

Edgar Filing: SUTRON CORP - Form 10QSB

SUTRON CORP  
Form 10QSB  
November 13, 2003

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

FORM 10-QSB

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

For the quarterly period ended September 30, 2003

Commission file number 0-12227

Sutron Corporation

(Exact name of registrant as specified in its charter.)

Virginia

54-1006352

(State or other jurisdiction of incorporation organization) (I.R.S. Employer Identification No.)

21300 Ridgetop Circle, Sterling Virginia

20166

(Address of principal executive offices)

(Zip Code)

(703) 406-2800

(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [ X ] No [ ]

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practical date:

Common Stock, \$.01 Par Value - 4,289,551 shares of as of September 30, 2003.

PART I. - FINANCIAL INFORMATION

SUTRON CORPORATION  
BALANCE SHEETS

(Unaudited)  
September 30, 2003      December 31, 2002  
\_\_\_\_\_

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Assets

Current Assets:

Cash	\$ 591,944	\$ 401,740	
Accounts receivables	1,487,140		1,814,269
Costs and estimated earnings in excess of billings on contracts in process	804,696		-
Inventory	2,381,585		2,028,985
Prepaid items and other	126,623	182,774	
Deferred income taxes	401,173		195,000
Total Current Asset	<u>\$5,793,161</u>	<u>\$4,622,768</u>	
Property, Plant, and Equipment			
Cost	2,679,340		2,567,421
Accumulated depreciation	(2,090,519)	(1,929,419)	
Net Property, Plant and Equipment	<u>588,821</u>		638,002
Income taxes receivable	151,000		151,000
Other		21,689	21,689
TOTAL ASSETS	<u>\$6,554,671</u>	<u>\$5,433,459</u>	

LIABILITIES AND STOCKHOLDERS' EQUITY

Current Liabilities:

Accounts payable	\$ 773,862	\$ 483,652	
Accrued payroll		91,274	157,196
Accrued expenses	1,038,624	590,798	
Line of credit	424,454	-	
Current maturities of long-term notes	96,923	93,204	
Shareholder notes payable		330,000	-
Total Current Liabilities	<u>\$2,755,136</u>	<u>\$1,324,850</u>	

Long-term liabilities:

Long-term notes payable	65,144	116,105	
Deferred income taxes		142,000	142,000
Total liabilities		<u>2,962,279</u>	<u>1,582,955</u>

Stockholders' Equity:

Common stock, \$.01 par value,	42,896	42,896	
Additional paid in capital	2,306,655	2,306,655	
Retained Earnings	1,242,840	1,500,953	
Total Stockholders' Equity	<u>3,592,392</u>	<u>3,850,504</u>	

TOTAL LIABILITIES AND  
STOCKHOLDERS' EQUITY

\$6,554,671 \$5,433,459

See Accompanying Notes to Financial Statements

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### SUTRON CORPORTION STATEMENTS OF OPERATIONS (Unaudited)

	Three Months Ended September 30,	
	2003	2002
	<u>                    </u>	<u>                    </u>
Revenues	\$2,230,638	\$2,532,255
Cost of Goods Sold	1,654,140	1,798,911
Gross Profit	<u>576,497</u>	<u>733,344</u>
Research and Development Expenses		276,463      364,183
Selling, General, and Administrative Expenses	480,574	556,205
Income (Loss) from Operations	<u>(180,540)</u>	<u>(187,044)</u>
Interest Expense	4,976	14,061
Income (Loss) before Provision for Income Taxes		<u>(185,516)</u> (201,105)
Provisions for Income Taxes	(82,000)	(88,000)
Net Income	<u>\$ (103,516)</u>	<u>\$ (113,105)</u>
Net Income per Common Share	\$ (.02)	\$ (.03)
Weighted Average Number of Common Shares	4,289,551	4,289,551
See Accompanying Notes to Financial Statements		

### SUTRON CORPORTION STATEMENTS OF OPERATIONS (Unaudited)

	Nine Months Ended September 30,	
	2003	2002
	<u>                    </u>	<u>                    </u>
Revenues	\$7,309,235	\$6,118,790
Cost of Goods Sold	5,247,548	4,129,399
Gross Profit	<u>2,061,687</u>	<u>1,989,391</u>
Research and Development Expenses		860,477      1,090,102
Selling, General, and Administrative Expenses	1,673,724	1,590,011
Income (Loss) from Operations	<u>(472,514)</u>	<u>(690,722)</u>

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Other Expense	-	-
Interest Expense	13,599	36,749
Income (Loss) before Provision for Income Taxes		(486,113)
Provisions for Income Taxes	(228,000)	(315,000)
Net Income	\$ (258,113)	\$ (412,471)
Net Income per Common Share	\$ (.06)	\$ (.10)
Weighted Average Number of Common Shares	4,289,551	4,289,551

See Accompanying Notes to Financial Statements

SUTRON CORPORATION  
STATEMENTS OF CASH FLOWS  
(Unaudited)

	Nine Months Ended September 30,	
	2003	2002
Cash Flows from Operating Activities:		
Net income (loss)	\$ (258,113)	\$ (412,471)
Depreciation and amortization	161,100	149,994
(Increase) Decrease in:		
Accounts receivables	327,129	365,372
Costs and estimated earnings in excess of billings on contracts in process	(804,696)	-
Inventory		(352,600)
Prepaid items and other assets	56,151	(145,539)
Deferred income taxes		(206,173)
Increase (Decrease) in:		
Accounts payable	290,210	484,532
Accrued expenses		381,903
Net Cash Provided by Operating Activities	(405,089)	(2,618)
Cash Flows from Investing Activities:		
Capital expenditures	(111,919)	(45,490)
Net Cash Used in Investing Activities	(111,919)	(45,490)
Cash Flows from Financing Activities:		
Proceeds from advances on line of credit	424,454	257,153
Proceeds from term note		18,593
Proceeds from shareholder notes		330,000
Payments on Term notes payable	(47,242)	(88,653)
Purchase of Treasury Stock		-
Net Cash (Used) by Financing Activities	(707,212)	168,500

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Net Increase (Decrease) in Cash	190,204	120,392
Cash and Cash Equivalents, January 1	401,740	102,976
Cash and Cash Equivalents, September 30	\$ 591,944	\$ 223,368
See Accompanying Notes to Financial Statements		

### SUTRON CORPORATION

#### NOTES TO FINANCIAL STATEMENTS

September 30, 2003

#### 1. Basis of Presentation

The financial statements for the nine months ended September 30, 2003 and 2002 were prepared from the books and records of the company. Management believes that all adjustments have been made to the financial statements to make a fair presentation of the financial condition of the company as of September 30, 2003 and 2002. The results of the nine months are not indicative of a full year of operation for the Company.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted. It is suggested that these financial statements be read in conjunction with the financial statements and notes thereto included in the Company's December 31, 2002 audited financial statements.

#### 2. Earnings Per Share

The Company has adopted Statement of Financial Accounting Standards ("SFAS") No. 128 which establishes standards for computing and presenting earnings per share (EPS) for entities with publicly held common stock. The standard requires presentation of two categories of earning per share, basic EPS and diluted EPS. Basic EPS excludes dilution and is computed by dividing income available to common stockholders by the weighted-average number of common shares outstanding for the year. Diluted EPS reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock or resulted in the issuance of common stock that then shared in the earnings of the Company.

#### Sutron Corporation Computation of Per Share Earnings

	2003	Three Months Ended September 30, 2002	2003	Nine Months Ended September 30, 2002
Basic EPS				
Average shares outstanding	4,289,551	4,289,551	4,289,551	4,289,551

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Net Income	\$ (103,516)	\$ (113,105)	\$ (258,113)	\$ (412,471)
Net Income per common share	\$ (.02)	\$ (.03)	\$ (.06)	\$ (.10)
Dilutive EPS				
Average shares outstanding	4,289,551	4,289,551	4,289,551	4,289,551
Effect of dilutive securities	286,688	1,467	286,688	1,467
Total average shares outstanding	4,576,239	4,291,018	4,576,239	4,291,018
Net earnings	\$ (103,516)	\$ (113,105)	\$ (258,113)	\$ (412,471)
Net income per diluted share	\$ (.02)	\$ (.03)	\$ (.06)	\$ (.10)

### MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

#### Results of Operations

##### Three months ended September 30, 2003 Compared to 2002

**Net Revenues.** The Company's revenues for the three months ended September 30, 2003 decreased 12% to \$2,230,638 from \$2,532,255 in 2002 due to decreased sales of standard products. Sales of 8210 dataloggers and accessory products decreased approximately \$828,000. Systems and Hydrological Services revenue increased approximately \$526,000 resulting in a net decrease of approximately \$302,000.

**Gross Profit.** Gross profit for 2003 decreased 21% to \$576,497 from \$733,344 in 2002. Gross margin as a percentage of revenues was 26% and 29% respectively for the quarters.

**Selling, General And Administrative.** Selling, general and administrative expenses decreased to \$480,574 in 2003 from \$556,205 in 2002, a decrease of \$75,631 or 14%. The decrease was due to a reduction of one sales position and increased cost controls.

**Research And Development.** Research and development expenses were \$276,463 in 2003 compared with \$364,183 in 2002, a decrease of \$87,720 or 24%. Due to the completion of new systems software, XConnect, resources were shifted from R&D to sales resulting in the decrease in product development expenses. Product development expenditures were primarily focused on software enhancements to SatLink and the Xpert and XLite dataloggers.

**Interest Expenses.** Interest expenses decreased to \$4,976 in 2003 from \$14,061 in 2002.

##### Nine months ended September 30, 2003 Compared to 2002

**Revenues.** The Company's revenues for the nine months ended September 30, 2003 increased 20% to \$7,309,235 from revenues of \$6,118,790 in 2002. Sales of standard products decreased to approximately \$4,264,000 from approximately \$4,895,000 in 2002 due to a decrease in sales of 8210 dataloggers and accessories. Integrated Systems sales increased to approximately \$2,494,000 from \$1,122,000 and Hydrological Services sales increased to approximately \$551,000 from approximately \$68,000. Integrated Systems and Hydrological Services sales increased

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as a result of increased projects and contract awards.

The Company booked orders during the first nine months of 2003 totalling approximately \$9,805,000 compared with \$9,766,000 in 2002. Orders for systems and services were up during the first nine months and standard product orders were down. The Company's backlog was approximately \$5,201,000 at September 30, 2003 as compared to \$5,240,000 at September 30, 2002. The Company anticipates that 65% of its September backlog will be shipped in 2003.

**Gross Profit.** Gross profit for 2003 increased to \$2,061,687 from \$1,989,391 in 2002. Gross margin as a percentage of revenues for 2003 decreased to 28% as compared to 32% in 2002. The decrease in the Company's gross margin as a percentage of sales is attributed to manufacturing overruns that the Company has experienced in the production of the SatLink-G312 satellite transmitter and increased warranty costs associated primarily with the SatLink. Also the gross margins achieved on two projects in India and one in Mexico were not significant as these projects were all bid at reduced margins but accounted for revenue of approximately \$663,000.

**Selling, General and Administrative.** Selling, general and administrative expenses increased to \$1,673,724 in 2003 from \$1,590,011 in 2002, an increase of \$83,713 due to increased sales commissions and systems and Hydrological Services Division selling expenses. Sales commissions increased due to a project in Venezuela. Due to the completion of the Company's systems software, XConnect, resources were shifted from R&D to sales that increased systems selling expenses. Hydrological Services selling expenses increased due to increased selling activities.

**Research and Development.** Research and development expenses decreased \$229,625 to \$860,477 in 2003 from \$1,090,102 in 2002. Due to the completion of new systems software, XConnect, resources were shifted from R&D to sales resulting in the decrease in product development expenses. Product development expenditures were primarily focused on software enhancements to SatLink and the Xpert and XLite dataloggers.

**Interest Expenses.** Interest expenses decreased to \$13,599 in 2003 from \$36,749 in 2002.

### Liquidity and Capital Resources

Cash and cash equivalents increased to \$591,944 at September 30, 2003, compared to \$401,740 at December 31, 2002.

The ratio of current assets to current liabilities was 2.1:1 as of September 30, 2003, compared to 3.5:1 as of December 31, 2002. Working capital decreased to \$3,038,025 at the end of the third quarter of fiscal 2003 compared to \$3,297,918 at the end of fiscal 2002.

The Company has a revolving credit facility of \$500,000 that expires on June 12, 2004. In addition, the Company has borrowed \$330,000 from three shareholders in order to supplement the line of credit. Management believes that its existing cash resources, cash flow from operations and short-term borrowings on the existing line

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of credit and anticipated future line of credit will provide adequate financial resources for supporting operations during fiscal 2003.

### PART II - OTHER INFORMATION

#### Item 6. Exhibits and Reports on Form 8-K

(A) No reports on Form 8-K were filed or required to be filed during the quarter ended September 30, 2003.

(B) The following exhibits are included as part of this report:  
32 Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

#### Item 14. CONTROLS AND PROCEDURES

(a) Evaluation of disclosure controls and procedures. Based on their evaluation of the Companys disclosure controls and procedures (as defined in Rules 13a-14(c) and 15d-14(c) under the Securities Exchange Act of 1934) as of a date within 90 days of the filing date of this Quarterly Report on Form 10-QSB the Companys chief executive officer and chief financial officer have concluded that the Companys disclosure controls and procedures are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and are operating in an effective manner.

(b) Changes in internal controls. There were no significant changes in the Companys internal controls or in other factors that could significantly affect these controls subsequent to the date of their most recent evaluation.

### SUTRON CORPORATION

#### SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Sutron Corporation  
(Registrant)

November 13, 2003  
Date

/s/Raul S. McQuivey  
Raul S. McQuivey  
Principal Executive Officer

November 13, 2003  
Date

/s/Sidney C. Hooper  
Sidney C. Hooper  
Principal Accounting Officer



/I>

(a) The Board may, from time to time and upon such terms and conditions as it may determine, authorize the granting (i) to any Optionee, of Tandem Appreciation Rights in respect of Option Rights granted hereunder, and (ii) to any Participant, of Free-Standing Appreciation Rights. A Tandem Appreciation Right will be a right of the Optionee, exercisable by surrender of the related Option Right, to receive from the Company an amount determined by the Board, which will be expressed as a percentage of the Spread (not exceeding 100 percent) at the time of exercise. Tandem Appreciation Rights may be granted at any time prior

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to the exercise or termination of the related Option Rights; provided, however, that a Tandem Appreciation Right awarded in relation to an Incentive Stock Option must be granted concurrently with such Incentive Stock Option. A Free-Standing Appreciation Right will be a right of the Participant to receive from the Company an amount determined by the Board, which will be expressed as a percentage of the Spread (not exceeding 100 percent) at the time of exercise.

(b) Each grant of Appreciation Rights may utilize any or all of the authorizations, and will be subject to all of the requirements, contained in the following provisions:

(i) Any grant may specify that the amount payable on exercise of an Appreciation Right may be paid by the Company in cash, in Common Shares or in any combination thereof and may either grant to the Participant or retain in the Board the right to elect among those alternatives.

(ii) Any grant may specify that the amount payable on exercise of an Appreciation Right may not exceed a maximum specified by the Board at the Date of Grant.

(iii) Any grant may specify waiting periods before exercise and permissible exercise dates or periods; provided, however, that Appreciation Rights may not become exercisable by the passage of time sooner than one-third per year over three years.

(iv) Any grant may specify that such Appreciation Right may be exercised only in the event of, or earlier in the event of, the retirement, death or disability of a Participant, or a Change in Control, as may be defined in an Evidence of Award.

(v) Any grant may provide for the payment to the Participant of dividend equivalents thereon in cash or Common Shares on a current, deferred or contingent basis.

(vi) Any grant of Appreciation Rights may specify Management Objectives that must be achieved as a condition of the exercise of such Appreciation Rights; provided, however, that Option Rights that become exercisable upon the achievement of Management Objectives may not become exercisable sooner than one year from the Date of Grant.

(vii) Each grant of Appreciation Rights will be evidenced by an Evidence of Award, which Evidence of Award will describe such Appreciation Rights, identify the related Option Rights (if applicable), and contain such other terms and provisions, consistent with this Plan, as the Board may approve.

(c) Any grant of Tandem Appreciation Rights will provide that such Tandem Appreciation Rights may be exercised only at a time when the related Option Right is also exercisable and at a time when the Spread is positive, and by surrender of the related Option Right for cancellation.

(d) Regarding Free-Standing Appreciation Rights only:

(i) Each grant will specify in respect of each Free-Standing Appreciation Right a Base Price, which will be equal to or greater than the Market Value per Share on the Date of Grant;

(ii) Successive grants may be made to the same Participant regardless of whether any Free-Standing Appreciation Rights previously granted to the Participant remain unexercised; and

(iii) No Free-Standing Appreciation Right granted under this Plan may be exercised more than 10 years from the Date of Grant.

6. *Restricted Stock.* The Board may, from time to time and upon such terms and conditions as it may determine, also authorize the grant or sale of Restricted Stock to Participants. Each such grant or sale may utilize any or all of the authorizations, and will be subject to all of the requirements, contained in the following provisions:

(a) Each such grant or sale will constitute an immediate transfer of the ownership of Common Shares to the Participant in consideration of the performance of services, entitling such Participant to voting, dividend and other ownership rights, but subject to the substantial risk of forfeiture and restrictions on transfer hereinafter referred to.

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(b) Each such grant or sale may be made without additional consideration or in consideration of a payment by such Participant that is less than the Market Value per Share at the Date of Grant.

(c) Each such grant or sale will provide that the Restricted Stock covered by such grant or sale that vests upon the passage of time will be subject to a substantial risk of forfeiture within the meaning of Section 83 of the Code for a period to be determined by the Board at the Date of Grant or upon achievement of Management Objectives referred to in subparagraph (e) below. If the elimination of restrictions is based only on the passage of time rather than the achievement of Management Objectives, the period of time will be no shorter than three years, except that the restrictions may be removed ratably during the three-year period, on an annual basis, as determined by the Board at the Date of Grant. Notwithstanding the foregoing sentence, the period of time for the elimination of restrictions for any Restricted Stock issued pursuant to the one-time option exchange program described in Section 18(b) of this Plan may be less than three years.

(d) Each such grant or sale will provide that during or after the period for which such substantial risk of forfeiture is to continue, the transferability of the Restricted Stock will be prohibited or restricted in the manner and to the extent prescribed by the Board at the Date of Grant (which restrictions may include, without limitation, rights of repurchase or first refusal in the Company or provisions subjecting the Restricted Stock to a continuing substantial risk of forfeiture in the hands of any transferee).

(e) Any grant of Restricted Stock may specify Management Objectives that, if achieved, will result in termination or early termination of the restrictions applicable to such Restricted Stock; provided, however, that, notwithstanding subparagraph (c) above, restrictions relating to Restricted Stock that vests upon the achievement of Management Objectives, may not terminate sooner than one year from the Date of Grant. Each grant may specify in respect of such Management Objectives a minimum acceptable level of achievement and may set forth a formula for determining the number of shares of Restricted Stock on which restrictions will terminate if performance is at or above the minimum or threshold level or levels, or is at or above the target level or levels, but falls short of maximum achievement of the specified Management Objectives.

(f) Notwithstanding anything to the contrary contained in this Plan, any grant or sale of Restricted Stock may provide for the earlier termination of restrictions on such Restricted Stock in the event of the retirement, death or disability of a Participant, or a Change in Control, as may be defined in an Evidence of Award.

(g) Any such grant or sale of Restricted Stock may require that any or all dividends or other distributions paid thereon during the period of such restrictions be automatically deferred and reinvested in additional shares of Restricted Stock, which may be subject to the same restrictions as the underlying award.

(h) Each grant or sale of Restricted Stock will be evidenced by an Evidence of Award and will contain such terms and provisions, consistent with this Plan, as the Board may approve. Unless otherwise directed by the Board, (i) all certificates representing shares of Restricted Stock will be held in custody by the Company until all restrictions thereon will have lapsed, together with a stock power or powers executed by the Participant in whose name such certificates are registered, endorsed in blank and covering such Shares, or (ii) all shares of Restricted Stock will be held at the Company's transfer agent in book entry form with appropriate restrictions relating to the transfer of such shares of Restricted Stock.

7. *Restricted Stock Units.* The Board may, from time to time and upon such terms and conditions as it may determine, also authorize the granting or sale of Restricted Stock Units to Participants. Each such grant or sale may utilize any or all of the authorizations, and will be subject to all of the requirements contained in the following provisions:

(a) Each such grant or sale will constitute the agreement by the Company to deliver Common Shares or cash to the Participant in the future in consideration of the performance of services, but subject to the fulfillment of such conditions (which may include the achievement of Management Objectives) during the Restriction Period as the Board may specify. If a grant of Restricted Stock Units specifies that the

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Restriction Period will terminate only upon the achievement of Management Objectives then, notwithstanding anything to the contrary contained in subparagraph (c) below, such Restriction Period may not terminate sooner than one year from the Date of Grant. Each grant may specify in respect of such Management Objectives a minimum acceptable level of achievement and may set forth a formula for determining the number of shares of Restricted Stock on which restrictions will terminate if performance is at or above the minimum or threshold level or levels, or is at or above the target level or levels, but falls short of maximum achievement of the specified Management Objectives.

(b) Each such grant or sale may be made without additional consideration or in consideration of a payment by such Participant that is less than the Market Value per Share at the Date of Grant.

(c) If the Restriction Period lapses only by the passage of time rather than the achievement of Management Objectives as provided in subparagraph (a) above, each such grant or sale will be subject to a Restriction Period of not less than three years, except that a grant or sale may provide that the Restriction Period will expire ratably during the three-year period, on an annual basis, as determined by the Board at the Date of Grant. Notwithstanding the foregoing sentence, the Restriction Period for any Restricted Stock Units issued pursuant to the one-time option exchange program described in Section 18(b) of this Plan may be less than three years.

(d) Notwithstanding anything to the contrary contained in this Plan, any grant or sale of Restricted Stock Units may provide for the earlier lapse or modification of the Restriction Period in the event of the retirement, death or disability of a Participant, or a Change in Control, as may be defined in an Evidence of Award.

(e) During the Restriction Period, the Participant will have no right to transfer any rights under his or her award and will have no rights of ownership in the Restricted Stock Units and will have no right to vote them, but the Board may at the Date of Grant, authorize the payment of dividend equivalents on such Restricted Stock Units on either a current, deferred or contingent basis, either in cash or in additional Common Shares.

(f) Each grant or sale of Restricted Stock Units will specify the time and manner of payment of the Restricted Stock Units that have been earned. Each grant or sale will specify that the amount payable with respect thereto will be paid by the Company in Common Shares.

(g) Each grant or sale of Restricted Stock Units will be evidenced by an Evidence of Award and will contain such terms and provisions, consistent with this Plan, as the Board may approve.

8. *Performance Shares and Performance Units.* The Board may, from time to time and upon such terms and conditions as it may determine, also authorize the granting of Performance Shares and Performance Units that will become payable to a Participant upon achievement of specified Management Objectives during the Performance Period. Each such grant may utilize any or all of the authorizations, and will be subject to all of the requirements, contained in the following provisions:

(a) Each grant will specify the number of Performance Shares or Performance Units to which it pertains, which number may be subject to adjustment to reflect changes in compensation or other factors; provided, however, that no such adjustment will be made in the case of a Qualified Performance-Based Award where such action would result in the loss of the otherwise available exemption of the award under Section 162(m) of the Code.

(b) The Performance Period with respect to each Performance Share or Performance Unit will be such period of time (not less than one year), commencing with the Date of Grant as will be determined by the Board at the time of grant which may be subject to earlier lapse or other modification in the event of the retirement, death or disability of a Participant, or a Change in Control, as may be defined in an Evidence of Award.

(c) Any grant of Performance Shares or Performance Units will specify Management Objectives which, if achieved, will result in payment or early payment of the award, and each grant may specify in respect of such Management Objectives a minimum acceptable level of achievement and may set forth a

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formula for determining the number of Performance Shares or Performance Units that will be earned if performance is at or above the minimum or threshold level or levels, or is at or above the target level or levels, but falls short of maximum achievement of the specified Management Objectives. The grant of Performance Shares or Performance Units will specify that, before the Performance Shares or Performance Units will be earned and paid, the Board must certify that the Management Objectives have been satisfied.

(d) Each grant will specify the time and manner of payment of Performance Shares or Performance Units that have been earned. Any grant may specify that the amount payable with respect thereto may be paid by the Company in cash, in Common Shares or in any combination thereof and may either grant to the Participant or retain in the Board the right to elect among those alternatives.

(e) Any grant of Performance Shares or Performance Units may specify that the amount payable or the number of Common Shares issued with respect thereto may not exceed maximums specified by the Board at the Date of Grant.

(f) The Board may at the Date of Grant of Performance Shares, provide for the payment of dividend equivalents to the holder thereof on either a current, deferred or contingent basis, either in cash or in additional Common Shares.

(g) Each grant of Performance Shares or Performance Units will be evidenced by an Evidence of Award and will contain such other terms and provisions, consistent with this Plan, as the Board may approve.

9. *Awards to Non-Employee Directors.* The Board may, from time to time and upon such terms and conditions as it may determine, authorize the granting to Non-Employee Directors of Option Rights, Appreciation Rights or other awards contemplated by Section 10 of this Plan and may also authorize the grant or sale of Common Shares, Restricted Stock or Restricted Stock Units to Non-Employee Directors. Each grant of an award to a Non-Employee Director will be upon such terms and conditions as approved by the Board, will not be required to be subject to any minimum vesting period, and will be evidenced by an Evidence of Award in such form as will be approved by the Board. Each grant will specify in the case of an Option Right, an Option Price per share, and in the case of a Free-Standing Appreciation Right, a Base Price per share, which will not be less than the Market Value per Share on the Date of Grant. Each Option Right and Free-Standing Appreciation Right granted under the Plan to a Non-Employee Director will expire not more than 10 years from the Date of Grant and will be subject to earlier termination as hereinafter provided. If a Non-Employee Director subsequently becomes an employee of the Company or a Subsidiary while remaining a member of the Board, any award held under this Plan by such individual at the time of such commencement of employment will not be affected thereby. Non-Employee Directors, pursuant to this Section 9, may be awarded, or may be permitted to elect to receive, pursuant to procedures established by the Board, all or any portion of their annual retainer, meeting fees or other fees in Common Shares, Restricted Stock, Restricted Stock Units or other awards under the Plan in lieu of cash.

10. *Other Awards.*

(a) The Board may, subject to limitations under applicable law, grant to any Participant such other awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Common Shares or factors that may influence the value of such shares, including, without limitation, convertible or exchangeable debt securities, other rights convertible or exchangeable into Common Shares, purchase rights for Common Shares, awards with value and payment contingent upon performance of the Company or specified Subsidiaries, affiliates or other business units thereof or any other factors designated by the Board, and awards valued by reference to the book value of Common Shares or the value of securities of, or the performance of specified Subsidiaries or affiliates or other business units of the Company. The Board shall determine the terms and conditions of such awards. Common Shares delivered pursuant to an award in the nature of a purchase right granted under this Section 10 shall be purchased for such consideration, paid for at such time, by such methods, and in such forms,



including, without limitation, cash, Common Shares, other awards, notes or other property, as the Board shall determine.

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(b) Cash awards, as an element of or supplement to any other award granted under this Plan, may also be granted pursuant to this Section 10 of this Plan.

(c) The Board may grant Common Shares as a bonus, or may grant other awards in lieu of obligations of the Company or a Subsidiary to pay cash or deliver other property under this Plan or under other plans or compensatory arrangements, subject to such terms as shall be determined by the Board in a manner that complies with Section 409A of the Code.

(d) Shared-based awards pursuant to this Section 10 are not required to be subject to any minimum vesting period.

11. *Transferability.*

(a) Except as otherwise determined by the Board, no Option Right, Appreciation Right or other derivative security granted under the Plan shall be transferable by the Participant except by will or the laws of descent and distribution, and in no event shall any such award granted under this Plan be transferred for value. Except as otherwise determined by the Board, Option Rights and Appreciation Rights will be exercisable during the Participant's lifetime only by him or her or, in the event of the Participant's legal incapacity to do so, by his or her guardian or legal representative acting on behalf of the Participant in a fiduciary capacity under state law and/or court supervision.

(b) The Board may specify at the Date of Grant that part or all of the Common Shares that are (i) to be issued or transferred by the Company upon the exercise of Option Rights or Appreciation Rights, upon the termination of the Restriction Period applicable to Restricted Stock Units or upon payment under any grant of Performance Shares or Performance Units or (ii) no longer subject to the substantial risk of forfeiture and restrictions on transfer referred to in Section 6 of this Plan, will be subject to further restrictions on transfer.

12. *Adjustments.*

(a) The Board shall make or provide for such adjustments in the numbers of Common Shares covered by outstanding Option Rights, Appreciation Rights, Restricted Stock Units, Performance Shares and Performance Units granted hereunder and, if applicable, in the number of Common Shares covered by other awards granted pursuant to Section 10 hereof, in the Option Price and Base Price provided in outstanding Appreciation Rights, and in the kind of shares covered thereby, as the Board, in its sole discretion, exercised in good faith, may determine is equitably required to prevent dilution or enlargement of the rights of Participants or Optionees that otherwise would result from (a) any stock dividend, stock split, combination of shares, recapitalization or other change in the capital structure of the Company, (b) any merger, consolidation, spin-off, split-off, spin-out, split-up, reorganization, partial or complete liquidation or other distribution of assets, issuance of rights or warrants to purchase securities, or (c) any other corporate transaction or event having an effect similar to any of the foregoing. Moreover, in the event of any such transaction or event or in the event of a Change in Control, the Board, in its discretion, may provide in substitution for any or all outstanding awards under this Plan such alternative consideration (including cash), if any, as it, in good faith, may determine to be equitable in the circumstances and may require in connection therewith the surrender of all awards so replaced in a manner that complies with Section 409A of the Code.

(b) In addition, for each Option Right or Appreciation Right with an Option Price or Base Price greater than the consideration offered in connection with any such termination or event or Change in Control, the Board may in its sole discretion elect to cancel such Option Right or Appreciation Right without any payment to the person holding such Option Right or Appreciation Right. The Board shall also make or provide for such adjustments in the numbers of shares specified in Section 3 of this Plan as the Board in its sole discretion, exercised in good faith, may determine is appropriate to reflect any transaction or event described in this Section 12; provided, however, that any such adjustment to the number specified in Section 3(c)(i) will be made only if and to the extent that such adjustment

would not cause any option intended to qualify as an Incentive Stock Option to fail so to qualify.

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13. *Administration of the Plan.*

(a) This Plan will be administered by the Board, which may from time to time delegate all or any part of its authority under this Plan to the Compensation Committee of the Board (or a subcommittee thereof), as constituted from time to time. To the extent of any such delegation, references in this Plan to the Board will be deemed to be references to such committee or subcommittee. A majority of the committee (or subcommittee) will constitute a quorum, and the action of the members of the committee (or subcommittee) present at any meeting at which a quorum is present, or acts unanimously approved in writing, will be the acts of the committee (or subcommittee).

(b) The interpretation and construction by the Board of any provision of this Plan or of any agreement, notification or document evidencing the grant of Option Rights, Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Shares, Performance Units or other awards pursuant to Section 10 of this Plan and any determination by the Board pursuant to any provision of this Plan or of any such agreement, notification or document will be final and conclusive. No member of the Board will be liable for any such action or determination made in good faith.

(c) The Board or, to the extent of any delegation as provided in Section 13(a), the committee, may delegate to one or more of its members or to one or more officers of the Company, or to one or more agents or advisors, such administrative duties or powers as it may deem advisable, and the Board, the committee, or any person to whom duties or powers have been delegated as aforesaid, may employ one or more persons to render advice with respect to any responsibility the Board, the committee or such person may have under the Plan. The Board or the committee may, by resolution, authorize one or more officers of the Company to do one or both of the following on the same basis as the Board or the committee: (i) designate employees to be recipients of awards under this Plan; (ii) determine the size of any such awards; provided, however, that (A) the Board or the committee shall not delegate such responsibilities to any such officer for awards granted to an employee who is an officer, Director, or more than 10% beneficial owner of any class of the Company's equity securities that is registered pursuant to Section 12 of the Exchange Act, as determined by the Board in accordance with Section 16 of the Exchange Act; (B) the resolution providing for such authorization sets forth the total number of Common Shares such officer(s) may grant; and (iii) the officer(s) shall report periodically to the Board or the committee, as the case may be, regarding the nature and scope of the awards granted pursuant to the authority delegated.

14. *Change in Control.* For purposes of this Plan, except as may be otherwise prescribed by the Board in an agreement evidencing a grant or award made under the Plan, a Change in Control shall mean the occurrence of any of the following events:

(a) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole to any Person or Group of related persons (as such terms are used in Section 13(d)(3) of the Securities Exchange Act of 1934),

(b) the adoption of a plan relating to the liquidation or dissolution of the Company,

(c) the consummation of any transaction (including, without limitation, any purchase, sale, acquisition, disposition, merger or consolidation) the result of which is that any Person or Group becomes the beneficial owner (as such term is defined in Rule 13d-3 and Rule 13d-5 under the Securities Exchange Act of 1934, but excluding, for this purpose, any options to purchase equity securities of the Company held by such Person or Group) of more than 50% of the aggregate voting power of all classes of capital stock of the Company having the right to elect directors under ordinary circumstances,

(d) the first day on which a majority of the members of the Board are not Continuing Directors, or

(e) such other event as the Board may determine by express resolution to constitute a Change in Control for purposes of this Plan.

Continuing Directors means, as of any date of determination, any member of the Board who (i) was a member of the Board on the date this plan is approved by the Company's stockholders or (ii) was nominated

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for election or elected to the Board with the approval of (a) two-thirds of the Continuing Directors who were members of the Board at the time of such nomination or election or (b) two-thirds of those Directors who were previously approved by Continuing Directors.

15. *Detrimental Activity.* Any Evidence of Award may provide that if a Participant, either during employment by the Company or a Subsidiary or within a specified period after termination of such employment, shall engage in any Detrimental Activity, and the Board shall so find, forthwith upon notice of such finding, the Participant shall:

- (a) Forfeit any award granted under the Plan then held by the Participant;
- (b) Return to the Company, in exchange for payment by the Company of any amount actually paid therefor by the Participant, all Common Shares that the Participant has not disposed of that were offered pursuant to this Plan within a specified period prior to the date of the commencement of such Detrimental Activity, and
- (c) With respect to any Common Shares so acquired that the Participant has disposed of, pay to the Company in cash the difference between:
  - (i) Any amount actually paid therefor by the Participant pursuant to this Plan, and
  - (ii) The Market Value per Share of the Common Shares on the date of such acquisition.

To the extent that such amounts are not paid to the Company, the Company may set off the amounts so payable to it against any amounts that may be owing from time to time by the Company or a Subsidiary to the Participant, whether as wages, deferred compensation or vacation pay or in the form of any other benefit or for any other reason.

16. *Non U.S. Participants.* In order to facilitate the making of any grant or combination of grants under this Plan, the Board may provide for such special terms for awards to Participants who are foreign nationals or who are employed by the Company or any Subsidiary outside of the United States of America or who provide services to the Company under an agreement with a foreign nation or agency, as the Board may consider necessary or appropriate to accommodate differences in local law, tax policy or custom. Moreover, the Board may approve such supplements to or amendments, restatements or alternative versions of this Plan (including without limitation, sub-plans) as it may consider necessary or appropriate for such purposes, without thereby affecting the terms of this Plan as in effect for any other purpose, and the Secretary or other appropriate officer of the Company may certify any such document as having been approved and adopted in the same manner as this Plan. No such special terms, supplements, amendments or restatements, however, will include any provisions that are inconsistent with the terms of this Plan as then in effect unless this Plan could have been amended to eliminate such inconsistency without further approval by the shareholders of the Company.

17. *Withholding Taxes.* To the extent that the Company is required to withhold federal, state, local or foreign taxes in connection with any payment made or benefit realized by a Participant or other person under this Plan, and the amounts available to the Company for such withholding are insufficient, it will be a condition to the receipt of such payment or the realization of such benefit that the Participant or such other person make arrangements satisfactory to the Company for payment of the balance of such taxes required to be withheld, which arrangements (in the discretion of the Board) may include relinquishment of a portion of such benefit. If a Participant's benefit is to be received in the form of Common Shares, and such Participant fails to make arrangements for the payment of tax, the Company may withhold such Common Shares having a value equal to the amount required to be withheld. To the extent permitted by the Board, when a Participant is required to pay the Company an amount required to be withheld under applicable income and employment tax laws, the Participant may elect to satisfy the obligation, in whole or in part, by electing to have withheld, from the shares required to be delivered to the Participant, Common Shares having a value equal to the

amount required to be withheld, or by delivering to the Company other Common Shares held by such Participant. The shares used for tax withholding will be valued at an amount equal to the Market Value per Share of such Common Shares on the date the benefit is to be included in Participant's income. In no event shall the Market

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Value per Share of the Common Shares to be withheld and delivered pursuant to this Section to satisfy applicable withholding taxes in connection with the benefit exceed the minimum amount of taxes required to be withheld. Participants shall also make such arrangements as the Company may require for the payment of any withholding tax obligation that may arise in connection with the disposition of Common Shares acquired upon the exercise of Option Rights.

18. *Amendments, Etc.*

(a) The Board may at any time and from time to time amend the Plan in whole or in part; provided, however, that if an amendment to the Plan (i) would materially increase the benefits accruing to participants under the Plan, (ii) would materially increase the number of securities which may be issued under the Plan, (iii) would materially modify the requirements for participation in the Plan or (iv) must otherwise be approved by the shareholders of the Company in order to comply with applicable law or the rules of the Nasdaq Stock Market or, if the Common Shares are not traded on the Nasdaq Stock Market, the principal national securities exchange upon which the Common Shares are traded or quoted, then, such amendment will be subject to shareholder approval and will not be effective unless and until such approval has been obtained.

(b) Except in connection with a corporate transaction or event described in Section 12 of this Plan, the terms of awards outstanding under the Plan may not be amended to reduce the Option Price of outstanding Option Rights or the Base Price of outstanding Appreciation Rights, or cancel outstanding Option Rights or Appreciation Rights in exchange for cash, other awards or Option Rights or Appreciation Rights with an Option Price or Base Price, as applicable, that is less than the Option Price of the original Option Rights or Base Price of the original Appreciation Rights, as applicable, without shareholder approval. Notwithstanding the preceding sentence, the Board, without future shareholder approval, may institute a one-time option exchange program whereby Option Rights outstanding under the Existing Plans may be surrendered in exchange for a lesser number of shares of Restricted Stock and/or Restricted Stock Units and/or Option Rights to be awarded under this Plan under terms and conditions determined by the Board. Further, for any Restricted Stock or Restricted Stock Units issued pursuant to such one-time option exchange program, the minimum vesting periods described in the second sentence of Section 6(c) of this Plan and the first sentence of Section 7(c) of this Plan shall not apply.

(c) If permitted by Section 409A of the Code and Section 162(m) in the case of a Qualified Performance-Based Award, in case of termination of employment by reason of death, disability or normal or early retirement, or in the case of unforeseeable emergency or other special circumstances, of a Participant who holds an Option Right or Appreciation Right not immediately exercisable in full, or any shares of Restricted Stock as to which the substantial risk of forfeiture or the prohibition or restriction on transfer has not lapsed, or any Restricted Stock Units as to which the Restriction Period has not been completed, or any Performance Shares or Performance Units which have not been fully earned, or any other awards made pursuant to Section 10 subject to any vesting schedule or transfer restriction, or who holds Common Shares subject to any transfer restriction imposed pursuant to Section 11(b) of this Plan, the Board may, in its sole discretion, accelerate the time at which such Option Right, Appreciation Right or other award may be exercised or the time at which such substantial risk of forfeiture or prohibition or restriction on transfer will lapse or the time when such Restriction Period will end or the time at which such Performance Shares or Performance Units will be deemed to have been fully earned or the time when such transfer restriction will terminate or may waive any other limitation or requirement under any such award.

(d) Subject to Section 18(b) hereof, the Board may amend the terms of any award theretofore granted under this Plan prospectively or retroactively, but subject to Section 12 above, no such amendment shall impair the rights of any Participant without his or her consent. The Board may, in its discretion, terminate this Plan at any time. Termination of this Plan will not affect the rights of Participants or their successors under any awards outstanding hereunder and not exercised in full on the date of termination.



19. *Compliance with Section 409A of the Code.*

(a) To the extent applicable, it is intended that this Plan and any grants made hereunder comply with the provisions of Section 409A of the Code, so that the income inclusion provisions of Section 409A(a)(1) of the

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Code do not apply to the Participants. This Plan and any grants made hereunder shall be administered in a manner consistent with this intent. Any reference in this Plan to Section 409A of the Code will also include any regulations or any other formal guidance promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

(b) Neither a Participant nor any of a Participant's creditors or beneficiaries shall have the right to subject any deferred compensation (within the meaning of Section 409A of the Code) payable under this Plan and grants hereunder to any anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment. Except as permitted under Section 409A of the Code, any deferred compensation (within the meaning of Section 409A of the Code) payable to a Participant or for a Participant's benefit under this Plan and grants hereunder may not be reduced by, or offset against, any amount owing by a Participant to the Company or any of its affiliates.

(c) If, at the time of a Participant's separation from service (within the meaning of Section 409A of the Code), (i) the Participant shall be a specified employee (within the meaning of Section 409A of the Code and using the identification methodology selected by the Company from time to time) and (ii) the Company shall make a good faith determination that an amount payable hereunder constitutes deferred compensation (within the meaning of Section 409A of the Code) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A of the Code in order to avoid taxes or penalties under Section 409A of the Code, then the Company shall not pay such amount on the otherwise scheduled payment date but shall instead pay it, without interest, on the first business day of the seventh month after such six-month period.

(d) Notwithstanding any provision of this Plan and grants hereunder to the contrary, in light of the uncertainty with respect to the proper application of Section 409A of the Code, the Company reserves the right to make amendments to this Plan and grants hereunder as the Company deems necessary or desirable to avoid the imposition of taxes or penalties under Section 409A of the Code. In any case, a Participant shall be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on a Participant or for a Participant's account in connection with this Plan and grants hereunder (including any taxes and penalties under Section 409A of the Code), and neither the Company nor any of its affiliates shall have any obligation to indemnify or otherwise hold a Participant harmless from any or all of such taxes or penalties.

20. *Governing Law.* The Plan and all grants and awards and actions taken thereunder shall be governed by and construed in accordance with the internal substantive laws of the State of Georgia.

21. *Effective Date/Termination.* This Plan will be effective as of the Effective Date. No grant will be made under this Plan more than 10 years after the date on which this Plan is first approved by the shareholders of the Company, but all grants made on or prior to such date will continue in effect thereafter subject to the terms thereof and of this Plan.

22. *Miscellaneous.*

(a) The Company will not be required to issue any fractional Common Shares pursuant to this Plan. The Board may provide for the elimination of fractions or for the settlement of fractions in cash.

(b) This Plan will not confer upon any Participant any right with respect to continuance of employment or other service with the Company or any Subsidiary, nor will it interfere in any way with any right the Company or any Subsidiary would otherwise have to terminate such Participant's employment or other service at any time.

(c) To the extent that any provision of this Plan would prevent any Option Right that was intended to qualify as an Incentive Stock Option from qualifying as such, that provision will be null and void with respect to such Option Right. Such provision, however, will remain in effect for other Option Rights and there will be no further effect on any

provision of this Plan.

(d) No award under this Plan may be exercised by the holder thereof if such exercise, and the receipt of cash or stock thereunder, would be, in the opinion of counsel selected by the Board, contrary to law or the regulations of any duly constituted authority having jurisdiction over this Plan.

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(e) Absence or leave approved by a duly constituted officer of the Company or any of its Subsidiaries shall not be considered interruption or termination of service of any employee for any purposes of this Plan or awards granted hereunder, except that no awards may be granted to an employee while he or she is absent on leave.

(f) No Participant shall have any rights as a stockholder with respect to any shares subject to awards granted to him or her under this Plan prior to the date as of which he or she is actually recorded as the holder of such shares upon the stock records of the Company.

(g) The Board may condition the grant of any award or combination of awards authorized under this Plan on the surrender or deferral by the Participant of his or her right to receive a cash bonus or other compensation otherwise payable by the Company or a Subsidiary to the Participant.

(h) If any provision of the Plan is or becomes invalid, illegal or unenforceable in any jurisdiction, or would disqualify the Plan or any award under any law deemed applicable by the Board, such provision shall be construed or deemed amended or limited in scope to conform to applicable laws or, in the discretion of the Board, it shall be stricken and the remainder of the Plan shall remain in full force and effect.

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**FORM OF PROXY CARD**

**CUMULUS MEDIA INC.**

**THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS**

The undersigned appoints Lewis W. Dickey, Jr. and Martin R. Gausvik, and each of them, as proxies, each with the power to appoint his substitute, and authorizes each of them to represent and vote, as designated below, all of the shares of stock of Cumulus Media Inc. held of record by the undersigned on October [ ], 2008, at the annual meeting of stockholders of Cumulus Media Inc. to be held on November 19, 2008, and at any and all adjournments or postponements thereof.

Dated: \_\_\_\_\_, 2008

Signature

Signature

Please sign exactly as name appears hereon. When shares are held by joint tenants, both should sign. When signing in a fiduciary or representative capacity, give full title as such.

**Please vote, sign, date and return the proxy card promptly using the enclosed envelope.**

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**CUMULUS MEDIA INC.**

**PROXY**

MANAGEMENT RECOMMENDS A VOTE IN FAVOR OF PROPOSALS 1, 2, 3, AND 4. THIS PROXY, WHEN PROPERLY EXECUTED, WILL BE VOTED IN THE MANNER DIRECTED HEREIN BY THE UNDERSIGNED STOCKHOLDER. IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED **FOR** PROPOSALS 1, 2, 3, AND 4.

1. Proposal to reelect Lewis W. Dickey, Jr. as the Class III Director:

o **FOR** the nominee listed o **WITHHOLD** authority to vote for nominee

2. Proposal to amend the Company's Amended and Restated Certificate of Incorporation, as amended, to provided for the annual election of all members of the Board of Directors:

o **FOR** o **AGAINST** o **ABSTAIN**

3. Proposal to approve the Company's 2008 Equity Incentive Plan:

o **FOR** o **AGAINST** o **ABSTAIN**

4. Proposal to ratify the appointment of PricewaterhouseCoopers LLP as the Company's independent auditors for 2008:

o **FOR** o **AGAINST** o **ABSTAIN**

5. In their discretion, the proxies are authorized to vote upon such other business as may properly come before the meeting or any adjournments or postponements of the meeting.

**(Continued, and to be signed, on the other side)**