarial equivalent of the Normal Retirement Benefit.

The compensation covered by the DB SERP is generally based on a participant's final five-year average of annual salary and bonus. Benefits are computed assuming an NRA of 65 or when age plus years of service first equal 90. Benefits accrue at 2% of average compensation per year of service, payable at the NRA, up to a maximum of 20 years of service. Benefits are payable monthly as a life annuity with 120 monthly payments guaranteed. Benefits are reduced by 50% for Social Security or similar payments and 100% for any other Company-paid defined benefit retirement benefits. Pursuant to the DeFeo Agreement, the annual benefit Mr. DeFeo is entitled to receive under the DB SERP is fixed at $1 million and pursuant to the Widman Agreement, the annual benefit Mr. Widman is entitled to receive under the DB SERP is fixed at $131,830.

Participants in the DC SERP with ten or more years of eligible service are vested and entitled to contributions made by the Company to their DC SERP account. Annual contributions are based upon 10% of the participant's base salary and bonus earned. The Company credits contributions in the DC SERP with an interest rate equal to a bond fund that mirrors an investment strategy in corporate bonds of companies rated Baa or higher by Moody's. The annual rate of interest for 2012 was 4.38%. Benefits are payable in a lump sum payout following termination of employment.

Mr. DeFeo participates in the Terex Corporation Retirement Program for Salaried Employees (the "Retirement Plan") which has merged into the Terex Pension Plan. None of the other Named Executive Officers participate in the Retirement Plan. Participants in the Retirement Plan with five or more years of eligible service are fully vested and entitled to annual pension benefits beginning at age 65. Retirement benefits under the Retirement Plan for Mr. DeFeo are equal to the product of (i) his years of service (as defined in the Retirement Plan) and (ii) 1.08% of final average earnings (as defined in the Retirement Plan) plus 0.65% of such compensation in excess of amounts shown on the applicable Social Security Integration Table. There is no offset for primary Social Security. Participation in the Retirement Plan was frozen as of May 7, 1993, and no participants, including Mr. DeFeo, are credited with service for benefit purposes following such date. However, participants not currently fully vested will be credited with service for purposes of determining vesting only. The annual retirement benefits payable at normal retirement age under the Retirement Plan will be $3,687 for Mr. DeFeo.

See Note O – "Retirement Plans and Other Benefits" in the Company's Annual Report on Form 10-K for the year ended December 31, 2012 for a detailed description of the assumptions that the Company uses in determining the present value of the accumulated benefit.

Nonqualified Deferred Compensation

The table below provides information for the Named Executive Officers with respect to the Company's Deferred Compensation Plan.

Name	Executive Contributions in Last FY ($) (1)	Registrant Contributions in Last FY ($) (2)	Aggregate Earnings in Last FY ($) (3)	Aggregate Withdrawals/ Distributions ($)	Aggregate Balance at Last FYE ($) (4)
Ronald M. DeFeo	-0-	-0-	-0-	-0-	-0-
Phillip C. Widman	-0-	-0-	-0-	-0-	-0-
Eric I Cohen	-0-	-0-	$7,405	-0-	$14,256
Timothy A. Ford	-0-	$80,192	$11,833	-0-	$297,939
Steve Filipov	-0-	-0-	-0-	-0-	-0-

(1) The amounts shown in the "Executive Contributions in Last FY" column are included in the "Salary" and "Non-Equity Incentive Plan Compensation" columns of the Summary Compensation table above.
(2) The amounts shown in the "Registrant Contributions in Last FY" column are included in the "All Other Compensation" column of the Summary Compensation table above.
(3) The amounts shown in the "Aggregate Earnings in Last FY" column include $3,866 for Mr. Ford, which amount is included in the Summary Compensation Table above, as these earnings were above-market or preferential.
(4) Includes $61,132 for Mr. Ford, which amount was included in Summary Compensation Tables in previous years.

Under the Deferred Compensation Plan, a Named Executive Officer may defer up to (i) 20% of his/her salary and (ii) 100% of his/her bonus. The deferrals may be invested in Common Stock or in a bond index. The Company credits the deferrals in the bond index with an interest rate equal to a bond fund that mirrors an investment strategy in corporate bonds of companies rated Baa or higher by Moody's. The annual rate of interest for 2012 was 4.38%. The Company makes a contribution of 25% of the Named Executive Officer's salary and/or bonus that is invested in Common Stock. The Company does not make a contribution with respect to any deferrals into the bond index. Participants in the Deferred Compensation Plan are always fully vested in their deferrals and any matching contributions received. See "Pension Benefits" above for details on the DC SERP, including its vesting schedule.

The Named Executive Officers may receive payments under the Deferred Compensation Plan after their employment terminates, upon their death or if they have an unforeseeable emergency (as defined in the Deferred Compensation Plan). In addition, they may elect to receive all or a portion of their deferral, including the Company's matching contribution, after the deferral has been in the Deferred Compensation Plan for at least three years. Furthermore, for deferrals made prior to December 31, 2004, if they elect to receive an accelerated distribution under the Deferred Compensation Plan, the Named Executive Officers shall (i) forfeit 10% of the amount of the distribution to the Company, (ii) forfeit any Company matching contribution that has not been in the plan for at least one year due to the accelerated distribution and (iii) be unable to make further deferrals into the plan for at least 12 months. In accordance with Section 409A of the Code, accelerated distributions are not allowed under the Deferred Compensation Plan for any deferrals made after December 31, 2004.

Potential Payments Upon Termination or Change in Control

If Mr. DeFeo's employment with the Company is terminated for any reason, including for Cause (as such term is defined in the DeFeo Agreement), due to Mr. DeFeo's death or disability, or by Mr. DeFeo voluntarily, or if Mr. DeFeo elects not to extend the DeFeo Agreement at the end of its term, Mr. DeFeo or his beneficiary is to receive, in addition to his salary, bonus and other compensation earned through the time of such termination, (i) any deferred compensation then in effect, (ii) any other compensation or benefits that have vested through the date of termination or to which Mr. DeFeo may then be entitled, including long-term incentive compensation awards, stock and stock option awards, and (iii) reimbursement of expenses incurred by Mr. DeFeo through the date of termination but not yet reimbursed. If Mr. DeFeo's employment with the Company is terminated as the result of Mr. DeFeo's death or disability, then Mr. DeFeo or his beneficiary would also be entitled to receive a prorated portion of his bonus for the fiscal year during which such termination occurs.

If Mr. DeFeo's employment with the Company is terminated by the Company without Cause or by Mr. DeFeo for Good Reason (as such terms are defined in the DeFeo Agreement), Mr. DeFeo is to receive, in addition to his salary, bonus and other compensation earned through the time of such termination, an amount of cash equal to all compensation that is required to be paid under the term of the DeFeo Agreement, provided that such amount shall not exceed the sum of (i) two times his base salary, (ii) two times the average of his annual bonuses for the two calendar years preceding termination, (iii) compensation covering a prorated portion of the fiscal year during which such termination occurs. Mr. DeFeo would also be entitled to continuing insurance coverage for up to two years from termination, immediate vesting of non-performance based unvested stock options and stock grants with a period of one year following termination to exercise his options, and continuation of all other benefits in effect at the time of termination for up to two years from termination. The cash portion of this payment is to be paid in a lump sum. In addition, if Mr. DeFeo's employment is terminated by the Company without Cause or by Mr. DeFeo for Good Reason within 24 months following a Change in Control, Mr. DeFeo is also entitled to the immediate vesting of any unvested performance stock options, stock grants, long-term incentive compensation awards and other similar awards, with a period of one year following termination to exercise any such options.

The DeFeo Agreement requires Mr. DeFeo to keep certain information of the Company confidential during his employment and thereafter. The DeFeo Agreement also contains an agreement by Mr. DeFeo not to compete with the business of the Company during his term of employment with the Company and for a period of 18 months thereafter.

The following table describes the potential payments upon termination or a Change in Control of the Company for Mr. DeFeo assuming that the triggering event took place on December 31, 2012 using the share price of Common Stock as of that day (both as required by the SEC). However, a termination or Change in Control did not occur on December 31, 2012 and Mr. DeFeo was not terminated on that date. There can be no assurance that a termination or Change in Control would produce the same or similar results as those described if it occurs on any other date or when the Common Stock is trading at any other price.

Executive Benefits and Payments Upon Termination	Voluntary Termination	Early or Normal Retirement	Involuntary Not For Cause or Good Reason Termination	For Cause Termination	Involuntary Not For Cause or Good Reason Termination (CIC)	Death	Disabilit
Base Salary	-0-	-0-	$2,600,000	-0-	$2,600,000	-0-	-0-
Annual Incentive	-0-	-0-	$4,028,089	-0-	$4,028,089	$1,755,339	$1,755,3
Restricted Shares (time-based)	-0-	-0-	$4,463,896	-0-	$4,463,896	$4,463,896	$4,463,8
Restricted Shares (performance-based)	-0-	-0-	-0-	-0-	$11,019,823	$11,019,823	$11,019,
Stock Options	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cash Awards	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Disability Premiums	-0-	-0-	$18,000 (1)	-0-	$18,000 (1)	-0-	-0-
Life Insurance Premiums	-0-	-0-	$330,000 (1)	-0-	$330,000 (1)	-0-	-0-
Retirement Plan Payments	$17,300,000 (2)	$17,300,000 (2)	$17,300,000 (2)	$17,300,000 (2)	$17,300,000 (2)	$17,300,000 (2)	$17,300,
Life Insurance Proceeds	-0-	-0-	-0-	-0-	-0-	$12,160,000	-0-
Disability Benefits	-0-	-0-	-0-	-0-	-0-	-0-	$700,000

(1) Reflects the estimated value of a benefit that Mr. DeFeo would be entitled to receive.

(2) Reflects the estimated value of Mr. DeFeo’s qualified and non-qualified retirement plans on December 31, 2012.

(3) Reflects the estimated value of all future payments that Mr. DeFeo would be entitled to receive under the Company’s disability program.

Pursuant to the Executive Agreements as of December 31, 2012, if an executive's employment with the Company is terminated within six months of a Change in Control (as defined in the Executive Agreements) in anticipation of such Change in Control or within 24 months following a Change in Control, other than for Cause, by reason of death or Permanent Disability, or by the executive without Good Reason (each as defined in the Executive Agreements), the executive is to receive (i) two times his base salary, (ii) two times his annual bonus for the last calendar year preceding termination, and (iii) any accrued vacation pay. This payment is to be paid in a lump sum simultaneously with the executive's termination or on a monthly basis. In addition, the executive also will receive (a) immediate vesting of unvested stock options, stock grants and cash performance awards, with a period of up to six months following termination to exercise such options, (b) continuing insurance coverage for 24 months from termination, (c) continuation of all other benefits in effect at the time of termination for 24 months from termination and (d) outplacement services for a period of at least 12 months from termination.

In the event an executive's employment with the Company is terminated by the Company without Cause or by the executive for Good Reason (other than in connection with a Change in Control), the Company is to pay the executive (i) two times his base salary, (ii) two times his annual bonus for the last calendar year preceding termination and (iii) any accrued vacation pay. This amount is to be paid in 24 equal monthly payments. In such event, the executive would also have the right to exercise any stock options, long-term incentive awards or similar awards for up to six months

following termination, and would immediately vest in non-performance based options and stock awards granted under the Company's incentive plans that would vest in the 24 months following the date of termination. In addition, the Company would also provide continuing insurance coverage, continuation of all other benefits in effect at the time of termination for 24 months from termination and outplacement services for a period of at least 12 months from termination.

As part of the Executive Agreements, the executives agree to keep confidential certain Company information and not to disparage the Company. In addition, Messrs. Ford and Filipov agree that, for a period of 18 months, and Mr. Widman agrees that, for a period of 12 months, following the date of termination (or 24 months for Messrs. Ford and Filipov following such termination, if such termination is within 24 months following a Change in Control), the executive will not, without the prior written consent of the Company, directly or indirectly engage in or render any services to any Competitive Business (as such term is defined in the Executive Agreements) nor solicit, induce or entice any employee of the Company to leave the Company.

Each Executive Agreement has an initial term of one year and automatically renews for an additional term of one year commencing on each anniversary of the date of the agreement until and unless either party sends written notice of non-renewal

to the other party at least six months prior to a renewal date; provided, however, that if a Change in Control shall occur during the initial or renewed term of this Agreement, then the Executive Agreement remains in effect until the third anniversary of the date of the Change in Control.

The following table describes the potential payments upon termination or a Change in Control of the Company for Mr. Widman, assuming that the triggering event took place on December 31, 2012 using the share price of Common Stock as of that day (both as required by the SEC). However, a termination or Change in Control did not occur on December 31, 2012 and Mr. Widman was not terminated on that date. There can be no assurance that a termination or Change in Control would produce the same or similar results as those described if it occurs on any other date or when the Common Stock is trading at any other price.

Executive Benefits and Payments Upon Termination	Voluntary Termination	Early or Normal Retirement	Involuntary Not For Cause or Good Reason Termination	For Cause Termination	Involuntary Not For Cause or Good Reason Termination (CIC)	Death	Disability
Base Salary	-0-	-0-	$1,236,000	-0-	$1,236,000	-0-	-0-
Annual Incentive	-0-	-0-	$1,218,714	-0-	$1,218,714	-0-	-0-
Restricted Shares (time-based)	-0-	-0-	$760,559	-0-	$1,075,067	$1,075,067	$1,075,067
Restricted Shares (performance-based)	-0-	-0-	-0-	-0-	$3,744,954	$3,744,954	$3,744,954
Stock Options	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cash Awards	-0-	-0-		-0-	-0-	-0-	-0-
Disability Premiums	-0-	-0-	$10,000 (1)	-0-	$10,000 (1)	-0-	-0-
Life Insurance Premiums	-0-	-0-	$5,000 (1)	-0-	$5,000 (1)	-0-	-0-
Retirement Plan Payments	$2,600,000 (2)	$2,600,000 (2)	$2,600,000 (2)	$2,600,000 (2)	$2,600,000 (2)	$2,600,000 (2)	$2,600,000 (2)
Life Insurance Proceeds	-0-	-0-	-0-	-0-	-0-	$1,070,000	-0-
Disability Benefits	-0-	-0-	-0-	-0-	-0-	-0-	$1,100,000 (3)

(1) Reflects the estimated value of a benefit that Mr. Widman would be entitled to receive.

(2) Reflects the estimated value of Mr. Widman’s qualified and non-qualified retirement plans on December 31, 2012.

(3) Reflects the estimated value of all future payments that Mr. Widman would be entitled to receive under the Company’s disability program.

Mr. Widman will be retiring effective March 31, 2013. Pursuant to the Widman Agreement, Mr. Widman will receive $2,280,000 paid in monthly installments over a two year period. Mr. Widman's time-based restricted equity awards will vest upon his retirement and his performance-based cash and equity awards will not expire upon his retirement and will continue to vest in accordance with the terms of the applicable award agreement. In addition, the Company would also provide continuing insurance coverage, continuation of all other benefits in effect at the time of retirement

for 24 months from retirement.

The following table describes the potential payments upon termination or a Change in Control of the Company for Mr. Cohen, assuming that the triggering event took place on December 31, 2012 using the share price of Common Stock as of that day (both as required by the SEC). However, a termination or Change in Control did not occur on December 31, 2012 and Mr. Cohen was not terminated on that date. There can be no assurance that a termination or Change in Control would produce the same or similar results as those described if it occurs on any other date or when the Common Stock is trading at any other price.

Executive Benefits and Payments Upon Termination	Voluntary Termination	Early or Normal Retirement	Involuntary Not For Cause or Good Reason Termination	For Cause Termination	Involuntary Not For Cause or Good Reason Termination (CIC)	Death	Disability
Base Salary	-0-	-0-	$1,045,192	-0-	$1,045,192	-0-	-0-
Annual Incentive	-0-	-0-	$828,924	-0-	$828,924	-0-	-0-
Restricted Shares (time-based)	-0-	-0-	$740,735	-0-	$1,028,854	$1,028,854	$1,028,854
Restricted Shares (performance-based)	-0-	-0-	-0-	-0-	$1,584,223	$1,584,223	$1,584,223
Stock Options	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cash Awards	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Disability Premiums	-0-	-0-	$10,000 (1)	-0-	$10,000 (1)	-0-	-0-
Life Insurance Premiums	-0-	-0-	$5,000 (1)	-0-	$5,000 (1)	-0-	-0-
Retirement Plan Payments	$2,900,000 (2)	$2,900,000 (2)	$2,900,000 (2)	$2,900,000 (2)	$2,900,000 (2)	$2,900,000 (2)	$2,900,000 (2)
Life Insurance Proceeds	-0-	-0-	-0-	-0-	-0-	$900,000	-0-
Disability Benefits	-0-	-0-	-0-	-0-	-0-	-0-	$1,600,000 (3)

(1) Reflects the estimated value of a benefit that Mr. Cohen would be entitled to receive.

(2) Reflects the estimated value of Mr. Cohen’s qualified and non-qualified retirement plans on December 31, 2012.

(3) Reflects the estimated value of all future payments that Mr. Cohen would be entitled to receive under the Company’s disability program.

45

The following table describes the potential payments upon termination or a Change in Control of the Company for Mr. Ford, assuming that the triggering event took place on December 31, 2012 using the share price of Common Stock as of that day (both as required by the SEC). However, a termination or Change in Control did not occur on December 31, 2012 and Mr. Ford was not terminated on that date. There can be no assurance that a termination or Change in Control would produce the same or similar results as those described if it occurs on any other date or when the Common Stock is trading at any other price.

Executive Benefits and Payments Upon Termination	Voluntary Termination	Early or Normal Retirement	Involuntary Not For Cause or Good Reason Termination	For Cause Termination	Involuntary Not For Cause or Good Reason Termination (CIC)	Death	Disability
Base Salary	-0-	-0-	$1,056,656	-0-	$1,056,656	-0-	-0-
Annual Incentive	-0-	-0-	$1,020,447	-0-	$1,020,447	-0-	-0-
Restricted Shares (time-based)	-0-	-0-	$881,296	-0-	$1,219,412	$1,219,412	$1,219,412
Restricted Shares (performance-based)	-0-	-0-	-0-	-0-	$1,913,644	$1,913,644	$1,913,644
Stock Options	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cash Awards	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Disability Premiums	-0-	-0-	$10,000 (1)	-0-	$10,000 (1)	-0-	-0-
Life Insurance Premiums	-0-	-0-	$5,000 (1)	-0-	$5,000 (1)	-0-	-0-
Retirement Plan Payments	$200,000 (2)	$200,000 (2)	$500,000 (2)	$200,000 (2)	$500,000 (2)	$200,000 (2)	$200,000 (2)
Life Insurance Proceeds	-0-	-0-	-0-	-0-	-0-	$900,000	-0-
Disability Benefits	-0-	-0-	-0-	-0-	-0-	-0-	$2,000,000 (3)

(1) Reflects the estimated value of a benefit that Mr. Ford would be entitled to receive.

(2) Reflects the estimated value of Mr. Ford’s qualified and non-qualified retirement plans on December 31, 2012.

(3) Reflects the estimated value of all future payments that Mr. Ford would be entitled to receive under the Company’s disability program.

46

The following table describes the potential payments upon termination or a Change in Control of the Company for Mr. Filipov, assuming that the triggering event took place on December 31, 2012 using the share price of Common Stock as of that day (both as required by the SEC). However, a termination or Change in Control did not occur on December 31, 2012 and Mr. Filipov was not terminated on that date. There can be no assurance that a termination or Change in Control would produce the same or similar results as those described if it occurs on any other date or when the Common Stock is trading at any other price.

Executive Benefits and Payments Upon Termination	Voluntary Termination	Early or Normal Retirement	Involuntary Not For Cause or Good Reason Termination	For Cause Termination	Involuntary Not For Cause or Good Reason Termination (CIC)	Death	Disability
Base Salary	-0-	-0-	$1,011,408	-0-	$1,011,408	-0-	-0-
Annual Incentive	-0-	-0-	$1,002,663	-0-	$1,002,663	-0-	-0-
Restricted Shares (time-based)	-0-	-0-	$758,849	-0-	$1,049,403	$1,049,403	$1,049,403
Restricted Shares (performance-based)	-0-	-0-	-0-	-0-	$1,651,013	$1,651,013	$1,651,013
Stock Options	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cash Awards	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Disability Premiums	-0-	-0-	$10,000 (1)	-0-	$10,000 (1)	-0-	-0-
Life Insurance Premiums	-0-	-0-	$5,000 (1)	-0-	$5,000 (1)	-0-	-0-
Retirement Plan Payments	$2,250,000 (2)	$2,250,000 (2)	$2,250,000 (2)	$2,250,000 (2)	$2,250,000 (2)	$2,250,000 (2)	$2,250,000 (2)
Life Insurance Proceeds	-0-	-0-	-0-	-0-	-0-	$900,000	-0-
Disability Benefits	-0-	-0-	-0-	-0-	-0-	-0-	$2,600,000 (3)

(1) Reflects the estimated value of a benefit that Mr. Filipov would be entitled to receive.

(2) Reflects the estimated value of Mr. Filipov's qualified and non-qualified retirement plans on December 31, 2012.

(3) Reflects the estimated value of all future payments that Mr. Filipov would be entitled to receive under the Company's disability program.

DIRECTOR COMPENSATION

The objectives of the Company’s compensation program for outside directors are to: (i) attract and retain independent, high caliber outside directors who are not affiliated with the Company and who provide a balanced experience and knowledge base within the Board; (ii) require a meaningful stock ownership in the Company to align the interests of the outside directors with those of the stockholders; and (iii) provide a total compensation opportunity that approximates the 50th percentile of the Benchmark Companies.

In December 2012, the Committee approved certain changes to the Company's outside directors' compensation program, which changes are noted below. In considering changes to the compensation for the Board, the Committee noted that the Company's outside director compensation had not changed since November 2010. As a part of its review, the Committee retained its independent compensation consultant to prepare a report analyzing the Company's outside directors' compensation program in comparison with the Benchmark Companies. The Committee also considered that the total compensation received by the Company's outside directors was below both the median and average of the above-mentioned peer group.

The compensation program for outside directors has three principal components: (i) an annual retainer for service as a Board member; (ii) an annual retainer for service on a committee or as Lead Director; and (iii) an initial stock award on becoming a director, each of which is described below. The program is designed to encourage outside directors to receive a significant portion of their annual retainer for Board service in the Company’s Common Stock, to enable directors to defer receipt of their fees and to satisfy the Company’s Common Stock ownership objective for outside directors. The program does not include the payment of additional fees per meeting, as each director is expected to prepare for and participate in all meetings during the year and provide a continuous year-round effort regardless of the formal meeting calendar.

Directors who are employees of the Company receive no additional compensation by virtue of their being directors of the Company. All directors of the Company are reimbursed for travel, lodging and related expenses incurred in attending Board meetings, committee meetings and other activities in furtherance of their responsibilities as members of the Company’s Board.

For 2012, each outside director received the equivalent of $175,000 for service as a Board member (or a prorated amount if a director's service began other than on the day of the Annual Meeting). Beginning in 2013 at the Meeting, each outside director will receive the equivalent of $200,000 for service as a Board member (or a prorated amount if a director's service began other than on the day of the Annual Meeting). Each director may elect to receive their fee in (i) shares of Common Stock currently, which may be deferred into the stock fund of the Company's Deferred Compensation Plan, (ii) cash currently, (iii) cash deferred into the bond fund of the Company's Deferred Compensation Plan, or (iv) any two of the preceding alternatives in equal amounts. If a director elects to receive shares of Common Stock currently without deferral into the stock fund of the Company's Deferred Compensation Plan, then 40% of this amount is paid in cash to offset the tax liability related to such election. For purposes of calculating the number of shares of Common Stock into which any fixed sum translates, Common Stock is valued at its per share closing price on the NYSE on the day immediately preceding the grant date. The Company's director emeritus receives annually, on the day after the Annual Meeting, the equivalent of $100,000 for service as a director emeritus. The director emeritus is invited to attend and participate in all Board and Governance and Nominating Committee meetings, and must attend at least one Board and Governance and Nominating Committee meeting in person annually.

In the first quarter of 2012, the Company revised its Common Stock ownership objective for its outside directors. Each director is expected to accumulate, within four years of the adoption of this objective (for a new director, over the first four years of Board service), the number of shares of Common Stock that is equal in market value to three

times the annual retainer for Board service ($600,000). Once this ownership objective is achieved, the director is expected to maintain such minimum ownership level. The intent is to encourage acquisition and retention of Common Stock by directors, evidencing the alignment of their interests with the interests of stockholders. To this end, each new director receives an award of shares of Common Stock having a market value of $50,000 on the date of the award. Each new director must elect to defer receipt of this award into the stock fund of the Company's Deferred Compensation Plan. Until such time as a director achieves the ownership objective or if a director shall at any time fall below the ownership objective, directors are expected to invest at least $100,000 per year (or such lesser amount necessary to achieve the ownership objective) in shares of Common Stock until the director has satisfied the ownership objective.

Each director who serves as Lead Director or on a committee of the Board receives an annual committee retainer, on the first business day after the Company's Annual Meeting, as set forth in the table below:

Committee/Board Position*	Retainer
Lead Director*	$50,000
Audit Committee Chair	$35,000
Compensation Committee Chair	$35,000
Governance and Nominating Committee Chair	$20,000
Corporate Responsibility and Strategy Committee Chair	$20,000
Audit Committee Member	$7,500
Compensation Committee Member	$7,500
Governance and Nominating Committee Member	$5,000
Corporate Responsibility and Strategy Committee Member	$5,000

* A Committee Chair shall only receive a committee chair retainer and not a committee member retainer as a result of chairing a committee. In the event the Lead Director serves on any committees as either a committee chair or committee member, the Lead Director will not be eligible to receive any committee retainer other than the Lead Director retainer.

The retainers listed above are payable in cash, and may be deferred into the bond fund of the Company's Deferred Compensation Plan. For a director whose service begins other than on the day of the Annual Meeting, any retainer is prorated. If the Company does not hold an Annual Meeting by the end of May in any year, then any retainer that is scheduled to be paid following the Annual Meeting shall be paid on the last business day of May.

A director who leaves the Board at any time during the year, for any reason, will retain any retainer payments already received for such year. The Compensation Committee has discretion to authorize the payment of additional fees to any director under extraordinary circumstances. It is the expectation of the Compensation Committee that it will review this Outside Director Compensation Policy and the outside director compensation programs of the Benchmark Companies every two to four years, although it may review them more frequently as circumstances warrant.

The compensation paid to the Company's outside directors in 2012 is summarized in the following table:

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($) (1) (2)	Option Awards ($) (3)	Non-Equity Incentive Plan Compensation ($)	Change in Pension Value and Nonqualified Deferred Compensation Earnings ($)	All Other Compensation ($) (4)	Total ($)
G. Chris Andersen	$50,000	$175,000	-0-	-0-	-0-	-0-	$225,000
Paula H. J. Cholmondeley	$112,500	$87,500	-0-	-0-	-0-	-0-	$200,000
Donald DeFosset	$42,500	$175,000	-0-	-0-	-0-	-0-	$217,500
Thomas J. Hansen	$100,000	$87,500	-0-	-0-	-0-	-0-	$187,500

Raimund Klinkner	$6,267		$137,740	-0-	-0-	-0-	$144,007
David A. Sachs	$25,000		$175,000	-0-	-0-	-0-	$200,000
Oren G. Shaffer	$74,208	(4)	$175,000	-0-	-0-	-0-	$249,208
David C. Wang	$12,500		$175,000	-0-	-0-	-0-	$187,500
Scott W. Wine	$15,000		$175,000	-0-	-0-	-0-	$190,000

(1) See Note P - “Stockholders' Equity” in the Company's Annual Report on Form 10-K for the year ended December 31, 2012 for a

detailed description of the assumptions that the Company used in determining the dollar amounts recognized for financial statement reporting purposes of its stock awards.

(2) The grant date fair value of each stock award computed in accordance with FASB ASC Topic 718 is the following: Mr. Andersen, $175,000 (annual retainer paid on May 11, 2012); Ms. Cholmondeley, $87,500 (portion of annual retainer paid on May 11, 2012); Mr. DeFosset, $175,000 (annual retainer paid on May 11, 2012); Mr. Hansen, $87,500 (portion of annual retainer paid on May 11, 2012); Dr. Klinkner, $137,740 ($50,000 reflecting sign-on award and $87,740 reflecting pro-rated portion of annual retainer); Mr. Sachs, $175,000 (annual retainer paid on May 11, 2012); Mr. Shaffer, $175,000 (annual retainer paid on May 11, 2012); Mr. Wang, $175,000 (annual retainer paid on May 11, 2012); and Mr. Wine, $175,000 (annual retainer paid on May 11, 2012).

(3) As of December 31, 2012, the following directors had vested outstanding options in these amounts: Mr. Andersen, 5,174; Mr. DeFosset, 2,587; and Mr. Sachs, 27,524.

(4) The amount listed includes $31,708 earned by Mr. Shaffer for his service as the Terex Board representative on the Demag Cranes AG Supervisory Board.

COMPENSATION COMMITTEE REPORT

The Compensation Committee of the Company has reviewed and discussed the Compensation Discussion and Analysis required by Item 402(b) of Regulation S-K with management and, based on such review and discussions, the Compensation Committee recommended to the Board that the Compensation Discussion and Analysis be included in this Proxy Statement.

COMPENSATION COMMITTEE

DONALD DEFOSSET
OREN G. SHAFFER
DAVID C. WANG
SCOTT W. WINE

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The Company intends that all transactions with affiliates are to be on terms no less favorable to the Company than could be obtained in comparable transactions with an unrelated person. The Board will be advised in advance of any such proposed transaction or agreement and will utilize such procedures in evaluating their terms and provisions as are appropriate in light of the Board's fiduciary duties under Delaware law. In addition, the Company has an Audit Committee consisting solely of independent directors. Pursuant to the terms of the written Audit Committee Charter, one of the responsibilities of the Audit Committee is to review related party transactions. See "Audit Committee Meetings and Responsibilities."

From time to time, the Company may have employees who are related to its executive officers or directors. The spouse of Mr. Ellis (President, Terex Construction) is an employee of the Company. The compensation and other terms of employment of each employee are determined on a basis consistent with the Company's human resources policies. Mrs. Ellis received cash compensation in 2012 of approximately $260,000 and equity awards with a grant date fair value of approximately $70,000.

Equity Compensation Plan Information

The following table summarizes information about the Company's equity compensation plans as of December 31, 2012.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by stockholders	519,224 (1)	$23.00	2,537,890
Equity compensation plans not approved by stockholders	—	—	—
Total	519,224 (1)	$23.00	2,537,890

(1) This does not include 3,272,719 of restricted stock awards, which are also not included in the calculation of weighted average exercise price of outstanding options, warrants and rights in column (b) of this table.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires the Company's directors and executive officers, and each person who is the beneficial owner of more than 10% of the Company's outstanding equity securities, to file with the SEC initial reports of ownership and changes in ownership of equity securities of the Company. Specific due dates for these reports have been established by the SEC and the Company is required to disclose in this Proxy Statement any failure to file such reports by the prescribed dates during 2012. Officers, directors and greater than 10% beneficial owners are required by SEC regulation to furnish the Company with copies of all reports filed with the SEC pursuant to Section 16(a) of the Exchange Act.

To the Company's knowledge, based solely on review of the copies of reports furnished to the Company and written representations that no other reports were required, all filings required pursuant to Section 16(a) of the Exchange Act applicable to the Company's officers, directors and greater than 10% beneficial owners were complied with during the year ended December 31, 2012.

AUDIT COMMITTEE REPORT

The Audit Committee of the Board has reviewed and discussed the Company's audited financial statements for the fiscal year ended December 31, 2012 with the management of the Company and the Company's independent registered public accounting firm, PricewaterhouseCoopers LLP. The Audit Committee has discussed with PricewaterhouseCoopers LLP the matters required to be discussed by Statement on Auditing Standards No. 61, as amended, as adopted by the Public Company Accounting Oversight Board in Rule 3200T. The Audit Committee also has received the written disclosures and the letter from the independent registered public accounting firm required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent registered public accounting firm's communications with the Audit Committee concerning independence and has discussed with PricewaterhouseCoopers LLP the independence of such independent registered public accounting firm. The Audit Committee also has considered whether PricewaterhouseCoopers LLP's provision of non-audit services to the Company is compatible with the independent registered public accounting firm's independence.

Based on its review and discussions referred to in the preceding paragraph, the Audit Committee recommended to the Board that the audited financial statements for the Company's fiscal year ended December 31, 2012 be included in the Company's Annual Report on Form 10-K for the Company's fiscal year ended December 31, 2012 for filing with the SEC.

The Audit Committee's responsibility is to monitor and oversee the audit and financial reporting processes. However, the members of the Audit Committee are not practicing certified public accountants or professional auditors and rely, without independent verification, on the information provided to them and on the representations made by management, and the report issued by the independent registered public accounting firm.

AUDIT COMMITTEE

DONALD DEFOSSET
THOMAS J. HANSEN
RAIMUN KLINKNER
OREN G. SHAFFER
SCOTT W. WINE

PROPOSAL 2: INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The firm of PricewaterhouseCoopers LLP has audited the consolidated financial statements and the internal control over financial reporting of the Company for 2012. The Board, at the recommendation of the Audit Committee, desires to continue the service of this firm for 2013. Accordingly, the Board recommends to the stockholders ratification of the retention of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2013. If the stockholders do not approve PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm, the Board and the Audit Committee will reconsider this selection.

Representatives of PricewaterhouseCoopers LLP are expected to be present at the Meeting with the opportunity to make a statement if they desire to do so, and they are expected to be available to respond to appropriate questions.

Audit Fees

During the last two fiscal years ended December 31, 2012 and December 31, 2011, PricewaterhouseCoopers LLP charged the Company $11,560,000 and $8,877,000, respectively, for professional services rendered by such firm for the audit of the Company's annual financial statements and internal control over financial reporting and review of the Company's financial statements included in the Company's quarterly reports on Form 10-Q for that fiscal year. The amount for fiscal 2011 includes $980,000 of incremental audit fees that were approved subsequent to the issuance of the 2012 Proxy Statement. The amount for fiscal 2012 includes fees related to the audit of Demag Cranes AG.

Audit-Related Fees

Audit-related fees consist of fees for assurance and related services that are reasonably related to the performance of the audit or review of the Company's financial statements. This category includes fees related to various audit and attest services, due diligence related to mergers, acquisitions, dispositions and investments, and consultations concerning financial accounting and reporting standards. The aggregate fees billed by PricewaterhouseCoopers LLP for such audit-related services for the fiscal years ended December 31, 2012 and December 31, 2011 were $60,000 and $592,000, respectively.

Tax Fees

The aggregate fees billed for tax services provided by PricewaterhouseCoopers LLP in connection with tax compliance, tax consulting and tax planning services for the fiscal years ended December 31, 2012 and December 31, 2011 were $875,000 and $883,000, respectively.

All Other Fees

The aggregate fees billed for services not included in the above services for the fiscal years ended December 31, 2012 and December 31, 2011 were $263,000 and $67,000, respectively, and were primarily related to miscellaneous items, including non-merger and acquisition related due diligence and foreign government filings.

All of the services related to the Audit-Related Fees, Tax Fees or All Other Fees described above were approved by the Audit Committee pursuant to the general pre-approval provisions set forth in the Audit Committee's pre-approval policies described in “Audit Committee Meetings and Responsibilities.”

The Board recommends that the stockholders vote FOR the ratification of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for 2013.

PROPOSAL 3: APPROVAL OF THE AMENDMENT OF THE TEREX CORPORATION 2009 OMNIBUS INCENTIVE PLAN AND RE-APPROVAL OF THE MATERIAL TERMS OF THE PERFORMANCE GOALS FOR TAX DEDUCTIBILITY PURPOSES

General

Stockholders are being asked to approve an increase in the number of shares of Common Stock ("Shares") authorized for issuance pursuant to the Omnibus Plan by 3,000,000 Shares. Stockholders are also being asked to re-approve the material terms of the performance goals under the Omnibus Plan for tax deductibility purposes. The Omnibus Plan was adopted by the Board on February 26, 2009 and approved by the stockholders of the Company on May 14, 2009.

The purpose of the Omnibus Plan is to assist the Company in attracting and retaining selected individuals to serve as employees, directors, officers, consultants and advisors of the Company and its subsidiaries and affiliates who will contribute to the Company's success and to achieve long-term objectives which will inure to the benefit of all stockholders of the Company through the additional incentive inherent in the ownership of the Common Stock. The Omnibus Plan authorizes the granting of (i) options ("Options") to purchase Shares, (ii) stock appreciation rights ("SARs"), (iii) restricted stock awards, (iv) other stock awards, (v) cash awards and (vi) performance awards. The cash awards under the Omnibus Plan will be utilized, in conjunction with the performance awards, for incentive compensation in the form of an annual bonus award and in certain circumstances, long-term performance awards to key executives responsible for the success of the Company. The Board believes that such incentive compensation can help to attract and retain outstanding executives.

As of December 31, 2012, a total of 519,224 Shares were subject to outstanding stock option awards under other equity plans of the Company which had a weighted average exercise price of $23.00 per share and a weighted average remaining term of 1.63 years. There were also 3,272,719 Shares subject to outstanding stock awards under the Omnibus Plan and Prior Plans (as defined below) in the form of restricted stock awards and 2,537,890 Shares available for issuance under the Omnibus Plan as of December 31, 2012.

The Board continues to actively manage the number of Shares used for equity-based compensation each year. The following table sets forth information regarding options and time-based restricted stock granted and performance-based restricted stock earned under the Omnibus Plan and Prior Plans for each of the last three fiscal years.

	FY 2010	FY 2011	FY 2012
Stock options granted	-0-	-0-	-0-
Time-based restricted stock granted	1,659,216	578,361	1,028,588
Performance-based restricted stock earned	34,834	146,776	159,009

To ensure that there are sufficient Shares available under the Omnibus Plan to enable the Company to achieve the objectives of the Omnibus Plan, the Company proposes to increase the aggregate number of Shares available under the Omnibus Plan by 3,000,000 Shares. The Board adopted the amendment to the Omnibus Plan on February 28, 2013, and directed that the Omnibus Plan be submitted to the stockholders of the Company for their approval. Approval of the amendment to the Omnibus Plan will require the affirmative vote of a majority of the Shares present in person or by proxy at the Meeting, provided that the total votes cast on this proposal represent over 50% of the total number of Shares entitled to vote on this proposal. If the stockholders fail to approve the amendment of the Omnibus Plan, the Company can continue to make awards under the existing plan, subject to existing authorized share limits.

The Omnibus Plan is designed so that performance based compensation payable thereunder is intended to be deductible by the Company under Section 162(m) of the Internal Revenue Code (the "Code"). One of the requirements of performance based compensation is that the material terms of the performance goals under which compensation

may be paid be disclosed and approved by a company's stockholders. Accordingly, stockholder re-approval of the material terms of the performance goals is necessary for the Company to continue to meet the requirements for tax deductibility under Section 162(m) of the Code for certain awards to be made under the Omnibus Plan. The Omnibus Plan was first approved by stockholders in 2009. The material terms of the performance goals are being re-submitted for approval at this Meeting under Section 162(m) of the Code, and Treasury regulations issued thereunder, which require the Company to obtain stockholder approval of such items every five years. The effectiveness of the 2009 stockholder approval would otherwise expire in 2014 for Section 162(m) purposes. If the stockholders fail to re-approve the material terms of the performance goals of the Omnibus Plan, then certain awards that may be granted in the future under the Omnibus Plan may not qualify as performance based compensation and, in some circumstances, the Company may be

denied a tax deduction for such compensation. For purposes of Section 162(m), the material terms of the performance goals include: (1) the employees eligible to receive compensation, (2) the business criteria used for performance-based goals, and
(3) the maximum amount of compensation that can be paid to an employee under various types of awards. Each of these aspects is discussed below.

The following description of the material features of the Omnibus Plan is qualified in its entirety by the terms of the Omnibus Plan as filed with the SEC, which is attached to this Proxy Statement as Appendix A.

Common Stock Authorized

The maximum number of Shares that may be the subject of awards under the Omnibus Plan is proposed to be increased to 8,000,000 Shares, plus the number of Shares remaining available for issuance under the 2000 Plan and 1996 Plan (the "Prior Plans") that were not subject to outstanding awards as of May 14, 2009, and the number of Shares subject to awards outstanding under the Prior Plans as of such date but only to the extent that such outstanding awards are forfeited, expire, or otherwise terminate without the issuance of such Shares. Under the Omnibus Plan, Shares covered by awards shall only be counted as used to the extent that they are actually issued. Accordingly, Shares covered by any unexercised portions of terminated Options, Shares forfeited by participants and Shares subject to any awards that are otherwise surrendered by a participant without receiving any payment or other benefit with respect thereto, or are settled in cash in lieu of Shares, or are exchanged with the Committee's permission, prior to the issuance of Shares may again be subject to new awards.

The Shares to be issued or delivered under the Omnibus Plan are authorized and unissued Shares, or issued Shares that have been acquired by the Company, or both.

Omnibus Plan Administration

The Omnibus Plan provides that the Committee or a subcommittee thereof, or any other committee designated by the Board (the "Plan Committee") consisting of not fewer than two members of the Board who are non-employee directors and outside directors, shall administer the Omnibus Plan. The Plan Committee is authorized, subject to the provisions of the Omnibus Plan, to establish such rules and regulations as it may deem appropriate for the proper administration of the Omnibus Plan. Subject to the provisions of the Omnibus Plan, the Plan Committee shall have authority, in its sole discretion, to grant awards under the Omnibus Plan, to set performance goals in conjunction with any award, and to make determinations with respect to the achievement of performance goals, to interpret and construe the provisions of the Omnibus Plan and, subject to the requirements of applicable law, to prescribe, amend and rescind rules and regulations relating to the Omnibus Plan or any award thereunder as it may deem necessary or advisable. In general, the Plan Committee may delegate to one or more of its members or to one or more officers of the Company the right to grant awards under the Omnibus Plan on such terms and conditions as the Plan Committee may from time to time establish.

Eligibility

Officers, employees, directors, consultants, advisors and independent contractors of the Company or any of its subsidiaries or affiliates as the Plan Committee shall select from time to time are eligible to receive awards under the Omnibus Plan. As of March 15, 2013, approximately 21,300 people were eligible to participate under the terms of the Omnibus Plan and approximately 500 people had outstanding awards under the Omnibus Plan.

Stock Option Awards

Options to be granted under the Omnibus Plan may be "Incentive Stock Options" meeting the requirements of Section 422 of the Code or "Non-Qualified Stock Options" that do not meet such requirements. Only employees of the Company or certain of its subsidiaries may receive Incentive Stock Options under the Omnibus Plan. The Plan Committee must grant Options to purchase Shares at a price per share not less than 100% of the fair market value of such Share on the date of grant of such Option. For so long as the Common Stock is listed on the NYSE, fair market value is the closing price of a Share on the NYSE on the trading day of the date of the award. The term of each Option will be determined by the Plan Committee, but generally will not exceed ten years from the date of grant.

SARs

The Omnibus Plan provides that SARs may be granted to participants in the discretion of the Plan Committee. The Plan Committee may grant SARs at a price per share not less than 100% of the fair market value of a Share on the date of grant of such SAR. Upon the exercise of a SAR, the recipient is entitled to receive from the Company, without the payment of any cash (except for any applicable withholding taxes), up to, but no more than, an amount in cash or Shares determined by multiplying the (A) excess of the fair market value of a Share on the date of such exercise over the grant price, by (B) the number of Shares with respect to which the SAR is exercised. The term of each SAR will be determined by the Plan Committee, but generally will not exceed ten years from the date of grant.

Restricted Stock Awards and Restricted Stock Units

The grant of a restricted stock award gives a participant the right to receive Shares, subject to a risk of forfeiture based upon certain conditions, such as performance standards, length of service or other criteria as the Plan Committee may determine. Until all restrictions are satisfied, lapsed or waived, the Company will maintain custody over the restricted Shares but the participant may be able to vote the Shares and may be entitled to distributions paid with respect to the Shares, as provided by the Plan Committee. During such restrictive period, the restricted Shares may not be sold, assigned, transferred, pledged or otherwise encumbered, other than by will or the laws of descent and distribution. If a participant terminates employment with the Company prior to expiration of the forfeiture period, the participant forfeits all rights to the Shares. The Company also may grant restricted stock units under the Omnibus Plan. The grant of restricted stock units generally operates in the same manner as the grant of restricted stock, except that no Shares are actually awarded on the date of grant and the participant shall have no voting rights with respect to any restricted stock units granted under the Omnibus Plan.

Performance Awards

The Plan Committee may grant, either alone or in addition to other awards granted under the Omnibus Plan, performance awards based upon performance of the Company or the participant. Performance awards entitle the participant to receive cash, Options, SARs, restricted stock awards, restricted stock units or any other form of equity as the Plan Committee shall determine, if such participant achieves the measures of performance or other criteria established by the Plan Committee in its absolute discretion. The Plan Committee may designate certain performance awards as performance-based compensation intended to qualify for a tax deduction under the Code. Awards that are designed to be considered performance-based compensation shall be made in a manner that is intended to satisfy Section 162(m) of the Code.

The performance goals upon which the payment or vesting of an award that is intended to qualify as performance-based compensation shall be set within the shorter of: (a) ninety (90) days after the beginning of the performance period, or (b) twenty-five percent (25%) of the Performance Period has elapsed, and is limited to the following performance measures: (1) Net earnings or net income (before or after taxes); (2) Earnings per share; (3) Net sales or revenue growth; (4) Net operating profit or income; (5) Return measures (including, but not limited to, return on assets, capital, invested capital, equity, sales, or revenue); (6) Cash flow (including, but not limited to, operating cash flow, free cash flow, cash flow return on equity, and cash flow return on investment); (7) Earnings before or after taxes, interest, depreciation, and/or amortization; (8) Gross or operating margins; (9) Productivity ratios; (10) Share price (including, but not limited to, growth measures and total stockholder return); (11) Cost control; (12) Margins; (13) Operating efficiency; (14) Market share; (15) Customer satisfaction or employee satisfaction; (16) Working capital; (17) Economic value added or EVA (net operating profit after tax minus the sum of capital multiplied by the cost of capital); (18) Management development; (19) Diversity; (20) Succession planning; (21) Financial controls; (22) Ethics; (23) Information technology; (24) Marketing initiatives; (25) Business development; (26) Financial structure; (27) Taxes; (28) Depreciation and amortization; and (29) Total Stockholder Return.

Cash-Based Awards and Other Stock-Based Awards

The Plan Committee may grant, either alone or in addition to other awards granted under the Omnibus Plan, cash-based awards and other stock-based awards as determined by the Plan Committee. Such awards may be subject to performance goals and may be designed to comply with or take advantage of the laws of jurisdictions other than the United States. Cash awards under the Omnibus Plan will be utilized, in conjunction with the performance awards, for incentive compensation in the form of an annual bonus award and, in certain circumstances, long-term performance awards to key executives responsible for the success of the Company.

Annual Award Limits for Performance-based Compensation

Awards that are designed to comply with the performance-based exception under Section 162(m) of the Code are subject to the following annual participant limitations: no participant may receive in any fiscal year (1) options or SARs for more than 750,000 Shares; (2) more than 750,000 Shares of restricted stock and restricted stock units; (3) in respect of any performance period, (a) performance units in an amount greater than $20,000,000, (b) more than 750,000 Shares that are performance shares, (c) cash based awards in an amount greater than $20,000,000, or (d) more

than 750,000 Shares of any other equity based or equity-related award under the Omnibus Plan, in each case determined as of the date of grant.

Amendment and Termination

The Board may amend or modify the Omnibus Plan, subject to any required stockholder approval. The Board may not amend the Omnibus Plan to increase the number of Shares that may be the subject of awards under the Omnibus Plan (other than for antidilution adjustments) without the approval of the Company's stockholders. The Omnibus Plan will terminate by its terms and without any further action on the tenth anniversary of stockholder approval of the Omnibus Plan. No awards may be made after that date under the Omnibus Plan, although awards outstanding under the Omnibus Plan on such date will remain valid in accordance with their terms.

Antidilution Adjustments

The number of Shares authorized to be issued under the Omnibus Plan and subject to outstanding awards (and the grant or exercise price thereof) may be adjusted to prevent dilution or enlargement of rights in the event of any dividend or other distribution, recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities, the issuance of warrants or other rights to purchase Shares or other securities, or other similar capitalization change.

Federal Income Tax Consequences of Options

The following is a brief summary of certain of the federal income tax consequences of certain transactions under the Omnibus Plan based on federal income tax laws currently in effect. This summary is not intended to be exhaustive and does not describe state, local or foreign tax consequences.

Tax Consequences to Participants

Non-Qualified Stock Options. In general: (i) no income will be recognized by an optionee at the time a Non-Qualified Stock Option is granted; (ii) at the time of exercise of a Non-Qualified Stock Option, ordinary income will be recognized by the optionee in an amount equal to the difference between the option price paid for the Shares and the fair market value of the Shares if they are non-restricted on the date of exercise; and (iii) at the time of sale of Shares acquired pursuant to the exercise of a Non-Qualified Stock Option, any appreciation (or depreciation) in the value of the Shares after the date of exercise will be treated as either short-term or long-term capital gain (or loss) depending on how long the Shares have been held.

Incentive Stock Options. No income generally will be recognized by an optionee upon the grant or exercise of an Incentive Stock Option. For purposes of the alternative minimum tax, however, the difference between the option price and the fair market value of the Common Stock on the date of exercise is an adjustment in computing the optionee's alternative minimum taxable income. If Shares are issued to an optionee pursuant to the exercise of an Incentive Stock Option and no disposition of the Shares is made by the optionee within two years after the date of grant or within one year after the transfer of the Shares to the optionee (such disposition, a “Disqualifying Disposition”), then upon the sale of the Shares any amount realized in excess of the option price 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 Incentive Stock Option are disposed of in a Disqualifying Disposition, then 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 in a sale or exchange) over the option price paid for the Shares.

Special Rules Applicable to Directors and Officers. In limited circumstances where the sale of Common Stock that is received as the result of a grant of an award could subject a director or an officer to suit under Section 16(b) of the Exchange Act, the tax consequences to the director or officer may differ from the tax consequences described above.

Tax Consequences to the Company or Subsidiary

To the extent that a participant recognizes ordinary income in the circumstances described above, or with respect to performance based compensation payable under the Omnibus Plan, the Company or subsidiary for which the participant performs services will be entitled to a corresponding deduction provided that, among other things, (i) such deduction is reasonable in amount, constitutes an ordinary and necessary business expense, is not subject to the $1,000,000 annual compensation limitation set forth in Section 162(m) of the Code and does not constitute an “excess parachute payment” within the meaning of Section 280G of the Code, and (ii) any applicable withholding obligations are satisfied.

The foregoing summary of the income tax consequences in respect of the Omnibus Plan is for general information only. Interested parties should consult their own advisors as to specific tax consequences, including the application and effect of foreign, state, and local tax laws.

Grants Under the Omnibus Plan

Because benefits under the Omnibus Plan will depend on the discretion of the Plan Committee and the fair market value of the Common Stock at various future dates, it is not possible to determine the benefits that will be received if the amendment of the Omnibus Plan is approved by stockholders. In addition, because the payment of a bonus under the Omnibus Plan for any fiscal year is contingent on the achievement of performance goals as of the end of the fiscal year, the Company cannot determine the amounts that will be payable or allocable for fiscal year 2013 or in the future.

During 2012 the Company granted restricted stock awards under the Omnibus Plan as follows:

- Restricted stock awards for 524,106 Shares were granted to the Named Executive Officers (one of whom was also a director) as a group. For more details on these grants, including the allocation of restricted stock awards among the Named Executive Officers, see “Executive Compensation - Summary Compensation Table” and “Executive Compensation - Grants of Plan-Based Awards.”
- Restricted stock awards for 224,397 Shares were granted to all current executive officers of the Company (not including the Named Executive Officers) as a group.
- No Restricted stock awards were granted to any directors (not including one director who was also a Named Executive Officers) as a group.
- Restricted stock awards for 734,249 Shares were granted to all employees of the Company (not including all current executive officers and Named Executive Officers of the Company) as a group.

No Options or SARs were granted under the Omnibus Plan during 2012.

For details on the bonuses received in 2012 pursuant to the Omnibus Plan by the Named Executive Officers, see “Executive Compensation - Summary Compensation Table” and “Compensation Discussion and Analysis - Executive Compensation Components - Annual Cash Bonus.”

Recommendation

The Board believes that the approval of the amendment of the Omnibus Plan to increase the number of Shares authorized for issuance and re-approval of the material terms of the performance goals of the Omnibus Plan for tax deductibility purposes is in the best interests of the Company and its stockholders because having sufficient Shares available for award under the Omnibus Plan will enable the Company to provide competitive equity incentives to employees, officers, directors, consultants and advisors to enhance the profitability of the Company and increase stockholder value, and stockholder approval of the material terms of the performance goals will enable the Company to maintain flexibility in making awards in the future under the Omnibus Plan that may be deductible under Section 162(m) of the Code.

The Board recommends that the stockholders vote FOR approval of the amendment of the Terex Corporation 2009 Omnibus Incentive Plan and re-approval of the material terms of the performance goals under the Omnibus Plan for tax deductibility purposes.

PROPOSAL 4: APPROVAL OF THE AMENDMENT TO THE AMENDMENT OF THE TEREX CORPORATION DEFERRED COMPENSATION PLAN

General

The Board of Directors previously unanimously approved and adopted a Deferred Compensation Plan (as amended, the “Deferred Compensation Plan”). The Deferred Compensation Plan was approved by the stockholders of the Company on May 25, 2004.

The purpose of the Deferred Compensation Plan is to assist the Company in attracting and retaining selected individuals to serve as directors, officers and employees of the Company and its subsidiaries and affiliates who will contribute to the Company's success and to achieve long-term objectives which will inure to the benefit of all stockholders of the Company through the additional incentive inherent in the ownership of the Common Stock. Under NYSE rules with respect to equity compensation plans, a plan cannot provide for matching contributions in stock (stock is credited to a participant's account based upon the amount of compensation the participant elects to defer) for more than ten years unless stockholder approval is received. On May 25, 2004, the Company's stockholders approved matching contributions in stock until March 10, 2014. The Board adopted an amendment to the Deferred Compensation Plan on February 28, 2013, to extend the date that matching contributions may be made until February 27, 2023, and directed that the Deferred Compensation Plan be submitted to the stockholders of the Company for their approval. Approval of the amendment to the Deferred Compensation Plan will require the affirmative vote of a majority of the Shares present in person or by proxy at the Meeting, provided that the total votes cast on this proposal represent over 50% of the total number of Shares entitled to vote on this proposal. If the stockholders fail to approve the amendment of the Deferred Compensation Plan, the Company can continue to make matching contributions under the existing plan until March 10, 2014. Although no Company matching contributions would be made after that date, the plan would continue to exist after that date.

The following summary of the material features of the Deferred Compensation Plan is qualified in its entirety by the terms of the Deferred Compensation Plan, which is attached to this Proxy Statement as Appendix B.

Eligibility

A select group of the Company's senior managers and the outside directors of the Company (each a “Plan Participant” and collectively, the “Plan Participants”) are eligible to participate in the Deferred Compensation Plan. As of December 31, 2012, approximately 400 people were eligible to participate in the Deferred Compensation Plan and 66 were participating in the plan.

Participant Deferrals

On an annual basis, a Plan Participant may defer into the Deferred Compensation Plan up to (i) 20% of his/her salary, (ii) 100% of his/her bonus, (iii) 100% of his/her vested restricted stock awards and (iv) 100% of his/her director fees.

The Plan Participant's deferrals may be invested in Shares or in a bond index. The Company has been in the practice of purchasing Shares on the open market to fund Plan Participants' deferrals invested in Shares. The value of each Share that is purchased and deferred under the plan is the closing price per Share on the NYSE on the day it is posted to the Plan Participant's account. The Company credits the deferrals in the bond index with an interest rate equal to a bond fund that mirrors an investment strategy in corporate bonds of companies rated Baa or higher.

Company Contributions

The Company makes a contribution of 25% of the Plan Participant's salary and bonus that is deferred. The Company does not make a contribution with respect to any deferrals into the bond index or any deferrals by any directors. The Company has been in the practice of purchasing Shares on the open market to fund the Company contributions. The value of each Share that is contributed under the plan by the Company is the closing price per Share on the NYSE on the day it is posted to the Plan Participant's account.

Benefit Payments

Plan Participants may receive payments under the Deferred Compensation Plan after their employment or service as an outside director terminates, upon their death or if they have an unforeseeable emergency (as defined in the Deferred Compensation Plan). In addition, Plan Participants may elect to receive all or a portion of their deferral, including the Company's matching contribution, after the deferral has been in the Deferred Compensation Plan for at least three years. Any payment from a Plan Participant's account that is invested in Shares will be distributed in Shares, except for fractional Shares, which will be paid in

cash. Any payment from a Plan Participant's account that is invested in the bond index will be paid in cash.

Administration

The Deferred Compensation Plan is administered by the Company. The Company may appoint agents as it deems necessary or appropriate to assist it with the operation and administration of the Deferred Compensation Plan. The Company's determination as to any issue that arises with respect to the conduct or operation of the Deferred Compensation Plan is binding and conclusive.

Term, Termination and Amendment of the Deferred Compensation Plan

The Company may amend or modify the Deferred Compensation Plan, subject to any required stockholder approval. The Company will be unable to provide matching contributions in Shares after February 27, 2023. Although no Company contributions may be made after that date, the plan will continue to exist after that date.

Company Contributions Under the Deferred Compensation Plan

Because benefits under the Deferred Compensation Plan will depend on Plan Participant elections, the fair market value of the Shares and the return on the bond index, it is not possible to determine the benefits that will be received if the plan amendment is approved by stockholders.

During 2012, Company contributions were made under the Deferred Compensation Plan as follows:

- No Shares were provided as matching contributions to the Named Executive Officers (one of whom was also a Director) as a group.
- 1,702 Shares were provided as matching contributions to all current executive officers of the Company (not including the Named Executive Officers) as a group.
- No Shares were provided as matching contributions to the Directors (not including one Director who was also a Named Executive Officer) as a group.
- 10,843 Shares were provided as matching contributions to all employees of the Company (not including all current executive officers and Named Executive Officers of the Company) as a group.

Recommendation

The Board of Directors believes that the approval of the Deferred Compensation Plan is in the best interests of the Company and its stockholders because the Deferred Compensation Plan enables the Company to provide competitive equity incentives to the Plan Participants to enhance the profitability of the Company and increase stockholder value.

The Board of Directors recommends that the stockholders vote FOR approval of the amendment of the Terex Corporation Deferred Compensation Plan.

PROPOSAL 5: ADVISORY VOTE TO APPROVE THE COMPENSATION
OF THE NAMED EXECUTIVE OFFICERS

Pursuant to rules under Dodd-Frank, the Board is asking the Company's stockholders to vote to approve, on an advisory (non-binding) basis, the compensation of the Company's Named Executive Officers as disclosed in this proxy statement in accordance with SEC rules.

As described in detail within the Compensation Discussion and Analysis section above, the Company's executive compensation programs are designed to attract, motivate, reward and retain the Named Executive Officers, who are critical to the success of the Company. Under these programs, the Named Executive Officers are rewarded for the achievement of specific annual, long-term and strategic goals, and the realization of increased stockholder value.

The Committee continually reviews the compensation programs for the Named Executive Officers to ensure they achieve the desired goals of aligning the executive compensation structure with the Company's stockholders' interests and current market practices. The Committee is comprised solely of independent directors committed to applying sound governance practices to compensation decisions. The Committee considers a variety of reports and analyses, such as market survey data, compensation tally sheets and compensation data of peer companies, when making decisions regarding target compensation opportunities and the delivery of awards to the Company's executives, including the Named Executive Officers.

The design and operation of an executive compensation program for a large, complex, global enterprise such as Terex necessarily involves multiple objectives and constraints. The Committee believes that the Company's executive compensation programs have been effective in enabling the recruitment and retention of senior business leaders with the requisite talent and skills to drive the Company's financial and operational performance.

As further described within the Compensation Discussion and Analysis section above, the Company's executive compensation programs are based on the following core principles: (i) balance between short term and long term compensation and competitive with peers; (ii) pay for performance; (iii) stockholder alignment; and (iv) stockholder engagement.

The Company's results in 2012 and actions taken by the Committee since January 1, 2012 demonstrate the Committee's commitment to these principles and illustrate how the executive compensation program responds to business challenges and the marketplace. Key highlights include the following:

- ü Strong correlation between the Company's ROIC and the compensation paid or provided to Mr. DeFeo during the last three fiscal years.
- ü Strong correlation between the Company's total stockholder return and the total realized compensation of Mr. DeFeo during the last three fiscal years.
- ü Income from operations for the Company increased approximately 400% in 2012 versus 2011.
- ü The Company's ROIC increased to 8.0% in 2012 versus 3.7% in 2011.
- ü The Company's total stockholder return in 2012 was 108% (the 100th percentile in the Benchmark Companies).
- ü As a result of the Company's performance, the bonus payouts to the Named Executive Officers for 2012 were approximately 110% of target. This was the first time that the Company has paid bonus amounts above 100% of target since the bonus payouts for 2007.
- ü The long-term compensation awards granted in 2012 to the Named Executive Officers were granted exclusively in the Company's equity and the majority was performance-based.
- ü Approximately $1.1 million in stock awards granted in 2009 and 2011 were forfeited in 2012 by Mr. DeFeo and approximately $0.7 million in stock awards granted in 2009 and 2011 were forfeited in 2012 by the other Named Executive Officers as a result of the Company's failure to achieve performance targets set by the Committee.
- ü The DeFeo Agreement did not contain an excise tax gross up. As a result, the Company no longer has any agreements that contain excise tax gross ups.
- ü Mr. DeFeo and the Committee agreed that his target bonus opportunity for 2012 would be reduced from 200% of base salary to 125% of base salary.
- ü The Committee Chairman conducted meetings with seven of the Company's largest stockholders (accounting for approximately 23% of the Company's outstanding shares) in the first quarter of 2012 to discuss the Company's executive compensation program. The Compensation Committee Chairman conducted meetings with five of the Company's largest stockholders (accounting for approximately 15% of the Company's outstanding shares) in the first quarter of 2013 to discuss the Company's executive compensation program.
- ü All of the Company's stockholders were given the opportunity to participate in a virtual stockholder forum on compensation matters prior to last year's annual meeting of stockholders and will be given that opportunity again this year before the Meeting to ask questions of the Committee's chairperson and provide feedback on the Company's executive compensation program.

The Board remains committed to sound corporate governance practices and shares the interest of stockholders in maintaining effective performance-based executive compensation programs at the Company. The Board believes that the Company's executive compensation programs have a proven record of effectively aligning pay with performance and attracting and retaining highly talented executives. The Board strongly encourages you to review the Compensation Discussion and Analysis and compensation tables in this proxy statement for detailed information on the extensive processes and factors the Committee considered when establishing performance and pay targets and in making decisions regarding actual payouts under the Company's short and long-term performance based incentive plans.

Accordingly, the Board recommends that stockholders vote FOR the following resolution:

"RESOLVED, that the Company's stockholders approve, on an advisory basis, the compensation of the Named Executive Officers, as disclosed in the Company's Proxy Statement for the 2013 Annual Meeting of Stockholders pursuant to the compensation disclosure rules of the Securities and Exchange Commission, including the Compensation Discussion and Analysis, the 2012 Summary Compensation Table and the other related tables and disclosure."

The say-on-pay vote is advisory, and therefore not binding on the Board. Although non-binding, the Board and the Committee will review and consider the voting results when making future decisions regarding the Company's executive compensation programs.

The Board recommends a vote FOR the approval of the advisory resolution on executive compensation.

OTHER MATTERS

The Board does not know of any other business to be brought before the Meeting. In the event any such matters are brought before the Meeting, the persons named in the enclosed Proxy will vote the Proxies received by them as they deem best with respect to all such matters.

All proposals of stockholders intended to be included in the proxy statement to be presented at the 2014 Annual Meeting of Stockholders must be received at the Company's offices at 200 Nyala Farm Road, Westport, Connecticut 06880, no later than November 29, 2013. All proposals must meet the requirements set forth in the rules and regulations of the SEC in order to be eligible for inclusion in the proxy statement for that meeting.

To nominate a candidate for election as a director at an annual meeting of stockholders or propose business for consideration at such a meeting, the Bylaws of the Company generally provides that notice must be given to the Secretary of the Company no more than 120 days or less than 90 days prior to the date of the annual meeting. The Company anticipates that in order for a stockholder to nominate a candidate for election as a director at the Company's 2014 annual meeting or to propose business for consideration at such meeting, notice must be given between January 9, 2014 and February 8, 2014. The fact that the Company may not insist upon compliance with these requirements should not be construed as a waiver by the Company of its right to do so at any time in the future.

Pursuant to the rules of the SEC, services that deliver our communications to stockholders that hold their stock through a bank, broker or other holder of record may deliver to multiple stockholders sharing the same address a single copy of our Notice of Internet Availability of Proxy Materials or Annual Report to Stockholders and Proxy Statement. Upon written or oral request, we will promptly deliver a separate copy of the Notice of Internet Availability of Proxy Materials or Annual Report and Proxy Statement to any stockholder at a shared address to which a single copy of each document was delivered. Stockholders may notify us of their requests by calling (203) 222-7170 or writing Terex Corporation at 200 Nyala Farm Road, Westport, CT 06880.

STOCKHOLDERS ARE URGED TO VOTE THEIR PROXIES WITHOUT DELAY.
A PROMPT RESPONSE WILL BE GREATLY APPRECIATED.

By order of the Board of Directors,
Eric I Cohen
Secretary

March 29, 2013
Westport, Connecticut

Appendix A
Terex Corporation Amended and
Restated 2009 Omnibus Incentive Plan

Contents

Terex Corporation Amended and Restated
2009 Omnibus Incentive Plan

Article 1. Establishment, Purpose, and Duration

1.1 Establishment. Terex Corporation, a Delaware corporation (hereinafter referred to as the "Company"), establishes an incentive compensation plan to be known as the Terex Corporation Amended and Restated 2009 Omnibus Incentive Plan (hereinafter referred to as the "Plan"), as set forth in this document. This Plan permits the grant of Nonqualified Stock Options, Incentive Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Shares, Performance Units, Cash-Based Awards, and Other Stock-Based Awards. This Plan shall become effective upon stockholder approval (the "Effective Date") and shall remain in effect as provided in Section 1.3 hereof.

1.2 Purpose of This Plan. The purpose of this Plan is to provide a means whereby Employees, Directors, and Third-Party Service Providers of the Company develop a sense of proprietorship and personal involvement in the development and financial success of the Company, and to encourage them to devote their best efforts to the business of the Company, thereby advancing the interests of the Company and its stockholders. A further purpose of this Plan is to provide a means through which the Company may attract able individuals to become Employees or serve as Directors or Third-Party Service Providers of the Company and to provide a means whereby those individuals upon whom the responsibilities of the successful administration and management of the Company are of importance can acquire and maintain stock ownership, thereby strengthening their concern for the welfare of the Company. The Company intends that certain compensation payable under this Plan will constitute "qualified performance-based compensation" under Section 162(m) of the Code. This Plan shall be administratively interpreted and construed in a manner consistent with such intent.

1.3 Duration of This Plan. Unless sooner terminated as provided herein, this Plan shall terminate ten (10) years from the Effective Date. After this Plan is terminated, no Awards may be granted but Awards previously granted shall remain outstanding in accordance with their applicable terms and conditions and this Plan's terms and conditions.

Article 2. Definitions

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

2.1 "Affiliate" shall mean any corporation or other entity (including, but not limited to, a partnership or a limited liability company) that is affiliated with the Company through stock or equity ownership or otherwise, and is designated as an Affiliate for purposes of this Plan by the Committee.

2.2 "Annual Award Limit" or "Annual Award Limits" have the meaning set forth in Section 4.3.

2.3 "Award" means, individually or collectively, a grant under this Plan of Nonqualified Stock Options, Incentive Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Shares, Performance Units, Cash-Based Awards, or Other Stock-Based Awards, in each case subject to the terms of this Plan.

2.4 “Award Agreement” means either: (a) a written or electronic agreement entered into by the Company and a Participant setting forth the terms and provisions applicable to an Award granted under this Plan, including any amendment or modification thereof, or (b) a written or electronic statement issued by the Company to a Participant describing the terms and provisions of such Award, including any amendment or modification thereof.
2.5 “Beneficial Owner” or “Beneficial Ownership” shall have the meaning ascribed to such terms in Rule 13d-3 of the General Rules and Regulations under the Exchange Act.
2.6 “Board” or “Board of Directors” means the board of directors of the Company.
2.7 “Cash-Based Award” means an Award, denominated in cash, granted to a Participant as described in Article 10.
2.8 "Cause" shall mean:
(a) Willful, substantial and continued failure to perform duties;
(b) Willful engagement in conduct that is demonstrably and materially injurious to the Company; or
(c) Entry by a court or quasi-judicial governmental agency of the United States or a political subdivision thereof of an order barring an Employee from serving as an officer or director of a public company.
For the purposes of clauses, (a) and (b) of this definition, no act or failure to act shall be deemed "willful" (x) if caused by a Disability or (y) unless done, or omitted to be done, not in good faith or without reasonable belief that such act or omission was in the best interest of the Company.
2.9 "Change in Control” shall be deemed to have occurred if the conditions set forth in any one of the following paragraphs shall have been satisfied:
(i) any person or group (as described in regulations under Section 409A of the Code) is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired directly from the Company) representing

(A) more than 50% or more of the combined voting power of the Company's then outstanding securities, excluding any person or group who becomes such a Beneficial Owner in connection with transactions described in clauses (x), (y) or (z) of paragraph (iii) below and excluding the acquisition by a person or group holding more than 50 percent of such voting power or

(B) 30 percent or more of the combined voting power of Terex’s then outstanding securities during any twelve-month period;

(ii) there is a change in the composition of the Board of Directors of the Company occurring during any twelve month period, as a result of which fewer than a majority of the directors are Incumbent Directors (“Incumbent Directors” shall mean directors who either (x) are members of the Board as of the date of this Agreement or (y) are elected, or nominated for election, to the Board with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination); or

(iii) there is consummated, in any transaction or series of transactions during a twelve-month period, a complete liquidation or dissolution of the Company or a merger, consolidation or sale of all or substantially all of the Company’s assets (collectively, a “Business Combination”) other than a Business Combination after which (x) the stockholders of the Company own more than 50 percent of the common stock or combined voting power of the voting securities of the company resulting from the Business Combination, (y) at least a majority of the board of directors of the resulting corporation were Incumbent Directors and (z) no individual, entity or group (excluding any corporation

resulting from the Business Combination or any employee benefit plan of such corporation or of the Company) becomes the Beneficial Owner of 35 percent or more of the combined voting power of the securities of the resulting corporation, who did not own such securities immediately before the Business Combination.

This definition of “Change in Control” is intended to comply with the definition of “Change in Control” under Code Section 409A. For purposes of this Section 2.9, any of the events described above shall in any case constitute a "change in the ownership or effective control" of the Company or a "change in the ownership of a substantial portion of the assets" of the Company, in each case, within the meaning of Code Section 409A in order to be a “Change in Control” hereunder.

For purposes of this Section 2.9, the rules of Code Section 318(a) and the regulations issued thereunder shall be used to determine stock ownership.

2.10 “Code” means the U.S. Internal Revenue Code of 1986, as amended from time to time or any successor statute thereto. For purposes of this Plan, references to sections of the Code shall be deemed to include references to any applicable regulations thereunder and any successor or similar provision.

2.11 “Committee” means the Compensation Committee of the Board or a subcommittee thereof, or any other committee designated by the Board to administer this Plan. The members of the Committee shall be appointed from time to time by and shall serve at the discretion of the Board. Each member of the Committee shall be a Nonemployee Director and an Outside Director, except that if the Board determines that (i) the Plan cannot or need not satisfy the requirements of Rule 16b-3 of the Exchange Act (such that grants of Awards are not or need not be exempt from Section 16(b) of the Exchange Act), then there may be less than two members of the Committee, and the members of the Committee need not be Nonemployee Directors or (ii) they no longer want the Plan to comply with the requirements of Section 162(m) of the Code and the regulations thereunder, or the Plan need not comply with such requirements, then there may be less than two members of the Committee and the members of the Committee need not be Outside Directors. If the Committee does not exist or cannot function for any reason, the Board may take any action under the Plan that would otherwise be the responsibility of the Committee.

2.12 “Company” means Terex Corporation, a Delaware corporation, and any successor thereto as provided in Article 20 herein.

2.13 “Covered Employee” means any Employee who is or may become a “Covered Employee,” as defined in Code Section 162(m).

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

2.15 “Disability” means, subject to an examination as specified by the Committee, a Participant's inability to engage in any substantial gainful activity because of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of twelve (12) months or longer.

2.16 “Dividend Equivalents” has the meaning set forth in Section 3.2(i).

2.17 “Effective Date” has the meaning set forth in Section 1.1.

2.18 “Employee” means any individual performing services for the Company, an Affiliate, or a Subsidiary and designated as an employee of the Company, a Subsidiary or an Affiliate on the payroll records thereof. An Employee shall not include any individual during any period he or she is classified or treated by the Company, Affiliate, or Subsidiary as an independent contractor, a consultant, or any employee of an employment, consulting, or temporary agency or any other entity other than the Company, Affiliate, or Subsidiary, without regard to whether such individual is subsequently determined to have been, or is subsequently retroactively reclassified as a common-law employee of the Company, Affiliate, or Subsidiary during such period. An individual shall not cease to be an Employee in the case of: (a) any leave of absence approved by the Company or (b) transfers between locations of the Company or between the Company, any Affiliates, or any Subsidiaries. Neither service as a Director nor payment of a Director’s fee by the Company shall be sufficient to constitute "employment" by the Company.

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

2.20 “Extraordinary Items” means (a) extraordinary, unusual, and/or nonrecurring items of gain or loss; (b) gains or losses on the disposition of a business; (c) changes in tax or accounting regulations or laws; or (d) the effect of a merger or acquisition.

2.21 “Fair Market Value” or “FMV” means:

(a) If the Shares are listed or admitted to trading on a securities exchange registered under the Exchange Act, the "Fair Market Value" of a Share as of a specified date shall mean the per Share closing price of the Shares for the date as of which Fair Market Value is being determined (or if there was no reported closing price on such date, on the last preceding date on which the closing price was reported) on the principal securities exchange on which the Shares are listed or admitted to trading.

(b) If the Shares are not listed or admitted to trading on any such exchange but are listed as a national market security on the NASDAQ Stock Market, Inc. ("NASDAQ"), traded in the over-the-counter market or listed or traded on any similar system then in use, the Fair Market Value of a Share shall be the last sales price for the date as of which the Fair Market Value is being determined (or if there was no reported sale on such date, on the last preceding date on which any reported sale occurred) reported on such system. If the Shares are not listed or admitted to trading on any such exchange, are not listed as a national market security on NASDAQ and are not traded in the over-the-counter market or listed or traded on any similar system then in use, but are quoted on NASDAQ or any similar system then in use, the Fair Market Value of a Share shall be the average of the closing high bid and low asked quotations on such system for the Shares on the date in question.

(c) In the event Shares are not publicly traded at the time a determination of their value is required to be made hereunder, the price of a Share as determined by the Committee in its sole discretion by application of a reasonable valuation method. The Committee may, in its sole discretion, seek the advice of outside experts in connection with any such determination.

2.22 “Full-Value Award” means an Award other than in the form of an ISO, NQSO, or SAR, and which is settled by the issuance of Shares.

2.23 “Grant Date” means the date an Award is granted to a Participant pursuant to the Plan.

2.24 “Grant Price” means the price established at the time of grant of an SAR pursuant to Article 7, used to determine whether there is any payment due upon exercise of the SAR.

2.25 "Incentive Stock Option" or "ISO" means an Option to purchase Shares granted under Article 6 to an Employee and that is designated as an Incentive Stock Option that is intended to meet the requirements of Code Section 422 or any successor provision.
2.26 "Insider" shall mean an individual who is, on the relevant date, an officer or Director of the Company, or a Beneficial Owner of more than ten percent (10%) of any class of the Company's equity securities that is registered pursuant to Section 12 of the Exchange Act, as determined by the Board in accordance with Section 16 of the Exchange Act.
2.27 "Nonemployee Director" means a Director who is a "Non-Employee Director" within the meaning of Rule 16b-3(b)(3)(i) of the Exchange Act.
2.28 "Nonemployee Director Award" means any NQSO, SAR, or Full-Value Award granted, whether singly, in combination, or in tandem, to a Participant who is a Nonemployee Director pursuant to such applicable terms, conditions, and limitations as the Board or Committee may establish in accordance with this Plan.
2.29 "Nonqualified Stock Option" or "NQSO" means an Option that is not intended to meet the requirements of Code Section 422, or that otherwise does not meet such requirements.
2.30 "Option" means an Incentive Stock Option or a Nonqualified Stock Option, as described in Article 6.
2.31 "Option Price" means the price at which a Share may be purchased by a Participant pursuant to an Option.
2.32 "Other Stock-Based Award" means an equity-based or equity-related Award not otherwise described by the terms of this Plan, granted pursuant to Article 10.
2.33 "Outside Director" is a Director who is an "outside director" within the meaning of Section 162(m)(4)(C)(i) of the Code.
2.34 "Participant" means any eligible individual as set forth in Article 5 to whom an Award is granted.
2.35 "Performance-Based Compensation" means compensation under an Award that is intended to satisfy the requirements of Code Section 162(m) for certain performance-based compensation paid to Covered Employees. Notwithstanding the foregoing, nothing in this Plan shall be construed to mean that an Award which does not satisfy the requirements for performance-based compensation under Code Section 162(m) does not constitute performance-based compensation for other purposes, including Code Section 409A.
2.36 "Performance Measures" mean measures as described in Article 12 on which the performance goals are based and which are approved by the Company's stockholders pursuant to this Plan in order to qualify Awards as Performance-Based Compensation.
2.37 "Performance Period" means the period of time during which the performance goals must be met in order to determine the degree of payout and/or vesting with respect to an Award.
2.38 "Performance Share" means an Award under Article 9 herein and subject to the terms of this Plan, denominated in Shares, the value of which at the time it is payable is determined as a function of the extent to which corresponding performance criteria have been achieved.
2.39 "Performance Unit" means an Award under Article 9 herein and subject to the terms of this Plan, denominated in units, the value of which at the time it is payable is determined as a function of the extent to which corresponding performance criteria have been achieved.

2.40 “Period of Restriction” means the period when Restricted Stock or Restricted Stock Units are subject to a substantial risk of forfeiture (based on the passage of time, the achievement of performance goals, or upon the occurrence of other events as determined by the Committee, in its discretion), as provided in Article 8.
2.41 “Plan” means the Terex Corporation Amended and Restated 2009 Omnibus Incentive Plan.
2.42 “Plan Year” means the Company’s fiscal year which begins January 1 and ends December 31.
2.43 “Prior Plans” means the Terex Corporation 2000 Incentive Plan and the 1996 Terex Corporation Long Term Incentive Plan, as amended.
2.44 “Restricted Stock” means an Award granted to a Participant pursuant to Article 8.
2.45 “Restricted Stock Unit” means an Award granted to a Participant pursuant to Article 8, except no Shares are actually awarded to the Participant on the Grant Date.
2.46 “SEC” means the United States Securities and Exchange Commission.
2.47 “Share” means a share of common stock of the Company, no par value per share.
2.48 “Stock Appreciation Right” or “SAR” means an Award, designated as an SAR, pursuant to the terms of Article 7 herein.
2.49 “Subsidiary” means any corporation or other entity, whether domestic or foreign, in which the Company has or obtains, directly or indirectly, an interest of more than fifty percent (50%) by reason of stock ownership or otherwise.
2.50 “Third-Party Service Provider” means any consultant, agent, advisor, or independent contractor who renders services to the Company, a Subsidiary, or an Affiliate that: (a) are not in connection with the offer and sale of the Company’s securities in a capital raising transaction, and (b) do not directly or indirectly promote or maintain a market for the Company’s securities.

Article 3. Administration
3.1 General. The Committee shall be responsible for administering this Plan, subject to this Article 3 and the other provisions of this Plan. The Committee may employ attorneys, consultants, accountants, agents, and other individuals, any of whom may be an Employee, and the Committee, the Company, and its officers and Directors shall

be entitled to rely upon the advice, opinions, or valuations of any such individuals. All actions taken and all interpretations and determinations made by the Committee shall be final and binding upon the Participants, the Company, and all other interested individuals.

3.2 Authority of the Committee. Subject to any express limitations set forth in the Plan, the Committee shall have full and exclusive discretionary power and authority to take such actions as it deems necessary and advisable with respect to the administration of the Plan including, but not limited to, the following:

(a) To determine from time to time which of the persons eligible under the Plan shall be granted Awards, when and how each Award shall be granted, what type or combination of types of Awards shall be granted, the provisions of each Award granted (which need not be identical), including the time or times when a person shall be permitted to receive Shares pursuant to an Award, and the number of Shares subject to an Award;

(b) To construe and interpret the Plan and Awards granted under it, and to establish, amend, and revoke rules and regulations for its administration. The Committee, in the exercise of this power, may correct any defect, omission, or inconsistency in the Plan or in an Award Agreement, in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effective;

(c) To approve forms of Award Agreements for use under the Plan;

(d) To determine Fair Market Value of a Share in accordance with Section 2.21 of the Plan;

(e) To amend the Plan or any Award Agreement as provided in the Plan;

(f) To adopt subplans and/or special provisions applicable to stock awards regulated by the laws of a jurisdiction other than and outside of the United States. Such subplans and/or special provisions may take precedence over other provisions of the Plan, but unless otherwise superseded by the terms of such subplans and/or special provisions, the provisions of the Plan shall govern;

(g) To authorize any person to execute on behalf of the Company any instrument required to effect the grant of a stock award previously granted by the Committee or the Board;

(h) To determine whether Awards will be settled in Shares of common stock, cash, or in any combination thereof;

(i) To determine whether Awards will be adjusted for Dividend Equivalents, with “Dividend Equivalents” meaning a credit, made at the discretion of the Committee, to the account of a Participant in an amount equal to the cash dividends paid on one Share for each Share represented by an Award held by such Participant; provided, however, that Options and SARs may not be adjusted for Dividend Equivalents;

(j) To establish a program whereby Participants designated by the Committee may reduce compensation otherwise payable in cash in exchange for Awards under the Plan;

(k) To authorize a program permitting eligible Participants to surrender outstanding Awards in exchange for newly granted Awards;

(l) To impose such restrictions, conditions, or limitations as it determines appropriate as to the timing and manner of any resales by a Participant or other subsequent transfers by the Participant of any

Shares, including, without limitation: (i) restrictions under an insider trading policy and (ii) restrictions as to the use of a specified brokerage firm for such resales or other transfers; and

(m) To provide, either at the time an Award is granted or by subsequent action, that an Award shall contain as a term thereof, a right, either in tandem with the other rights under the Award or as an alternative thereto, of the Participant to receive, without payment to the Company, a number of Shares, cash, or a combination thereof, the amount of which is determined by reference to the value of Shares.

3.3 Delegation. The Committee may delegate to one or more of its members or to one or more officers of the Company or any Subsidiary or Affiliate or to one or more agents or advisors such administrative duties or powers as it may deem advisable, and the Committee or any individuals to whom it has delegated duties or powers as aforesaid may employ one or more individuals to render advice with respect to any responsibility the Committee or such individuals may have under this Plan. The Committee may, by resolution, authorize one or more Directors or officers, in accordance with applicable law, of the Company to do one or both of the following on the same basis as can the Committee: (a) designate Employees to be recipients of Awards; (b) determine the size of any such Awards; provided, however, (i) the Committee shall not delegate such responsibilities to any such Director or officer for Awards granted to an Employee who is considered an Insider or whose compensation is subject to Section 162(m) of the Code; and (ii) the Director(s) or officer(s) shall report periodically to the Committee regarding the nature and scope of the Awards granted pursuant to the authority delegated.

Article 4. Shares Subject to This Plan and Maximum Awards

4.1 Number of Shares Authorized and Available for Awards. The number of Shares authorized and available for Awards under the Plan shall be determined in accordance with the following provisions:

(a) Subject to adjustment as provided in Section 4.4 of the Plan, the maximum number of Shares available for issuance under the Plan shall be 8,000,000 shares, plus (i) the number of Shares remaining available for issuance under the Prior Plans that are not subject to outstanding Awards as of the Effective Date, and (ii) the number of Shares subject to Awards outstanding under the Prior Plans as of the Effective Date but only to the extent that such outstanding Awards are forfeited, expire, or otherwise terminate without the issuance of such Shares.

(b) The maximum number of Shares that may be issued pursuant to ISOs under the Plan shall be 8,000,000.

4.2 Share Usage. Shares covered by an Award shall be counted as used only to the extent they are actually issued. Any Shares related to Awards under this Plan or under the Prior Plans that terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of the Shares, or are settled in cash in lieu of Shares, or are exchanged with the Committee’s permission, prior to the issuance of Shares, for Awards not involving Shares, shall be available again for grant under this Plan. Moreover, if the Option Price of any Option granted under this Plan or the tax withholding requirements with respect to any Award granted under this Plan are satisfied by tendering Shares to the Company (by either actual delivery or by attestation), the tendered Shares shall again be available for grant under this Plan. Furthermore, if an SAR is exercised and settled in Shares, the difference between the total Shares exercised and the net Shares delivered shall again be available for grant under this Plan, with the result being that only the number of Shares issued upon exercise of an SAR is counted against the Shares available for issuance under the Plan. The Shares available for issuance under this Plan may be authorized and unissued Shares or treasury Shares.

4.3 Annual Award Limits. Unless and until the Committee determines that an Award to a Covered Employee shall not be designed to qualify as Performance-Based Compensation, the following limits (each an “Annual Award

Limit" and, collectively, "Annual Award Limits"), as adjusted pursuant to Sections 4.4 and 20.2, shall apply to grants of such Awards under this Plan:

(a) Options and SARs: The maximum aggregate number of Shares subject to Options and SARs granted to any one Participant in any one Plan Year shall be 750,000.

(b) Restricted Stock and Restricted Stock Units: The maximum aggregate number of Shares subject to Restricted Stock and Restricted Stock Units granted to any one Participant in any one Plan Year shall be 750,000.

(c) Performance Units: The maximum aggregate amount awarded or credited with respect to Performance Units to any one Participant in any one Plan Year in respect of any performance period may not exceed $20,000,000, determined as of the date of grant.

(d) Performance Shares: The maximum aggregate number of Performance Shares that a Participant may receive in any one Plan Year in respect of any performance period shall be 750,000 Shares, determined as of the date of grant.

(e) Cash-Based Awards: The maximum aggregate amount awarded or credited with respect to Cash-Based Awards to any one Participant in any one Plan Year in respect of any performance period may not exceed $20,000,000, determined as of the date of grant.

(f) Other Stock-Based Awards: The maximum aggregate amount awarded or credited with respect to Other Stock-Based Awards to any one Participant in any one Plan Year in respect of any performance period may not exceed 750,000 Shares, determined as of the date of grant.

4.4 Adjustments in Authorized Shares. Adjustment in authorized Shares available for issuance under the Plan or under an outstanding Award and adjustments in Annual Award Limits shall be subject to the following provisions:

(a) In the event of any corporate event or transaction (including, but not limited to, a change in the Shares of the Company or the capitalization of the Company) such as a merger, consolidation, reorganization, recapitalization, separation, partial or complete liquidation, stock dividend, stock split, reverse stock split, split up, spin-off or other distribution of stock or property of the Company, combination of Shares, exchange of Shares, dividend in-kind, or other like change in capital structure or distribution (other than normal cash dividends) to stockholders of the Company, or any similar corporate event or transaction, the Committee, in order to prevent dilution or enlargement of Participants' rights under this Plan, shall substitute or adjust, as applicable, the number and kind of Shares that may be issued under this Plan or under particular forms of Awards, the number and kind of Shares subject to outstanding Awards, the Option Price or Grant Price applicable to outstanding Awards, the Annual Award Limits, and other value determinations applicable to outstanding Awards, provided that the Committee, in its sole discretion, shall determine the methodology or manner of making such substitution or adjustment.

(b) The Committee, in its sole discretion, may also make appropriate adjustments in the terms of any Awards under this Plan to reflect such changes or distributions described in Section 4.4(a).

(c) The determination of the Committee as to the foregoing adjustments, if any, shall be conclusive and binding on Participants under this Plan.

(d) Subject to the provisions of Article 18 and notwithstanding anything else herein to the contrary, without affecting the number of Shares reserved or available hereunder, the Committee may authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock, or reorganization upon such terms and conditions as it may deem appropriate, subject to compliance with the rules under Code Sections 422 and 424, as and where applicable.

Article 5. Eligibility and Participation

5.1 Eligibility. Individuals eligible to participate in this Plan include all Employees, Directors, and Third-Party Service Providers.

5.2 Actual Participation. Subject to the provisions of this Plan, the Committee may, from time to time, select from all eligible individuals, those individuals to whom Awards shall be granted and shall determine, in its sole discretion, the nature of any and all terms permissible by law and the amount of each Award.

Article 6. Stock Options

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

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

6.3 Option Price. The Option Price for each grant of an Option under this Plan shall be determined by the Committee in its sole discretion and shall be specified in the Award Agreement; provided, however, the Option Price must be at least equal to one hundred percent (100%) of the FMV of a Share as of the Option's Grant Date.

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

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

6.6 Payment. Options granted under this Article 6 shall be exercised by the delivery of a notice of exercise to the Company or an agent designated by the Company in a form specified or accepted by the Committee, or by complying with any alternative procedures which may be authorized by the Committee, setting forth the number of Shares with respect to which the Option is to be exercised, accompanied by full payment for the Shares. A condition of the issuance of the Shares as to which an Option shall be exercised shall be the payment of the Option Price. The Option Price of any exercised Option shall be payable to the Company in accordance with one of the following methods:

(a) In cash or its equivalent;

(b) By tendering (either by actual delivery or attestation) previously acquired Shares having an aggregate Fair Market Value at the time of exercise equal to the Option Price;

(c) By a cashless (broker-assisted) exercise;
(d) By any combination of (a), (b), and (c); or
(e) Any other method approved or accepted by the Committee in its sole discretion.

Subject to any governing rules or regulations, as soon as practicable, but in no event later than 45 days, after receipt of written notification of exercise and full payment (including satisfaction of any applicable tax withholding), the Company shall deliver to the Participant evidence of book entry Shares. Unless otherwise determined by the Committee, all payments under all of the methods indicated above shall be paid in United States dollars or Shares, as applicable.

6.7 Termination of Employment. Each Participant's Award Agreement may set forth the extent to which the Participant shall have the right to exercise the Option following termination of the Participant's employment or provision of services to the Company or any Affiliate or Subsidiary, as the case may be. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award Agreement entered into with each Participant, need not be uniform among all Options issued pursuant to this Article 6, and may reflect distinctions based on the reasons for termination. In the absence of a specific provision in a Participant's Award Agreement, in the event of the termination of employment of a Participant or the termination or separation from service of a Third-Party Service Provider or a Director for any reason (other than by reason of death, Disability or Change in Control), the term of any Options granted to such Participant outstanding and vested as of the date of (or as a result of) such termination or separation, shall expire six (6) months after the date of such termination or separation, provided, however, that in no instance may the term of an Award, as so extended, extend beyond the end of the original term of the Award Agreement. Except as otherwise provided by the Committee, any unvested options held by such Participant under this Plan shall be forfeited upon such termination or separation.

6.8 Special Rules Regarding ISOs. Notwithstanding any provision of the Plan to the contrary, an ISO granted to a Participant shall be subject to the following rules:

(a) Special ISO Definitions.

(i) "Parent Corporation" shall mean as of any applicable date a corporation in respect of the Company that is a parent corporation within the meaning of Code Section 424(e).

(ii) "ISO Subsidiary" shall mean as of any applicable date any corporation in respect of the Company that is a subsidiary corporation within the meaning of Code Section 424(f).

(iii) A "10% Owner" is an individual who owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or its Parent Corporation or any ISO Subsidiary.

(b) Eligible Employees. ISOs may be granted solely to eligible Employees of the Company, Parent Corporation, or ISO Subsidiary (as permitted under Code Sections 422 and 424).

(c) Option Price. The Option Price of an ISO granted under the Plan shall be determined by the Committee in its sole discretion and shall be specified in the Award Agreement; provided, however, the Option Price must at least equal one hundred percent (100%) of the Fair Market Value of a Share as of the ISO's Grant Date (in the case of 10% Owners, the Option Price may not be not less than 110% of such Fair Market Value).

(d) Right to Exercise. Any ISO granted to a Participant under the Plan shall be exercisable during his or her lifetime solely by such Participant.

(e) Exercise Period. The period during which a Participant may exercise an ISO shall not exceed ten (10) years (five (5) years in the case of a Participant who is a 10% Owner) from the date on which the ISO was granted.

(f) Termination of Employment. In the event a Participant terminates employment due to death or disability, as defined under Code Section 22(e)(3), the Participant (or his beneficiary, in the case of death) shall have the right to exercise the Participant's ISO Award during the period specified in the applicable Award Agreement solely to the extent the Participant had the right to exercise the ISO on the date of his death or disability, as applicable; provided, however that such period may not exceed one (1) year from the date of such termination of employment or, if shorter, the remaining term of the ISO. In the event a Participant terminates employment for reasons other than death or disability, as defined under Code Section 22(e)(3), the Participant shall have the right to exercise the Participant's ISO Award during the period specified in the applicable Award Agreement solely to the extent the Participant had the right to exercise the ISO on the date of such termination of employment; provided, however that such period may not exceed three (3) months from the date of such termination of employment or, if shorter, the remaining term of the ISO.

(g) Dollar Limitation. To the extent that the aggregate Fair Market Value of: (i) the Shares with respect to which Options designated as Incentive Stock Options plus (ii) the Shares of common stock of the Company, Parent Corporation, and any Subsidiary with respect to which other Incentive Stock Options are exercisable for the first time by a holder of an ISO during any calendar year under all plans of the Company and any Affiliate and Subsidiary exceeds one hundred thousand dollars ($100,000), such Options shall be treated as Nonqualified Stock Options. For purposes of the preceding sentence, Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares shall be determined as of the time the Option or other Incentive Stock Option is granted.

(h) Duration of Plan. No Incentive Stock Options may be granted more than ten (10) years after the earlier of: (i) adoption of this Plan by the Board, or (ii) the Effective Date.

(i) Notification of Disqualifying Disposition. If any Participant shall make any disposition of Shares issued pursuant to the exercise of an ISO, such Participant shall notify the Company of such disposition within thirty (30) days thereof. The Company shall use such information to determine whether a disqualifying disposition as described in Code Section 421(b) has occurred.

(j) Transferability. No ISO granted under this Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution; provided, however, at the discretion of the Committee, an ISO may be transferred to a grantor trust under which the Participant making the transfer is the sole beneficiary.

Article 7. Stock Appreciation Rights

7.1 Grant of SARs. Subject to the terms and conditions of this Plan, SARs may be granted to Participants at any time and from time to time as shall be determined by the Committee. Subject to the terms and conditions of this Plan, the Committee shall have complete discretion in determining the number of SARs granted to each Participant and, consistent with the provisions of this Plan, in determining the terms and conditions pertaining to such SARs.

7.2 Grant Price. The Grant Price for each grant of an SAR shall be determined by the Committee and shall be specified in the Award Agreement; provided, however, the Grant Price must be at least equal to one hundred percent (100%) of the FMV of a Share as of the Grant Date.
7.3 SAR Agreement. Each SAR Award shall be evidenced by an Award Agreement that shall specify the Grant Price, the term of the SAR, and such other provisions as the Committee shall determine.
7.4 Term of SAR. The term of an SAR granted under this Plan shall be determined by the Committee, in its sole discretion, and except as determined otherwise by the Committee and specified in the SAR Award Agreement, no SAR shall be exercisable later than the tenth (10th) anniversary of its grant date.
7.5 Exercise of SARs. SARs may be exercised upon whatever terms and conditions the Committee, in its sole discretion, imposes.
7.6 Settlement of SARs. Upon the exercise of an SAR, a Participant shall be entitled to receive payment from the Company, within 45 days of the date of exercise, in an amount determined by multiplying:
(a) The excess of the Fair Market Value of a Share on the date of exercise over the Grant Price; by
(b) The number of Shares with respect to which the SAR is exercised.
7.7 Form of Payment. Payment, if any, with respect to an SAR settled in accordance with Section 7.6 of the Plan shall be made in accordance with the terms of the applicable Award Agreement, in cash, Shares, or a combination thereof, as the Committee determines.
7.8 Termination of Employment. Each Award Agreement may set forth the extent to which the Participant shall have the right to exercise the SAR following termination of the Participant's employment with or provision of services to the Company, Affiliates, or Subsidiaries, as the case may be. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award Agreement entered into with Participants, need not be uniform among all SARs issued pursuant to this Plan, and may reflect distinctions based on the reasons for termination. In the absence of a specific provision in a Participant's Award Agreement, in the event of the termination of employment or separation from service of a Participant for any reason (other than by reason of death, Disability or Change in Control), the term of any SAR granted to such Participant outstanding and vested as of the date (or as a result of) such termination or separation, shall expire six (6) months after the date of such termination or separation, provided, however, that in no instance may the term of an Award, as so extended, extend beyond the end of the original term of the Award Agreement. Except as otherwise provided by the Committee, any unvested SARs held by such Participant under this Plan shall be forfeited upon such termination or separation.
7.9 Other Restrictions. The Committee shall impose such other conditions or restrictions on any Shares received upon exercise of an SAR granted pursuant to this Plan as it may deem advisable or desirable. These restrictions may include, but shall not be limited to, a requirement that the Participant hold the Shares received upon exercise of an SAR for a specified period of time.
Article 8. Restricted Stock and Restricted Stock Units
8.1 Grant of Restricted Stock or Restricted Stock Units. Subject to the terms and provisions of this Plan, the Committee, at any time and from time to time, may grant Shares of Restricted Stock and/or Restricted Stock Units to Participants in such amounts as the Committee shall determine. Restricted Stock Units shall be similar to Restricted Stock except that no Shares are actually awarded to the Participant on the Grant Date.

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

8.3 Other Restrictions. The Committee shall impose such other conditions and/or restrictions on any Shares of Restricted Stock or Restricted Stock Units granted pursuant to this Plan as it may deem advisable including, without limitation, a requirement that Participants pay a stipulated purchase price for each Share of Restricted Stock or each Restricted Stock Unit, restrictions based upon the achievement of specific performance goals, time-based restrictions on vesting following the attainment of the performance goals, time-based restrictions, restrictions under applicable laws or under the requirements of any stock exchange or market upon which such Shares are listed or traded, or holding requirements or sale restrictions placed on the Shares by the Company upon vesting of such Restricted Stock or Restricted Stock Units. To the extent deemed appropriate by the Committee, the Company may retain the certificates representing Shares of Restricted Stock in the Company's possession until such time as all conditions and/or restrictions applicable to such Shares have been satisfied or lapse. Except as otherwise provided in this Article 8, Shares of Restricted Stock covered by each Restricted Stock Award shall become freely transferable by the Participant after all conditions and restrictions applicable to such Shares have been satisfied or lapse (including satisfaction of any applicable tax withholding obligations), and Restricted Stock Units shall be paid in cash, Shares, or a combination of cash and Shares as the Committee, in its sole discretion, shall determine.

8.4 Certificate Legend. In addition to any legends placed on certificates pursuant to Section 8.3, each certificate representing Shares of Restricted Stock granted pursuant to this Plan may bear a legend such as the following or as otherwise determined by the Committee in its sole discretion: The sale or transfer of Shares of stock represented by this certificate, whether voluntary, involuntary, or by operation of law, is subject to certain restrictions on transfer as set forth in the Plan, and in the associated Award Agreement. A copy of this Plan and such Award Agreement may be obtained from Terex Corporation

8.5 Voting Rights. Unless otherwise determined by the Committee and set forth in a Participant's Award Agreement, to the extent permitted or required by law, as determined by the Committee, Participants holding Shares of Restricted Stock granted hereunder may be granted the right to exercise full voting rights with respect to those Shares during the Period of Restriction. A Participant shall have no voting rights with respect to any Restricted Stock Units granted hereunder.

8.6 Termination of Employment. Each Award Agreement may set forth the extent to which the Participant shall have the right to retain Restricted Stock and/or Restricted Stock Units following termination of the Participant's employment with or provision of services to the Company or any Affiliate or Subsidiary, as the case may be. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award Agreement entered into with each Participant, need not be uniform among all Shares of Restricted Stock or Restricted Stock Units issued pursuant to this Plan, and may reflect distinctions based on the reasons for termination. In the absence of a specific provision in a Participant's Award Agreement, in the event of the termination of employment of a Participant or the termination or separation from service of a Third-Party Service Provider or a Director for any reason (other than by reason of death, Disability or Change in Control), any unvested Restricted Stock and/or Restricted Stock Units granted to such Participant under this Plan shall be forfeited upon such termination or separation.

Article 9. Performance Units/Performance Shares

9.1 Grant of Performance Units/Performance Shares. Subject to the terms and provisions of this Plan, the Committee, at any time and from time to time, may grant Performance Units and/or Performance Shares to Participants in such amounts and upon such terms as the Committee shall determine.

9.2 Value of Performance Units/Performance Shares. Each Performance Unit shall have an initial value that is established by the Committee at the time of grant. Each Performance Share shall have an initial value equal to 100% of Fair Market Value of a Share as of the Grant Date. The Committee shall set performance goals in its discretion which, depending on the extent to which they are met, will determine the value and/or number of Performance Units/Performance Shares that will be paid out to the Participant.

9.3 Earning of Performance Units/Performance Shares. Subject to the terms of this Plan, after the applicable Performance Period has ended, the holder of Performance Units/Performance Shares shall be entitled to receive a payout on the value and number of Performance Units/Performance Shares earned by the Participant over the Performance Period, to be determined as a function of the extent to which the corresponding performance goals have been achieved.

9.4 Form and Timing of Payment of Performance Units/Performance Shares. Payment of earned Performance Units/Performance Shares shall be as determined by the Committee and as evidenced in the Award Agreement. Subject to the terms of this Plan, the Committee, in its sole discretion, may pay earned Performance Units/Performance Shares in the form of cash or in Shares (or in a combination thereof) equal to the value of the earned Performance Units/Performance Shares in accordance with the terms of the Award Agreement. Any Shares may be granted subject to any restrictions deemed appropriate by the Committee. The determination of the Committee with respect to the form of payout of such Awards shall be set forth in the Award Agreement pertaining to the grant of the Award.

9.5 Termination of Employment. Each Award Agreement may set forth the extent to which the Participant shall have the right to retain Performance Units and/or Performance Shares following termination of the Participant's employment with or provision of services to the Company or any Affiliate or Subsidiary, as the case may be. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award Agreement entered into with each Participant, need not be uniform among all Awards of Performance Units or Performance Shares issued pursuant to this Plan, and may reflect distinctions based on the reasons for termination. In the absence of a specific provision in a Participant's Award Agreement, in the event of the termination of employment of a Participant or the termination or separation from service of a Third-Party Service Provider or a Director for any reason (other than by reason of death, Disability or Change in Control), any unvested Performance Units and/or Performance Shares granted to such Participant under this Plan shall be forfeited upon such termination or separation.

Article 10. Cash-Based Awards and Other Stock-Based Awards

10.1 Grant of Cash-Based Awards. Subject to the terms and provisions of the Plan, the Committee, at any time and from time to time, may grant Cash-Based Awards to Participants in such amounts and upon such terms as the Committee may determine.

10.2 Other Stock-Based Awards. The Committee may grant other types of equity-based or equity-related Awards not otherwise described by the terms of this Plan (including the grant or offer for sale of unrestricted Shares) in such amounts and subject to such terms and conditions as the Committee shall determine. Such Awards may involve the transfer of actual Shares to Participants, or payment in cash or otherwise of amounts based on the value of Shares, and may include, without limitation, Awards designed to comply with or take advantage of the applicable local laws of jurisdictions other than the United States.

10.3 Value of Cash-Based and Other Stock-Based Awards. Each Cash-Based Award shall specify a payment amount or payment range as determined by the Committee. Each Other Stock-Based Award shall be expressed in terms of Shares or units based on Shares, as determined by the Committee. The Committee may establish performance goals in its discretion. If the Committee exercises its discretion to establish performance goals, the number and/or value of Cash-Based Awards or Other Stock-Based Awards that will be paid out to the Participant will depend on the extent to which the performance goals are met.

10.4 Payment of Cash-Based Awards and Other Stock-Based Awards. Payment, if any, with respect to a Cash-Based Award or an Other Stock-Based Award shall be made in accordance with the terms of the Award, in cash or Shares as the Committee determines. In the absence of an Award Agreement or a specific provision in a Participant's Award Agreement to the contrary, no Participant shall have any right to receive payment of any Cash-Based Award or Other Stock-Based Award unless such Participant remains in the employ of the Company at the time of payment of such Award.

10.5 Termination of Employment. The Committee shall determine the extent to which the Participant shall have the right to receive Cash-Based Awards or Other Stock-Based Awards following termination of the Participant's employment with or provision of services to the Company or any Affiliate or Subsidiary, as the case may be. Such provisions shall be determined in the sole discretion of the Committee, such provisions may be included in an agreement entered into with each Participant, but need not be uniform among all Awards of Cash-Based Awards or Other Stock-Based Awards issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination. In the absence of an Award Agreement or a specific provision in a Participant's Award Agreement, in the event of a Participant's termination of employment or separation from service for any reason (other than by reason of death, Disability or Change in Control), any unvested Cash-Based Awards or Other Stock-Based Awards granted to such Participant under this Plan shall be forfeited upon such termination or separation.

Article 11. Transferability of Awards and Shares

11.1 Transferability of Awards. Except as provided in Section 6.8(j) and Section 11.2, during a Participant's lifetime, his or her Awards shall be exercisable only by the Participant. Awards shall not be transferable other than by will or the laws of descent and distribution or pursuant to a domestic relation order entered into by a court of competent jurisdiction; no Awards shall be subject, in whole or in part, to attachment, execution, or levy of any kind; and any purported transfer in violation of this Section 11.1 shall be null and void; provided, however, Options or SARs that have vested may be transferred to a charitable organization or a Family Member of such Participant. The Committee may establish such procedures as it deems appropriate for a Participant to designate a beneficiary to whom any amounts payable or Shares deliverable in the event of, or following, the Participant's death may be provided. For purposes of this provision, Family Member means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the employee's household (other than a tenant or employee), a trust in which these persons have more than 50% of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than 50% of the voting interests.

11.2 Committee Action. Except as provided in Section 6.8(j), the Committee may, in its discretion, determine that notwithstanding Section 11.1, any or all Awards shall be transferable to and exercisable by such transferees, and be subject to such terms and conditions as the Committee may deem appropriate; provided, however, no Award may be transferred for value without stockholder approval.

11.3 Restrictions on Share Transferability. The Committee may impose such restrictions on any Shares acquired by a Participant under the Plan as it may deem advisable, including, without limitation, minimum holding period requirements, restrictions under applicable federal securities laws, under the requirements of any stock exchange

or market upon which such Shares are then listed or traded, or under any blue sky or state securities laws applicable to such Shares.

Article 12. Performance Measures

12.1 Performance Measures. The performance goals upon which the payment or vesting of an Award to a Covered Employee that is intended to qualify as Performance-Based Compensation shall be set within the shorter of: (a) ninety (90) days after the beginning of the Performance Period, or (b) twenty-five percent (25%) of the Performance Period has elapsed, and shall be limited to the following Performance Measures:

(a) Net earnings or net income (before or after taxes);
(b) Earnings per share;
(c) Net sales or revenue growth;
(d) Net operating profit or income;
(e) Return measures (including, but not limited to, return on assets, capital, invested capital, equity, sales, or revenue);
(f) Cash flow (including, but not limited to, operating cash flow, free cash flow, cash flow return on equity, and cash flow return on investment);
(g) Earnings before or after taxes, interest, depreciation, and/or amortization;
(h) Gross or operating margins;
(i) Productivity ratios;
(j) Share price (including, but not limited to, growth measures and total stockholder return);
(k) Cost control;
(l) Margins;
(m) Operating efficiency;
(n) Market share;
(o) Customer satisfaction or employee satisfaction;
(p) Working capital;
(q) Economic value added or EVA® (net operating profit after tax minus the sum of capital multiplied by the cost of capital);
(r) Management development;
(s) Diversity;
(t) Succession planning;
(u) Financial controls;
(v) Ethics;
(w) Information technology;
(x) Marketing initiatives;
(y) Business development;
(z) Financial structure;

(aa) Taxes;
(bb) Depreciation and amortization; and
(cc) Total Stockholder Return.

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

performance goals pursuant to the Performance Measures specified in this Article 12, provided that any such acceleration complies with Treasury Regulation 1.162-27(e)(2)(iii)(B).

12.2 Evaluation of Performance. The Committee may provide in any such Award that any evaluation of performance may include or exclude any of the following events that occurs during a Performance Period: (a) asset write-downs, (b) litigation or claim judgments or settlements, (c) the effect of changes in tax laws, accounting principles, or other laws or provisions affecting reported results, (d) any reorganization and restructuring programs, (e) Extraordinary Items, (f) acquisitions or divestitures, and (g) foreign exchange gains and losses. To the extent such inclusions or exclusions affect Awards to Covered Employees, they shall be prescribed in a form that meets the requirements of Code Section 162(m) for deductibility.

12.3 Adjustment of Performance-Based Compensation. Awards that are intended to qualify as Performance-Based Compensation may not be adjusted upward. The Committee shall retain the discretion to adjust such Awards downward, either on a formula or discretionary basis or any combination, as the Committee determines.

12.4 Committee Discretion. In the event that applicable tax or securities laws change to permit Committee discretion to alter the governing Performance Measures without obtaining stockholder approval of such changes, the Committee shall have sole discretion to make such changes without obtaining stockholder approval. In addition, in the event that the Committee determines that it is advisable to grant Awards that shall not qualify as Performance-Based Compensation, the Committee may make such grants without satisfying the requirements of Code Section 162(m) and base vesting on Performance Measures other than those set forth in Section 12.1.

Article 13. Nonemployee Director Awards

The Board or Committee shall determine and approve all Awards to Nonemployee Directors. The terms and conditions of any grant of any Award to a Nonemployee Director shall be set forth in an Award Agreement.

Article 14. Dividend Equivalents

Any Participant selected by the Committee may be granted Dividend Equivalents based on the dividends declared on Shares that are subject to any Award, to be credited as of dividend payment dates, during the period between the date the Award is granted and the date the Award is exercised, vests, or expires, as determined by the Committee. Such Dividend Equivalents shall be converted to cash or additional Shares by such formula and at such time and subject to such limitations as may be determined by the Committee. Notwithstanding the foregoing, the Committee may not grant Dividend Equivalents based on the dividends declared on Shares that are subject to an Option, ISO, or SAR Award and further no dividends or Dividend Equivalents shall be paid out with respect to any unvested Performance Shares or Performance Units.

Article 15. Beneficiary Designation

Each Participant under this Plan may, from time to time, name any beneficiary or beneficiaries (who may be named contingently or successively) to whom any benefit under this Plan is to be paid in case of his death before he receives any or all of such benefit. Each such designation shall revoke all prior designations by the same Participant, shall be in a form prescribed by the Committee, and will be effective only when filed by the Participant in writing with the Company during the Participant’s lifetime. In the absence of any such beneficiary designation, benefits remaining unpaid or rights remaining unexercised at the Participant’s death shall be paid to or exercised by the Participant’s executor, administrator, or legal representative.

Article 16. Rights of Participants

16.1 Employment. Nothing in this Plan or an Award Agreement shall: (a) interfere with or limit in any way the right of the Company, its Affiliates, and/or its Subsidiaries to terminate any Participant’s employment or service on the Board or to the Company at any time or for any reason not prohibited by law, or (b) confer upon any Participant any right to continue his employment or service as a Director or Third-Party Service Provider for any specified period of time. Neither an Award nor any benefits arising under this Plan shall constitute an employment contract with the Company or any Affiliate or Subsidiary and, accordingly, subject to Articles 3 and 18, this Plan and the benefits

hereunder may be terminated at any time in the sole and exclusive discretion of the Committee without giving rise to any liability on the part of the Company, its Affiliates, and/or its Subsidiaries.

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

16.3 Rights as a Stockholder. Except as otherwise provided herein, a Participant shall have none of the rights of a stockholder with respect to Shares covered by any Award until the Participant becomes the record holder of such Shares.

Article 17. Change in Control

Notwithstanding any other provision of this Plan to the contrary, the provisions of this Article 17 shall apply in the event of a Change in Control, unless otherwise determined by the Committee in connection with the grant of an Award as reflected in the applicable Award Agreement. In the event of a Change in Control, (i) any unvested Awards granted to a Participant shall immediately vest, including any Awards that are subject to Performance Measures, which shall vest at target, and (ii) such Participant shall have the unqualified right to exercise any Options or SARs that are outstanding as of the date of such Change in Control for a period of three (3) years after such Change in Control of the Company, provided, however, that in no instance may the term of the Awards, as so extended, extend beyond the end of the original term of the Award Agreement; provided, further, however that the accelerated vesting of any Award shall not effect the distribution date of any Award subject to Code Section 409A.

Article 18. Disability

Except for ISOs covered by Section 6.8(f), in the absence of a specific provision in a Participant's Award Agreement, if a Participant terminates employment or separates from service due to Disability, (i) any unvested Awards granted to such Participant shall immediately vest and (ii) such Participant, or his guardian or legal representative, shall have the unqualified right to exercise any Options or SARs that are outstanding as of the date of such termination or separation for a period of one year after such termination or separation, provided, however, in no instance may the term of the Option or SAR, as so extended, extend beyond the end of the original term of the Award Agreement; provided, further, however that the accelerated vesting of any Award shall not effect the distribution date of any Award subject to Code Section 409A.

Article 19. Death

Except for ISOs covered by Section 6.8(f), in the absence of a specific provision in a Participant's Award Agreement, if a Participant dies while employed or otherwise engaged by or providing services to the Company or any of its Subsidiaries or Affiliates, as the case may be, (i) any unvested Awards granted to such Participant under the Plan shall immediately vest and (ii) any Options or SARs outstanding as of the date of such Participant's death shall be exercisable by the estate of such Participant or by any person who acquired such Award by bequest or inheritance, at any time within one year after the death of such Participant, provided, however, that in no instance may the term of the Option or SAR, as so extended, extend beyond the end of the original term of the Award Agreement.

Article 20. Amendment and Termination

20.1 Amendment and Termination of the Plan and Award Agreements.

(a) Subject to subparagraphs (b) and (c) of this Section 20.1 and Section 20.3 of the Plan, the Board may at any time alter, amend, suspend or terminate the Plan as it shall deem advisable and the Committee may, at any time and from time to time, amend an outstanding Award Agreement.

(b) Except in connection with a corporate transaction involving the Company (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, split-up, spin-off, combination, or exchange of shares), the terms of an outstanding Award may not be amended to reduce the exercise price of outstanding Options or to reduce the Grant Price of outstanding SARs or cancel outstanding Options or SARs in exchange for cash, other Awards, or Options or SARs with an exercise price or Grant Price, as applicable, that is less than the exercise price of the cancelled Options or the Grant Price of the cancelled SARs without shareholder approval.

(c) Notwithstanding the foregoing, no amendment of this Plan shall be made without stockholder approval if stockholder approval is required pursuant to rules promulgated by any stock exchange or quotation system on which Shares are listed or quoted or by applicable U.S. state corporate laws or regulations, applicable U.S. federal laws or regulations, and the applicable laws of any foreign country or jurisdiction where Awards are, or will be, granted under the Plan.

20.2 Adjustment of Awards Upon the Occurrence of Certain Unusual or Nonrecurring Events. Subject to Section 12.3, the Committee may make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of unusual or nonrecurring events (including, without limitation, the events described in Section 4.4 hereof) affecting the Company or the financial statements of the Company or of changes in applicable laws, regulations, or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent unintended dilution or enlargement of the benefits or potential benefits intended to be made available

under this Plan. The determination of the Committee as to the foregoing adjustments, if any, shall be conclusive and binding on Participants under this Plan. By accepting an Award under this Plan, a Participant agrees to any adjustment to the Award made pursuant to this Section 20.2 without further consideration or action.

20.3 Awards Previously Granted. Notwithstanding any other provision of this Plan to the contrary, other than Sections 20.2, 20.4, or 23.14, no termination or amendment of this Plan or an Award Agreement shall adversely affect in any material way any Award previously granted under this Plan, without the written consent of the Participant holding such Award.

20.4 Amendment to Conform to Law. Notwithstanding any other provision of this Plan to the contrary, the Committee may amend the Plan or an Award Agreement, to take effect as deemed necessary or advisable for the purpose of conforming the Plan or an Award Agreement to any present or future law relating to plans of this or similar nature, and to the administrative regulations and rulings promulgated thereunder. By accepting an Award under this Plan, a Participant agrees to any amendment made pursuant to this Section 20.4 to any Award granted under the Plan without further consideration or action.

Article 21. Withholding

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

21.2 Share Withholding. With respect to withholding required upon the exercise of Options or SARs, the lapse of restrictions on Restricted Stock, the delivery of cash or Shares in the settlement of Restricted Stock Units, or the achievement of performance goals related to Performance Units or Performance Shares, or any other taxable event arising as a result of an Award granted hereunder (collectively and individually referred to as a “Share Payment”), Participants may elect, subject to the approval of the Committee, to satisfy the withholding requirement, in whole or in part, by having the Company withhold from a Share Payment the number of Shares having a Fair Market Value on the date the withholding is to be determined equal to the minimum withholding requirement. All such elections shall be irrevocable, made electronically or in writing and signed by the Participant, and shall be subject to any restrictions or limitations that the Committee, in its sole discretion, deems appropriate.

Article 22. Successors

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

Article 23. General Provisions

23.1 Forfeiture Events.

The Committee may specify in an Award Agreement that the Participant’s rights, payments, and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award.

(a) Such events may include, but shall not be limited to, termination of employment for Cause, termination of the Participant’s provision of services to the Company, Affiliate, or Subsidiary, violation of material Company, Affiliate, or Subsidiary policies, breach of noncompetition, confidentiality, or other restrictive covenants that may apply

to the Participant, or other conduct by the Participant that is detrimental to the business or reputation of the Company, any Affiliate, or Subsidiary.

(b) If a Participant fails to sign an Award Agreement within six (6) months of such Award Agreement being delivered to the Participant by the Company, the Award being granted pursuant to such Award Agreement shall be subject to forfeiture.

(c) If any of the Company's financial statements are required to be restated resulting from errors, omissions, or fraud, the Committee may (in its sole discretion, but acting in good faith) direct that the Company recover all or a portion of any Award granted or paid to a Participant or make additional payments or grants to a Participant for any Award with respect to any fiscal year of the Company the financial results of which are affected by such restatement. The amount to be recovered from or paid to the Participant shall be the amount by which the Award differed from the amount that would have been payable to the Participant had the financial statements been initially filed as restated. In no event shall the amount to be recovered by the Company be less than the amount required to be repaid or recovered as a matter of law (including but not limited to amounts that are required to be recovered or forfeited under Section 304 of the Sarbanes-Oxley Act of 2002). The Committee shall determine the method of any recovery or payment pursuant to this provision.

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

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

23.4 Severability. In the event any provision of this Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of this Plan, and this Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

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

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

(a) Obtaining any approvals from governmental agencies that the Company determines are necessary or advisable; and

(b) Completion of any registration or other qualification of the Shares under any applicable national or foreign law or ruling of any governmental body that the Company determines to be necessary or advisable.

23.7 Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

23.8 Investment Representations. The Committee may require any individual receiving Shares pursuant to an Award under this Plan to represent and warrant in writing that the individual is acquiring the Shares for investment and without any present intention to sell or distribute such Shares.

23.9 Employees Based Outside of the United States. Notwithstanding any provision of this Plan to the contrary, in order to comply with the laws in other countries in which the Company, its Affiliates, and/or its Subsidiaries operate or have Employees, Directors, or Third-Party Service Providers, the Committee, in its sole discretion, shall have the power and authority to:

(a) Determine which Affiliates and Subsidiaries shall be covered by this Plan;

(b) Determine which Employees, Directors, or Third-Party Service Providers outside the United States are eligible to participate in this Plan;

(c) Modify the terms and conditions of any Award granted to Employees, Directors, or Third-Party Service Providers outside the United States to comply with applicable foreign laws;

(d) Establish subplans and modify exercise procedures and other terms and procedures, to the extent such actions may be necessary or advisable. Any subplans and modifications to Plan terms and procedures established under this Section 23.9 by the Committee shall be attached to this Plan document as appendices; and

(e) Take any action, before or after an Award is made, that it deems advisable to obtain approval or comply with any necessary local government regulatory exemptions or approvals.

Notwithstanding the above, the Committee may not take any actions hereunder, and no Awards shall be granted, that would violate applicable law.

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

23.11 Unfunded Plan. Participants shall have no right, title, or interest whatsoever in or to any investments that the Company, its Subsidiaries, or its Affiliates may make to aid it in meeting its obligations under this Plan. Nothing contained in this Plan, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship between the Company and any Participant, beneficiary, legal representative, or any other individual. To the extent that any individual acquires a right to receive payments from the Company or any Affiliate or Subsidiary under this Plan, such right shall be no greater than the right of an unsecured general creditor of the Company or the Subsidiary or Affiliate, as the case may be. All payments to be made hereunder shall be paid from the general funds of the Company, or the Subsidiary or Affiliate, as the case may be and no special or separate fund shall be established and no segregation of assets shall be made to assure payment of such amounts except as expressly set forth in this Plan.

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

23.13 Retirement and Welfare Plans. Neither Awards made under this Plan nor Shares or cash paid pursuant to such Awards may be included as "compensation" for purposes of computing the benefits payable to any Participant under the Company's or any Subsidiary's or Affiliate's retirement plans (both qualified and nonqualified) or welfare benefit plans unless such other plan expressly provides that such compensation shall be taken into account in computing a Participant's benefit.

23.14 Deferred Compensation.

(a) The Committee may grant Awards under the Plan that provide for the deferral of compensation within the meaning of Code Section 409A. It is intended that such Awards comply with the requirements Section 409A so that amounts deferred thereunder are not includible in income and are not subject to an additional tax of twenty percent (20%) at the time the deferred amounts are no longer subject to a substantial risk of forfeiture.

(b) Notwithstanding any provision of the Plan or Award Agreement to the contrary, if one or more of the payments or benefits to be received by a Participant pursuant to an Award would constitute deferred compensation subject to Code Section 409A and would cause the Participant to incur any penalty tax or interest under Code Section 409A or any regulations or Treasury guidance promulgated thereunder, the Committee may reform the Plan and Award Agreement to comply with the requirements of Code Section 409A and to the extent practicable maintain the original intent of the Plan and Award Agreement. By accepting an Award under this Plan, a Participant agrees to any amendments to the Award made pursuant to this Section 21.14(b) without further consideration or action.

23.15 Nonexclusivity of this Plan. The adoption of this Plan shall not be construed as creating any limitations on the power of the Board or Committee to adopt such other compensation arrangements as it may deem desirable for any Participant.

23.16 No Constraint on Corporate Action. Nothing in this Plan shall be construed to: (a) limit, impair, or otherwise affect the Company's or a Subsidiary's or an Affiliate's right or power to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure, or to merge or consolidate, or dissolve, liquidate, sell, or transfer all or any part of its business or assets; or (b) limit the right or power of the Company or a Subsidiary or an Affiliate to take any action which such entity deems to be necessary or appropriate.

23.17 Governing Law. The Plan and each Award Agreement shall be governed by the 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 Plan to the substantive law of another jurisdiction. Unless otherwise provided in the Award Agreement, recipients of an Award under this Plan are deemed to submit to the exclusive jurisdiction and venue of the federal or state courts of Delaware to resolve any and all issues that may arise out of or relate to this Plan or any related Award Agreement.

23.18 Delivery and Execution of Electronic Documents. To the extent permitted by applicable law, the Company may: (a) deliver by email or other electronic means (including posting on a Web site maintained by the Company or by a third party under contract with the Company) all documents relating to the Plan or any Award thereunder (including without limitation, prospectuses required by the SEC) and all other documents that the Company is required to deliver to its security holders (including without limitation, annual reports and proxy statements), and (b) permit Participants to electronically execute applicable Plan documents (including, but not limited to, Award Agreements) in a manner prescribed to the Committee.

23.19 No Representations or Warranties Regarding Tax Effect. Notwithstanding any provision of the Plan to the contrary, the Company, its Affiliates and Subsidiaries, the Board, and the Committee neither represent nor warrant the tax treatment under any federal, state, local, or foreign laws and regulations thereunder (individually and collectively referred to as the "Tax Laws") of any Award granted or any amounts paid to any Participant under the Plan including, but not limited to, when and to what extent such Awards or amounts may be subject to tax, penalties and interest under the Tax Laws.

23.20 Indemnification. Subject to requirements of Delaware law, each individual who is or shall have been a member of the Board, or a Committee appointed by the Board, or an officer of the Company to whom authority was delegated in accordance with Article 3, shall be indemnified and held harmless by the Company against and from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under this Plan and against and from any and all amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such action, suit, or proceeding against him or her, provided he or she shall give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his/her own behalf, unless such loss, cost, liability, or expense is a result of his/her own willful misconduct or except as expressly provided by statute. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such individuals may be entitled under the Company's Certificate of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

Appendix B

TEREX CORPORATION DEFERRED COMPENSATION PLAN

THIS TEREX CORPORATION DEFERRED COMPENSATION PLAN, dated as of February 28, 2013, established by TEREX CORPORATION (the "Plan"), a Delaware corporation authorized to do business in the State of Connecticut, 200 Nyala Farm Road, Westport, CT 06880 (hereinafter referred to as the "Corporation").

WITNESSETH THAT:

WHEREAS, the Corporation established the Terex Deferred Compensation Plan effective January 1, 1997 as amended as of February 1, 1997 (the "Original Plan"), and the Original Plan provided that the Corporation may amend the Original Plan at any time;

WHEREAS, the Corporation amended and restated the Original Plan as of December 1, 1997, January 1, 2002, January 1, 2004 and March 11, 2004 (the Original Plan as amended and restated shall be referred to as the "Former Plan");

WHEREAS, the Corporation amended the Former Plan on October 14, 2008, effective December 31, 2004, to freeze participation and future contributions under the Plan;

WHEREAS, the Corporation established this Plan, effective January 1, 2005; to comply with Section 409A of the Internal Revenue Code of 1986, as amended;

WHEREAS, the Corporation recognizes the valuable services heretofore performed for it by the employees and the outside directors participating in this Plan (the "Participants");

WHEREAS, the Corporation has established this Plan to provide retirement and death benefits, and benefits in the event of any other termination of employment or service as an outside director, as provided herein to a select group of management or highly compensated employees and the outside directors;

WHEREAS, each Participant desires to receive such benefits and to defer a portion of his or her compensation;

WHEREAS, the Corporation desires to extend the date that Terex Matching Contributions (as defined below) may be granted until February 27, 2023 (the "Amended Terms");

WHEREAS, the Corporation has established a trust dated as of January 1, 1997 (the "Trust") to assist in providing the benefits under the Former Plan and the Trust has been amended effective as of January 1, 2005 to assist in providing benefits under this Plan; and

WHEREAS, the Corporation desires to provide the terms and conditions upon which the Corporation shall pay such additional compensation through the Trust to the Participants.

NOW, THEREFORE, in consideration of these premises, the Corporation adopts the Plan as follows:

1. Establishment and Purposes.

a. Establishment. The Corporation established the Plan as of January 1, 2005. The Amended Terms shall become effective upon stockholder approval.

b. Name. The Plan shall be known as the "Terex Corporation Deferred Compensation Plan."

c. Purpose. The purpose of the Plan is to defer the payment of a portion of the compensation of the Participants, including the portion deferred by each Participant in accordance with an annual Deferral Election, so that such amount may be paid to the Participants (or their beneficiaries) upon retirement or death or other termination of employment as specified herein.

2. Definitions.

Except as otherwise provided herein, the following terms shall have the definitions hereinafter indicated wherever used in this Plan with initial capital letters:

a. Beneficiary: Any person, entity, or any combination thereof designated by the Participant, on a Beneficiary Designation Form acceptable to the Corporation, to receive benefits under this Plan in the event of the Participant's death, or in the absence of any such designation, his or her estate.

b. Beneficiary Designation Form: The designation by the Participant of his or her Beneficiary or Beneficiaries, as amended from time to time, and in a form acceptable to the Corporation.

c. Code: The Internal Revenue Code of 1986, as amended.

d. Compensation: All wages, salaries, bonuses, director fees and restricted stock awards granted to directors to be paid to a Participant for services rendered to the Corporation, other than stock options issued to a Participant pursuant to a qualified stock option plan (not including any amounts deferred by the Corporation under the provisions of this Plan).

e. Deferral Election: The form or other method of deferral acceptable to the Corporation that provides for the Participant to elect to defer a portion of his or her Compensation or other amounts or items. A Participant must complete and submit to the Corporation a new Deferral Election for each such Plan Year with respect to which a Participant elects to defer a portion of his or her Compensation and indicate the form and time at which amounts deferred during such Plan Year are to be distributed; provided that a separate Deferral Election is required to defer any bonus payable in such Plan Year. Deferral Elections with respect to Compensation that meets the requirements of "performance-based compensation" under Section 409A may be made no later than the date that is six months before the end of the performance period. Deferral Elections with respect to a restricted stock award shall be made prior to the date of grant of such restricted stock award. Except as provided in the preceding 2 sentences and Section 3a, Deferral Elections must be made within the time prescribed by the Corporation but in no event later than December 31 of the Plan Year preceding the Plan Year to which the Deferral Election relates. The Subsequent Election Limitations apply independently to each Deferral Election.

f. Deferred Compensation Account: Shall have the meaning set forth in Section 4 of this Plan.

g. Earnings: The amount credited to each Participant's Deferred Compensation Account as earnings, as provided in Section 4 hereof.

h. Effective Date of the Plan: January 1, 2005.

i. Employee: An employee of the Corporation who is selected by the Corporation to participate in this Plan, and who elects to participate in this Plan by executing and delivering to the Corporation a Deferral Election which is satisfactory to the Corporation.
j. Investment Designation: The provisions of the Deferral Election providing for the investment designation by the Participant as described in Section 4 of this Plan, as amended from time to time, and as acceptable to the Corporation.
k. Key Employee: An Employee treated as a "specified employee" under Section 409A(a)(2)(B)(i) of the Code, i.e., a key employee of the Corporation (as defined in Section 416(i) of the Code without regard to paragraph (5) thereof). The Corporation shall determine which Employees shall be deemed Key Employees using December 31 as an identification date.
l. Key Employee Limitation: The following limitation is intended to comply with Section 409A. Notwithstanding any Deferral Election, Retirement Plus Election, or provision of this Plan to the contrary, distribution of the Deferred Compensation Account or Retirement Plus Account payable by reason of a Participant's Termination of Employment or Retirement to a Participant who is a Key Employee, shall not be made before six months after such separation from service or the Participant's death, if earlier. At the end of such six-month period, amounts that would have been payable but for the Key Employee Limitation shall be paid in a lump sum, without interest, on the first day of the seventh month following the Participant's Termination of Employment or Retirement, as applicable, and remaining payments shall commence as indicated on the relevant Deferral Elections, Retirement Plus Elections, or the Plan, as applicable.
m. Normal Retirement Age: Fifty-five (55) years of age.
n. Plan: This Terex Corporation Deferred Compensation Plan.
o. Plan Year: January 1 through December 31.
p. Retirement: The termination of a Participant's employment with the Corporation after attaining Normal Retirement Age.
q. Retirement Plus Account: An account shall be established on behalf of each Retirement Plus Participant under Section 4.g.
r. Retirement Plus Election: The form or other method of deferral acceptable to the Corporation that provides for a Retirement Plus Participant to elect the time and form amounts credited to his or her Retirement Plus Account will be distributed. A Retirement Plus Election must be completed by the Retirement Plus Participant and submitted to the Corporation within 30 days after being selected to participate in the Plan.
s. Retirement Plus Participant: An employee of the Corporation who is a senior officer or other key employee who has been selected by the Compensation Committee of the Board of Directors of the Corporation (the "Committee") to receive a benefit described in Section 4.g on or after November 1, 2008. Depending on the context, references herein to Participant shall sometimes include Retirement Plus Participant.
t. Section 409A: Section 409A of the Code and the regulations issued thereunder, as the same may be amended from time to time and any successor statute to such section of the Code.

u. Subsequent Election Limitations: Refers to the following limitations applicable to any Participant's subsequent election to delay payment of the Deferred Compensation Account or the Retirement Plus Account, as applicable, or to change the form of such payment: (i) such election may not take effect until at least 12 months after the date on which the election is made; (ii) with respect to an election related to payment of the Deferred Compensation Account or the Retirement Plus Account, as applicable, for reasons other than death or Unforeseeable Emergency, no payments specified in a subsequent election may be made during the five-year period commencing on the date distribution of benefits would have commenced but for such subsequent election; and (iii) with respect to a subsequent election related to payment of the Deferred Compensation Account or the Retirement Plus Account, as applicable, pursuant to a fixed schedule or payable at a specified time, such election may not be made less than 12 months prior to the date of the first scheduled payment. For purposes hereof, installment payments shall be treated as a single payment.

v. Termination of Employment: Means the severing of employment with or services as an outside director to the Corporation and affiliates, voluntarily or involuntarily, for any reason other than Retirement, death or an authorized leave of absence.

w. Unforeseeable Emergency: A severe financial hardship to a Participant resulting from an illness or accident of the Participant, the Participant's spouse, the Participant's dependent (within the meaning of Section 152(a) of the Code), or the Participant's Beneficiary, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, or such other circumstances or events, if any, that are included within the meaning of "unforeseeable emergency" under Section 409A.

x. Vesting Date: The earliest to occur of the date on which the Retirement Plus Participant (i) completes ten Years of Participation, (ii) terminates employment with the Corporation and its affiliates after attaining age 65, or (iii) terminates employment with the Corporation and its affiliates either by the Corporation without "Cause" (as defined in Section 5.b.(7) below) or by such Participant for "Good Reason" (as defined in the Terex Corporation Supplemental Executive Retirement Plan (the "SERP")).

y. Year of Participation: A Plan Year during which an Employee is employed on a full-time basis with the Corporation or an outside director serves on the Corporation's Board of Directors. An Employee who is employed on a full-time basis for any portion of a Plan Year and an outside director who sits on the Corporation's Board of Directors for any portion of a Plan Year shall be credited with a Year of Participation for that Plan Year.

3. Participant's Deferrals.

a. Enrollment. As a condition to participating in this Plan, a Participant shall execute and file with the Corporation an irrevocable Deferral Election before the end of the Plan Year immediately preceding the Plan Year for which the election is made. However, if an employee or director becomes a participant after the beginning of a Plan Year and does not already participate in a nonqualified deferred compensation plan that is required to be aggregated with this Plan under Section 409A, the Participant may execute and file with the Corporation a Deferral Election for such Plan Year within 30 days after being selected to participate in the Plan. The Corporation shall establish from time to time such other enrollment requirements as it determines are necessary, convenient or appropriate to carry out any of the purposes or intent of the Plan or to better assure the Plan's compliance with Section 409A. Participation shall commence as soon as practicable following timely receipt of all required enrollment materials.

b. Deferral Elections. The Deferral Election shall designate the portion of the Participant's Compensation that shall be deferred hereunder; provided, however, that (i) the Participant may not defer more than a certain percentage of his or her regular salary as designated by the Corporation from time to time (the initial maximum percentage shall be twenty percent (20%)), and (ii) no amount shall be deferred from any amount that was payable to the Participant before the end of the Plan Year in which the Participant executed the Deferral Election. A Participant may separately elect to defer up to one hundred percent (100%) of his or her bonus or director fees. All deferrals of salary, director fees or bonuses shall be in increments of one percent (1%) or, if acceptable to the Corporation, a specific dollar amount (or a Participant may elect to receive a specified dollar amount of his or her bonus and defer the remainder).

4. Deferred Compensation Account, Earnings, Corporation Matching and Retirement Plus Contributions.

a. Deferred Compensation Account. Any Compensation or other amounts or items deferred by a Participant shall be credited to a deferred compensation bookkeeping account maintained by the Plan recordkeeper for the Participant. The Plan recordkeeper shall update the Participant's Deferred Compensation Account (including Earnings) on a daily basis.

b. Earnings. Earnings with respect to each deferral shall be credited to the Participant's Deferred Compensation Account as measured by the applicable Investment Designation. The two available options for the Investment Designation shall be (i) Terex stock, and (ii) a bond index (the "Bond Index"), selected by the Corporation, which shall provide an interest rate which mirrors an investment in the corporate bonds of companies rated Baa or higher. The Corporation may change the options available and the applicable bond index from time to time. With respect to a Bond Index designation, any interest rate credited to the Participant's Deferred Compensation Account in any given month shall be the interest rate for the penultimate month. With respect to a Terex stock designation, the deemed purchase price for measuring Earnings hereunder will be the closing price of Terex stock listed in The Wall Street Journal on the day it is posted to the Participant's Deferred Compensation Account. All designations of a particular Investment Designation must constitute at least ten percent (10%) of the deferral. The Earnings credited to the Deferred Compensation Account shall be an amount equal to the amount which would have been earned if the Participant's Deferred Compensation Account had been applied or invested in accordance with the Investment Designation. Earnings shall also include any dividends paid on Terex stock credited to the Participant's Deferred Compensation Account. In the event of any losses based on an Investment Designation, the Participant's Deferred Compensation Account shall be reduced accordingly, and the Corporation shall have no obligation or responsibility with respect to any such losses.

c. Corporation's Matching Contributions.

(1) In addition, the Corporation shall match twenty-five percent (25%) of the Employee's deferrals for which the Employee's Investment Designation is Terex stock (herein the "Terex Matching Contributions"). This is the only matching contribution the Corporation shall make. Notwithstanding any contrary provision contained herein, Terex Matching Contributions shall not apply to Restricted Stock (as such term is defined in any Terex Incentive Compensation Plan) deferred by a Participant in accordance with the provisions of this Plan.

(2) Terex Matching Contributions will cease to be made after February 27, 2023.

d. Change of Control. In the event of a "Change of Control" as such term is defined in Section 13(d) of the Trust, the Corporation shall make contributions to the Trust in connection with such Change of Control so that the Trust will have sufficient funds to pay all benefits earned or accrued as of such date and all benefits reasonably expected to be earned or accrued thereafter as calculated by the Corporation based on reasonable assumptions.

e. No Rights in Specific Assets. The Corporation, in its sole and absolute discretion, may (or may not) acquire any item indicated in the Participant's Investment Designation, and any investment product or other item so acquired for the convenience of the Corporation shall be the sole and exclusive property of the Corporation (or a trust established by the Corporation) with the Corporation (or a trust established by the Corporation) named as owner and beneficiary thereof. To the extent that a Participant or his or her Beneficiary acquires a right to receive payments from the Corporation under the provisions hereof, such right shall be no greater than the right of any unsecured general creditor of the Corporation.

f. Change in Investment Designations. A Participant may not change his or her Investment Designation with respect to any portion of the Participant's Deferred Compensation Account.

g. Retirement Plus Contributions. For each Plan Year in which the Retirement Plus Participant was employed by the Company for at least six months, the Retirement Plus Account of each Retirement Plus Participant shall be credited, for bookkeeping purposes, with an amount equal to ten percent of the base salary and annual bonus paid pursuant to the Company's annual incentive compensation plan then in existence to each such Participant for such

Plan Year ("Retirement Plus Contributions"). Retirement Plus Contributions for annual bonuses shall be credited to the Retirement Plus Accounts within 180 days following the date on which the annual bonus is paid and Retirement Plus Contributions for salary shall be credited to the Retirement Plus Accounts within 180 days following the end of the year in which the salary is earned; provided that in the event of the Participant's Retirement, death, Disability (as defined in Section 5.b.(4)), or Termination of Employment prior to the date such amounts are credited to his or her Retirement Plus Account, the Company will credit the appropriate amounts to such Account prior to distribution. Amounts credited to Retirement Plus Accounts shall be credited with earnings and losses as measured by the Bond Index selected by the Corporation from time to time.

5. Benefit Payments.

a. Deferred Compensation Account. At such time as a pre-retirement or accelerated distribution is due, or upon a Participant's Retirement, death, or other Termination of Employment or service as an outside director, the Corporation shall pay benefits as follows:

(1) Retirement or Termination of Employment After Five Years of Participation. Subject to the Key Employee Limitation, if the Participant retires, dies or has a Termination of Employment or terminates service as an outside director after he or she attains Normal Retirement Age or after he or she has attained five Years of Participation, such Participant shall receive payments:

(i) as designated in his or her Deferral Elections, as applicable and as may be amended subject to the Subsequent Election Limitations; or

(ii) if such Participant has failed to make any such designation for any amount, with respect to such amount, such Participant shall receive the amount of his or her Deferred Compensation Account balance, payable in a lump sum in the Plan Year following such retirement, death, Termination of Employment or termination of service as an outside director.

(2) Termination of Employment Before Attaining Normal Retirement Age and Five Years of Participation. Subject to the Key Employee Limitation, if the Participant dies or has a Termination of Employment or terminates service as an outside director before he or she attains Normal Retirement Age, and before he or she has attained five Years of Participation, the Corporation shall pay, in a lump sum to the Participant, the entire amount of his or her Deferred Compensation Account in the Plan Year after the Participant's employment terminates. The Corporation shall have no further liability hereunder to the Participant or his or her Beneficiary, assigns or other successors after making any lump sum payment under this Section 5a(2).

(3) Pre-Retirement. A Participant may elect in a Deferral Election to receive payment of all or a portion of a deferral on a specified date before the Participant retires. Except as provided in Sections 5c and 5d, all deferrals must remain in the Participant's Deferred Compensation Account for at least portions of three Plan Years. The Participant may make the election to receive a pre-retirement payment when the Participant completes the Deferral Election for the given Plan Year. The pre-retirement payment may be paid in (i) a lump sum, based on the most recent valuation of the Participant's Deferred Compensation Account, or (ii) in a four (4) year stream, which will be paid in the same manner as an installment payment payable under Section 5a(5).

(4) Death. In the event of the Participant's death before he or she has received all amounts under his or her Deferred Compensation Account, upon the Participant's death, the remaining balance in the Participant's Deferred Compensation Account shall be paid to the Participant's Beneficiary within sixty days following the Participant's death in a lump sum. Upon making such lump sum payment, the Corporation shall have no further obligations hereunder to the Participant or his or her Beneficiary, assigns or other successors.

(5) Form of Payment. In each Deferral Election, a Participant may designate the following forms of payment of the Deferred Compensation Account: (i) a lump sum, based on the value of the Participant's Deferred Compensation Account on the last business day of the year in which the Termination of Employment, Retirement or termination of services as a director occurs, payable in the Plan Year following his or her Termination of Employment, Retirement or termination of services as a director, as applicable, or (ii) in five (5), ten (10) or fifteen (15) substantially equal annual payments which payments shall commence in the Plan Year following his or her Termination of Employment, Retirement or termination of services as a director, as applicable. Any installment payment hereunder shall equal the quotient determined by dividing the Participant's remaining Deferred Compensation Account balance at the time of payment by the number of remaining installments (including the current installment).

(6) Transition Elections. Notwithstanding anything contained herein to the contrary:

(i) A Participant may, during the Plan Year ending on December 31, 2006, change existing distribution elections under the Plan, provided that any such election shall not accelerate the distribution of any amounts into 2006 or defer the distribution of amounts otherwise payable in 2006 to a subsequent year.

(ii) A Participant may, during the Plan Year ending on December 31, 2007, change existing distribution elections under the Plan, provided that any such election shall not accelerate the distribution of any amounts into 2007 or defer the distribution of amounts otherwise payable in 2007 to a subsequent year.

(iii) A Participant may, during the Plan Year ending on December 31, 2008, change existing distribution elections under the Plan, provided that any such election shall not accelerate the distribution of any amounts into 2008 or defer the distribution of amounts otherwise payable in 2008 to a subsequent year.

b. Retirement Plus Account. Upon a Retirement Plus Participant's Retirement, death, Disability or other Termination of Employment, the Corporation shall pay benefits as follows:

(1) Retirement or Termination of Employment After the Vesting Date. Subject to the Key Employee Limitation, if a Retirement Plus Participant terminates employment by reason of Retirement (other than death or Disability) or Termination of Employment on or after his or her Vesting Date, such Participant shall receive the balance in his or her Retirement Plus Account in accordance with such Participant's Retirement Plus Election; provided, however, that if no such Election is in effect, such balance shall be paid in a lump sum at the time provided in Section 5.b.(5)(i); provided, further, however, that if such Retirement or Termination of Employment occurs within two years following a "Change of Control" (as defined in the SERP), any such Election shall be disregarded and such balance shall be paid in a lump sum within 30 days following such Retirement or Termination of Employment.

(2) Termination of Employment Before the Vesting Date. If a Retirement Plus Participant dies or terminates employment by reason of Retirement or Termination of Employment before his or her Vesting Date, the Corporation shall have no obligation to pay his or her Retirement Plus Account and the Corporation shall have no liability hereunder to such Participant or his or her Beneficiary, assigns or other successors. Notwithstanding the foregoing, the Committee may waive any vesting requirement for any such Participant; provided that such waiver may not affect the time the Retirement Plus Account is paid.

(3) Death. If a Retirement Plus Participant dies after his or her Vesting Date, but before he or she has received all amounts (including if such Participant has not experienced a Termination of Employment or Retirement) under his or her Retirement Plus Account, the remaining balance in such Participant's Retirement Plus Account shall be paid to his or her Beneficiary in a lump sum within 60 days after such Participant's death. Upon making such lump sum payment, the Corporation shall have no further obligations hereunder to the Participant or his or her Beneficiary, assigns or other successors.

(4) Disability. If a Retirement Plus Participant becomes Disabled prior to his or her Retirement or Termination of Employment, notwithstanding any other provision of the Plan to the contrary, such Participant shall receive the balance in his or her Retirement Plus Account in a lump sum within 60 days after he or she becomes Disabled. A Retirement Plus Participant will be considered to be "Disabled" or have a Disability" if he or she is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or last for a continuous period of not less than 12 months.

(5) Form of Payment. A Retirement Plus Participant may designate in a Retirement Plus Election the following forms of payment with respect to his or her Retirement Plus Account: (i) a lump sum, based on the value of such Retirement Plus Account on the last business day of the year in which such Participant's Termination of Employment or Retirement (other than death or Disability) occurs, payable in the Plan Year following such Termination of Employment or Retirement, as applicable; or (ii) five (5), ten (10) or fifteen (15) substantially equal annual payments, which payments shall commence in the Plan Year following such Termination of Employment or Retirement, as applicable. Any installment payment hereunder shall equal the quotient determined by dividing the Retirement Plus Participant's remaining Retirement Plus Account balance at the time of payment by the number of remaining installments (including the current installment).

(6) SERP Transition Election. Notwithstanding anything contained herein to the contrary, any person who is a participant in the SERP on December 31, 2008 may elect, no later than December 31, 2008, to be a Retirement Plus Participant, effective as of January 1, 2009 and to have the Actuarial Equivalent (as defined in the SERP) transferred to a Retirement Plus Account by completing a special Retirement Plus Election form that provides for (i) such transfer of the Actuarial Equivalent and (ii) the election of the form of payment of the Retirement Plus Account as provided in Section 5.b.(5). The Retirement Plus Participant's rights to receive a distribution from his or her Retirement Plus Account in connection with such transfer will be subject to the rules relating to time of distribution and vesting of the account, as provided in Sections 5.b.(1) and (2). The Retirement Plus Participant shall simultaneously therewith execute a Retirement Plus Election, in accordance with Section 2.r., relating to Retirement Plus Contributions with respect to the Plan Year commencing on January 1, 2009."

(7) Cause. For purposes of this Plan, "Cause" shall have the definition set forth in the Participant's employment agreement with the Corporation, or, absent an employment agreement defining Cause, Cause shall mean the Participant's (i) continuing and material failure to fulfill his or her employment obligations or willful misconduct or gross neglect in the performance of his or her duties as an officer or employee of the Corporation, (ii) commission of fraud, misappropriation or embezzlement in the performance of his or her duties as an officer or employee of the Corporation or (iii) conviction of a felony, which, as determined in good faith by the Board, constitutes a crime that may result in material harm to the Corporation. Notwithstanding the foregoing provisions of this Section 5.b. to the contrary, if a Retirement Plus Participant's employment with the Corporation and all of its affiliates is terminated by the Corporation or any affiliate for one of the reasons specified in clauses (ii) or (iii) of the definition of Cause above or any similar provision in the Participant's employment agreement (whether before or after his or her Vesting Date), all amounts in such Participant's Retirement Plus Account shall be immediately forfeited.

c. Form of Distribution. Any portion of a Participant's Deferred Compensation Account that has an Investment Designation of Terex stock will be distributed in Terex shares, except for fractional shares, which will be distributed in cash. Any portion of a Participant's Deferred Compensation Account that has an Investment Designation of the Bond Index and each Retirement Plus Participant's Retirement Plus Account (to the extent vested) shall be paid in cash.

d. Hardship Withdrawals. A Participant may request a distribution hereunder of all or a portion of the Participant's Deferred Compensation Account in response to an Unforeseeable Emergency. Any early withdrawal on account of an Unforeseeable Emergency shall be paid in the form described in Section 5b and limited to the amount reasonably necessary to meet such emergency, and the amount otherwise payable hereunder shall be reduced accordingly. A request for a withdrawal due to an Unforeseeable Emergency must be reviewed and approved by the administrative committee represented by Corporate Human Resources, Legal and Finance departments of the Corporation, before a distribution shall be made hereunder. Any determination that an Unforeseeable Emergency exists and the appropriate amount of a withdrawal shall be made in accordance with Section 409A. A distribution due

8

to an Unforeseeable Emergency shall be made within sixty days following the approval of the distribution by the administrative committee.

e. Acceleration of Distributions. In the absence of an Unforeseeable Emergency, the Corporation may, in its discretion, accelerate the payment of all or a portion of a Participant's Deferred Compensation Account and the Retirement Plus Participant's Retirement Plus Account to the extent permitted under any applicable exception to the prohibition on an acceleration of payments under Treasury Regulation Section 1.409A-3(j)(4)(ii) through (xiv) (for example, in accordance with a domestic relations order, for payments less than $15,500 (indexed), for the payment of certain employment, state, local or foreign taxes or taxes imposed under Section 409A of the Code, cancellation of deferrals due to an unforeseeable hardship or disability, plan termination and liquidation, to satisfy certain debts of a Participant to the Corporation, or in settlement of certain bona fide disputes).

f. Payment Only from Corporation Assets. Any payment of benefits to a Participant or his or her Beneficiary shall be made from assets which shall continue, for all purposes, to be a part of the general assets of the Corporation; no person shall have or acquire any interest in such assets by virtue of the provisions of this Plan. To the extent that a Participant or his or her Beneficiary acquires a right to receive payments from the Corporation under the provisions hereof, such right shall be no greater than the right of any unsecured general creditor of the Corporation.

g. Beneficiaries. A Participant may designate his or her Beneficiary or Beneficiaries to receive the amounts as provided herein after his or her death in accordance with the Beneficiary Designation. In the absence of such a designation, the Corporation shall pay any such amount to the Participant's estate.

h. No Trust. Nothing contained in this Plan, and no action taken pursuant to its provisions shall create, or be construed to create, a trust of any kind.

6. Determination of Benefits, Claims Procedure and Administration.

a. Determinations and Claims Procedures. The Corporation shall make all determinations as to rights to benefits under this Plan.

(1) Claims for Benefits. If any person or the authorized representative of the person believes that the person is being denied benefits to which he or she is entitled hereunder, the person or his or her representative (the "Claimant") may file a written claim for such benefits with the Corporation. If such claim relates to the contents of a notice received by the Claimant, the claim must be made within 60 days after such notice was received by the Claimant. All other claims must be made within 180 days of the date on which the event that caused the claim to arise occurred. Such claims should be sent to the following address:

Terex Corporation
Human Resources Department
200 Nyala Farm Road
Westport, Connecticut 06880

The written claim must state (i) the reason for making the claim, (ii) the facts supporting the claim, (iii) the amount claimed, and (iv) the Claimant's name and address.

(2) Notice of Determination. If a claim is wholly or partially denied, the Corporation will issue a determination in writing within a reasonable period of time, but no later than 90 days after receipt of the claim. If special circumstances justify extending the period up to an additional 90 days, the Claimant will be given written notice of this extension within the initial 90-day period and the notice will explain the special circumstances and the date a decision is expected. A notice of adverse determination will be written in a manner calculated to be understood by the Claimant and will contain (i) the specific reason or reasons for the adverse determination, (ii) reference to the specific Plan provisions on which the determination is based, (iii) a description of any additional material or information necessary for the Claimant to perfect the claim, along with an explanation of why this material or information is necessary, (iv) a description of the Plan's review procedures and time limits applicable to these procedures, (v) and a

statement of the Claimant's right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination on review. The following appeal procedures give the rules for appealing a denied claim.

(3) Appeal of Adverse Determination. A Claimant may appeal an adverse determination to the committee designated by the board of directors of the Corporation to determine such appeals (the "Appeals Committee"), and receive a full and fair review of the claim and adverse determination. The Claimant's appeal must be written and filed within 60 days of the Claimant's receipt of the notification of adverse determination. The written request for appeal should contain (i) a statement of the ground on which the appeal is based, (ii) reference to the applicable provisions of the Plan, (iii) the reason or argument why the Claimant believes the claim should be granted and evidence supporting each reason or argument; and (iv) any other relevant documents or comments that the Claimant wishes to include. The Appeals Committee will provide the Claimant the opportunity to submit written comments, documents, records and other information relating to the claim, and the Appeals Committee will take such information into account during the appeal without regard to whether such information was submitted or considered in the initial determination. The Claimant will be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim.

(4) Decision. The Appeals Committee will deliver to the Claimant an electronic or written decision on the appeal within a reasonable period, but no later than 60 days after the receipt of the Claimant's request for the review, unless special circumstances exist that justify extending this period up to an additional 60 days. If the period is extended, the Claimant will be given written notice of this extension during the initial 60-day period, and the notice will set forth the special circumstances requiring an extension and the date a decision is expected. A notice of adverse determination on appeal will be written in a manner calculated to be understood by the Claimant and will contain (i) the specific reason or reasons for the adverse determination, (ii) references to the specific Plan provisions on which the determination is based, (iii) a statement that the Claimant may receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's claim for benefits, and (iv) a statement of the Claimant's right to bring a civil action under ERISA Section 502(a).

(5) Standard of Review. A claimant must pursue the claim and appeal rights described above before seeking any other legal recourse regarding claims for benefits. Any further review, judicial or otherwise, of the Corporation's decision on the claim will be limited to whether, in the particular instance, the Corporation abused its discretion. In no event will any further review, judicial or otherwise, be on a de novo basis, because the Corporation has discretionary authority to determine eligibility for benefits under the Plan and to construe and interpret the terms of the Plan.

b. Interpretation. Subject to the foregoing, (i) the Corporation shall have full power and authority to interpret, construe and administer this Plan; and (ii) the interpretation and construction of this Plan by the Corporation, and any action taken hereunder, shall be binding and conclusive upon all parties in interest.

c. Reports. The Corporation shall have the Plan recordkeeper provide the Participant with a statement reflecting the amount of the Participant's Deferred Compensation Account and the Retirement Plus Participant's Retirement Plus Account on a quarterly basis.

d. No Liability. No employee, agent, officer, trustee or director of the Corporation shall incur any liability for the breach of any responsibility, obligation or duty in connection with any act done or omitted to be done in good faith in the interpretation, construction, administration or management of the Plan and shall be indemnified and held harmless by the Corporation from and against any such liability, including all expenses reasonably incurred in their defense if the Corporation fails to provide such defense.

7. Non Assignability of Benefits. Neither any Participant nor any Beneficiary under this Plan shall have any power or right to transfer, assign, anticipate, hypothecate or otherwise encumber any part or all of the amounts payable hereunder. Such amounts shall not be subject to seizure by any creditor of a Participant or any Beneficiary hereunder, by a proceeding at law or in equity, nor transferable by operation of law in the event of the bankruptcy or insolvency of any Participant or any Beneficiary hereunder. Any such attempted assignment or transfer shall be void and shall terminate the Participant''s participation in this Plan; the Corporation shall thereupon have no further liability hereunder with respect to such Participant and his or her Beneficiary. Notwithstanding the foregoing, all or a portion of a Participant's Deferred Compensation Account and a Retirement Plus Participant's Retirement Plus Account (to the extent vested) may be paid to another person as specified in a domestic relations order that the Corporation determines is a "domestic relations order" as defined in Code section 414(p)(1)(B) without resulting in a termination of the Participant's participation in the Plan. Upon distributing amounts in accordance with the requirements of a domestic relations order, the Corporation shall have no further liability hereunder with respect to such amounts to either the Participant, his or her Beneficiary, or the subject of such domestic relations order.

8. Amendment. This Plan may not be amended, altered, modified or terminated, except by a written instrument signed by the Corporation, subject to any requirement for stockholder approval imposed by applicable law or any rule of any stock exchange or quotation system on which Terex common stock is listed and quoted; provided that no such termination shall (i) adversely affect a Participant's or Retirement Plus Participant's entitlement to benefits attributable to amounts credited to his or her Deferred Compensation Account or Retirement Plus Account, as applicable, prior to termination of this Plan or (ii) effect the timing or form of the distribution of a benefit hereunder in a manner that would violate Section 409A. A Participant's entire Account shall be distributed to the Participant (or Beneficiary) following termination of the Plan in such form and on the earliest date permitted under Section 409A.

9. Impact on Other Benefits. Except as otherwise required by the Code or any other applicable law, this Plan and the benefits provided herein are in addition to all other benefits which may be provided by the Corporation to the Participants from time to time, and shall not reduce, replace or otherwise cause any reduction, in any manner, with regard to any of such other benefits.

10. Notices. Any notice, consent or demand required or permitted to be given under the provisions of this Plan by the Corporation or any Participant or Beneficiary shall be in writing, and shall be signed by the person or entity giving or making the same. If such notice, consent or demand is mailed, it shall be sent by United States certified mail, postage prepaid, addressed to the principal office of the Corporation, or if to a Participant or Beneficiary to such individual or entity''s last known address as shown on the records of the Corporation. The date of such mailing shall be deemed the date of notice, consent or demand.

11. Tax Withholding. The Corporation shall have the right to deduct from all payments made under this Plan any federal, state or local taxes required by law to be withheld with respect to such payments.

12. Governing Law. This Plan shall be governed by and construed in accordance with the laws of the State of Connecticut.