

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT
PURSUANT
TO SECTION 13 OR 15 (d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event
reported): March 14, 2017

Build-A-Bear Workshop, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

001-32320

43-1883836

(State or Other Jurisdiction of Incorporation)

(Commission File Number)

(IRS Employer Identification No.)

1954 Innerbelt Business Center Drive
St. Louis, Missouri

63114

(Address of Principal Executive Offices)

(Zip Code)

(314) 423-8000

(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(e)

Compensation Adjustments

On March 14, 2017, the Compensation and Development Committee (the “Committee”) of the Board of Directors of Build-A-Bear Workshop, Inc. (the “Company”) adjusted the compensation for each of Company’s named executive officers (the “Executive Officers”), other than the President and Chief Executive Officer. At the recommendation of the Committee, the Board of Directors ratified and approved the President and Chief Executive Officer’s compensation.

These compensation adjustments included determination of the 2017 annual bonus program performance objectives and approval of the 2017 long-term incentive compensation grants, each of which is described below. No base salary adjustments were made for any of the Company’s Executive Officers.

2017 Annual Bonus Program

The Committee established the 2017 performance objectives for the range of cash bonuses that may be paid under the Build-A-Bear Workshop, Inc. Third Amended and Restated 2004 Stock Incentive Plan (the “Plan”) to each of the Executive Officers in accordance with the terms of the Company’s cash bonus program for its Executive Officers (the “Cash Bonus Program”). The Base Bonus Calculation for each of the Executive Officers for 2017 is determined by multiplying the Base Bonus Payout (set forth below) by his or her eligible base salary (which excludes items such as relocation allowances, bonuses, stock options exercised, vested restricted stock, and performance-based long-term cash program payments):

<u>Name</u>	<u>Base Bonus Payout</u>
Sharon John	100%
Voin Todorovic	50%
Jennifer Kretchmar	50%
J. Christopher Hurt	50%
Eric Fencel	50%

The cash bonus, if any, to be paid to each respective Executive Officer will be calculated by multiplying the Base Bonus Calculation described above by the applicable Percentage of Base Bonus Calculation set forth in in column (2) below based on fiscal 2017 consolidated pretax income.

(1)	(2)
<u>Achievement Level</u>	<u>Percentage of Base Bonus Calculation</u>
Threshold	25%
Target	100%
Maximum	200%

The terms of the Cash Bonus Program provide for mandatory bonus payouts only if the Company's 2017 consolidated pretax income (after providing for any bonus expense) meets or exceeds the threshold amount. Consolidated pretax income results that fall between any of the achievement levels set forth in the table above will be interpolated between the applicable achievement levels, in the sole discretion of the Committee. This discretion includes the ability to reduce the otherwise applicable Percentage of Base Bonus Calculation for each achievement level, but the Committee may not use its discretion to increase the amount of compensation payable above the maximum Percentage of Base Bonus Calculation for each achievement level.

The foregoing summary of the Cash Bonus Program is qualified in its entirety by reference to the description of such program filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

2017 Long-Term Incentive Program Awards

Time-Based Restricted Stock, Time-Based Non-Qualified Stock Options and Performance-Based Restricted Stock

On March 14, 2017, the Committee granted the Executive Officers, time-based restricted stock awards, time-based non-qualified stock options, and three-year performance-based restricted stock under the Plan. Utilizing market data compiled by the Committee’s compensation consultant, the Committee determined the market value of the total long-term incentive award (“LTI Market Value”) for each Executive Officer. The resulting awards were then made 60% in time-based restricted stock, 10% in time-based non-qualified stock options, and 30% in three-year performance-based restricted stock, as follows:

Name	Number of Shares of Time-Based Restricted Stock	Number of Time-Based Non-Qualified Stock Options	Target Number of Shares of Three Year Performance-Based Restricted Stock
Sharon John	84,747	29,673	42,373
Voin Todorovic	20,340	7,122	10,169
Jennifer Kretchmar	20,340	7,122	10,169
J. Christopher Hurt	20,340	7,122	10,169
Eric Fencil	13,560	4,749	6,780

The number of shares of time-based restricted stock awarded to each Executive Officer was derived by dividing 60% of the Executive Officer’s LTI Market Value by the closing sale price of the Company’s common stock on the New York Stock Exchange on March 14, 2017 and rounding the resulting number to the closest whole number that is divisible by three.

The number of shares subject to time-based non-qualified stock options was determined by dividing 10% of the Executive Officer’s LTI Market Value by the product of (i) the closing sale price of the Company’s common stock on the New York Stock Exchange on March 14, 2017 multiplied by (ii) the valuation factor of 0.476, and rounding the resulting number to the closest whole number that is divisible by three. The options have an exercise price equal to \$8.85 per share, which was the closing sales price of the Company’s common stock on the New York Stock Exchange on March 14, 2017, and expire ten years from the date of grant.

The target number of shares of three-year performance-based restricted stock awarded to each Executive Officer was derived by dividing 30% of the Executive Officer’s LTI Market Value by the closing sale price of the Company’s common stock on the New York Stock Exchange on March 14, 2017 and rounding the resulting number to the closest whole number.

The number of three-year performance-based restricted stock shares, if any, that will be earned by each Executive Officer will be calculated by multiplying the target shares awarded by the average of the applicable Percentage of Target Value of Three-Year Performance-Based Restricted Stock Earned Calculation set forth in in column (2) below for consolidated pretax income for fiscal 2017, fiscal 2018 and fiscal 2019. The pretax income achievement level amounts have been set for fiscal 2017. For fiscal 2018 and fiscal 2019, the pretax income achievement level amounts will be based upon a pre-established percentage of growth over actual pretax income results for the prior fiscal year.

Performance-Based Restricted Stock Payout for fiscal 2017, fiscal 2018 and fiscal 2019

(1)	(2) Percentage of Target Value of Three-Year Performance-Based Restricted Stock Earned Calculation
<u>Achievement Level</u>	
Below Threshold	0%
Threshold	25%
Target	100%
Maximum	200%

Upon receipt of his or her 2017 long-term incentive award, each Executive Officer entered into a Build-A-Bear Workshop, Inc. Restricted Stock & Non-Qualified Stock Option Agreement (the "Agreement") with the Company. Each Agreement provides that each of the time-based restricted stock and the time-based non-qualified stock options vests pro-ratably over three years, beginning on March 31, 2018. The three-year performance-based restricted stock that is earned, if any, will vest on March 31, 2020. Vesting is accelerated upon a change in control or, in certain circumstances, upon the holder's death or termination of employment with the Company due to disability, subject to the terms set forth in each Agreement. Holders of time-based restricted stock are entitled to voting and dividend rights. Holders of performance-based restricted stock are entitled to voting and dividend rights only upon satisfaction of the performance criteria. The three-year performance-based restricted stock is subject to reimbursement or forfeiture by the Executive Officer in the event the Company is required to prepare an accounting restatement of its financial statements due to the Company's material noncompliance with any financial reporting requirement under securities laws, and in any event, in accordance with the terms of any Company recoupment policy that may be adopted pursuant to the rules and regulations of the Securities and Exchange Commission or New York Stock Exchange.

The foregoing summary of the Agreement is qualified in its entirety by reference to the terms set forth in the form of such Agreement, a copy of which is filed as Exhibit 10.2 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
10.1	Description of Build-A-Bear Workshop, Inc. Cash Bonus Program for Chiefs
10.2	Form of Restricted Stock and Non-Qualified Stock Option Agreement under the Registrant's Third Amended and Restated 2004 Stock Incentive Plan

SIGNATURES

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

BUILD-A-BEAR WORKSHOP, INC.

Date: March 17, 2017

By: /s/ Eric Fencil
Name: Eric Fencil
Title: Chief Administrative Officer, General Counsel and
Secretary

EXHIBIT INDEX

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BUILD-A-BEAR WORKSHOP, INC.
Description of Build-A-Bear Workshop, Inc. Cash Bonus Program for Chiefs

The purpose of the Build-A-Bear Workshop, Inc. (the “Company”) Cash Bonus Program for Chiefs (the “Program”) is to attract and retain highly qualified executive officers, motivate these executive officers to materially contribute to the Company’s business success, and align the interests of the Company’s executive officers and stockholders by rewarding the executive officers for performance based on achievement of targets established by the Compensation and Development of the Company’s Board of Directors. The Program has been adopted under the Company’s Third Amended and Restated 2004 Stock Incentive Plan (the “2004 Plan”).

All Chiefs of the Company are eligible to participate in the Program. The cash bonus, if any, to be paid to each Chief will be calculated by multiplying the applicable Percentage of Base Bonus Calculation by the Base Bonus Calculation for the respective Chief. The Base Bonus Calculation for each of the Chiefs is determined by multiplying the Base Bonus Payout for the respective Chief by his or her eligible base salary (which excludes items such as relocation allowances, bonuses, stock options exercised, vested restricted stock, and performance-based long-term cash program payments) in effect on the date of adoption of the performance objectives for that fiscal year, as modified by any adjustment made during the first quarter of such fiscal year (“Eligible Base Salary”). The Base Bonus Payout for the President and Chief Executive Officer is 100% of her Eligible Base Salary. The Base Bonus Payout for each of the other Chiefs is 50% of his or her Eligible Base Salary.

The Percentage of Base Bonus Calculation is set based on the achievement of one or more performance objectives as follows: (i) a threshold achievement of 25% of the performance objective; (ii) a target achievement of 100% of the performance objective; and (iii) a maximum achievement of 200% of the performance objective (the “Achievement Levels”). The applicable performance objectives will be established by the Committee within the first ninety (90) days of the applicable fiscal year and will be based on one or more categories of performance measures set forth in Section 9 of the 2004 Plan. The calculation of cash bonuses will be interpolated to reflect performance results which fall within any of the Achievement Levels, in the sole discretion of the Committee. This discretion includes the ability to reduce the otherwise applicable Percentage of Base Bonus Calculation for each Achievement Level, but in no event shall the Committee increase the amount of compensation payable above the maximum Percentage of Base Bonus Calculation for each Achievement Level.

In the event of a financial restatement impacting the applicable performance objective after a cash bonus has been paid, the Company shall recover from the recipient of such cash bonus the applicable amount of the cash bonus which should not have been paid, based on the restatement of the performance objective, plus interest at the rate determined by the Committee, from the time Company made such cash bonus payment to the recipient until its recovery thereof. The recovery of any cash bonus paid pursuant to the Program shall be made in accordance with the terms of any incentive compensation recoupment or recovery policy adopted in the future by the Company pursuant to Rule 10D-1 of the Securities Exchange Act of 1934, as amended, and applicable rules and regulations of the New York Stock Exchange, or any national securities exchange on which the Company’s common stock is then-listed, to the extent that such policy would apply to such cash bonuses.

**BUILD-A-BEAR WORKSHOP, INC.
RESTRICTED STOCK &
NON-QUALIFIED STOCK OPTION AGREEMENT**

Grant Date:	_____
Employee:	_____
No. of Shares of Time-Based Restricted Stock:	_____
Maximum Number of Shares of Performance-Based Restricted Stock:	_____
No. of Shares Subject to Option:	_____
Exercise Price of Option:	\$ _____

This Agreement will certify that the employee named above (“**Employee**”) is awarded the total number of restricted shares of common stock, \$0.01 par value per share (the “**Common Stock**”), of Build-A-Bear Workshop, Inc. (the “**Company**”) designated above (the “**Restricted Stock**”), and an option to purchase the number of shares of Company Common Stock designated above (the “**Option**”), pursuant to the Build-A-Bear Workshop, Inc. 2004 Stock Incentive Plan, as amended through the date hereof (the “**Plan**”), as of the date indicated above (the “**Grant Date**”) and subject to the terms, conditions and restrictions in the Plan and those set forth below. Any capitalized, but undefined, term used in this Agreement shall have the meaning ascribed to it in the Plan. Employee’s electronic acceptance within sixty (60) days on his/her personal Merrill Lynch account constitutes Employee’s acceptance of this award and acknowledgement of Employee’s agreement to all the terms, conditions and restrictions contained in the Plan and this Agreement. If the Employee does not accept this award on his/her personal Merrill Lynch account within sixty (60) days of the Grant Date, the Employer may revoke this grant.

BUILD-A-BEAR WORKSHOP, INC.

By: _____
 Sharon Price John
 Chief Executive Officer

Terms and Conditions

A. TERMS AND CONDITIONS APPLICABLE TO RESTRICTED STOCK

1. Terms of Restricted Stock Award. Pursuant to action of the Compensation and Development Committee (the “**Committee**”), the Company awards to the Employee the number of shares of Restricted Stock set forth above. The Restricted Stock is nontransferable by the Employee during the period described below and is subject to the risk of forfeiture as described below. Prior to the time shares become transferable, the shares of Restricted Stock shall bear a legend indicating their nontransferability, and, subject to the terms of this Agreement, if the Employee terminates service as an employee of the Company prior to the time a restriction lapses, the Employee shall forfeit any shares of Restricted Stock which are still subject to the restrictions at the time of termination of such service.



(a) Time-Based Restricted Stock

The restrictions on transfer described in this Section A.1 applicable to the Time-Based Restricted Stock awarded above shall lapse and be of no further force and effect as follows, if the Employee is still an employee of the Company on the respective date set forth below, and has been continuously serving as such an employee of the Company during such twelve (12)-month period ending on such date:

<u>Date</u>	<u>Portion of Grant for which Restrictions Lapse on Indicated Date</u>
Grant Date	0
March 31, 20__:	One-third
March 31, 20__:	One-third
March 31, 20__:	One-third

For avoidance of doubt, on March 31, 20__, one hundred percent (100%) of the Time-Based Restricted Stock shall be transferable by the Employee if the Employee is still an employee, and has been continuously serving from the Grant Date through March 31, 20__ as an employee of the Company on such date.

Notwithstanding the foregoing, in the event of a Change of Control, all previously granted shares of Time-Based Restricted Stock not yet free of the restrictions of this Section A.1.(a) shall become immediately free of such restrictions.

(b) Performance-Based Restricted Stock

The restrictions on transfer described in this Section A.1 applicable to the Performance-Based Restricted Stock awarded above shall lapse and be of no further force and effect as follows, if (1) the performance criteria applicable to the Performance-Based Restricted Stock as established by the Committee and included in **Exhibit A** hereto (the “**Performance Criteria**”) has been satisfied, and (2) the Employee is still an employee of the Company on the date set forth below, and has been continuously serving as such an employee of the Company from the Grant Date to such date:

<u>Date</u>	<u>Portion of Grant for which Restrictions Lapse on Indicated Date</u>
Grant Date	0
March 31, 20__:	100%

For avoidance of doubt, on the date ending March 31, 20__, one hundred percent (100%) of the Performance-Based Restricted Stock shall be transferable by the Employee if (1) the Performance Criteria set forth in **Exhibit A** hereto have been satisfied, and (2) the Employee is still an employee, and has been continuously serving from the Grant Date through March 31, 20__ as an employee of the Company on such date.

Notwithstanding the foregoing, in the event of a Change of Control that occurs prior to the end of Fiscal Year 20__, fifty percent (50%) of the Maximum Number of Shares of Performance-Based Restricted Stock (as set forth on page 1) shall become immediately free of the restrictions of this Section A.1.(b). If a Change of Control occurs at any time after the end of Fiscal Year 20__, one hundred percent (100%) of the shares earned based on the Performance Criteria (as set forth in **Exhibit A**) not yet free of the restrictions of this Section A.1.(b) shall become immediately free of such restrictions.

2. Death or Disability of the Employee.

(a) Time-Based Restricted Stock

In the event (i) of the death of the Employee, or (ii) the Company terminates the Employee’s employment due to a permanent and total disability which results in the Employee’s inability to return to work with the Company, all previously granted shares of Time-Based Restricted Stock not yet free of the restrictions of Section A.1(a) shall become immediately free of such restrictions.

(b) Performance-Based Restricted Stock

In the event (i) of the death of the Employee, or (ii) the Company terminates the Employee’s employment due to a permanent and total disability which results in the Employee’s inability to return to work with the Company, in either case prior to the end of Fiscal Year 20__, fifty percent (50%) of Maximum Number of Shares of Performance-Based Restricted Stock (as set forth on page 1) shall become immediately free of the restrictions of Section A.1(b).

In the event (i) of the death of the Employee, or (ii) the Company terminates the Employee’s employment due to a permanent and total disability which results in the Employee’s inability to return to work with the Company, in either case subsequent to the end of Fiscal Year 20__, all shares of Performance-Based Restricted Stock which are earned but not yet free of the restrictions of Section A.1(b) shall become immediately free of such restrictions.

3. **Cost of Restricted Stock.** The purchase price of the shares of Restricted Stock shall be \$0.00.

4. **Rights as Stockholder.** The Employee shall be entitled to all of the rights of a stockholder, including the right to vote such shares and to receive dividends and other distributions payable with respect to such shares, as follows: (i) with respect to the shares of Time-Based Restricted Stock, since the Grant Date; and (ii) with respect to the shares of Performance-Based Restricted Stock, only upon satisfaction of the Performance Criteria; provided that any such dividends or other distributions will be subject to the same vesting requirements as the underlying Restricted Stock and shall be paid at the time the restrictions set forth in Sections A.1(a) and A.1(b) have been lifted pursuant to the terms of this Agreement. If any dividends or distributions are paid in shares, the shares shall be deposited with the Company and shall be subject to the same restrictions on transferability and forfeitability as the Restricted Stock with respect to which they were paid.

5. **Escrow of Share Certificates.** Certificates for the Restricted Stock shall be issued in the Employee's name and shall be held in escrow by the Company until all restrictions lapse or such shares are forfeited as provide herein. A certificate or certificates representing the Restricted Stock as to which restrictions have lapsed shall be delivered to the Employee upon such lapse.

6. **Government Regulations.** Notwithstanding anything contained herein to the contrary, the Company's obligation to issue or deliver certificates evidencing the Restricted Stock 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.

7. **Withholding Taxes.** The Company shall have the right to require the Employee to remit to the Company, or to withhold from other amounts payable to the Employee, as compensation or otherwise, an amount sufficient to satisfy all federal, state and local withholding tax requirements.

8. **Accounting Restatement.** In the event the Company is required to prepare an accounting restatement of its financial statements due to the Company's material noncompliance with any financial reporting requirement under the securities laws, the Committee shall require reimbursement or forfeiture of shares of Performance-Based Restricted Stock which have been earned and/or which have vested pursuant to this Agreement during the three completed fiscal years immediately preceding the date on which the Company is required to prepare an accounting restatement and any transition period within such time period. The amount to be recovered will be the excess of the number of shares of Performance-Based Restricted Stock earned and/or vested based on the erroneous data over the shares of Performance-Based Restricted Stock that would have been earned and vested had it been based on the restated results, as determined by the Committee. The Committee will determine, in its sole discretion, the method for recouping the Performance-Based Restricted Stock hereunder which may include, without limitation: (i) seeking recovery of any gain realized on the vesting, sale, transfer or other disposition of shares of the Performance-Based Restricted Stock; (ii) offsetting the recouped amount from any compensation otherwise owed by the Company to the Employee; (iii) cancelling outstanding vested or unvested shares of the Performance-Based Restricted Stock; or (iv) taking any other remedial and recovery action permitted by law, as determined by the Committee. In addition, the Company shall recoup or recover any erroneously issued Performance-Based Restricted Stock in accordance with any incentive compensation recoupment or recovery policy adopted in the future by the Company pursuant to Rule 10D-1 of the Securities Exchange Act of 1934, as amended, and applicable rules and regulations of the New York Stock Exchange, or any national securities exchange on which the Company's Common Stock is then-listed. In the event of any conflict between the provisions of this Section A.8 and such a policy, the terms of the policy shall govern the recoupment or recovery of the Performance-Based Restricted Stock; provided that the recoupment or recovery policy shall apply to this Performance-Based Restricted Stock regardless of Employee's classification as an "executive officer" as defined by the applicable rules and regulations.

B. TERMS AND CONDITIONS APPLICABLE TO THE OPTION

1. Grant and Terms of Option. Pursuant to action of the Committee, the Company grants to the Employee the Option to purchase the number of shares of Common Stock set forth above, for a period of ten (10) years from the Grant Date, at the exercise price set forth above; provided, however, that the right to exercise such Option shall be, and is hereby, restricted as follows:

(a)(i) No shares may be purchased prior to March 31, 20__;

(ii) At any time during the term of the Option granted hereby on or after March 31, 20__, the Employee may purchase up to one-third of the total number of shares to which the Option granted hereby relates;

(iii) At any time during the term of the Option granted hereby on or after March 31, 20__, the Employee may purchase up to an additional one-third of the total number of shares to which the Option granted hereby relates; and

(iv) At any time during the term of the Option granted hereby on or after March 31, 20__, the Employee may purchase up to an additional one-third of the total number of shares to which the Option granted hereby relates;

so that on or after March 31, 20__, during the term hereof, the Employee will have become entitled to purchase the entire number of shares to which the Option granted hereby relates.

(b) Notwithstanding the foregoing, in the event of a Change of Control, the Employee may purchase one hundred percent (100%) of the total number of shares to which the Option granted hereby relates.

(c) In no event may the Option granted hereby or any part thereof be exercised after the expiration of ten (10) years from the Grant Date.

(d) The purchase price of the shares subject to the Option may be paid for (i) in cash, (ii) in the discretion of the Committee, by tender of shares of Common Stock already owned by the Employee, or (iii) in the discretion of the Committee, by a combination of methods of payment specified in clauses (i) and (ii), all in accordance with the provisions of the Plan. Notwithstanding the preceding sentence, the Employee may request that the Committee agree that payment in full of the option price need not accompany the written notice of exercise; provided that, the notice of exercise directs that the certificate or certificates for the shares of Common Stock for which the Option is exercised be delivered to a licensed broker acceptable to the Committee as the agent for the Employee and, at the time such certificate or certificates are delivered, the broker tenders to the Committee cash (or cash equivalents acceptable to the Committee) equal to the purchase price for the shares of Common Stock purchased pursuant to the exercise of the Option plus the amount (if any) of any withholding obligations on the part of the Company. Such request may be granted or denied in the sole discretion of the Committee.

(e) No shares of Common Stock may be tendered in exercise of the Option granted hereby if such shares were acquired by the Employee through the exercise of an Incentive Stock Option (within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended), unless (i) such shares have been held by the Employee for at least one (1) year, and (ii) at least two (2) years have elapsed since such Incentive Stock Option was granted.

2. **Termination of Employment.** In the event of the termination of employment of the Employee for any reason other than for Cause, as shall be determined in the sole discretion of the Committee, the Option granted, to the extent it was eligible for exercise at the date of such termination of employment: (i) shall be exercisable for up to ninety (90) days after the date of such termination; and (ii) may, subject to the Committee's sole discretion and consent, be exercised for such longer period as the Committee may permit, but not after ten (10) years from the Grant Date.

For the purposes of Section B.2. and B.3., "Cause" means with respect to the Employee's termination of employment or termination of consultancy, the following: (a) in the case where there is no employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or an affiliate of the Company and the Employee on the Grant Date (or where there is such an agreement but it does not define "cause" (or words of like import)), termination due to the Employee's insubordination, dishonesty, fraud, incompetence, moral turpitude, willful misconduct, refusal to perform the Employee's duties or responsibilities for any reason other than illness or incapacity, repeated or material violation of any employment policy, violation or breach of any confidentiality agreement, work product agreement or other agreement between the Employee and the Company, or materially unsatisfactory performance of the Employee's duties for the Company or an affiliate of the Company, as determined by the Committee in its good faith discretion; or (b) in the case where there is an employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or an affiliate of the Company and the Employee on the Grant Date that defines "cause" (or words of like import), "cause" as defined under such agreement; provided, however, that with regard to any agreement under which the definition of "cause" only applies on occurrence of a change in control, such definition of "cause" shall not apply until a change in control actually takes place and then only with regard to a termination thereafter. With respect to the Employee's termination of directorship, "cause" means an act or failure to act that constitutes cause for removal of a director under applicable Delaware law.

3. **Death or Disability of the Employee.** In the event of the death of the Employee during the term of this Agreement and while he or she is employed by the Company (or a subsidiary) or within three (3) months after the termination of his or her employment other than for Cause, the Option granted hereby shall become fully vested (if not already fully vested) and may be exercised by a legatee or legatees of the Employee under his or her last will, or by his or her personal representatives or distributees, at any time within a period of one (1) year after his or her death, but not after ten (10) years from the Grant Date. In the event the Company terminates the Employee's employment due to a permanent and total disability which results in the Employee's inability to return to work with the Company, the Option granted hereby shall become fully vested (if not already fully vested) and may be exercised by the Employee at any time within a period of three (3) months after his or her employment is so terminated, but not after ten (10) years from the Grant Date.

4. **Shares Issued on Exercise of Option.** It is the intention of the Company that on any exercise of the Option granted hereby it will transfer to the Employee shares of its authorized but unissued stock or transfer Treasury shares, or utilize any combination of Treasury shares and authorized but unissued shares, to satisfy its obligations to deliver shares on any exercise hereof.

5. **Option Not an Incentive Stock Option.** It is intended that the Option granted hereby shall not be treated as an Incentive Stock Option under Section 422 of the Internal Revenue Code of 1986, as amended.

C. **TERMS AND CONDITIONS APPLICABLE TO ALL AWARDS**

1. **Adjustments Upon Changes in Capitalization or Corporate Acquisitions.** Notwithstanding any other provision in the Agreement, if there is any change in the Common Stock by reason of stock dividends, spin-offs, split ups, recapitalizations, mergers, consolidations, reorganizations, combinations or exchanges of shares, the number of shares of Common Stock under this award not yet vested, and the price thereof, as applicable, shall be appropriately adjusted by the Committee.

2. **No Right to Continued Service.** Nothing in this Agreement shall be deemed to create any limitation or restriction on such rights as the Company otherwise would have to terminate the service of the Employee.
 3. **Committee Administration.** This award has been made pursuant to a determination made by the Committee, and the Committee or any successor or substitute committee authorized by the Board of Directors or the Board of Directors itself, subject to the express terms of this Agreement, shall have plenary authority to interpret any provision of this Agreement and to make any determinations necessary or advisable for the administration of this Agreement and may waive or amend any provisions hereof in any manner not adversely affecting the rights granted to the Employee by the express terms hereof.
 4. **Grant Subject to Plan.** This Restricted Stock and/or Option award is granted under and is expressly subject to all the terms and provisions of the Plan, and the terms of the Plan are incorporated herein by reference. The Employee hereby acknowledges receipt of a copy of the Plan and agrees to be bound by all the terms and provisions thereof. The Committee has been appointed by the Board of Directors and designated by it, as the Committee to make grants of Restricted Stock and Options.
 5. **Governing Law.** This Agreement shall be construed under the laws of the State of Delaware.
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Exhibit A

Performance Criteria Applicable to Performance-Based Restricted Stock