

American Water Capital Corp.  
Form 424B5  
August 07, 2017  
**Table of Contents**

**Filed Pursuant to Rule 424(b)(5)**  
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**The information in this preliminary prospectus supplement is not complete and may be changed. A registration statement relating to these securities became automatically effective when it was filed with the Securities and Exchange Commission. Neither this preliminary prospectus supplement nor the accompanying prospectus is an offer to sell the securities described herein and neither is soliciting any offer to buy these securities in any jurisdiction where the solicitation, offer or sale is not permitted.**

**Subject to Completion, Dated August 7, 2017**

**Preliminary Prospectus Supplement to Prospectus dated May 7, 2015**

**American Water Capital Corp.**

**\$ % Senior Notes due 2027**

**\$ % Senior Notes due 2047**

This is an offering by American Water Capital Corp., which is referred to as AWCC or the issuer, of its % Senior Notes due 2027, which are referred to as the 2027 Notes, and its % Senior Notes due 2047, which are referred to as the 2047 Notes, and together with the 2027 Notes, the notes. The issuer will pay interest semi-annually in arrears on the notes on March 1 and September 1 of each year, beginning on March 1, 2018. The 2027 Notes will mature on September 1, 2027. The 2047 Notes will mature on September 1, 2047. However, the issuer may at any time and from time to time redeem all or a portion of the 2027 Notes and the 2047 Notes, in each case at the applicable redemption prices set forth in this prospectus supplement under Description of the Notes Optional Redemption by the Issuer. The notes will be issued only in registered form and in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof.

The notes will be unsecured, will rank equally in right of payment with the issuer's existing and future senior debt and will rank senior to the issuer's future subordinated debt. The notes will rank effectively junior in right of payment to all of the issuer's future secured indebtedness to the extent of the value of the assets securing such indebtedness. The notes will have the benefit of a support agreement from American Water Works Company, Inc., the issuer's parent company. The notes will not be guaranteed by any of American Water Works Company, Inc.'s subsidiaries. The issuer is a

finance subsidiary whose activities are limited to borrowing funds through the issuance of debt securities and lending those funds under loan agreements with American Water Works Company, Inc. and its regulated operating subsidiaries.

**Investing in these notes involves risks. See Risk Factors beginning on page S-7 of this prospectus supplement to read about factors you should consider before buying these notes.**

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

	<b>Price to Public(1)</b>	<b>Underwriting Discount</b>	<b>Proceeds to AWCC</b>
Per 2027 Note	%	%	%
Total	\$	\$	\$
Per 2047 Note	%	%	%
Total	\$	\$	\$

*(1) Plus accrued interest from August , 2017, if settlement occurs after that date.*

The underwriters expect to deliver the notes in book-entry form only through the facilities of The Depository Trust Company for the accounts of its participants, including Clearstream Banking, *société anonyme*, and Euroclear Bank S.A./N.V., as operator of the Euroclear system, against payment in New York, New York on or about August , 2017.

***Joint Book-Running Managers***

**J.P. Morgan**

**US Bancorp  
Prospectus Supplement dated August , 2017.**

**Wells Fargo Securities**

**Table of Contents**

**TABLE OF CONTENTS**

<u>ABOUT THIS PROSPECTUS SUPPLEMENT</u>	ii
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	iii
<u>FORWARD-LOOKING STATEMENTS</u>	v
<u>PROSPECTUS SUPPLEMENT SUMMARY</u>	S-1
<u>RISK FACTORS</u>	S-7
<u>USE OF PROCEEDS</u>	S-9
<u>RATIOS OF EARNINGS TO FIXED CHARGES</u>	S-10
<u>DESCRIPTION OF THE NOTES</u>	S-11
<u>CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS</u>	S-17
<u>UNDERWRITING</u>	S-22
<u>LEGAL MATTERS</u>	S-27
<u>EXPERTS</u>	S-27

**PROSPECTUS**

<u>ABOUT THIS PROSPECTUS</u>	1
<u>AMERICAN WATER WORKS COMPANY, INC.</u>	1
<u>AMERICAN WATER CAPITAL CORP.</u>	2
<u>RISK FACTORS</u>	2
<u>FORWARD-LOOKING STATEMENTS</u>	3
<u>SELLING SECURITY HOLDERS</u>	4
<u>USE OF PROCEEDS</u>	5
<u>RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS</u>	5
<u>DESCRIPTION OF CAPITAL STOCK</u>	6
<u>DESCRIPTION OF AWCC DEBT SECURITIES AND AMERICAN WATER SUPPORT AGREEMENT</u>	10
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	24
<u>DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS</u>	27
<u>DESCRIPTION OF SUBSCRIPTION RIGHTS</u>	28
<u>DESCRIPTION OF WARRANTS</u>	30
<u>PLAN OF DISTRIBUTION</u>	31
<u>LEGAL MATTERS</u>	34
<u>EXPERTS</u>	34
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	34

**Table of Contents**

**ABOUT THIS PROSPECTUS SUPPLEMENT**

All references in this prospectus supplement to American Water and the Company refer to American Water Works Company, Inc. and its consolidated subsidiaries unless the context otherwise requires. All references in this prospectus supplement to the support provider refer to American Water Works Company, Inc., without its subsidiaries, unless the context otherwise requires. All references in this prospectus supplement to AWCC or the issuer refer to American Water Capital Corp.

This document is in two parts. The first part is this prospectus supplement, which describes the specific terms of this offering and certain other matters. The second part, the accompanying prospectus, gives more general information about the issuer, American Water and their securities. Generally, the reference to this prospectus, is to both parts of this document combined. To the extent information in this prospectus supplement conflicts with information in the accompanying prospectus, you should rely on the information in this prospectus supplement.

AWCC and American Water are not making an offer or sale of these securities in any jurisdiction where the offer or sale is not permitted. The information which appears in this prospectus and any document incorporated by reference is accurate as of their respective dates. American Water's business, financial condition, results of operations and prospects may have changed since the date of such information.

American Water and its logos are trademarks of American Water. Other service marks, trademarks and trade names referred to in this prospectus are the property of their respective owners.

**Table of Contents****WHERE YOU CAN FIND MORE INFORMATION**

American Water files annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission, which is referred to as the SEC. These SEC filings are available to the public over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov) and American Water's website at <https://amwater.com>. You may also read and copy any document American Water and the issuer files with the SEC at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. The information contained on or accessible from American Water's website does not constitute a part of this prospectus and is not incorporated by reference herein.

American Water and the issuer have filed a registration statement on Form S-3 under the Securities Act of 1933, as amended, which is referred to as the Securities Act, with the SEC to register the securities offered by this prospectus supplement. This prospectus does not contain all the information contained in the registration statement because certain parts of the registration statement are omitted in accordance with the rules and regulations of the SEC. The registration statement and the documents filed as exhibits to the registration statement are available for inspection and copying as described above.

American Water is incorporating by reference into this prospectus specific documents that it files with the SEC, which means that important information can be disclosed to you by referring you to those documents that are considered part of this prospectus. Information that American Water files subsequently with the SEC will automatically update and supersede this information. American Water incorporates by reference the documents listed below, and any future documents that it files with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, which is referred to as the Exchange Act, until the offering of the securities covered by this prospectus has been completed or terminated. This prospectus is part of a registration statement filed with the SEC.

American Water is incorporating by reference into this prospectus the following documents filed with the SEC (excluding any portions of such documents that have been furnished but not filed for purposes of the Exchange Act):

**Filings**

Annual Report on Form 10-K (including the portions of American Water's Proxy Statement on Schedule 14A filed on March 27, 2017 that are incorporated by reference therein)

Quarterly Reports on Form 10-Q

Current Reports on Form 8-K

**Period Covered or Date Filed**

Year ended December 31, 2016

Quarters ended March 31, 2017 and June 30, 2017

Filed on May 12, 2017, July 26, 2017 and August 7, 2017

American Water will provide to each person, including any beneficial owner, to whom this prospectus is delivered, upon written or oral request and without charge, a copy of the documents referred to above that have been incorporated in this prospectus by reference. You can request copies of such documents if you call or write American Water at the following address or telephone number: American Water Works Company, Inc., 1025 Laurel Oak Road, Voorhees, New Jersey 08043, Attention: General Counsel, (856) 346-8200.

This prospectus contains summaries of certain agreements that American Water has filed as exhibits to various SEC filings, as well as certain agreements that American Water and the issuer will enter into in connection with this offering. The descriptions of these agreements contained in this prospectus or information incorporated by reference

herein do not purport to be complete and are subject to, or qualified in their entirety by reference to, the definitive agreements. You can obtain copies of the definitive agreements without charge to you by making a written or oral request to American Water.

**Table of Contents**

American Water and the issuer are only responsible for the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus or contained in any free writing prospectus prepared by or on behalf of American Water and the issuer. Neither American Water nor the issuer has authorized anyone to provide you with different information, and American Water and the issuer take no responsibility for any other information that others may give you. You should not assume that the information in this prospectus supplement or in the accompanying prospectus is accurate as of any date other than the date on the front of those documents or that the information incorporated by reference is accurate as of any date other than the date of the document incorporated by reference in this prospectus supplement or the accompanying prospectus.

Any statement contained herein or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein, in any other subsequently filed document which also is or is deemed to be incorporated by reference herein, modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified and superseded, to constitute a part of this prospectus.

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**Table of Contents**

**FORWARD-LOOKING STATEMENTS**

American Water has made statements under "Risk Factors" and in other sections of this prospectus and in the documents incorporated by reference herein that are forward-looking statements within the meaning of Section 27A of the Securities Act, Section 21E of the Exchange Act, and the Private Securities Litigation Reform Act of 1995. In some cases, these forward-looking statements can be identified by words with prospective meanings such as "intend," "plan," "estimate," "believe," "anticipate," "expect," "predict," "project," "assume," "forecast," "outlook," "future," "pending," "potential," "continue," "seek to," "may," "can," "should," "will" and "could" or the negative of such terms or other various similar expressions. Forward-looking statements may relate to, among other things, American Water's future financial performance, including its adjusted operation and maintenance efficiency ratio, its cash flows, its growth and portfolio optimization strategies, its projected capital expenditures and related funding requirements, the impact of changes in general, income or other tax laws or provisions, its ability to repay debt, its projected strategy to finance current operations and growth initiatives, the impact of legal proceedings and potential fines and penalties, business process and technology improvement initiatives, trends in American Water's industry, regulatory, legislative, political, tax policy or legal developments or rate adjustments, including rate case filings, filings for infrastructure surcharges and filings to address regulatory lag.

Forward-looking statements are predictions based on American Water's current expectations and assumptions regarding future events. They are not guarantees or assurances of any outcomes, financial results or levels of activity, performance or achievements, and you are cautioned not to place undue reliance upon them. These forward-looking statements are subject to a number of estimates and assumptions, and known and unknown risks, uncertainties and other factors. American Water's actual results may vary materially from those discussed in the forward-looking statements included in this prospectus and in the documents incorporated by reference herein. Factors that could cause actual results to differ from those discussed in forward-looking statements include, but are not limited to, the factors discussed under "Risk Factors" in this prospectus supplement, and the following important factors:

the decisions of governmental and regulatory bodies, including decisions to raise or lower rates;

the timeliness and outcome of regulatory commissions' actions concerning rates, capital structure, authorized return on equity, capital investment, permitting and other decisions;

changes in customer demand for, and patterns of use of, water, such as may result from conservation efforts;

changes in laws, governmental regulations and policies, including environmental, health and safety, water quality, public utility and tax regulations and policies, and impacts resulting from U.S., state and local elections;

weather conditions, patterns, events or natural disasters, including drought or abnormally high rainfall, strong winds, coastal and intercoastal flooding, earthquakes, landslides, hurricanes, tornadoes, electrical storms and solar flares;



the outcome of litigation and similar government action, including matters related to the Freedom Industries chemical spill in West Virginia and the binding global agreement in principle to settle claims related to this chemical spill;

American Water's ability to appropriately maintain current infrastructure, including its operational and information technology systems, and manage the expansion of its business;

exposure or infiltration of American Water's critical infrastructure, operational technology and information technology systems through physical or cyber attacks or other disruptions;

American Water's ability to obtain permits and other approvals for projects;

changes in American Water's capital requirements;

American Water's ability to control operating expenses and to achieve efficiencies in its operations;

**Table of Contents**

the intentional or unintentional actions of a third party, including contamination of American Water's water supplies or water provided to its customers;

American Water's ability to obtain adequate and cost-effective supplies of chemicals, electricity, fuel, water and other raw materials that are needed for its operations;

American Water's ability to successfully meet growth projections for its business and capitalize on growth opportunities, including its ability to, among other things, acquire and integrate water and wastewater systems into its regulated operations, and enter into contracts and other agreements with, or otherwise obtain, new customers in its market-based businesses;

risks and uncertainties associated with contracting with the U.S. government, including ongoing compliance with applicable government procurement and security regulations;

cost overruns relating to improvements in or the expansion of American Water's operations;

American Water's ability to maintain safe work sites;

American Water's exposure to liabilities related to environmental laws and similar matters resulting from, among other things, water and wastewater service provided to customers, including, for example, its water management solutions that are focused on customers in the natural gas exploration and production market;

changes in general economic, political, business and financial market conditions;

access to sufficient capital on satisfactory terms and when and as needed to support operations and capital expenditures;

fluctuations in interest rates;

restrictive covenants in or changes to the credit ratings on American Water's current or future debt that could increase its financing costs or funding requirements or affect its ability to borrow, make payments on debt or pay dividends;

fluctuations in the value of benefit plan assets and liabilities that could increase American Water's cost and funding requirements;

changes in federal or state general, income and other tax laws, including tax reform, the availability of tax credits and tax abatement programs, and American Water's ability to utilize its U.S. and state net operating loss carryforwards;

migration of customers into or out of American Water's service territories;

the use by municipalities of the power of eminent domain or other authority to condemn American Water's systems;

difficulty in obtaining, or the inability to obtain, insurance at acceptable rates and on acceptable terms and conditions;

the incurrence of impairment charges related to American Water's goodwill or other assets;

labor actions, including work stoppages and strikes;

ability to retain and attract qualified employees;

civil disturbances or terrorist threats or acts, or public apprehension about future disturbances or terrorist threats or acts; and

the impact of new, and changes to existing, accounting standards.

These forward-looking statements are qualified by, and should be read together with, the factors discussed under "Risk Factors" beginning on page S-7 of this prospectus supplement and the risk factors and other statements contained in the documents incorporated by reference in this prospectus and investors should refer to

**Table of Contents**

such risks, uncertainties, risk factors and other statements in evaluating such forward-looking statements. Any forward-looking statements made by American Water speak only as of the date of such statements. Except as required by the federal securities laws, American Water does not have any obligation, and American Water specifically disclaims any undertaking or intention to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or otherwise. New factors emerge from time to time, and it is not possible for American Water to predict all such factors. Furthermore, it may not be possible to assess the impact of any such factor on American Water's businesses, either viewed independently or together, or the extent to which any factor, or combination of factors, may cause results to differ materially from those contained in any forward-looking statement. The foregoing factors should not be construed as exhaustive.

**Table of Contents**

**PROSPECTUS SUPPLEMENT SUMMARY**

*This summary highlights information contained elsewhere in this prospectus or in the documents incorporated by reference herein. It may not contain all the information that is important to you. You should carefully read this prospectus and the documents incorporated by reference herein in their entirety before making an investment decision.*

**The Company**

American Water Works Company, Inc., a Delaware corporation, is the most geographically diversified, as well as the largest publicly traded, United States water and wastewater utility company, as measured by both operating revenue and population served. As a holding company, American Water conducts substantially all of its business operations through its subsidiaries. American Water's approximately 6,800 employees provide an estimated 15 million people with drinking water, wastewater and other water-related services in 47 states, the District of Columbia and Ontario, Canada.

In 2016, American Water generated \$3,302 million in total consolidated operating revenues and \$468 million in net income attributable to common stockholders. In 2015, American Water generated \$3,159 million in total consolidated operating revenues and \$476 million in net income attributable to common stockholders. For the six months ended June 30, 2017, American Water generated \$1,600 million in total consolidated operating revenues and \$224 million in net income attributable to common stockholders.

American Water conducts its business primarily through its Regulated Businesses segment. American Water also operates businesses that provide a broad range of related and complementary water and wastewater services in non-regulated markets, which includes four operating segments that individually do not meet the criteria of a reportable segment in accordance with generally accepted accounting principles in the United States, which are collectively referred to in this prospectus supplement as its Market-Based Businesses.

For 2016, American Water's Regulated Businesses segment generated \$2,871 million in operating revenues, prior to inter-segment eliminations, which accounted for 86.9% of American Water's total consolidated operating revenues. For the same period, American Water's Market-Based Businesses generated \$451 million in operating revenues, prior to inter-segment eliminations, which accounted for 13.7% of total consolidated operating revenues.

For the six months ended June 30, 2017, American Water's Regulated Businesses segment generated \$1,405 million in operating revenues, prior to inter-segment eliminations, which accounted for 87.8% of total consolidated operating revenues. For the same period, American Water's Market-Based Businesses generated \$206 million in operating revenues, prior to inter-segment eliminations, which accounted for 12.9% of total consolidated operating revenues.

**American Water Capital Corp.**

American Water's financing activities, which are primarily focused on funding construction activities, include the issuance of long-term and short-term debt, primarily through its finance subsidiary, American Water Capital Corp. AWCC loans all of the net proceeds of its long-term debt financings to American Water's regulated operating subsidiaries, as well as to American Water. AWCC also provides liquidity to the Regulated Businesses segment and American Water through AWCC's revolving credit facility and commercial paper program. All of the proceeds of AWCC's long-term debt have been loaned to American Water's Regulated Businesses segment or American Water and are evidenced by promissory notes issued to AWCC by the regulated operating subsidiaries or American Water, as applicable. As of June 30, 2017, American Water had a total of \$7,462 million in total debt, including \$6,345 million

in long-term debt, of which the current portion is \$686 million, and \$1,117 million in commercial paper borrowings at AWCC.

S-1

**Table of Contents**

**Executive Offices**

American Water and AWCC are each corporations incorporated under the laws of Delaware. Their principal executive offices are located at 1025 Laurel Oak Road, Voorhees, New Jersey 08043 and the telephone number is (856) 346-8200. American Water's website is <https://amwater.com>. The information contained on or accessible from American Water's website does not constitute a part of this prospectus and is not incorporated by reference herein.

S-2

**Table of Contents**

**The Offering**

Issuer	American Water Capital Corp.
Securities Offered	<p>\$ aggregate principal amount of % Senior Notes due 2027.</p> <p>\$ aggregate principal amount of % Senior Notes due 2047.</p>
Maturity Date	<p>The 2027 Notes will mature on September 1, 2027.</p> <p>The 2047 Notes will mature on September 1, 2047.</p>
Interest Payment Dates	The issuer will pay interest on the notes semi-annually in arrears on each March 1 and September 1, beginning on March 1, 2018, to the holders of the notes as of the day that is 15 calendar days (whether or not a business day) prior to the relevant interest payment date and, if applicable, upon redemption.
Support Agreement	The notes will have the benefit of a support agreement dated June 22, 2000 and amended on July 26, 2000 from American Water, referred to as the support agreement, pursuant to which American Water has agreed to pay to any debt investor or lender of the issuer any principal or interest owed by the issuer to such debt investor or lender that the issuer fails to pay on a timely basis.
Optional Redemption	The issuer may redeem all or a portion of the 2027 Notes at its option at any time or from time to time. The redemption price for the 2027 Notes to be redeemed on any redemption date prior to June 1, 2027 will be equal to the greater of (1) 100% of the principal amount of the 2027 Notes being redeemed on the redemption date; or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the 2027 Notes being redeemed on that redemption date that would be payable if such 2027 Notes matured on June 1, 2027 (not including any portion of any payments of interest accrued to the redemption date) discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate plus basis points, as determined by the Reference Treasury Dealer; plus, in each case, accrued and unpaid interest thereon to the redemption date. The redemption price for the 2027 Notes to be redeemed on any redemption date on or after June 1,



2027 will be equal to 100% of the principal amount to be redeemed plus any accrued and unpaid interest thereon to the date of redemption.

The issuer may redeem all or a portion of the 2047 Notes at its option at any time or from time to time. The redemption price for the 2047 Notes to be redeemed on any redemption date prior to March 1, 2047 will be equal to the greater of (1) 100% of the principal amount of the 2047 Notes being redeemed on the redemption date; or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the 2047 Notes being redeemed on that redemption date that would be payable if such 2047 Notes matured on March 1,

Table of Contents

2047 (not including any portion of any payments of interest accrued to the redemption date) discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate plus        basis points, as determined by the Reference Treasury Dealer; plus, in each case, accrued and unpaid interest thereon to the redemption date. The redemption price for the 2047 Notes to be redeemed on any redemption date on or after March 1, 2047 will be equal to 100% of the principal amount to be redeemed plus any accrued and unpaid interest thereon to the date of redemption.

Ranking

The notes will be the issuer's unsecured senior obligations and will:

rank equal in right of payment to all of the issuer's existing and future unsecured obligations that are not, by their terms, expressly subordinated in right of payment to the notes;

rank senior in right of payment to all of the issuer's future obligations that are, by their terms, expressly subordinated in right of payment to the notes; and

rank effectively junior in right of payment to all of the issuer's future secured indebtedness to the extent of the value of the assets securing such indebtedness.

Similarly, the obligations of American Water under the support agreement will be unsecured senior obligations of American Water and will:

rank equal in right of payment to all existing and future unsecured obligations of American Water that are not, by their terms, expressly subordinated in right of payment to such obligations;

rank senior in right of payment to any future obligations of American Water that are, by their terms, expressly subordinated in right of payment to such obligations; and

rank (i) effectively junior in right of payment to any future secured indebtedness of American Water to the extent of the value of the assets securing such indebtedness and (ii) structurally junior in right of payment to any liabilities of American Water's subsidiaries.

As of June 30, 2017:

the issuer had no secured indebtedness;

the issuer had \$6,096 million of senior indebtedness, including (i) \$4,786 million of senior notes, (ii) \$193 million of tax-exempt indebtedness, (iii) \$1,117 million of commercial paper and (iv) no subordinated indebtedness;

The support provider had no indebtedness other than its obligations under the support agreement with respect to the issuer's indebtedness and its borrowings from AWCC; and

S-4

**Table of Contents**

the subsidiaries of American Water (other than the issuer) had \$1,359 million of indebtedness and other liabilities.

Certain Covenants

The indenture governing the notes contains certain covenants that, among other things, limit American Water's ability and the ability of its subsidiaries to:

create or assume liens; and

enter into sale and leaseback transactions.

These limitations are subject to a number of significant exceptions. See Description of AWCC Debt Securities and American Water Support Agreement Certain Covenants in the accompanying prospectus.

Use of Proceeds

The issuer estimates that the proceeds from this offering, net of underwriting discounts and offering expenses, will be approximately \$ million.

The issuer intends to use the net proceeds from this offering to lend funds to American Water and its regulated operating subsidiaries, to repay certain long-term debt of the issuer at maturity, to redeem certain of the issuer's long-term debt, to make repayments of commercial paper obligations of the issuer, and for general corporate purposes. See Use of Proceeds.

Risk Factors

Investing in the notes involves risk. See Risk Factors beginning on page S-7 of this prospectus supplement for a discussion of factors that you should refer to and carefully consider before deciding to invest in these notes.

Governing Law

The indenture and the notes are governed by, and construed in accordance with, the laws of the State of New York.

Conflicts of Interest

Certain of the underwriters or their affiliates may hold a portion of the long-term debt or commercial paper that the issuer intends to repay using the net proceeds from this offering. In such event, it is possible that one or more of the underwriters or their affiliates could receive at least 5% of the net proceeds from the offering, and in that case such underwriter

would be deemed to have a conflict of interest under the Financial Industry Regulatory Authority, Inc. ( FINRA ) Rule 5121. In the event of any such conflict of interest, such underwriter would be required to conduct the distribution of the notes in accordance with FINRA Rule 5121. If the distribution is conducted in accordance with FINRA Rule 5121, such underwriter would not be permitted to confirm a sale to an account over which it exercises discretionary authority without first receiving specific written approval from the account holder.

Ratios of Earnings to Fixed Charges

For purposes of calculating the ratio of earnings to fixed charges, earnings consist of income from continuing operations before income

S-5

**Table of Contents**

taxes including the effect of allowance for funds used during construction, which is referred to as an allowance for funds used during construction ( AFUDC ), plus fixed charges. Fixed charges consist of interest expense, amortization of debt issuance costs, and a portion of rent expense that management believes is representative of the interest component of rental expense. Fixed charges have not been reduced for the effect of AFUDC.

American Water's and the issuer's ratios of earnings to fixed charges for each of the periods indicated were as follows:

	<b>For the Year Ended December 31,</b>					<b>For the Six Months Ended June 30,</b>
	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>American Water Works Company, Inc.</b>	2.93	2.88	3.27	3.42	3.27	3.07
<b>American Water Capital Corp.</b>	1.00	1.00	1.00	1.00	1.00	1.00

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**Table of Contents**

**RISK FACTORS**

*An investment in the notes involves risks. This prospectus does not describe all of these risks. You should carefully consider the risks described below and the risks described in Part I, Item 1A, Risk Factors, in American Water's Annual Report on Form 10-K for the year ended December 31, 2016, as updated in subsequently filed reports with the SEC, which risk factors and subsequently filed reports are incorporated by reference herein, as well as the other information included or incorporated by reference in this prospectus, before making an investment decision. American Water's business, financial condition or results of operations could be materially adversely affected by any of these risks.*

***The issuer's ability to service its debt and American Water's ability to make payments pursuant to its obligations under the support agreement depend on the performance of American Water's operating subsidiaries and their continued ability to make distributions to American Water or repayments to the issuer. There can be no assurance that American Water or the issuer will continue to receive such distributions or repayments or, if they are received, that they will be in amounts similar to past distributions or repayments.***

The notes are being issued by AWCC, American Water's finance subsidiary. The issuer has no substantial assets, other than American Water's obligations and those of American Water's operating subsidiaries to repay loans made by AWCC. American Water has entered into a support agreement with the issuer pursuant to which it has agreed to pay to any debt investor or lenders of the issuer any principal or interest amounts owed by the issuer to such debt investor or lender that the issuer fails to pay on a timely basis. Because substantially all of American Water's operations are conducted through its subsidiaries other than the issuer, American Water's ability to fulfill its obligations under the support agreement will be dependent upon its receipt of sufficient cash distributions from its operating subsidiaries. Similarly, the issuer's ability to make interest and principal payments on the notes will be dependent upon its receipt of sufficient payments of principal and interest pursuant to the terms of its loans to American Water and its operating subsidiaries. The distributions American Water receives from its operating subsidiaries and the repayments the issuer receives from American Water and its operating subsidiaries might not be adequate to permit American Water to make required payments of interest and principal pursuant to the support agreement or the issuer to make required payments under the notes, as applicable, on a timely basis, or at all.

***American Water's obligations under the support agreement are effectively subordinated to all of the obligations of its subsidiaries other than the issuer.***

American Water has entered into a support agreement with the issuer. The notes are not guaranteed by any of American Water's subsidiaries and are the obligations only of the issuer and American Water, by virtue of the support agreement. American Water is a holding company that derives substantially all of its income from its operating subsidiaries, and the issuer is a financing subsidiary with no material operations of its own, other than making loans to American Water and its affiliates. American Water's operating subsidiaries are separate and distinct legal entities and, other than the issuer, have no obligation to make any payments on the notes or to make any funds available for such payment. Therefore, American Water's obligations under the support agreement will be effectively subordinated to all indebtedness and other liabilities, including trade payables, lease commitments and moneys borrowed, incurred or issued by American Water's subsidiaries other than the issuer.

***The notes do not restrict American Water's ability to incur additional indebtedness, which could adversely affect its ability to pay its obligations under the notes.***

Although the terms of the notes restrict American Water's ability and the ability of its subsidiaries to incur certain liens and to enter into certain sale and leaseback transactions, the incurrence of other indebtedness or other liabilities by any

of American Water's subsidiaries is not specifically prohibited in connection with the notes and could adversely affect American Water's ability to pay its obligations on the notes. As of June 30, 2017, total liabilities of American Water's subsidiaries other than the issuer were \$1,359 million, consisting of (i)

S-7



**Table of Contents**

\$704 million in private activity bonds and government funded debt, of which \$624 million is collateralized by utility plant, (ii) \$640 million in mortgage bonds, and (iii) \$15 million in mandatory redeemable preferred stock and capital lease obligations. American Water anticipates that from time to time its subsidiaries will incur additional debt and other liabilities. Any debt incurred by American Water's subsidiaries other than the issuer will be effectively senior to American Water's obligations under the support agreement.

Other than as described under "Description of AWCC Debt Securities and American Water Support Agreement" "Support Agreement" in the accompanying prospectus, neither the issuer nor American Water is required in connection with the notes to meet any financial tests that measure their working capital, interest coverage or fixed charges in order to maintain compliance with the terms of the notes.

*If there is no active trading market for the notes you may not be able to resell them.*

If there is no active trading market for the notes, you may not be able to resell the notes at their fair market value or at all.

The liquidity of any market for the notes will depend upon various factors, including:

the number of holders of the notes;

the interest of securities dealers in making a market for the notes;

American Water's financial performance or prospects; and

the prospects for companies in American Water's industry generally.

Accordingly, neither American Water nor the issuer can assure you that a market or liquidity will develop for the notes.

**Table of Contents**

**USE OF PROCEEDS**

The issuer estimates that it will receive net proceeds of approximately \$       million from this offering, after deducting underwriting discounts and estimated offering expenses.

The issuer intends to use the net proceeds from this offering to lend funds to American Water and its regulated operating subsidiaries and to (1) repay \$524 million principal amount of the issuer's 6.085% Senior Notes due 2017 upon maturity on October 15, 2017, (2) redeem up to \$327 million aggregate principal amount of the issuer's outstanding long-term debt securities due in 2018 and 2021 and which have a weighted-average interest rate of 5.71% and (3) repay commercial paper obligations of the issuer and for general corporate purposes. On August 2, 2017, the issuer had \$1,059 million in aggregate principal amount of commercial paper outstanding, with a weighted-average maturity of 23 days and a weighted-average annual interest rate of 1.37%.

**Table of Contents****RATIOS OF EARNINGS TO FIXED CHARGES**

For purposes of calculating the ratio of earnings to fixed charges, earnings consist of income from continuing operations before income taxes including the effect of AFUDC, plus fixed charges. Fixed charges consist of interest expense, amortization of debt issuance costs, and a portion of rent expense that management believes is representative of the interest component of rental expense. Fixed charges have not been reduced for the effect of AFUDC.

American Water's and the issuer's ratios of earnings to fixed charges for each of the periods indicated were as follows:

	For the Year Ended December 31,					For the Six
	2012	2013	2014	2015	2016	Months Ended June 30, 2017
<b>American Water Works Company, Inc.</b>						
Ratio of Earnings to Fixed Charges	2.93	2.88	3.27	3.42	3.27	3.07
<b>American Water Capital Corp.</b>						
Ratio of Earnings to Fixed Charges	1.00	1.00	1.00	1.00	1.00	1.00

S-10

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**Table of Contents**

**DESCRIPTION OF THE NOTES**

*The following description is a summary of the material provisions of the indenture. It does not restate such agreement in its entirety. You are urged to read the indenture because it, and not this description, defines your rights as holders of the notes. The indenture was filed as an exhibit to the registration statement of which this prospectus forms a part.*

*The notes will be two separate, new series of Debt Securities, as described under the heading "Description of AWCC Debt Securities and American Water Support Agreement" in the accompanying prospectus. Please read the following information concerning the notes in conjunction with the statements under "Description of AWCC Debt Securities and American Water Support Agreement" in the accompanying prospectus, which the following information supplements and, in the event of any inconsistencies, supersedes.*

*Unless the context otherwise requires, solely for purposes of this Description of the Notes, "American Water" or the "Company" refers to American Water Works Company, Inc. and not to any of its subsidiaries.*

**General**

The notes will be issued under the indenture, dated as of December 4, 2009, between the issuer and Wells Fargo Bank, National Association, as indenture trustee, referred to as the indenture.

The aggregate principal amount of the 2027 Notes offered by this prospectus supplement is U.S. \$ . The aggregate principal amount of the 2047 Notes offered by this prospectus supplement is U.S. \$ .

The notes will have the benefit of a support agreement from American Water described below.

The notes will be the issuer's unsecured senior obligations and will:

rank equal in right of payment to all of the issuer's existing and future unsecured obligations that are not, by their terms, expressly subordinated in right of payment to the notes;

rank senior in right of payment to all of the issuer's future obligations that are, by their terms, expressly subordinated in right of payment to the notes; and

rank effectively junior in right of payment to all of the issuer's future secured indebtedness to the extent of the value of the assets securing such indebtedness.

Similarly, American Water's obligations as support provider under the support agreement will be unsecured senior obligations of American Water and will:

rank equal in right of payment to all of American Water's existing and future unsecured obligations that are not, by their terms, expressly subordinated in right of payment to such obligations;

rank senior in right of payment to any of American Water's future obligations that are, by their terms, expressly subordinated in right of payment to such obligations; and

rank (i) effectively junior in right of payment to any of American Water's future secured indebtedness to the extent of the value of the assets securing such indebtedness and (ii) structurally junior in right of payment to any liabilities of American Water's subsidiaries.

The notes will not be subject to a sinking fund provision.

The indenture trustee will initially be the security registrar and the paying agent for the notes. The notes initially will be issued in registered global form and will be in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof, without coupons, and may be transferred or exchanged, without service charge but upon

## **Table of Contents**

payment of any taxes or other governmental charges payable in connection with the transfer or exchange, at the office described below. Payments on notes issued as a global security will be made to the depositary or a successor depositary. A beneficial interest in a global note may only be exchanged for a note in certificated form in certain circumstances. See Description of AWCC Debt Securities and American Water Support Agreement Book-Entry, Delivery and Form Exchanges of Global Notes for Certificated Debt Securities in the accompanying prospectus and Book-Entry Only Issuance in this prospectus supplement. Principal and interest with respect to certificated notes will be payable thereon, the transfer of the notes will be registrable and notes will be exchangeable for notes of a like aggregate principal amount in denominations of \$1,000, and integral multiples of \$1,000 in excess thereof, at the office or agency maintained by the issuer. The issuer has initially designated the corporate trust office of the indenture trustee as that office. However, at the issuer's option, payment of interest may be made by check mailed to the address of the holder entitled to payment or by wire transfer to an account appropriately designated by the holder entitled to payment.

The indenture does not limit American Water's ability or the ability of the issuer to issue or incur other unsecured debt or issue preferred stock.

## **Principal, Maturity and Interest**

### ***2027 Notes***

The initial aggregate principal amount of the 2027 Notes is U.S. \$ . The 2027 Notes mature on September 1, 2027.

The 2027 Notes will bear interest at % per annum from August , 2017. The issuer will pay interest on the 2027 Notes semi-annually in arrears on each March 1 and September 1, beginning on March 1, 2018, to the holders of the 2027 Notes as of the day that is 15 calendar days (whether or not a business day) prior to the relevant interest payment date and, if applicable, upon redemption.

### ***2047 Notes***

The initial aggregate principal amount of the 2047 Notes is U.S. \$ . The 2047 Notes mature on September 1, 2047.

The 2047 Notes will bear interest at % per annum from August , 2017. The issuer will pay interest on the 2047 Notes semi-annually in arrears on each March 1 and September 1, beginning on March 1, 2018, to the holders of the 2047 Notes as of the day that is 15 calendar days (whether or not a business day) prior to the relevant interest payment date and, if applicable, upon redemption.

## ***Computation of Interest***

The amount of interest payable on the notes for any period will be computed on the basis of a 360-day year consisting of twelve 30-day months. In the event that any date on which principal or interest is payable on the notes is not a business day, then payment of the principal or interest payable on such date will be made on the next day that is a business day (and without any interest or other payment in respect of any such delay).

## **Optional Redemption by the Issuer**

### ***2027 Notes***

The issuer may redeem all or a portion of the 2027 Notes at the issuer's option at any time or from time to time. The redemption price for the 2027 Notes to be redeemed on any redemption date prior to June 1, 2027 will be equal to the greater of the following amounts:

100% of the principal amount of the 2027 Notes being redeemed on the redemption date; or

S-12

**Table of Contents**

the sum of the present values of the remaining scheduled payments of principal and interest on the 2027 Notes being redeemed on that redemption date that would be payable if such 2027 Notes matured on June 1, 2027 (not including any portion of any payments of interest accrued to the redemption date) discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate (as defined below) plus \_\_\_\_\_ basis points, as determined by the Reference Treasury Dealer (as defined below); plus, in each case, accrued and unpaid interest thereon to the redemption date. The redemption price for the 2027 Notes to be redeemed on any redemption date on or after June 1, 2027 will be equal to 100% of the principal amount to be redeemed plus any accrued and unpaid interest thereon to the date of redemption. Interest payable on 2027 Notes with respect to an interest payment date that falls on or before a redemption date shall be made to the holder of such 2027 Notes on the record date related to such interest payment date. The redemption price will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Calculation of the redemption price will be made by the issuer or on its behalf by such person as it will designate. Such calculation or the correctness thereof will not be a duty or obligation of the indenture trustee.

On and after the date of redemption, interest will cease to accrue on the 2027 Notes or portion of the 2027 Notes redeemed. However, interest will continue to accrue if the issuer defaults in the payment of the amount due upon redemption.

The issuer will mail and otherwise deliver in accordance with the applicable procedures of The Depository Trust Company ( DTC ) notice of any redemption at least 30 days but not more than 60 days before the redemption date to each registered holder of the 2027 Notes to be redeemed, and, if less than all 2027 Notes are to be redeemed, the particular 2027 Notes to be redeemed will be selected by the indenture trustee on a pro rata basis, by lot or in such manner as it shall deem appropriate and fair in accordance with applicable procedures of DTC.

***2047 Notes***

The issuer may redeem all or a portion of the 2047 Notes at the issuer's option at any time or from time to time. The redemption price for the 2047 Notes to be redeemed on any redemption date prior to March 1, 2047 will be equal to the greater of the following amounts:

100% of the principal amount of the 2047 Notes being redeemed on the redemption date; or

the sum of the present values of the remaining scheduled payments of principal and interest on the 2047 Notes being redeemed on that redemption date that would be payable if such 2047 Notes matured on March 1, 2047 (not including any portion of any payments of interest accrued to the redemption date) discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate plus \_\_\_\_\_ basis points, as determined by the Reference Treasury Dealer;

plus, in each case, accrued and unpaid interest thereon to the redemption date. The redemption price for the 2047 Notes to be redeemed on any redemption date on or after March 1, 2047 will be equal to 100% of the principal amount to be redeemed plus any accrued and unpaid interest thereon to the date of redemption. Interest payable on 2047 Notes with respect to an interest payment date that falls on or before a redemption date shall be made to the holder of such 2047 Notes on the record date related to such interest payment date. The redemption price will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Calculation of the redemption price will be made by the issuer or on its behalf by such person as it will designate. Such calculation or the correctness thereof will not be a duty or obligation of the indenture trustee.



On and after the date of redemption, interest will cease to accrue on the 2047 Notes or portion of the 2047 Notes redeemed. However, interest will continue to accrue if the issuer defaults in the payment of the amount due upon redemption.

S-13

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**Table of Contents**

The issuer will mail and otherwise deliver in accordance with the applicable procedures of DTC notice of any redemption at least 30 days but not more than 60 days before the redemption date to each registered holder of the 2047 Notes to be redeemed, and, if less than all 2047 Notes are to be redeemed, the particular 2047 Notes to be redeemed will be selected by the indenture trustee on a pro rata basis, by lot or in such manner as it shall deem appropriate and fair in accordance with applicable procedures of DTC.

*Adjusted Treasury Rate* means, with respect to any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

*Comparable Treasury Issue* means the U.S. Treasury security selected by the Reference Treasury Dealer as having a maturity comparable to the remaining term of the 2027 Notes or 2047 Notes, as applicable, to be redeemed, calculated as if the maturity date of the 2027 Notes was June 1, 2027 and the maturity date of the 2047 Notes was March 1, 2047, as applicable (the Remaining Life), that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the applicable Remaining Life.

*Comparable Treasury Price* means, with respect to any redemption date, (A) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (B) if the issuer obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations, or (C) if only one Reference Treasury Dealer Quotation is received, such quotation.

*Reference Treasury Dealer* means (a) each of J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, or their respective affiliates which are primary U.S. Government securities dealers in the United States (a Primary Treasury Dealer), and a Primary Treasury Dealer selected by U.S. Bancorp Investments, Inc., and its successors; provided, however, that if any of the foregoing shall cease to be a Primary Treasury Dealer, the issuer will substitute therefor another Primary Treasury Dealer; and (B) any other Primary Treasury Dealer(s) selected by the issuer.

*Reference Treasury Dealer Quotations* means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the issuer, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the issuer by such Reference Treasury Dealer at 5:00 p.m. (New York City time) on the third business day preceding such redemption date.

**Selection and Notice**

If less than all of the notes of a series are to be redeemed in connection with any redemption, the indenture trustee will select notes (or portions of notes) of such series for redemption as follows:

if the notes of such series are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the notes of such series are listed; or

if the notes of such series are not listed on any national securities exchange, on a pro rata basis, by lot or by such method as the indenture trustee deems fair and appropriate in accordance with DTC procedures.

The unredeemed portion of the principal amount of any note shall be in a denomination of at least \$1,000 or integral multiples of \$1,000. As long as the notes are represented by global notes registered in the name of DTC, or its

nominee, beneficial interests in such global notes will be selected for redemption by DTC in accordance with its standard procedures therefor.

S-14

## **Table of Contents**

Notices of redemption will be mailed by first class mail and otherwise delivered in accordance with the applicable procedures of DTC at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that redemption notices may be sent more than 60 days prior to a redemption date if the notice is issued in connection with a satisfaction and discharge of the indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder of notes upon cancellation of the original note. The notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest will cease to accrue on notes or portions of them called for redemption.

## **Assumption**

American Water may directly assume the due and punctual payment of the principal of (premium, if any) and interest on all the notes and the performance of every covenant of the indenture on the part of the issuer to be performed or observed. Upon any such assumption, American Water will succeed to and be substituted for and may exercise every right and power of the issuer under the indenture with the same effect as if it had been named as the issuer in the indenture and the issuer will be released from its liability as obligor on the notes. No such assumption shall be permitted unless American Water has delivered to the indenture trustee an officers' certificate of American Water and an opinion of counsel for American Water, each stating that such assumption and supplemental indenture comply with this covenant and that all conditions precedent in the indenture relating to such transaction have been complied with.

## **Book-Entry Only Issuance**

The notes will trade through DTC. The notes will be represented by one or more global certificates and registered in the name of Cede & Co., DTC's nominee. Upon issuance of the notes, DTC or its nominee will credit, on its book-entry registration and transfer system, the principal amount of the notes represented by such global securities to the accounts of institutions that have an account with DTC or its participants. The accounts to be credited shall be designated by the underwriters. Ownership of beneficial interests in the global securities will be limited to participants or persons that may hold interests through participants. The global certificates will be deposited with the indenture trustee as custodian for DTC.

Holders of notes may elect to hold interests in a global security through DTC, Clearstream Banking, *société anonyme* ( Clearstream, Luxembourg ), or Euroclear Bank S.A./N.V., as operator of the Euroclear System ( Euroclear ), directly if they are participants in such systems, or indirectly through organizations which are participants in such systems.

Clearstream, Luxembourg and Euroclear will hold interests on behalf of their participants through customers' securities accounts in Clearstream, Luxembourg's and Euroclear's names on the books of their respective depositaries, which in turn will hold such interests in customers' securities accounts in the depositaries' names on DTC's books.

For a description of DTC and its book-entry system, see Description of AWCC Debt Securities and American Water Support Agreement Book-Entry, Delivery and Form Depository Procedures in the accompanying prospectus.

Purchases of global securities under the DTC system must be made by or through direct participants, which will receive a credit for the global securities on DTC's records. The ownership interest of each actual purchaser of each security ( Beneficial Owner ) is in turn to be recorded on the direct and indirect participants' records and Clearstream, Luxembourg and Euroclear will credit on their book-entry registration and transfer systems the

S-15

**Table of Contents**

number of notes sold to certain non-U.S. persons to the account of institutions that have accounts with Euroclear, Clearstream, Luxembourg or their respective nominee participants. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the direct participant or indirect participant through which the Beneficial Owner entered into the transaction.

Title to book-entry interests in the notes will pass by book-entry registration of the transfer within the records of Clearstream, Luxembourg, Euroclear or DTC, as the case may be, in accordance with their respective procedures. Book-entry interests in the notes may be transferred within Clearstream, Luxembourg and within Euroclear and between Clearstream, Luxembourg and Euroclear in accordance with procedures established for these purposes by Clearstream, Luxembourg and Euroclear. Book-entry interests in the notes may be transferred within DTC in accordance with procedures established for this purpose by DTC. Transfers of book-entry interests in the notes among Clearstream, Luxembourg, Euroclear and DTC may be effected in accordance with procedures established for this purpose by Clearstream, Luxembourg, Euroclear and DTC.

Cross-market transfers between persons holding directly or indirectly through DTC on the one hand, and directly or indirectly through Clearstream, Luxembourg Participants or Euroclear Participants, on the other, will be effected through DTC in accordance with DTC's rules; however, such cross-market transactions will require delivery of instructions to the relevant European international clearing system by the counterparty in such system in accordance with its rules and procedures and within the established deadlines of such system.

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

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

The information in this section and in the accompanying prospectus under "Description of AWCC Debt Securities and American Water Support Agreement Book-Entry, Delivery and Form" concerning DTC and DTC's book-entry system, Clearstream, Luxembourg and Euroclear has been obtained from sources that the issuer and the support provider believe to be reliable, but none of the issuer, the support provider or the underwriters take any responsibility for the accuracy of this information.

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**Table of Contents**

**CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS**

The following discussion is a summary of certain U.S. federal income tax consequences relevant to the purchase, ownership and disposition of the notes by the beneficial owners thereof, which are referred to as Holders. This discussion is limited to the tax consequences to the initial Holders of notes who purchase the notes at the initial offering price and does not address the tax consequences to subsequent purchasers of notes. This summary does not purport to be a complete analysis of all of the potential U.S. federal income tax consequences relating to the purchase, ownership and disposition of the notes, nor does this summary describe any federal estate tax consequences. There can be no assurance that the IRS will take a similar view of the tax consequences described herein. Furthermore, this discussion does not address all aspects of taxation that might be relevant to particular purchasers in light of their individual circumstances. For instance, this discussion does not address the alternative minimum tax provisions of the Code (as defined below) or special rules applicable to certain categories of purchasers (including dealers in securities or foreign currencies, traders in securities that elect to use a mark-to-market method of accounting for the securities holdings, insurance companies, real estate investment trusts, regulated investment companies, financial institutions, tax-exempt entities, U.S. Holders (as defined below) whose functional currency is not the U.S. dollar and, except to the extent discussed below, Non-U.S. Holders (as defined below)) or to purchasers who acquire or sell the notes as part of a wash sale for tax purposes or hold the notes as part of a hedge, straddle, conversion or constructive sale transaction or other risk reduction transaction.

This discussion is based on the provisions of the U.S. Internal Revenue Code of 1986, as amended (the Code), the Treasury Regulations promulgated thereunder, and administrative and judicial interpretations thereof, all as in effect as of the date hereof and all of which are subject to change (possibly with retroactive effect). The discussion below assumes that Holders hold the notes as capital assets within the meaning of Section 1221 of the Code.

If a partnership, or an entity treated as a partnership for U.S. federal income tax purposes, holds any notes, the tax treatment of such entity and each partner will generally depend on the status of the partner and the activities of the partnership. Partnerships and their partners should consult their tax advisors regarding the tax consequences of owning the notes.

**Prospective holders are urged to consult their tax advisors as to the specific tax consequences of a purchase of the notes in light of their particular tax situation, including the application and effect of the Code, as well as state, local and foreign income and other tax laws.**

**Tax Consequences to U.S. Holders**

The following summary is a general description of certain U.S. federal income tax consequences applicable to a U.S. Holder. For the purpose of this discussion, U.S. Holder means a Holder of a note that is for U.S. federal income tax purposes (i) a citizen or resident of the United States, (ii) a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the United States or of any political subdivision thereof (including the District of Columbia), (iii) an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or (iv) a trust, if (A) the administration of the trust is subject to the primary supervision of a court within the United States and one or more U.S. persons has the authority to control all substantial decisions of the trust, or (B) has a valid election in place under applicable U.S. Treasury Regulations to be treated as a U.S. person.

As described above in Description of the Notes Optional Redemption by the Issuer, the issuer will have the option to redeem the notes. Under applicable Treasury Regulations, because the issuer would minimize the yield on the notes by not exercising this option, the notes are treated for U.S. federal income tax purposes as if they will not be redeemed

prior to their respective maturity dates. Therefore, the remainder of this discussion assumes that the notes will not be subject to the contingent payment debt instrument rules. This assumption is

S-17



## **Table of Contents**

made solely for U.S. federal income tax purposes and is not an indication of the issuer's intention to call or not to call the notes at any time.

### ***Payments of Interest***

The issuer expects that the notes will not be issued with original issue discount (other than *de minimis* original issue discount). Accordingly, interest paid on a note will generally be taxable to a U.S. Holder as ordinary interest income at the time the interest accrues or is received in accordance with the U.S. Holder's method of accounting for U.S. federal income tax purposes.

### ***Sale, Exchange, Redemption or Retirement of the Notes***

In general, upon the sale, exchange, redemption or retirement of a note, a U.S. Holder will recognize capital gain or loss equal to the difference between the amount realized on such sale, exchange, redemption, retirement (not including any amount attributable to accrued but unpaid interest that the U.S. Holder has not already included in gross income) and such U.S. Holder's adjusted tax basis in the note. To the extent attributable to accrued but unpaid interest that the U.S. Holder has not already included in gross income, the amount recognized by the U.S. Holder will be treated as a payment of interest. See *Payments of Interest* above. A U.S. Holder's adjusted tax basis in a note generally will equal the cost of the note to such U.S. Holder. The capital gain or loss will be long-term if a U.S. Holder's holding period is more than one year at the time of sale, exchange, redemption, retirement or other disposition and will be short-term if a U.S. Holder's holding period is one year or less. Long-term capital gains of individuals are generally eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations.

The assumption described above in *Description of the Notes Assumption* may be treated as a deemed exchange of a note for a new note of the assuming corporation for U.S. federal income tax purposes. If the assumption is treated as a deemed exchange, then the consequences in the preceding paragraph would apply. Prospective Holders are urged to consult their tax advisors regarding the tax consequences of such an assumption.

Under certain circumstances described in *Description of AWCC Debt Securities and American Water Support Agreement Discharge* in the accompanying prospectus, the issuer will be discharged from any and all obligations in respect of the notes. Such discharge may be treated as a taxable exchange for U.S. federal income tax purposes. U.S. Holders should consult their own tax advisors regarding the U.S. federal, state, and local tax consequences of such a discharge.

### ***Medicare Tax***

A U.S. Holder that is an individual or estate, or a trust that does not fall into a special class of trusts that is exempt from such tax, will be subject to a 3.8% tax on the lesser of (1) the U.S. Holder's net investment income (or undistributed net investment income, in the case of an estate or trust) for the relevant taxable year and (2) the excess of the U.S. Holder's modified adjusted gross income for the taxable year over a certain threshold (which in the case of individuals will be between \$125,000 and \$250,000, depending on the individual's circumstances). A U.S. Holder's net investment income will generally include its interest income and its net gains from the disposition of notes, unless such interest income or net gains are derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). U.S. Holders that are individuals, estates or trusts are urged to consult their tax advisors regarding the applicability of the Medicare tax to their income and gains in respect of their investment in the notes.

### **Tax Consequences to Non-U.S. Holders**

The following summary is a general description of certain U.S. federal income tax consequences to a Non-U.S. Holder. A Non-U.S. Holder means, for purposes of this discussion, a Holder (other than a

S-18

## Table of Contents

partnership, or other entity treated as a partnership for U.S. federal income tax purposes) that is not a U.S. Holder. Special rules may apply to certain Non-U.S. Holders such as controlled foreign corporations, passive foreign investment companies and certain U.S. individuals that are expatriates and such Non-U.S. Holders should consult their tax advisors.

### *Interest*

Subject to the discussions below under Backup Withholding and Information Reporting and Withholdable Payments to Foreign Financial Entities and assuming that a Non-U.S. Holder's interest income on a note is not effectively connected with the conduct by such Non-U.S. Holder of a trade or business in the United States, payments of interest on a note by the issuer or any paying agent to a Non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax, provided that the Non-U.S. Holder:

does not own, actually or constructively, 10% or more of the total combined voting power of all classes of the issuer's stock entitled to vote;

is not, for U.S. federal income tax purposes, a controlled foreign corporation related, directly or indirectly, to the issuer through stock ownership;

is not a bank receiving interest on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code; and

either (1) meets the certification requirements under Code Section 871(h) or 881(c) and Treasury Regulations thereunder (summarized below) in an applicable statement or (2) is a securities clearing organization, bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business and holds the securities on behalf of the Non-U.S. Holder and certifies under penalties of perjury that such a statement has been received from the Non-U.S. Holder and furnishes a copy to the applicable withholding agent.

Payments of interest on a note that do not satisfy all of the foregoing requirements are generally subject to U.S. federal income tax and withholding tax at a flat rate of 30% (or a lower applicable treaty rate, provided certain certification requirements are met).

Except to the extent otherwise provided under an applicable tax treaty, a Non-U.S. Holder generally will be subject to U.S. federal income tax in the same manner as a U.S. Holder with respect to interest that is effectively connected with a U.S. trade or business conducted by the Non-U.S. Holder. Effectively connected interest income received by a corporate Non-U.S. Holder may also, under certain circumstances, be subject to an additional branch profits tax at a 30% rate, or, if applicable, a lower treaty rate. Such effectively connected interest income will not be subject to withholding tax if the Non-U.S. Holder delivers an IRS Form W-8ECI to the payor.

Under Code Sections 871(h) and 881(c) and the underlying U.S. Treasury Regulations, in order to obtain the exemption from withholding tax described in this section Interest above, the Holder of a note must provide its name and address, and certify, under penalties of perjury, to us or the paying agent, as the case may be, that such Holder is a Non-U.S. Holder. Such certification may be made on IRS Form W-8BEN or W-8BEN-E as applicable. In general, a

certificate described in this paragraph is effective only with respect to payments of interest made to the certifying Non-U.S. Holder after issuance of the certificate in the calendar year of its issuance and the three immediately succeeding calendar years (or, if earlier, until a change in circumstances makes any of the information in the form incorrect).

***Repayment of Principal and Realized Gain***

Subject to the discussions below under Backup Withholding and Information Reporting and Withholdable Payments to Foreign Financial Entities , a Non-U.S. Holder of a note will not be subject to

**Table of Contents**

U.S. federal withholding tax on the receipt of payments of principal on the note, and a Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized on the sale, exchange, redemption, retirement or other disposition of such note (other than amounts attributable to accrued but unpaid interest, which will be treated as described under Tax Consequences to Non-U.S. Holders Interest above), or receipt of principal, unless:

such Non-U.S. Holder is a nonresident alien individual who is present in the United States for 183 or more days in the taxable year of disposition and certain other conditions are met;

the Non-U.S. Holder is required to pay tax pursuant to the provisions of U.S. tax law applicable to certain U.S. expatriates; or

the gain is effectively connected with the conduct of a U.S. trade or business of and, if a tax treaty so provides, is attributable to a U.S. permanent establishment of, the Non-U.S. Holder.

**Backup Withholding and Information Reporting**

Under current U.S. federal income tax law, backup withholding and information reporting requirements apply to certain payments of principal and interest made to, and to the proceeds of sale before maturity by, certain U.S. Holders.

In the case of a non-corporate U.S. Holder, information reporting requirements will apply to payments of principal or interest made by the issuer or any paying agent thereof on a note. The payor will be required to withhold backup withholding tax if:

a U.S. Holder fails to furnish its Taxpayer Identification Number ( TIN ) (which, for an individual, is his or her Social Security number) to the payor in the manner required;

a U.S. Holder furnishes an incorrect TIN and the payor is so notified by the IRS;

the payor is notified by the IRS that such U.S. Holder has failed to properly report payments of interest or dividends; or

a U.S. Holder fails to certify under penalties of perjury that it has furnished a correct TIN, is a U.S. person, and has not been notified by the IRS that it is subject to backup withholding for failure to report interest or dividend payments.

Backup withholding and information reporting do not apply with respect to payments made to certain exempt recipients, which currently include entities treated as corporations for U.S. federal income tax purposes provided their exemptions from backup withholding are properly established.

In the case of a Non-U.S. Holder, under currently applicable Treasury Regulations, backup withholding and information reporting will not apply to payments of principal or interest made by the issuer or any paying agent thereof on a note (absent actual knowledge or reason to know that the Holder is actually a U.S. Holder) if such Non-U.S. Holder has provided the required certification under penalties of perjury that it is not a U.S. Holder or has otherwise established an exemption. However, the issuer and other payors are required to report payments of interest on a Non-U.S. Holder's notes on Internal Revenue Service Form 1042-S even if the payments are not otherwise subject to information reporting requirements. If such Holder provides the required certification, such Holder may nevertheless be subject to withholding of U.S. federal income tax as described above under Tax Consequences to Non-U.S. Holders Interest. The rules regarding withholding, backup withholding and information reporting for Non-U.S. Holders are complex, may vary depending on a Non-U.S. Holder's particular situation and are subject to change. In addition, special rules apply to certain types of Non-U.S. Holders, including partnerships, trusts and other entities treated as pass-through entities for U.S. federal income tax purposes. Non-U.S. Holders of notes should accordingly consult their tax advisors regarding the application of information reporting and backup withholding in their particular situations, the availability of an exemption therefrom, and the procedure for obtaining such an exemption if applicable.

## **Table of Contents**

Backup withholding is not an additional tax; any amounts withheld from a payment to a Holder under the backup withholding rules will be allowed as a credit against such Holder's U.S. federal income tax liability and may entitle such Holder to a refund, provided that certain required information is furnished to the IRS.

### **Withholdable Payments to Foreign Financial Entities**

Under the Foreign Account Tax Compliance Act ( FATCA ), the issuer and/or other payors generally will be required to withhold 30% of any interest on the notes, and, effective January 1, 2019, 30% of the gross proceeds from a sale, exchange, redemption or retirement of the notes, paid (i) to a foreign financial institution unless such foreign financial institution agrees to verify, report and disclose its U.S. accountholders and meets certain other requirements, or (ii) to a non-financial foreign entity unless such entity certifies that it does not have any substantial United States owners or provides the name, address and taxpayer identification number of each substantial United States owner and meets certain other requirements. Foreign financial institutions located in jurisdictions that have intergovernmental agreements with the United States may be subject to different rules. If payment of this withholding tax is made, Non-U.S. holders that are otherwise eligible for an exemption from, or reduction of, U.S. federal withholding taxes with respect to such interest or proceeds will be required to seek a credit or refund from the IRS to obtain the benefit of such exemption or reduction. You should consult your tax advisor regarding the potential application of these withholding rules to your investment in the notes.

**The U.S. federal income tax discussion set forth above is included for general information only and may not be applicable depending upon a holder's particular situation. Holders should consult their tax advisors regarding the tax consequences to them of the purchase, ownership and disposition of notes, including the tax consequences under state, local, foreign and other tax laws.**

**Table of Contents****UNDERWRITING**

Subject to the terms and conditions set forth in an underwriting agreement dated the date hereof between the issuer, American Water and the underwriters named below, the issuer has agreed to sell to each of the underwriters, and each of the underwriters has severally agreed to purchase from the issuer, the principal amount of notes set forth opposite its name below.

<b>Underwriter</b>	<b>Principal Amount of 2027 Notes</b>	<b>Principal Amount of 2047 Notes</b>
J.P. Morgan Securities LLC	\$	\$
U.S. Bancorp Investments, Inc.		
Wells Fargo Securities, LLC		
<b>Total</b>	\$	\$

The offering of the notes by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part. The underwriting agreement provides that the underwriters are obligated to purchase all of the notes in the offering if any are purchased.

The underwriters have advised the issuer and American Water that they propose initially to offer each series of notes at the price to public set forth on the cover of this prospectus supplement with respect to such series, and to certain dealers at such price less a concession not in excess of % of the principal amount of the 2027 Notes and of % of the principal amount of the 2047 Notes. The underwriters may allow, and such dealers may reallow, a concession not in excess of % of the principal amount of the 2027 Notes and of % of the principal amount of the 2047 Notes to certain other dealers. If all of a series of notes are not sold at the price to public of such series of notes set forth on the cover page of this prospectus supplement, the offering price and other selling terms for such series of notes may be changed by the underwriters.

American Water estimates that the total expenses of the offering, including registration, printing fees and legal and accounting expenses but excluding underwriting discounts, will be approximately \$2,350,000.

The issuer and the support provider have agreed to indemnify the underwriters against liabilities relating to this offering, including liabilities under the Securities Act, or contribute to payments that the underwriters may be required to make in that respect.

The 2027 Notes and the 2047 Notes are each a new issue of securities with no established trading market. The issuer does not intend to apply for listing of the 2027 Notes nor the 2047 Notes on any securities exchange or on any automated dealer quotation system. American Water and the issuer have been advised by the underwriters that they presently intend to make a market in the 2027 Notes and the 2047 Notes as permitted by applicable laws and regulations. The underwriters are not obligated, however, to make a market in the notes and any such market making may be discontinued without notice at any time at the sole discretion of the underwriters. Accordingly, no assurance can be given as to the liquidity of, or trading market for, the 2027 Notes or the 2047 Notes.

In connection with the offering, the underwriters may engage in stabilizing transactions, over-allotment transactions, covering transactions and penalty bids in accordance with Regulation M under the Exchange Act.



Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.

Over-allotment involves sales by the underwriters of notes in excess of the principal amount of notes the underwriters are obligated to purchase, which creates a short position.

The underwriters may bid for and purchase notes in the open market.

S-22

## **Table of Contents**

Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the notes originally sold by the underwriters are purchased in a stabilizing covering transaction to cover short positions. These stabilizing transactions, covering transactions and penalty bids may have the effect of raising or maintaining the market price of the notes or preventing or retarding a decline in the market price of the notes. As a result, the price of the notes may be higher than the price that might otherwise exist in the open market. These transactions may be discontinued at any time without notice.

## **Conflicts of Interest**

The underwriters and their affiliates have engaged, and may in the future engage, in transactions with, and from time to time have performed services for, the issuer, the support provider and the support provider's affiliates in the ordinary course of business, for which they have received and will receive customary compensation. Affiliates of certain of the underwriters are also lenders under the issuer's primary revolving credit facility and dealers under the issuer's commercial paper program.

Certain of the underwriters or their affiliates may hold a portion of the long-term debt or commercial paper that the issuer intends to repay using the net proceeds from this offering. In such event, it is possible that one or more of the underwriters or their affiliates could receive at least 5% of the net proceeds from the offering, and in that case such underwriter would be deemed to have a conflict of interest under FINRA Rule 5121. In the event of any such conflict of interest, such underwriter would be required to conduct the distribution of the notes in accordance with FINRA Rule 5121. If the distribution is conducted in accordance with FINRA Rule 5121, such underwriter would not be permitted to confirm a sale to an account over which it exercises discretionary authority without first receiving specific written approval from the account holder.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of the issuer, the support provider or the support provider's affiliates. If any of the underwriters or their affiliates have a lending relationship with the issuer, the support provider or the support provider's affiliates, certain of those underwriters or their affiliates routinely hedge, and certain other of those underwriters may hedge, their credit exposure to the issuer, the support provider or the support provider's affiliates consistent with their customary risk management policies. Typically, these underwriters and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities of the issuer, the support provider or the support provider's affiliates, including potentially the notes offered hereby. Any such credit default swaps or short positions could adversely affect future trading prices of the notes offered hereby. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

## **Trustee Conflict of Interest**

Wells Fargo Securities, LLC, an affiliate of the trustee, is an underwriter for this offering. Therefore, if a default occurs with respect to the notes, the trustee would have a conflicting interest for purposes of the Trust Indenture Act of 1939. In that event, except in very limited circumstances, the trustee would be required to resign as trustee under the indenture under which the notes are being issued and we would be required to appoint a successor trustee. If the trustee resigns following a default, it may be difficult to identify and appoint a qualified successor trustee.

S-23

**Table of Contents**

**Selling Restrictions**

***Canada***

The notes may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 *Prospectus Exemptions* or subsection 73.3(1) of the *Securities Act* (Ontario), and are permitted clients, as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Any resale of the notes must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus supplement (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 *Underwriting Conflicts* ( NI 33-105 ), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

***European Economic Area***

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State ), each underwriter from and including the date on which the Prospectus Directive is implemented in that Relevant Member State has not made and will not make an offer of notes which are the subject of the offering contemplated by this prospectus supplement and the accompanying prospectus to the public in that Relevant Member State other than:

to any legal entity which is a qualified investor as defined in the Prospectus Directive;

to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the relevant underwriter or underwriters nominated by the issuer for any such offer; or

in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of notes shall require the issuer or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an offer of notes to the public in relation to any notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to purchase or subscribe the notes, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State, and the expression Prospectus Directive means Directive 2003/71/EC (as amended,

including by Directive 2010/73/EU) and includes any relevant implementing measure in the Relevant Member State.

***Hong Kong***

The notes have not been and may not be offered or sold in Hong Kong by means of any document (except for notes which are structured product as defined in the Securities and Futures Ordinance (Cap. 571, the Laws of Hong Kong) (the Securities and Futures Ordinance )) other than (i) to professional investors as defined in

S-24

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**Table of Contents**

the Securities and Futures Ordinance and any rules made thereunder, or (ii) in other circumstances which do not result in the document being a prospectus as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32, the Laws of Hong Kong) (the C(WUMP)O ) or which do not constitute an offer to the public within the meaning of the C(WUMP)O. No advertisement, invitation or document relating to the notes has been or may be issued or has been or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to notes which are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors as defined in the Securities and Futures Ordinance and any rules made thereunder.

***Japan***

The notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended), or the FIEA. The notes may not be offered or sold, directly or indirectly, in Japan or to or for the benefit of any resident of Japan (including any person resident in Japan or any corporation or other entity organized under the laws of Japan) or to others for reoffering or resale, directly or indirectly, in Japan or to or for the benefit of any resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEA and any other applicable laws, regulations and ministerial guidelines of Japan.

***Singapore***

Neither this prospectus supplement nor the accompanying prospectus has been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus supplement, the accompanying prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the notes may not be circulated or distributed, nor may the notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the SFA ) pursuant to Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, or (b) a trust (where the trustee is not an accredited investor ) whose sole purpose is to hold investments and each beneficiary of the trust is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has subscribed or purchased the notes under an offer made pursuant to Section 275 of the SFA except: (1) to an institutional investor pursuant to Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA, (2) where no consideration is or will be given for the transfer, (3) where the transfer is by operation of law, (4) as specified in Section 276(7) of the SFA, or (5) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

***Switzerland***

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The notes may not be publicly offered, sold or advertised, directly or indirectly, in or from Switzerland, and will not be listed on the SIX Swiss Exchange Ltd or any other exchange or regulated trading venue in

S-25

**Table of Contents**

Switzerland. Neither this prospectus supplement and the accompanying prospectus, nor any other offering or marketing material relating to the notes constitutes a prospectus as such term is understood pursuant to article 652a or article 1156 of the Swiss Federal Code of Obligations or a listing prospectus within the meaning of the listing rules of the SIX Swiss Exchange Ltd or any other exchange or regulated trading venue in Switzerland, and neither this prospectus nor any other offering or marketing material relating to the notes may be publicly distributed or otherwise made publicly available in Switzerland.

***United Kingdom***

This prospectus supplement and the accompanying prospectus are only being distributed to and are only directed at (i) persons who are outside the United Kingdom or (ii) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order ) or (iii) high net worth entities, and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as relevant persons ). This document must not be acted on or relied on in the United Kingdom by persons who are not relevant persons. In the United Kingdom, any notes will only be available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such notes will be engaged in only with, relevant persons.

Each underwriter

has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the FSMA )) received by it in connection with the issue or sale of the notes in circumstances in which Section 21(1) of the FSMA does not apply to the issuer; and

has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the notes in, from or otherwise involving the United Kingdom.



**Table of Contents**

**LEGAL MATTERS**

Certain legal matters in connection with this offering, including the validity of the notes, will be passed upon for AWCC and American Water by Morgan, Lewis & Bockius LLP, New York, New York. Certain legal matters in connection with this offering will be passed upon for AWCC and American Water by Jeffrey M. Taylor, Secretary of AWCC and Chief SEC & Corporate Governance Counsel and Assistant Secretary of American Water. The validity of the notes will be passed upon for the underwriters by Sullivan & Cromwell LLP, New York, New York. As of August 7, 2017, Mr. Taylor owned 96 shares of common stock of American Water, 1,331 performance stock units, none of which are earned, 456 unvested restricted stock units and options to purchase 2,185 shares of common stock of American Water, of which options to purchase 728 shares are vested.

**EXPERTS**

The consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this prospectus supplement by reference to American Water Works Company, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2016 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

S-27

**Table of Contents**

**American Water Works Company, Inc.**

**Common Stock**

**Preferred Stock**

**Support Agreement**

**Depository Shares**

**Stock Purchase Contracts**

**Stock Purchase Units**

**Subscription Rights**

**Warrants**

**American Water Capital Corp.**

**Debt Securities**

The securities covered by this prospectus may be sold by American Water Works Company, Inc., or American Water, from time to time, independently or together with American Water Capital Corp., or AWCC, a wholly-owned subsidiary of American Water Works Company, Inc. Any debt securities issued by AWCC will have the benefit of a support agreement from American Water. In addition, selling security holders who may be named in a prospectus supplement may offer and sell from time to time securities in such amounts as set forth in such prospectus supplement. We may, and any selling security holder may, offer the securities independently or together in any combination for sale directly to purchasers or through underwriters, dealers or agents to be designated at a future date. We may, and any selling security holder may, offer and sell these securities in amounts, at prices and on terms determined at the time of the offering. Unless otherwise set forth in a prospectus supplement, we will not receive any proceeds from the sale of securities by any selling security holders.

When we offer securities, a prospectus supplement will describe the specific terms of the specific issue of securities. Prospectus supplements may also add, update or change the information in this prospectus. You should carefully read this prospectus and the prospectus supplement relating to the specific issue of securities, together with the documents we incorporate by reference, before you decide to invest in any of these securities.

American Water Works Company, Inc. common stock is listed on the New York Stock Exchange under the symbol AWK.

**Investing in these securities involves certain risks. See Risk Factors on page 2 of this prospectus. You should carefully review the risks and uncertainties described under the heading Risk Factors contained in this prospectus and any risk factors set forth in each applicable prospectus supplement and any related free writing prospectus, and under similar headings in the other documents that are incorporated by reference into this prospectus.**

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

The securities may be offered and sold to or through underwriters, dealers, agents or other third parties as designated from time to time, or directly to one or more other purchasers or through a combination of such methods on a continuous or delayed basis. See Plan of Distribution on page 33. If any underwriters, dealers or agents are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangements between or among them, will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement.

**The date of this prospectus is May 7, 2015.**

Table of Contents

**TABLE OF CONTENTS**

<u>ABOUT THIS PROSPECTUS</u>	1
<u>AMERICAN WATER WORKS COMPANY, INC.</u>	1
<u>AMERICAN WATER CAPITAL CORP.</u>	2
<u>RISK FACTORS</u>	2
<u>FORWARD-LOOKING STATEMENTS</u>	3
<u>SELLING SECURITY HOLDERS</u>	4
<u>USE OF PROCEEDS</u>	5
<u>RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS</u>	5
<u>DESCRIPTION OF CAPITAL STOCK</u>	6
<u>DESCRIPTION OF AWCC DEBT SECURITIES AND AMERICAN WATER SUPPORT AGREEMENT</u>	10
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	24
<u>DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS</u>	27
<u>DESCRIPTION OF SUBSCRIPTION RIGHTS</u>	28
<u>DESCRIPTION OF WARRANTS</u>	30
<u>PLAN OF DISTRIBUTION</u>	31
<u>LEGAL MATTERS</u>	34
<u>EXPERTS</u>	34
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	34

Table of Contents

**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that American Water and AWCC filed with the Securities and Exchange Commission, which we refer to as the SEC, using a shelf registration process. Under this shelf registration process, we, or certain of our security holders, may sell the securities described in this prospectus in one or more offerings from time to time. Each time we, or, under certain circumstances, our security holders, sell securities under this shelf registration, we will provide a prospectus supplement that will contain specific information about the terms of the offering. The prospectus supplement may also add to, modify or supersede the information contained in this prospectus. You should read both this prospectus and the applicable prospectus supplement together with the additional information referred to below under **Where You Can Find More Information**. If there is any inconsistency between the information in the prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement.

The prospectus supplement will describe: the terms of the securities offered, any initial public offering price, any price paid to us for the securities, the net proceeds to us, if any, the manner of distribution and any underwriting compensation and the other specific material terms related to the offering of the applicable securities. For more detail on the terms of the securities, you should read the exhibits filed with or incorporated by reference in our registration statement of which this prospectus forms a part.

All references in this prospectus to we, our and us refer to American Water Works Company, Inc. and its consolidated subsidiaries unless the context otherwise requires. The term American Water refers to American Water Works Company, Inc. The term AWCC refers to American Water Capital Corp.

References to securities include any security that we or our security holders might sell under this prospectus or any prospectus supplement.

This prospectus contains summaries of certain provisions contained in some of the documents described herein. Please refer to the actual documents for complete information. All of the summaries are qualified in their entirety by reference to the actual documents. Copies of the documents referred to herein have been filed, or will be filed or incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under **Where You Can Find More Information**.

**You should rely only on the information incorporated by reference into this prospectus or provided in this prospectus or any prospectus supplement or in any written communication from us specifying the final terms of a particular offering of securities. We have not authorized anyone to provide you with different information. The distribution of this prospectus and sale of these securities in certain jurisdictions may be restricted by law. You should inform yourself about and observe any such restrictions. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate as of the date on the front cover of this prospectus only and any information we have incorporated by reference is only accurate as of the date of the document incorporated by reference. Our business, financial condition, results of operations and prospects may have changed since that date.**

**AMERICAN WATER WORKS COMPANY, INC.**

We are the most geographically diversified, as well as the largest publicly-traded, United States water and wastewater utility company, as measured by both operating revenues and population served. As a holding company, we conduct substantially all of our business operations through our subsidiaries. Founded in 1886, we are the largest publicly

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traded U.S. water and wastewater utility company. We employ 6,400 dedicated professionals who provide regulated and market-based drinking water, wastewater and other related services to an estimated 15 million people in 47 states and Ontario, Canada.

American Water's principal executive offices are located at 1025 Laurel Oak Road, Voorhees, NJ 08043 and its telephone number is (856) 346-8200.

**Table of Contents**

**AMERICAN WATER CAPITAL CORP.**

AWCC is a wholly-owned finance subsidiary of American Water. AWCC's activities are limited to the issuance of debt securities and the borrowing of funds through credit agreements with institutional lenders and lending the net proceeds under loan agreements to our operating subsidiaries as well as to American Water.

AWCC's principal executive offices are located at 1025 Laurel Oak Road, Voorhees, NJ 08043 and its telephone number is (856) 346-8200.

**RISK FACTORS**

An investment in our securities involves risk. Before you invest in securities issued by us, you should carefully consider the risks involved. Accordingly, you should carefully consider:

the information contained in or incorporated by reference into this prospectus;

the information contained in or incorporated by reference into any prospectus supplement relating to specific offerings of securities;

the risks described in our Annual Report on Form 10-K for our most recent fiscal year and in any Quarterly Report on Form 10-Q which we have filed since our most recent Annual Report on Form 10-K, each of which is incorporated by reference into this prospectus; and

other risks and other information that may be contained in, or incorporated by reference from, other filings we make with the SEC, including in any prospectus supplement relating to specific offerings of securities. The discussion of risks related to our business contained in or incorporated by reference into this prospectus or into any prospectus supplement comprises material risks of which we are aware. If any of the events or developments described actually occurs, our business, financial condition or results of operations would likely suffer.

You should also be aware that new risks may emerge in the future at any time, and we cannot predict such risks or estimate the extent to which they may affect our business, financial condition or results of operations. The prospectus supplement applicable to each type or series of securities we offer may contain a discussion of additional risks applicable to an investment in us and the particular type of securities we are offering under that prospectus supplement.

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**Table of Contents**

**FORWARD-LOOKING STATEMENTS**

The Private Securities Litigation Reform Act of 1995 ( PSLRA ) provides a safe harbor for forward-looking statements. This prospectus and any prospectus supplement, the documents incorporated by reference or any other written or oral statements made by or on behalf of us may include forward-looking statements that reflect our current views with respect to future events. In some cases, these forward-looking statements can be identified by words with prospective meanings such as intend, plan, estimate, believe, anticipate, expect, predict, project, forecast, outcome, potential, continue, may, can, should and could and similar expressions. Forward-looking statements may relate to, among other things, our future financial performance, including our operation and maintenance ( O&M ) efficiency ratio, cash flows, our growth and portfolio optimization strategies, our projected capital expenditures and related funding requirements, our ability to repay debt, our projected strategy to finance current operations and growth initiatives, the impact of legal proceedings and potential fines and penalties, business process and technology improvement initiatives, trends in our industry, regulatory or legal developments or rate adjustments, including rate case filings, filings for infrastructure surcharges and filings to address regulatory lag.

Forward-looking statements are predictions based on our current expectations and assumptions regarding future events. They are not guarantees of any outcomes, financial results or levels of performance and you are cautioned not to place undue reliance upon them. These forward-looking statements are subject to a number of risks and uncertainties, and new risks and uncertainties of which we are not currently aware or which we do not currently perceive may arise in the future from time to time. Should any of these risks or uncertainties materialize, or should any of our expectations or assumptions prove incorrect, then our results may vary materially from those discussed in the forward-looking statements herein. Factors that could cause actual results to differ from those discussed in forward-looking statements include, but are not limited to, the factors discussed under the caption Risk Factors and the following factors

the decisions of governmental and regulatory bodies, including decisions to raise or lower rates;

the timeliness of regulatory commissions' actions concerning rates, permitting and other decisions;

changes in customer demand for, and patterns of use of, water, such as may result from conservation efforts;

changes in laws, governmental regulations and policies, including environmental, health and water quality and public utility regulations and policies;

weather conditions, patterns, events or natural disasters, including drought or abnormally high rainfall, strong winds, coastal and intercoastal flooding, earthquakes, landslides, hurricanes and tornados;

the outcome of litigation and government action related to recent events in West Virginia;



our ability to appropriately maintain current infrastructure, including our technology systems, and manage expansion of our business;

our ability to obtain permits and other approvals for projects;

changes in our capital requirements;

our ability to control operating expenses and to achieve efficiencies in our operations;

the intentional or unintentional actions of a third party, including contamination of our water supplies and attacks on our computer systems;

our ability to obtain adequate and cost-effective supplies of chemicals, electricity, fuel, water and other raw materials that are needed for our operations;

our ability to successfully acquire and integrate water and wastewater systems that are complementary to our operations and the growth of our business, including, among other core growth opportunities, concession arrangements and agreements for the provision of water services in the unregulated shale arena; cost overruns relating to improvements or the expansion of our operations;

**Table of Contents**

changes in general economic, business and financial market conditions;

access to sufficient capital on satisfactory terms;

fluctuations in interest rates;

restrictive covenants in or changes to the credit ratings on our current or future debt that could increase our financing costs or affect our ability to borrow, make payments on debt or pay dividends;

fluctuations in the value of benefit plan assets and liabilities that could increase our cost and funding requirements;

our ability to utilize our U.S. and state net operating loss carryforwards;

migration of customers into or out of our service territories and the use by municipalities to condemn our systems through eminent domain;

difficulty in obtaining insurance at acceptable rates and on acceptable terms and conditions;

the incurrence of impairment charges;

labor actions, including work stoppages;

ability to retain and attract qualified employees; and

civil disturbance, or terrorist threats or acts or public apprehension about future disturbances or terrorist threats or acts.

Any forward-looking statements we make, speak only as of the date on which the statement is made. Except as required by the federal securities laws, we do not have any obligation, and we specifically disclaim any undertaking or intention, to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or otherwise.

**SELLING SECURITY HOLDERS**

We may register securities covered by this prospectus for re-offers and resales by any selling security holders who may be named in a prospectus supplement. Because American Water is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act, we may add secondary sales of securities by any selling security holders by filing a

prospectus supplement with the SEC. We may register these securities to permit selling security holders to resell their securities when they deem appropriate. A selling security holder may resell all, a portion or none of their securities at any time and from time to time. We may register those securities for sale through an underwriter or other plan of distribution as set forth in a prospectus supplement. See Plan of Distribution. Selling security holders may also sell, transfer or otherwise dispose of some or all of their securities in transactions exempt from the registration requirements of the Securities Act. We may pay all expenses incurred with respect to the registration of the securities owned by the selling security holders, other than underwriting fees, discounts or commissions, which will be borne by the selling security holders. A prospectus supplement will name the selling security holders and specify the amount of securities to be registered and sold and any other terms of the securities being sold by a selling security holder. The applicable prospectus supplement will also disclose whether any of the selling security holders has held any position or office with, has been employed by or otherwise has had a material relationship with us during the three years prior to the date of the applicable prospectus supplement.

**Table of Contents****USE OF PROCEEDS**

Unless we inform you otherwise in a prospectus supplement or free writing prospectus, the net proceeds from the sale of AWCC Debt Securities will be loaned to American Water and/or its subsidiaries, and American Water and/or its subsidiaries intend to use the proceeds of such loans, and the net proceeds from the sale of securities issued by American Water, for general corporate purposes, including working capital, infrastructure improvements and other capital expenditures, acquisitions, the repayment of indebtedness and the repurchase of common stock. Unless otherwise set forth in a prospectus supplement, we will not receive any proceeds from any sales of our securities by any selling security holder who may be named in a prospectus supplement.

**RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS**

For purposes of calculating the ratio of earnings to fixed charges, earnings consists of income (loss) from continuing operations before income taxes including the effect of allowance for funds used during construction, which we refer to as AFUDC, plus fixed charges. Fixed charges consist of interest expense, amortization of debt issuance costs, and a portion of rent expense that management believes is representative of the interest component of rental expense. Fixed charges have not been reduced for the effect of AFUDC. In addition, neither American Water nor AWCC had any preferred stock outstanding for any period presented, and accordingly, the ratio of earnings to combined fixed charges and preferred stock dividends is the same as the ratio of earnings to fixed charges.

American Water's and AWCC's ratios of earnings to fixed charges for each of the periods indicated are as follows:

	<b>Year ended December 31,</b>					<b>Quarter ended</b>
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>March 31,</b>
						<b>2015</b>
<b>American Water Works Company, Inc.</b>						
Ratio of Earnings to Fixed Charges	2.27	2.50	2.93	2.88	3.27	2.69
<b>American Water Capital Corp.</b>						
Ratio of Earnings to Fixed Charges	1.00	1.00	1.00	1.00	1.00	1.00

**Table of Contents**

**DESCRIPTION OF CAPITAL STOCK**

*The following description of American Water's common stock and preferred stock is not intended to be complete. For more information regarding the common stock and preferred stock that may be offered by this prospectus, please refer to American Water's restated certificate of incorporation, which we refer to below as American Water's certificate of incorporation, and American Water's amended and restated bylaws, which we refer to below as American Water's bylaws. The certificate of incorporation and bylaws are incorporated by reference as exhibits to the registration statement of which this prospectus is a part. The terms of these securities also may be affected by the General Corporation Law of the State of Delaware, which we refer to below as the DGCL.*

**General**

American Water's authorized capital stock consists of 500,000,000 shares of common stock, par value \$0.01 per share, and 50,000,000 shares of preferred stock. As of May 4, 2015 there were 179,945,107 shares of common stock outstanding and no shares of preferred stock outstanding.

**Common Stock**

***Voting Rights***

Other than with respect to director elections, except as otherwise required by law, all matters to be voted on by American Water's stockholders must be approved by a majority of the votes cast by all shares of common stock. With respect to uncontested director elections, American Water's bylaws require that in order to be elected, a director nominee must receive a majority of the votes cast (for this purpose, a majority of the votes cast means that the number of shares voted for a director nominee must exceed the number of votes cast against that nominee). For contested director elections where the number of nominees exceeds the number of directors to be elected, American Water's bylaws require that the directors shall be elected by the vote of a plurality of the shares represented in person or by proxy at any such meeting and entitled to vote on the election of directors.

***Dividends***

Holders of common stock will share equally in any dividend declared by American Water's board of directors, subject to the rights of the holders of any outstanding preferred stock.

***Liquidation Rights***

In the event of any voluntary or involuntary liquidation, dissolution or winding up of American Water's affairs, holders of American Water's common stock would be entitled, after payment of the liquidation preference to all holders of any outstanding preferred stock, to share ratably in American Water's assets that are legally available for distribution to stockholders after payment of liabilities. American Water must pay the applicable distribution to any holders of its preferred stock before it may pay distributions to the holders of its common stock.

***Other Rights***

American Water's stockholders have no preemptive or other rights to subscribe for additional shares.

**Preferred Stock**

American Water's board of directors may authorize the issuance of preferred stock from time to time in one or more series, without stockholder approval. Subject to the limits imposed by the DGCL, the board of directors is authorized to fix for any series of preferred stock the number of shares of such series and the voting powers (if

**Table of Contents**

any), designation, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions of such series. American Water's board of directors is also authorized to increase or decrease the number of shares of any series, but not below the number of shares of that series then outstanding, without any further vote or action by American Water's stockholders.

American Water's board of directors may authorize the issuance of preferred stock with voting or conversion rights that affect adversely the voting power or other rights of American Water's common stockholders. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could have the effect of delaying, deferring or preventing a change in control, causing the market price of American Water's common stock to decline, or impairing the voting and other rights of the holders of American Water's common stock. Any restriction on the repurchase or redemption of shares of preferred stock while dividends on such shares are in arrears shall be set forth in the applicable prospectus supplement. You should read both this prospectus and the applicable prospectus supplement together with the additional information referred to below under "Where You Can Find More Information."

For any series of preferred stock that American Water may issue, American Water's board of directors will determine and the prospectus supplement relating to such series will describe:

the number of shares constituting such series and the distinctive designation of the series;

the dividend rate on the shares of the series, the conditions and dates upon which dividends thereon shall be payable, the extent, if any, to which dividends thereon shall be cumulative, and the relative rights of preference, if any, of payment of dividends thereon;

whether or not the shares of the series are redeemable and, if redeemable, the time or times during which they shall be redeemable and the amount per share payable on redemption thereof, which amount may, but need not, vary according to the time and circumstances of such redemption;

the amount payable in respect of the shares of the series, in the event of any liquidation, dissolution or winding up of American Water, which amount may, but need not, vary according to the time or circumstances of such action, and the relative rights of preference, if any, of payment of such amount;

any requirement as to a sinking fund for the shares of the series, or any requirement as to the redemption, purchase or other retirement by American Water of the shares of the series;

whether or not the shares of the series will have priority over or be on a parity with or be junior to the shares of any other series or class of stock in any respect, or will be entitled to the benefit of limitations restricting the issuance of shares of any other series or class of stock, restricting the payment of dividends on or the making of other distributions in respect of shares of any other series or class of stock ranking junior to the shares of the series as to dividends or assets, or restricting the purchase or redemption of the shares of any such junior series or class, and the terms of any such restriction;

the right, if any, to exchange or convert shares of the series into other securities or property, and the rate or basis, time, manner and condition of exchange or conversion;

the voting rights, if any, to which the holders of shares of the series shall be entitled in addition to the voting rights provided by law; and

any other term, condition or provision with respect to the series not inconsistent with the provisions of American Water's certificate of incorporation or any resolution adopted by the board of directors pursuant thereto.

**Certain Anti-Takeover Provisions of American Water's Certificate of Incorporation and Bylaws and Delaware Law**

The following provisions of American Water's certificate of incorporation and bylaws could deter, delay or prevent a third party from acquiring American Water, even if doing so would benefit American Water's stockholders.



## **Table of Contents**

### ***Undesignated Preferred Stock***

The ability to authorize undesignated preferred stock makes it possible for American Water's board of directors to authorize the issuance of preferred stock with super voting, special approval, dividend or other rights or preferences on a discriminatory basis that could impede the success of any attempt to acquire American Water. These and other provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control or management of American Water.

### ***Requirements for Advance Notification of Stockholder Meetings, Nominations and Proposals***

American Water's bylaws provide that special meetings of stockholders may be called only upon the request of the majority of American Water's board of directors, upon request of the Chairman of American Water's board of directors, upon request of American Water's President or upon request of stockholders holding at least 15% of American Water's outstanding common stock. American Water's bylaws prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting.

American Water's bylaws establish advance notice procedures with respect to stockholder proposals for annual meetings and the nomination of candidates for election as directors, other than nominations made by or at the direction of American Water's board of directors or a committee of the board of directors. A stockholder who wishes to bring a matter before a meeting must comply with American Water's advance notice requirements and provide us with certain information. Additionally, vacancies and newly created directorships may be filled only by a vote of a majority of the directors then in office, even though less than a quorum, or by stockholders. These provisions may defer, delay or discourage a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of American Water.

### ***Stockholder Action by Written Consent***

Under Section 228 of the DGCL, unless a company's certificate of incorporation provides otherwise, any action required to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of American Water's common stock entitled to vote thereon were present and voted. As permitted by Section 228 of the DGCL, American Water's certificate of incorporation provides otherwise: any action required or permitted to be taken by American Water's stockholders must be effected at a duly called annual or special meeting of American Water's stockholders and may not be effected by consent in writing by such stockholders.

### ***Certain Anti-Takeover Matters***

Our regulated subsidiaries are subject to economic regulation by state public utility commissions. Some of these states have enacted laws that require regulatory approval for the acquisition of control of any regulated utility. In those states, obtaining control of the parent or any other company that controls a regulated utility also requires prior regulatory approval. The threshold for a change in control is a fact-specific inquiry that varies by state. For example, in some states, a presumption of control will arise when an acquiring party acquires more than 9.9% of the voting securities of the regulated utility or the controlling entity. In addition to ownership, other states may analyze the degree of influence or control an acquiror may exert over the company. Any person acquiring American Water's common stock in an offering or in any other purchase of American Water's common stock in an amount sufficient to trigger a change in control under state law would need the prior approval of the applicable state public utility

commission.

**Table of Contents**

**Certain Other Provisions of American Water's Certificate of Incorporation and Bylaws and Delaware Law**

***Board of Directors***

American Water's certificate of incorporation provides that the number of directors is fixed in the manner provided in American Water's bylaws. American Water's bylaws provide that the number of directors will be fixed from time to time by American Water's board.

***Business Combinations under Delaware Law***

American Water is subject to Section 203 of the DGCL, which prohibits a publicly held Delaware corporation from engaging in a business combination with an interested stockholder for a period of three years after the time the stockholder became an interested stockholder, subject to certain exceptions, including if, prior to such time, the board of directors approved the business combination or the transaction which resulted in the stockholder becoming an interested stockholder. Business combinations include mergers, asset sales and other transactions resulting in a financial benefit to the interested stockholder. Subject to various exceptions, an interested stockholder is a person who, together with his or her affiliates and associates, owns, or within the prior three years did own, 15% or more of the corporation's outstanding voting stock. These restrictions generally prohibit or delay the accomplishment of mergers or other takeover or change-in-control attempts that are not approved by a company's board of directors.

***Limitations of Liability and Indemnification of Officers and Directors***

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties. American Water's certificate of incorporation includes a provision that eliminates the personal liability of directors for monetary damages for actions taken as a director to the fullest extent authorized by the DGCL. The DGCL does not permit exculpation for liability:

for breach of the duty of loyalty;

for acts or omissions not in good faith or involving intentional misconduct or knowing violation of law;

under Section 174 of the DGCL (relating to unlawful dividends or stock repurchases); or

for transactions from which the director derived improper personal benefit.

American Water's certificate of incorporation and bylaws provide that it will indemnify its directors and officers to the fullest extent permitted by law. American Water's bylaws also expressly authorize American Water to carry directors and officers' insurance providing indemnification for American Water's directors, officers and certain employees and agents for some liabilities.

The limitation of liability and indemnification provisions in American Water's certificate of incorporation and bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit American Water and its stockholders. In addition,

your investment may be adversely affected to the extent American Water pays the costs of settlement and damage awards against directors and officers in accordance with these indemnification provisions.

**Transfer Agent and Registrar**

American Stock Transfer & Trust Company, Inc. serves as the registrar and transfer agent for American Water's common stock.

**New York Stock Exchange Listing**

American Water's common stock is listed on the New York Stock Exchange under the trading symbol AWK.

**Table of Contents**

**DESCRIPTION OF AWCC DEBT SECURITIES AND AMERICAN WATER**

**SUPPORT AGREEMENT**

*The following description of the terms of the debt securities sets forth certain general terms and provisions of the debt securities to which any prospectus supplement may relate. The particular terms of the debt securities offered by any prospectus supplement and the extent, if any, to which these general provisions may apply to those debt securities, will be described in the prospectus supplement relating to those debt securities. Accordingly, for a description of the terms of a particular issue of debt securities, reference must be made to both the prospectus supplement relating thereto and to the following description.*

AWCC may issue debt securities from time to time in one or more series. The debt securities will be general obligations of AWCC. Any debt securities issued by AWCC will have the benefit of a support agreement from American Water. In the event that any series of debt securities will be subordinated to other indebtedness that AWCC has outstanding or may incur, the terms of the subordination will be set forth in the prospectus supplement relating to the subordinated debt securities. We expect that each series of debt securities will be issued under an indenture dated as of December 4, 2009, between AWCC and Wells Fargo Bank, National Association, as trustee, as the same may be amended or supplemented from time to time. The indenture and the form of supplemental indenture or other instrument establishing the debt securities of a particular series are filed as exhibits to, or will be subsequently incorporated by reference into, the registration statement of which this prospectus is a part. There is no requirement under the indenture that our future issuances of debt securities be issued exclusively under the indenture, and we will be free to employ other indentures or documentation, containing provisions different from those included in the indenture or applicable to one or more issuances of debt securities in connection with future issuances of other debt securities.

The following discussion of certain provisions of the indenture is a summary only and should not be considered a complete description of the terms and provisions of the indenture. Accordingly, the following discussion is qualified in its entirety by reference to the provisions of the indenture, including the definition of certain terms used below.

**General**

The debt securities represent direct, unsecured, general obligations of AWCC and:

may rank equally with other unsubordinated debt or may be subordinated to other debt AWCC has or may incur;

may be issued in one or more series with the same or various maturities;

may be issued at a price of 100% of their principal amount or at a premium or discount;

may be issued in registered or bearer form and certificated or uncertificated form;

may be represented by one or more global securities registered in the name of a designated depository's nominee, and if so, beneficial interests in the global debt security will be shown on and transfers will be made only through records maintained by the designated depository and its participants; and

will have the benefit of a support agreement, dated June 22, 2000, and amended on July 26, 2000, between AWCC and American Water; which we refer to as the support agreement.

The aggregate principal amount of debt securities that AWCC may authenticate and deliver is unlimited. The debt securities may be issued in one or more series as we may authorize from time to time. You should refer to the applicable prospectus supplement for the following terms of the debt securities of the series with respect to which that prospectus supplement is being delivered:

- (1) the title of the debt securities of the series (which shall distinguish the debt securities of that particular series from the debt securities of any other series);

**Table of Contents**

- (2) the price or prices of the debt securities of the series;
- (3) any limit upon the aggregate principal amount of the debt securities of the series which may be authenticated and delivered under the indenture (except for debt securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other debt securities of the series and except for any debt securities which are deemed never to have been authenticated and delivered);
- (4) the person to whom any interest on a debt security of the series shall be payable, if other than the person in whose name that debt security (or one or more predecessor securities) is registered at the close of business on the regular record date for such interest;
- (5) the date or dates on which the principal and premium of any debt securities of the series are payable;
- (6) the rate or rates (which may be fixed or variable) at which any debt securities of the series shall bear interest (if any), or the method of determining such rate or rates, the date or dates from which any such interest shall accrue, the interest payment dates on which any such interest shall be payable, and the regular record date for any such interest payable on any interest payment date;
- (7) the period or periods within which, the price or prices at which and the terms and conditions upon which any debt securities of the series may be redeemed, in whole or in part, at the option of AWCC (including without limitation the number of basis points specified for such series for purposes of determining any make-whole amount in respect thereof, and any reference treasury dealers for such series) and, if other than by a board resolution, the manner in which any election by AWCC to redeem the debt securities shall be evidenced;
- (8) the obligation, if any, of AWCC to redeem or purchase any debt securities of the series at the option of the holder thereof, or at the option of any other person, and the period or periods within which, the price or prices at which and the terms and conditions upon which any debt securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;
- (9) if other than the currency of the United States of America, the currency, currencies or currency units in which the principal of or any premium or interest on any debt securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, and such other or additional provisions (including, without limitation, in respect of defeasance and covenant defeasance) as shall be necessary and desirable in connection therewith;
- (10) if other than the entire principal amount thereof, the portion of the principal amount of any debt securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

- (11) if the principal amount payable at the stated maturity of any debt securities of the series will not be determinable as of any one or more dates prior to the stated maturity, the amount which shall be deemed to be the principal amount of such debt securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any maturity other than the stated maturity or which shall be deemed to be outstanding as of any date prior to the stated maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);
- (12) if applicable, that any debt securities of the series shall be issuable in whole or in part in the form of one or more debt securities in registered, global form without interest coupons, which we refer to as global securities, and in such case, the respective depositaries for such global securities, the form of any legend or legends which shall be borne by any such global security, whether such global securities shall be in the form of registered securities, restricted securities or Regulation S securities and any circumstances in which any such global security may be exchanged in whole or in part for debt securities registered, and any transfer of such global security in whole or in part may be registered, in the name or names of persons other than the depositary for such global security or a nominee thereof;
- (13) the terms, if any, upon which the debt securities of the series may be convertible into or exchanged for AWCC's other debt securities or other securities of any kind and the terms and conditions upon which



**Table of Contents**

such conversion or exchange shall be effected, including the initial conversion or exchange price or rate, the conversion or exchange period and any other additional provisions;

- (14) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which the debt securities of the series shall be issuable;
- (15) if the amount of principal, premium or interest with respect to the debt securities of the series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts will be determined;
- (16) any changes or additions to the provisions of the indenture dealing with defeasance;
- (17) the terms, if any, of the transfer, mortgage, pledge or assignment as security for the debt securities of the series of any properties, assets, moneys, proceeds, securities or other collateral, including whether certain provisions of the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act, are applicable and any corresponding changes to provisions of the indenture as then in effect;
- (18) any addition to or change in the events of default with respect to any debt securities of the series and any change in the right of the trustee or the holders of such series of debt securities to declare the principal, premium and interest, if any, on such series of debt securities due and payable;
- (19) any trustee, authenticating agent, paying agent, transfer agent or registrar;
- (20) the applicability of, and any addition to or change in, the covenants and definitions then set forth in the indenture;
- (21) the subordination, if any, of the debt securities of the series pursuant to the indenture and any changes or additions to the provisions of the indenture relating to subordination;
- (22) with regard to debt securities of the series that do not bear interest, the dates for certain required reports to the trustee;
- (23) any U.S. Federal Income tax consequences applicable to the debt securities; and
- (24) any other terms of the series.

All debt securities of one series need not be issued at the same time, and a series may be re-opened for issuances of additional debt securities of such series. This means that AWCC may from time to time, without notice to, or the

consent of any existing holders of the previously-issued debt securities of a particular series, create and issue additional debt securities of such series. Such additional debt securities will have the same terms as the previously-issued debt securities of such series in all respects except for the issue date, public offering price and, if applicable, the initial interest payment date. The additional debt securities will be consolidated and form a single series with the previously-issued debt securities of such series.

### **Support Agreement**

AWCC's indebtedness (including debt securities) has the benefit of the support agreement. The support agreement, which, under the circumstances described below, is the functional equivalent of a guarantee, provides, among other things, that:

American Water owns, and during the term of the support agreement shall continue to own, all of the voting stock of AWCC free and clear of any lien, security interest or other charge or encumbrance;

American Water will provide to AWCC, at its request or the request of any lender (including any holder of debt securities), funds in the form of cash or liquid assets (as equity or, if American Water and AWCC agree, as a loan subordinated to any and all indebtedness, whether or not that indebtedness is outstanding at the time of the loan) as required if AWCC is unable to make timely payment of interest, principal or premium, if any, on any indebtedness issued by it;

## **Table of Contents**

American Water will cause AWCC to have at all times a positive tangible net worth (total assets less liabilities less intangible assets), as determined in accordance with generally accepted accounting principles; and

if AWCC fails or refuses to take timely action to enforce certain rights under the support agreement or if AWCC defaults in the timely payment of interest, principal or premium, if any, owed to a lender (including any holder of debt securities) when due, that lender may proceed directly against American Water to enforce such rights or to obtain payment of the defaulted interest, principal or premium, if any, owed to that lender.

No amendment to the support agreement that adversely affects the rights of any lender (including any holder of debt securities) and no termination of the support agreement will be effective until such time as all indebtedness of AWCC shall have been irrevocably paid in full and all commitments for indebtedness have been terminated, unless the lenders (including holders of debt securities or the trustee acting on behalf of debt security holders) holding all of the aggregate principal amount of debt outstanding and (to the extent not outstanding) committed to consent in writing thereto. Notwithstanding the foregoing sentence, any amendment to the support agreement for the purposes of (i) increasing the minimum net worth as provided in the support agreement, (ii) establishing or increasing a minimum interest coverage ratio, (iii) establishing or reducing a maximum amount of debt leverage, (iv) increasing the aggregate principal amount of debt outstanding whose holders are required to consent to the termination or amendment of the support agreement, or (v) any combination of clauses (i), (ii), (iii) and (iv) of this sentence, shall be effective without the consent of any lender (including any holder of debt securities or trustee acting on behalf of such holder). In addition, nothing in the prior two sentences shall derogate from, or override, any provision in an instrument, indenture, agreement or other document pursuant to which indebtedness is or will be issued that requires the written consent of the holders of a specified amount or percentage of that indebtedness to consent to an amendment or termination of the support agreement.

## **Certain Covenants**

If debt securities are issued, the indenture, as supplemented for a particular series of debt securities, may contain, among others, the following covenants for the benefit of the holders of such series of debt securities, which will be applicable (unless waived or amended) so long as any of the debt securities of such series are outstanding, unless stated otherwise in the prospectus supplement:

### ***Restrictions on Liens***

AWCC will not, and will not allow American Water, as the support provider, or any of its subsidiaries to, create, incur, issue or assume any liens on our or its respective property to secure debt where the debt secured by those liens would exceed an amount equal to 15% of our consolidated tangible total assets, as defined below (calculated to exclude debt secured by permitted liens). This restriction does not apply to the following permitted liens:

- (a) liens existing, or created pursuant to the terms of agreements existing, on the date of the indenture;
- (b) liens consisting of (i) pledges or deposits in the ordinary course of business to secure obligations under workmen's compensation laws or similar legislation, (ii) deposits in the ordinary course of business to secure or in lieu of surety, appeal or customs bonds to which AWCC, American Water or any of its subsidiaries is a party, (iii) liens created by or resulting from any litigation or legal proceeding which is currently being

contested in good faith by appropriate proceedings diligently conducted, (iv) pledges or deposits in the ordinary course of business to secure performance in connection with bids, tenders or contracts (other than contracts for the payment of money) or (v) materialmen's, mechanics', carriers', workmen's repairmen's or other like liens incurred in the ordinary course of business for sums not yet due or currently being contested in good faith by appropriate proceedings diligently conducted;

- (c) liens created to secure tax-exempt debt, in connection with the financing or refinancing of the purchase, lease or construction of properties;

**Table of Contents**

- (d) any lien on any asset of any person existing at the time the person is merged or consolidated with or into, or such asset is acquired by AWCC, American Water or any of its subsidiaries and not created in contemplation of such event;
- (e) liens created to secure sales of accounts receivable and other receivables;
- (f) licenses of intellectual property granted by AWCC, American Water or any of its subsidiaries in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business;
- (g) liens of landlords arising under real property leases to the extent those liens arise in the ordinary course of business and do not secure any past due obligation for the payment of money;
- (h) any interest or title of a lessor or sublessor under any lease permitted by the indenture;
- (i) liens securing debt which has neither been assumed by AWCC, American Water or any of its subsidiaries nor upon which AWCC, American Water or any of its subsidiaries customarily pay interest charges, existing upon real property, or rights in or relating thereto, which real property or rights were acquired for right-of-way purposes;
- (j) zoning laws and ordinances;
- (k) any leases required to be capitalized on a balance sheet of the lessee in accordance with generally accepted accounting principles;
- (l) easements, rights-of-way, restrictions, conditions and other similar encumbrances, minor defects or irregularities of title, and alleys, streets and highways, which in the aggregate do not materially impair the usefulness of the mortgaged property in the present business of AWCC, American Water or any of its subsidiaries;
- (m) leases of the properties of AWCC, American Water or any of its subsidiaries, in each case entered into in the ordinary course of business and that do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary course of business or (ii) materially impair the value of the property subject thereto;
- (n) liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by AWCC, American Water or any of its subsidiaries in the ordinary course of business in accordance with the past practices of AWCC, American Water or such subsidiary;

- (o) bankers liens, right of setoff and other similar liens (including deposits required by interest rate swap agreements) existing solely with respect to cash and cash equivalents on deposit in one or more accounts maintained by AWCC, American Water or any of its subsidiaries, in each case granted in the ordinary course of business in favor of the financial institutions with which such accounts are maintained, securing amounts owing to such financial institutions with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided that, unless such liens are non-consensual and arise by operation of law, in no case shall any such liens secure (either directly or indirectly) the repayment of any debt;
- (p) liens for taxes, assessments or governmental charges or levies not yet delinquent and which may subsequently be paid without interest or penalties and liens for taxes, assessments or governmental charges or levies which are being contested in good faith by appropriate proceedings for which reserves have been established to the extent required by GAAP;
- (q) any lien on any property of AWCC, American Water or any of its subsidiaries securing obligations not exceeding in the aggregate \$100 million outstanding any time;
- (r) liens on any property, acquired, constructed or improved by AWCC, American Water or any of its subsidiaries after the date of the indenture, and any improvements thereon, accessions thereto or other property acquired or constructed for use in connection therewith or related thereto, which are created or

**Table of Contents**

assumed prior to or contemporaneously with, or within 180 days after, such acquisition or completion of such construction or improvement, or within one year thereafter pursuant to a firm commitment for financing arranged with a lender or investor within such 180-day period, to secure or provide for the payment of all or any part of the purchase price of such property or the cost of such construction or improvement incurred after the date of the indenture or liens on any property existing at the time of acquisition thereof; *provided*, that the liens shall not extend to any property theretofore owned by AWCC, American Water or any of its subsidiaries other than, in the case of any such construction or improvement, (i) unimproved real property on which the property so constructed or the improvement is located, (ii) other property (or improvement thereon) which is an improvement to or is acquired or constructed for use in connection therewith or related thereto, (iii) any right and interest under any agreement or other documents relating to the property being so constructed or improved or such other property and (iv) the stock of any subsidiary of ours created or maintained for the primary purpose of owning the property so constructed or improved;

- (s) liens on property securing debt if, prior to or concurrently with the issuance, assumption or guarantee of such debt, the debt securities (together with, if AWCC shall so determine, (i) any other debt of or guaranteed by AWCC ranking equally with the debt securities or (ii) any debt of us or any of our subsidiaries then existing or thereafter created) are secured by such property equally and ratably with (or prior to) such debt (for so long as such debt is secured by such liens);
- (t) liens securing the debt securities;
- (u) liens securing debt owed to AWCC, American Water or any of its subsidiaries; and
- (v) liens created for the sole purpose of refinancing, extending, renewing or replacing in whole or in part debt or other obligations secured by any lien referred to in the foregoing subsections (a) through (t); *provided, however*, that the principal amount of debt or obligations secured thereby shall not exceed the principal amount of debt or obligations so secured at the time of such refinancing, extension, renewal or replacement *plus* the amount of any premiums required to be paid thereon and reasonable fees and expenses associated therewith and that such refinancing, extension, renewal or replacement, as the case may be, shall be limited to all or a part of the property that secured the lien or mortgage so refinanced, extended, renewed or replaced (and any improvements on such property).

Debt means, for any person (without duplication), all (i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, debt securities or other similar instruments, (iii) obligations to pay the deferred purchase price of property or service (other than trade payables not overdue by more than 90 days incurred in the ordinary course of business and long term water purchase contracts), (iv) obligations under capital leases, (v) indebtedness of the type referred to in clauses (i) through (iv) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by), any lien or encumbrance on, or security interest in, property (including, without limitation, accounts and contract rights) owned by such person, even though such person has not assumed or become liable for payment of such indebtedness, and (vi) all obligations of such person for indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above under direct or indirect guarantees, excluding, in all cases, (i) advances for construction and contributions in aid of construction as set forth on the consolidated balance sheet of American Water and its subsidiaries, (ii) reimbursement obligations (contingent or otherwise) in respect of outstanding letters of credit and (iii) attributable debt in respect of sale and leaseback transactions.

Subsidiary means a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by American Water or by one or more other subsidiaries, or by American Water and one or more other subsidiaries.



**Table of Contents**

***Restrictions on Sales and Leasebacks***

AWCC will not, and will not allow American Water or any of its subsidiaries to, enter into any sale and leaseback transaction without effectively providing that the debt securities will be secured equally and ratably with or prior to the sale and leaseback transaction, unless:

the aggregate amount of the attributable debt of AWCC, American Water and its subsidiaries in respect of sale and leaseback transactions then outstanding would not exceed an amount equal to 15% of our consolidated tangible total assets, or

AWCC, American Water or any of its subsidiaries, within 12 months of the sale and leaseback transaction, retire an amount of secured debt which is not subordinate to the debt securities in an amount equal to the greater of (1) the net proceeds of the sale or transfer of the property or other assets that are the subject of the sale and leaseback transaction or (2) the fair market value of the property leased.

A sale and leaseback transaction for purposes of this subsection is an arrangement between AWCC, American Water or any of its subsidiaries and a bank, insurance company or other lender or investor where AWCC, American Water or any of its subsidiaries leases property for an initial term of three years or more that was or will be sold by AWCC, American Water, or such subsidiary to that lender or investor for a sale price of U.S. \$1,000,000 or its equivalent or more.

Attributable debt means the lesser of (1) the fair market value of the asset subject to the sale and leaseback transaction and (2) the present value, determined in accordance with GAAP (discounted at a rate equal to the rate of interest implicit in such transaction), of the obligations of the lessee for the net rental payments (excluding amounts on account of maintenance and repairs, insurance, taxes, assessments and similar charges and contingent rents) during the term of the lease.

Consolidated tangible total assets means, as at any applicable time of determination, consolidated total assets less, without duplication, all intangible assets such as goodwill, trademarks, trade names, patents and unamortized debt discount and expense carried as an asset, in each case as set forth in our most recent consolidated balance sheet.

Consolidated total assets means, as at any applicable time of determination, our consolidated total assets as set forth in our most recent consolidated financial statements.

***Merger, Consolidation or Sale of Assets***

Neither AWCC nor American Water will consolidate with or merge into any other person or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless:

(i) the successor formed by a consolidation or the survivor of a merger or the person that acquires by conveyance, transfer or lease all or substantially all of the assets of AWCC or American Water as an entirety, as the case may be, is a person organized and existing under the laws of the United States or any State thereof (including the District of Columbia), and expressly assumes, in the case of American Water, the due and punctual payment of the principal of and any premium and interest on all the debt securities and the performance or observance of every covenant of the indenture on the part of AWCC to be performed or observed, and, in the case of American Water, all the obligations under the support agreement to be performed or observed, and such person shall have caused to be delivered to the

trustee an officer's certificate and an opinion of counsel to the effect that such consolidation, merger, conveyance, transfer or lease complies in all material respects with this covenant; and

(ii) immediately before and immediately after giving effect to such transaction, no event of default, and no event which, after notice or lapse of time or both, would become an event of default, has occurred and is continuing.

## **Table of Contents**

Upon any consolidation by AWCC or American Water with or merger by AWCC or American Water into any other person or any conveyance, transfer or lease of either AWCC's or American Water's properties and assets substantially as an entirety in accordance with this covenant, the successor person formed by such consolidation or into which it is merged or to which such conveyance, transfer or lease is made will succeed to, and be substituted for, and may exercise every right and power of, AWCC or American Water, as applicable, under the indenture and the support agreement with the same effect as if such successor person had been named as AWCC or American Water, as applicable, therein, and thereafter, except in the case of a lease, the predecessor person will be relieved of all obligations and covenants, in the case of AWCC under the indenture, the debt securities and, in the case of American Water, under the support agreement.

### ***Support Agreement***

American Water may not (a) cancel or terminate the support agreement or (b) amend or otherwise modify the terms of the support agreement, except in accordance with the support agreement. See Support Agreement.

### **Subordination**

Debt securities of a series may be subordinated, which we refer to as subordinated debt securities, to senior indebtedness (as will be defined in the applicable prospectus supplement) to the extent set forth in the prospectus supplement relating thereto. To the extent we conduct operations through subsidiaries, the holders of debt securities (whether or not subordinated debt securities) will be structurally subordinated to the creditors of our subsidiaries, except to the extent such subsidiary is a guarantor of such series of debt.

### **Events of Default**

Each of the following constitutes an event of default under the form of indenture with respect to any series of debt securities:

- (1) default for 30 days in the payment when due of interest on a series of debt securities;
- (2) default in payment when due of the principal of, or premium, if any, on a series of debt securities;
- (3) failure by AWCC or American Water to comply with the provisions described under the caption Certain Covenants Merger, Consolidation or Sale of Assets ;
- (4) default in the deposit of any sinking fund payment, when and as due by the terms of debt securities of that series;
- (5) default in performance, or breach by AWCC or American Water, as applicable, of any of the other agreements in the indenture or the support agreement for 60 days after (i) AWCC and American Water receive written notice of such default or breach from the trustee or (ii) AWCC, American Water and the trustee receive written notice of such default or breach from the registered owners of at least 25% in

principal amount of the debt securities of that series; provided, however, that except with respect to defaults under or breaches of the covenant described under Certain Covenants Restrictions on Liens, holders of a series of debt securities will be deemed to have agreed to an extension of such 60-day period to 120 days so long as corrective action is initiated by AWCC or American Water within such 60-day period unless such corrective action is no longer being diligently pursued;

- (6) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by AWCC or American Water (or the payment of which is guaranteed by AWCC or American Water), if that default is caused by a failure to pay principal at its stated maturity after giving effect to any applicable grace period, or results in the acceleration of such indebtedness prior to its stated maturity and, in each case, the principal amount of any such indebtedness, together with the principal amount of any other indebtedness under which there has been a payment default after stated maturity or the maturity of which has been so accelerated, aggregates \$100 million or more;

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**Table of Contents**

- (7) failure by AWCC or American Water to pay final judgments aggregating (to the extent not paid or insured) in excess of \$100 million, which judgments are not paid, within 60 days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay;
- (8) except as permitted by the indenture, the support agreement shall cease for any reason to be in full force and effect or American Water, or any person acting on behalf of American Water, shall deny or disaffirm its obligations under the support agreement; and
- (9) certain events of bankruptcy or insolvency described in the indenture with respect to AWCC or American Water. A prospectus supplement may omit, modify or add to the foregoing events of default.

In the case of an event of default arising from certain events of bankruptcy or insolvency, with respect to AWCC or American Water, all outstanding debt securities in such series will become due and payable immediately without further action or notice. If any other event of default occurs and is continuing, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding debt securities in such series may declare all the securities to be due and payable immediately. Unless as otherwise provided herein, after any such acceleration, but before a judgment or decree based on acceleration is obtained by the trustee, the registered holders of a majority in aggregate principal amount of the outstanding debt securities in a series may, under certain circumstances, rescind and annul such acceleration and waive such event of default if all events of default, other than the nonpayment of accelerated principal, premium or interest have been cured or waived as provided in the indenture or a supplemental indenture.

Holders of a series of debt securities may not enforce the indenture, supplemental indenture or such debt securities except as provided in the indenture or supplemental indenture. Subject to certain limitations holders of a majority in principal amount of the then outstanding debt in a series may direct the trustee in its exercise of any trust or power. The trustee may withhold from holders of a series of debt securities notice of any continuing default if it determines that withholding notice is in their interest, except a default relating to the payment of principal or interest.

Subject to the provisions of the indenture relating to the duties of the trustee, in case an event of default shall occur and be continuing, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any of the holders of a series of debt securities, unless such holders shall have offered to the trustee reasonable indemnity or security against any loss, liability or expense. Subject to such provisions for indemnification of the trustee, the holders of a majority in aggregate principal amount of a series of debt securities then outstanding will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee with respect to such series of outstanding debt securities.

The holders of a majority in aggregate principal amount of a series of debt securities then outstanding, by notice to the trustee, may, on behalf of the holders of all of such series of debt securities, waive any existing default and its consequences under the indenture except a continuing default in the payment of interest on, or the principal of, such series of debt securities (other than the non-payment of principal of or interest on such series of debt securities that became due solely because of the acceleration of such series of debt securities).

AWCC is required to deliver to the trustee within 90 days after the end of each fiscal year a statement regarding compliance with the indenture during that fiscal year. Promptly (and in any event within 5 business days) upon a responsible officer of AWCC becoming aware of any default or event of default, AWCC is required to deliver to the trustee a statement specifying that default.

Responsible officer means the chief executive officer, chief operating officer, general counsel, any senior financial officer and any other officer of AWCC with responsibility for the administration of the indenture.

**Table of Contents**

Senior financial officer means the chief financial officer, principal accounting officer, treasurer or controller of AWCC.

**Modification or Waiver**

Except as provided below, AWCC and the trustee may supplement and amend the form of indenture or the debt securities with the consent of the holders of not less than a majority in principal amount of the outstanding debt securities. The consent of the holder of each outstanding debt security affected is required to:

change the stated maturity of or the stated amount of the principal of, or any installment of interest on, the debt securities;

reduce the principal amount or the rate of interest on, or any premium payable upon the redemption of the debt securities;

change the place or currency of payment of principal of, or interest on, the debt securities;

impair the right to institute suit for the enforcement of any such payment on or after the stated maturity of the debt securities or any redemption date for the debt securities;

reduce the percentage of holders of outstanding debt securities necessary to modify or amend the indenture or to consent to any waiver under the indenture;

reduce the percentage of outstanding debt securities necessary to waive any past default; or

modify any of the above requirements.

AWCC and the trustee may supplement and amend the indenture or the debt securities without the consent of any holder for the following purposes:

to evidence the succession of another entity to AWCC as obligor under an indenture;

to provide for the acceptance of appointment by a successor trustee;

to effect the assumption of the indenture by American Water or one of its subsidiaries;

to cure any ambiguity, defect or inconsistency in the indenture;

to provide for uncertificated debt securities in addition to or in place of certificated debt securities (provided that the uncertificated debt securities are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code, or in a manner such that the uncertificated debt securities are described in Section 163(f)(2)(B) of the Internal Revenue Code);

to add guarantees with respect to the debt securities or to secure the debt securities;

to establish the form or terms of debt securities as permitted by the indenture;

to add to the covenants of American Water, AWCC or its other subsidiaries for the benefit of the holders of the debt securities or to surrender any right or power conferred upon us, AWCC or American Water's other subsidiaries;

to make any change that does not adversely affect the rights of any holder of the debt securities; or

to comply with any requirement of the SEC in connection with the qualification of the indenture under the Trust Indenture Act.

The consent of the holders of the debt securities is not necessary under the indenture to approve the particular form of any proposed amendment or supplemental indenture. It is sufficient if such consent approves the substance of the proposed amendment or supplemental indenture.



## **Table of Contents**

### **Prescription Period**

Any money that AWCC deposits with the trustee or any paying agent for the payment of principal or interest on any global security that remains unclaimed for two years after the date upon which the principal and interest are due and payable will be repaid to AWCC upon AWCC's request unless otherwise required by mandatory provisions of any applicable unclaimed property law. After that time, unless otherwise required by mandatory provisions of any applicable unclaimed property law, the holder of any debt security will be able to seek any payment to which that holder may be entitled to collect only from AWCC.

### **No Personal Liability of Directors, Officers, Employees and Stockholders**

No director, officer, employee, incorporator or stockholder of AWCC or us, will have any liability for any obligations of AWCC or American Water under the debt securities, the indenture, the support agreement, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of debt securities by accepting a debt security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the debt securities. The waiver may not be effective to waive liabilities under the federal securities law and it is the view of the SEC that such waiver is against public policy.

### **Defeasance**

At any time, AWCC may terminate all its obligations under debt securities of a series and the indenture, which we refer to as legal defeasance, except for certain obligations, including those respecting the defeasance trust and obligations to register the transfer or exchange of debt securities of such series, to replace mutilated, destroyed, lost or stolen debt securities of such series and to maintain a registrar and paying agent in respect of the debt securities of such series.

In addition, at any time AWCC may terminate its obligations under certain specified covenants with respect to a series of debt securities.

AWCC may exercise its legal defeasance option with respect to a series of debt securities notwithstanding its prior exercise of its covenant defeasance option with respect to such series of debt securities. If AWCC exercises its legal defeasance option with respect to a series of debt securities, payment of the debt securities of such series may not be accelerated because of an event of default with respect thereto. If AWCC exercises its covenant defeasance option with respect to a series of debt securities, payment of the debt securities of such series may not be accelerated because of a default related to the specified covenants.

In order to exercise either of its defeasance options, AWCC must irrevocably deposit in trust, which we refer to as the defeasance trust, with the trustee money or U.S. Government obligations, or both, in an amount deemed sufficient in the opinion of a nationally recognized firm of public accountants for the payment of principal and interest on the applicable series of debt securities to redemption or maturity, as the case may be, and must comply with certain other conditions, including delivery to the trustee of an opinion of counsel to the effect that holders of the debt securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit and defeasance and will be subject to Federal income tax on the same amounts and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred (and, in the case of legal defeasance only, such opinion of counsel must be based on a ruling of the Internal Revenue Service or other change in applicable Federal income tax law).

### **Discharge**

When (i) AWCC delivers to the trustee all outstanding debt securities of a series (other than any debt securities replaced because of mutilation, loss, destruction or wrongful taking) for cancellation or (ii) all outstanding debt securities of such series have become due and payable, or are by their terms due and payable

## **Table of Contents**

within one year whether at maturity or are to be called for redemption within one year under arrangements reasonably satisfactory to the trustee, and in the case of clause (ii) AWCC irrevocably deposits with the trustee funds sufficient to pay at maturity or upon redemption all outstanding debt securities of such series, including interest thereon, and if in either case AWCC pays all other sums related to the applicable series of debt securities payable under the indenture by AWCC, then the indenture shall, subject to certain surviving provisions cease to be of further effect with respect to such series. The trustee shall acknowledge satisfaction and discharge of the indenture with respect to the applicable series of debt securities on demand of AWCC accompanied by an officers certificate and an opinion of counsel of AWCC.

## **Governing Law**

The indenture and the debt securities will be governed by, and construed in accordance with, the laws of the State of New York, without regard to conflicts of laws principles thereof.

## **Book-Entry, Delivery and Form**

Except as set forth below or in the applicable prospectus supplement, each series of debt securities will be issued in registered, global form in minimum denominations of \$1,000 and integral multiples of \$1,000 in excess thereof. The debt securities will be issued at the closing of any offering only against payment in immediately available funds.

The debt securities initially will be represented by one or more global securities. Upon issuance, each of the global securities will be deposited with the trustee as custodian for The Depository Trust Company, which we refer to as DTC, in New York, New York, and registered in the name of DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the global securities may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the global securities may not be exchanged for definitive debt securities in registered certificated form, which we refer to as certificated debt securities, except in the limited circumstances described below. See *Exchange of Global Securities for Certificated Debt Securities*. Except in the limited circumstances described below, owners of beneficial interests in the global securities will not be entitled to receive physical delivery of the debt securities in certificated form.

Transfers of beneficial interests in the global securities will be subject to the applicable rules and procedures of DTC and its direct or indirect participants, which may change from time to time.

## ***Exchanges of Global Securities for Certificated Debt Securities***

A beneficial interest in a global security may not be exchanged for a debt security in certificated form unless (i) DTC (x) notifies AWCC that it is unwilling or unable to continue as depository for such global security or (y) has ceased to be a clearing agency registered under the Exchange Act or (ii) there shall have occurred and be continuing an event of default with respect to the debt securities. In all cases, certificated debt securities delivered in exchange for any global security or beneficial interests therein will be registered in the names, and issued in approved denominations, requested by or on behalf of DTC (in accordance with its customary procedures). Any certificated debt securities issued in exchange for an interest in a global security will bear the legend restricting transfers that is borne by such global security. Any such exchange will be effected only through the DWAC system and an appropriate adjustment will be made in the records of the security register to reflect a decrease in the principal amount of the relevant global security.

***Depository Procedures***

The following description of the operations and procedures of DTC is provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems

**Table of Contents**

and are subject to changes by them from time to time. American Water and AWCC take no responsibility for these operations and procedures and urge investors to contact the system or their participants directly to discuss these matters.

Upon the issuance of the global securities, DTC will credit, on its internal system, the respective principal amount of the individual beneficial interests represented by such global securities to the accounts with DTC, which we refer to as participants, or persons who hold interests through participants. Ownership or beneficial interests in the global securities will be shown on, and the transfer of that ownership will be effected only through, records maintained by DTC or its nominee (with respect to interests of participants) and the records of participants (with respect to interest of persons other than participants).

As long as DTC, or its nominee, is the registered holder of a global security, DTC or such nominee, as the case may be, will be considered the sole owner and holder of the debt securities represented by such global security for all purposes under the indenture and the debt securities. Except in the limited circumstances described above under

Exchanges of Global Securities for Certificated Debt Securities, owners of beneficial interests in a global security will not be entitled to have portions of such global security registered in their names, will not receive or be entitled to receive physical delivery of debt securities in definitive form and will not be considered the owners or holders of the global security (or any debt securities presented thereby) under the indenture or the debt securities. In addition, no beneficial owner of an interest in a global security will be able to transfer that interest except in accordance with DTC's applicable procedures (in addition to those under the indenture referred to herein). In the event that owners of beneficial interests in a global security become entitled to receive debt securities in definitive form, such debt securities will be issued only in registered form in denominations of U.S. \$1,000 and integral multiples of \$1,000 in excess thereof.

Investors may hold their interests in the global securities directly through DTC, if they are participants in such system, or indirectly through organizations which are participants in such system. All interests in a global security may be subject to the procedures and requirements of DTC.

The laws of some states require that certain persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a global security to such persons may be limited to that extent. Because DTC can act only on behalf of participants, which in turn act on behalf of indirect participants and certain banks, the ability of a person having beneficial interests in a global security to pledge such interests to persons or entities that do not participate in the DTC system, or otherwise take action in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Payments of the principal of and interest on global securities will be made to DTC or its nominee as the registered owner thereof. Neither AWCC, the trustee nor any of their respective agents will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the global securities or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Beneficial interests in the global securities will trade in DTC's Same-Day Funds Settlement System, and secondary market trading activity in such interests will therefore settle in immediately available funds. AWCC expects that DTC or its nominee, upon receipt of any payment of principal or interest in respect of a global security representing any debt securities held by it or its nominee, will immediately credit participants' accounts with payment in amounts proportionate to their respective beneficial interests in the principal amount of such debt securities as shown on the records of DTC or its nominee. AWCC also expects that payments by participants to owners of beneficial interests in such global securities held through such participants will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers registered in street name. Such payments

will be the responsibility of such participants.

Transfers between participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds.

**Table of Contents**

DTC has advised AWCC that it will take any action permitted to be taken by a holder of debt securities (including the presentation of debt securities for exchange as described below) only at the direction of one or more participants to whose account with DTC interests in the global securities are credited and only in respect of such portion of the aggregate principal amount of the debt securities as to which such participant or participants has or have given such direction. However, if there is an event of default under the debt securities, DTC reserves the right to exchange the global securities for legended debt securities in certificated form, and to distribute such debt securities to its participants.

DTC has advised AWCC as follows: DTC is

a limited purpose trust company organized under the New York Banking Law,

a banking organization within the meaning of the New York Banking Law,

a member of the Federal Reserve System,

a clearing corporation within the meaning of the New York Uniform Commercial Code, as amended, and

a clearing agency registered pursuant to the provisions of Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes in accounts of its participants, thereby eliminating the need for physical transfer and delivery of certificates. Participants include securities brokers and dealers, banks, trust companies and clearing corporations and may include certain other organizations. DTC is partially owned by some of these participants or their representatives. Indirect access to the DTC system is available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly, which we refer to as indirect participants.

Although DTC has agreed to the foregoing procedures in order to facilitate transfers of beneficial ownership interests in the global securities among participants of DTC, it is under no obligation to perform or continue to perform such procedures, and such procedures may be discontinued at any time. None of AWCC, the trustee nor any of their respective agents will have any responsibility for the performance by DTC or its participants or indirect participants of its respective obligations under the rules and procedures governing its operations, including maintaining, supervising or reviewing the records relating to, or payments made on account of, beneficial ownership interests in global securities.

***Same Day Settlement and Payment***

AWCC will make payments in respect of the debt securities represented by the global securities (including principal, premium, if any, interest and special interest, if any) by wire transfer of immediately available funds to the accounts specified by the global security holder. AWCC will make all payments of principal, interest and premium and special interest, if any, with respect to certificated debt securities by wire transfer of immediately available funds to the accounts specified by the holders of the certificated debt securities or, if no such account is specified, by mailing a

check to each such holder's registered address. The debt securities represented by the global securities are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such debt securities will, therefore, be required by DTC to be settled in immediately available funds. AWCC expects that secondary trading in any certificated debt securities will also be settled in immediately available funds.



**Table of Contents**

**DESCRIPTION OF DEPOSITARY SHARES**

*The following summary of certain provisions of the depositary shares does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the depositary agreement that will be filed with the SEC in connection with the offering of such depositary shares.*

American Water may offer fractional shares of preferred stock, rather than full shares of preferred stock. If American Water decides to offer fractional shares of preferred stock, American Water will issue receipts for depositary shares. Each depositary share will represent a fraction of a share of a particular series of preferred stock, and the prospectus supplement will indicate that fraction. The shares of preferred stock represented by depositary shares will be deposited under a depositary agreement between American Water and a depositary that is a bank or trust company that meets certain requirements and is selected by us. The depositary will be specified in the applicable prospectus supplement. Each owner of a depositary share will be entitled to all of the rights and preferences of the preferred stock represented by the depositary share. The depositary shares will be evidenced by depositary receipts issued pursuant to the depositary agreement. Depositary receipts will be distributed to those persons purchasing the fractional shares of preferred stock in accordance with the terms of the offering.

We have summarized selected provisions of the depositary agreement and the depositary receipts, but the summary is qualified in its entirety by reference to the provisions of the depositary agreement and the depositary receipts. The particular terms of any series of depositary shares will be described in the applicable prospectus supplement. If so indicated in the prospectus supplement, the terms of any such series may differ from the terms set forth below.

**Dividends and Other Distributions**

The depositary will distribute all cash dividends or other cash distributions received by it in respect of the preferred stock to the record holders of depositary shares relating to such preferred shares in proportion to the numbers of depositary shares held on the relevant record date. The amount made available for distribution will be reduced by any amounts withheld by the depositary or American Water on account of taxes.

In the event of a distribution other than in cash, the depositary will distribute securities or property received by it to the record holders of depositary shares in proportion to the numbers of depositary shares held on the relevant record date, unless the depositary determines that it is not feasible to make such distribution. In that case, the depositary may make the distribution by such method as it deems equitable and practicable. One such possible method is for the depositary to sell the securities or property and then distribute the net proceeds from the sale as provided in the case of a cash distribution.

**Withdrawal of Shares**

Upon surrender of depositary receipts representing any number of whole shares at the depositary's office, unless the related depositary shares previously have been called for redemption, the holder of the depositary shares evidenced by the depositary receipts will be entitled to delivery of the number of whole shares of the related series of preferred stock and all money and other property, if any, underlying such depositary shares. However, once such an exchange is made, the preferred stock cannot thereafter be redeposited in exchange for depositary shares. Holders of depositary shares will be entitled to receive whole shares of the related series of preferred stock on the basis set forth in the applicable prospectus supplement. If the depositary receipts delivered by the holder evidence a number of depositary shares representing more than the number of whole shares of preferred stock of the related series to be withdrawn, the depositary will deliver to the holder at the same time a new depositary receipt evidencing the excess number of depositary shares.

**Redemption of Depositary Shares**

Whenever American Water redeems the preferred stock, the depositary will redeem a number of depositary shares representing the same number of shares of preferred stock so redeemed. If fewer than all of

## **Table of Contents**

the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected by lot, pro-rata or by any other equitable method as the depositary may determine.

## **Voting of Underlying Shares**

Upon receipt of notice of any meeting at which the holders of the preferred stock of any series are entitled to vote, the depositary will mail the information contained in the notice of the meeting to the record holders of the depositary shares relating to that series of preferred shares. Each record holder of the depositary shares on the record date will be entitled to instruct the depositary as to the exercise of the voting rights represented by the number of shares of preferred stock underlying the holder's depositary shares. The depositary will endeavor, to the extent it is practical to do so, to vote the number of whole shares of preferred stock underlying such depositary shares in accordance with such instructions. American Water will agree to take all action that the depositary may deem reasonably necessary in order to enable the depositary to do so. To the extent the depositary does not receive specific instructions from the holders of depositary shares relating to such preferred shares, it will abstain from voting such shares of preferred stock.

## **Amendment and Termination of Depositary Agreement**

The form of depositary receipt evidencing the depositary shares and any provision of the applicable depositary agreement may at any time be amended by agreement between American Water and the depositary. American Water may, with the consent of the depositary, amend the depositary agreement from time to time in any manner that American Water desires. However, if the amendment would materially and adversely alter the rights of the existing holders of depositary shares, the amendment would need to be approved by the holders of at least a majority of the depositary shares then outstanding.

The depositary agreement may be terminated by American Water or the depositary if:

all outstanding depositary shares have been redeemed; or

there has been a final distribution in respect of the shares of preferred stock of the applicable series in connection with American Water's liquidation, dissolution or winding up and such distribution has been made to the holders of depositary receipts.

## **Resignation and Removal of Depositary**

The depositary may resign at any time by delivering to us notice of its election to do so. We may remove a depositary at any time. Any resignation or removal will take effect upon the appointment of a successor depositary and its acceptance of appointment.

## **Charges of Depositary**

We will pay all transfer and other taxes and governmental charges arising solely from the existence of any depositary arrangements. We will pay all charges of each depositary in connection with the initial deposit of the preferred shares of any series, the initial issuance of the depositary shares, any redemption of such preferred shares and any withdrawals of such preferred shares by holders of depositary shares. Holders of depositary shares will be required to pay any other transfer taxes.

**Notices**

Each depositary will forward to the holders of the applicable depositary shares all notices, reports and communications from us which are delivered to such depositary and which we are required to furnish to the holders of the preferred shares.

**Table of Contents**

**Limitation of Liability**

The depositary agreement contains provisions that limit our liability and the liability of the depositary to the holders of depositary shares. Both the depositary and we are also entitled to an indemnity from the holders of the depositary shares prior to bringing, or defending against, any legal proceeding. We or any depositary may rely upon written advice of counsel or accountants, or information provided by persons presenting preferred shares for deposit, holders of depositary shares or other persons believed by us to be competent and on documents believed by us or them to be genuine.

**Table of Contents**

**DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS**

*The following summary of certain provisions of the stock purchase contracts and stock purchase units does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the stock purchase contract or stock purchase unit, as applicable, that will be filed with the SEC in connection with the offering of such securities.*

American Water may issue stock purchase contracts, including contracts obligating holders to purchase from us, and obligating American Water to sell to the holders, a specified number of shares of common stock or other securities at a future date or dates, which we refer to in this prospectus as stock purchase contracts. The price per share of the securities and the number of shares of the securities may be fixed at the time the stock purchase contracts are issued or may be determined by reference to a specific formula set forth in the stock purchase contracts. The stock purchase contracts may be issued separately or as part of units consisting of a stock purchase contract and debt securities, preferred securities, warrants or debt obligations of third parties, including U.S. treasury securities, securing the holders' obligations to purchase the securities under the stock purchase contracts, which we refer to herein as stock purchase units. The stock purchase contracts may require holders to secure their obligations under the stock purchase contracts in a specified manner. The stock purchase contracts also may require American Water to make periodic payments to the holders of the stock purchase units or vice versa, and those payments may be unsecured or refunded on some basis.

The applicable prospectus supplement will describe the terms of the stock purchase contracts or stock purchase units. The description in the prospectus supplement will not necessarily be complete, and reference will be made to the stock purchase contracts, and, if applicable, collateral or depositary arrangements, relating to the stock purchase contracts or stock purchase units, which will be filed with the SEC each time American Water issues stock purchase contracts or stock purchase units. Material United States federal income tax considerations applicable to the stock purchase units and the stock purchase contracts will also be discussed in the applicable prospectus supplement.

**Table of Contents**

**DESCRIPTION OF SUBSCRIPTION RIGHTS**

*The following summary of certain provisions of the subscription rights does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the certificate evidencing the subscription rights that will be filed with the SEC in connection with the offering of such subscription rights.*

**General**

American Water may issue subscription rights to purchase common stock, preferred stock, depositary shares or warrants to purchase preferred stock, common stock or depositary shares. Subscription rights may be issued independently or together with any other offered security and may or may not be transferable by the person purchasing or receiving the subscription rights. In connection with any subscription rights offering to American Water's stockholders, American Water may enter into a standby underwriting arrangement with one or more underwriters pursuant to which such underwriters will purchase any offered securities remaining unsubscribed for after such subscription rights offering. In connection with a subscription rights offering to American Water's stockholders, American Water will distribute certificates evidencing the subscription rights and a prospectus supplement to American Water's stockholders on or about the record date that American Water sets for receiving subscription rights in such subscription rights offering.

The applicable prospectus supplement will describe the following terms of subscription rights in respect of which this prospectus is being delivered:

the title of such subscription rights,

the securities for which such subscription rights are exercisable,

the exercise price for such subscription rights,

any provisions for changes to or adjustments in the exercise price for such subscription rights,

the number of such subscription rights each stockholder will be entitled to receive, on a per share basis,

the extent to which such subscription rights are transferable,

if applicable, a discussion of the material United States federal income tax considerations applicable to the issuance or exercise of such subscription rights,

the date on which the right to exercise such subscription rights shall commence, and the date on which such rights shall expire (subject to any extension),

the extent to which such subscription rights include an over-subscription privilege with respect to unsubscribed securities,

if applicable, the material terms of any standby underwriting or other purchase arrangement that American Water may enter into in connection with the subscription rights offering, and

any other terms of such subscription rights, including terms, procedures and limitations relating to the exchange and exercise of such subscription rights.

**Exercise of Subscription Rights**

Each subscription right will entitle the holder of the subscription right to purchase for cash such amount of shares of preferred stock, depositary shares, common stock, warrants or any combination thereof, at such exercise price as shall in each case be set forth in, or be determinable as set forth in, the prospectus supplement relating to the subscription rights offered thereby. Subscription rights may be exercised at any time up to the close of business on the expiration date for such subscription rights set forth in the prospectus supplement. After the close of business on the expiration date, all unexercised subscription rights will become void.



**Table of Contents**

Subscription rights may be exercised as set forth in the prospectus supplement relating to the subscription rights offered thereby. Upon receipt of payment and the subscription rights certificate properly completed and duly executed at the corporate trust office of the subscription rights agent or any other office indicated in the prospectus supplement, American Water will forward, as soon as practicable, the shares of preferred stock or common stock, depositary shares or warrants purchasable upon such exercise. American Water may determine to offer any unsubscribed offered securities directly to persons other than stockholders, to or through agents, underwriters or dealers or through a combination of such methods, including pursuant to standby underwriting arrangements, as set forth in the applicable prospectus supplement.

**Table of Contents**

**DESCRIPTION OF WARRANTS**

*The following summary of certain provisions of the warrants does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the warrant agreement that will be filed with the SEC in connection with the offering of such warrants.*

**General**

American Water may issue warrants for the purchase of debt securities, preferred stock or common stock. Warrants may be issued independently or together with debt securities, preferred stock or common stock offered by any prospectus supplement and may be attached to or separate from any such offered securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between American Water and a bank or trust company, as warrant agent. The warrant agent will act solely as American Water's agent in connection with the warrants and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

**Debt Warrants**

The prospectus supplement relating to a particular issue of debt warrants will describe the terms of such debt warrants, including the following: (a) the title of such debt warrants; (b) the offering price for such debt warrants, if any; (c) the aggregate number of such debt warrants; (d) the designation and terms of the debt securities purchasable upon exercise of such debt warrants; (e) if applicable, the designation and terms of the debt securities with which such debt warrants are issued and the number of such debt warrants issued with each such debt security; (f) if applicable, the date from and after which such debt warrants and any debt securities issued therewith will be separately transferable; (g) the principal amount of debt securities purchasable upon exercise of a debt warrant and the price at which such principal amount of debt securities may be purchased upon exercise (which price may be payable in cash, securities, or other property); (h) the date on which the right to exercise such debt warrants shall commence and the date on which such right shall expire; (i) if applicable, the minimum or maximum amount of such debt warrants that may be exercised at any one time; (j) whether the debt warrants represented by the debt warrant certificates or debt securities that may be issued upon exercise of the debt warrants will be issued in registered or bearer form; (k) information with respect to book-entry procedures, if any; (l) the currency or currency units in which the offering price, if any, and the exercise price are payable; (m) if applicable, a discussion of material United States federal income tax considerations; (n) the antidilution provisions of such debt warrants, if any; (o) the redemption or call provisions, if any, applicable to such debt warrants; (p) any provisions for changes to or adjustments in the exercise price for the debt warrants and (q) any additional terms of such debt warrants, including terms, procedures, and limitations relating to the exchange and exercise of such debt warrants.

**Stock Warrants**

The prospectus supplement relating to any particular issue of preferred stock warrants or common stock warrants will describe the terms of such warrants, including the following: (a) the title of such warrants; (b) the offering price for such warrants, if any; (c) the aggregate number of such warrants; (d) the designation and terms of the common stock or preferred stock purchasable upon exercise of such warrants; (e) if applicable, the designation and terms of the offered securities with which such warrants are issued and the number of such warrants issued with each such offered security; (f) if applicable, the date from and after which such warrants and any offered securities issued therewith will be separately transferable; (g) the number of shares of common stock or preferred stock purchasable upon exercise of a warrant and the price at which such shares may be purchased upon exercise; (h) the date on which the right to exercise such warrants shall commence and the date on which such right shall expire; (i) if applicable, the minimum

or maximum amount of such warrants that may be exercised at any one time; (j) the currency or currency units in which the offering price, if any, and the exercise price are payable, (k) if applicable, a discussion of material United States federal income tax considerations; (l) the antidilution provisions of such warrants, if any; (m) the redemption or call provisions, if any, applicable to such warrants; (n) any provisions for changes to or adjustments in the exercise price for the stock warrants and (o) any additional terms of such warrants, including terms, procedures and limitations relating to the exchange and exercise of such warrants.

**Table of Contents**

**PLAN OF DISTRIBUTION**

We and any selling security holder may offer and sell the securities covered by this prospectus from time to time, in one or more transactions, at market prices prevailing at the time of sale, at prices related to market prices, at a fixed price or prices subject to change, at varying prices determined at the time of sale or at negotiated prices, by a variety of methods, including the following:

through agents;

to or through underwriters;

through brokers or dealers;

directly by us or any selling security holders to purchasers, including through a specific bidding, auction or other process; or

through a combination of any of these methods of sale.

Registration of the securities covered by this prospectus does not mean that those securities necessarily will be offered or sold.

In effecting sales, brokers or dealers engaged by us may arrange for other brokers or dealers to participate.

Broker-dealer transactions may include:

purchases of the securities by a broker-dealer as principal and resales of the securities by the broker-dealer for its account pursuant to this prospectus;

ordinary brokerage transactions; or

transactions in which the broker-dealer solicits purchasers.

In addition, we and any selling security holder may sell any securities covered by this prospectus in private transactions or under Rule 144 of the Securities Act rather than pursuant to this prospectus.

In connection with the sale of securities covered by this prospectus, broker-dealers may receive commissions or other compensation from us in the form of commissions, discounts or concessions. Broker-dealers may also receive compensation from purchasers of the securities for whom they act as agents or to whom they sell as principals or both. Compensation as to a particular broker-dealer may be in excess of customary commissions or in amounts to be negotiated. In connection with any underwritten offering, underwriters may receive compensation in the form of discounts, concessions or commissions from us or from purchasers of the securities for whom they act as agents.

Underwriters may sell the securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agents. Any underwriters, broker-dealers, agents or other persons acting on our behalf that participate in the distribution of the securities may be deemed to be underwriters within the meaning of the Securities Act, and any profit on the sale of the securities by them and any discounts, commissions or concessions received by any of those underwriters, broker-dealers, agents or other persons may be deemed to be underwriting discounts and commissions under the Securities Act.

In connection with the distribution of the securities covered by this prospectus or otherwise, we or any selling security holder may enter into hedging transactions with broker-dealers or other financial institutions. In connection with such transactions, broker-dealers or other financial institutions may engage in short sales of our securities in the course of hedging the positions they assume with us or any selling security holder. We or any selling security holder may also sell securities short and deliver the securities offered by this prospectus to close out our short positions. We or any selling security holder may also enter into option or other transactions with broker-dealers or other financial institutions, which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial

**Table of Contents**

institution may resell pursuant to this prospectus, as supplemented or amended to reflect such transaction. We or any selling security holder may also from time to time pledge our securities pursuant to the margin provisions of our customer agreements with our brokers. Upon our default, the broker may offer and sell such pledged securities from time to time pursuant to this prospectus, as supplemented or amended to reflect such transaction.

At any time a particular offer of the securities covered by this prospectus is made, a prospectus supplement, or, if required, a revised prospectus, will be distributed which will set forth the aggregate amount of securities covered by this prospectus being offered and the terms of the offering, including the name or names of any underwriters, dealers, brokers or agents, any discounts, commissions, concessions and other items constituting compensation from us and any discounts, commissions or concessions allowed or reallocated or paid to dealers. Such prospectus supplement, and, if necessary, a post-effective amendment to the registration statement of which this prospectus is a part, will be filed with the SEC to reflect the disclosure of additional information with respect to the distribution of the securities covered by this prospectus. In order to comply with the securities laws of certain states, if applicable, the securities sold under this prospectus may only be sold through registered or licensed broker-dealers. In addition, in some states the securities may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from registration or qualification requirements is available and is complied with.

We may solicit offers to purchase directly. Offers to purchase securities also may be solicited by agents designated by us from time to time. Any such agent involved in the offer or sale of the securities in respect of which this prospectus is delivered will be named, and any commissions payable by us to such agent will be set forth, in the applicable prospectus supplement. Unless otherwise indicated in such prospectus supplement, any such agent will be acting on a reasonable best efforts basis for the period of its appointment. Any such agent may be deemed to be an underwriter, as that term is defined in the Securities Act of 1933, of the securities so offered and sold.

American Water may offer its equity securities into an existing trading market on the terms described in the applicable prospectus supplement. Underwriters, dealers and agents who may participate in any at-the-market offerings will be described in the prospectus supplement relating thereto.

Securities may also be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more firms acting as principals for their own accounts or as agents for us, which we refer to as remarketing firms. Any remarketing firm will be identified and the terms of its agreement, if any, with us and its compensation will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters, as that term is defined in the Securities Act of 1933, in connection with the securities remarketed thereby.

If so indicated in the applicable prospectus supplement, we may authorize agents, dealers or underwriters to solicit offers by certain institutions to purchase securities from us at the public offering price set forth in the applicable prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in the applicable prospectus supplement. Such delayed delivery contracts will be subject to only those conditions set forth in the applicable prospectus supplement. A commission indicated in the applicable prospectus supplement will be paid to underwriters and agents soliciting purchases of securities pursuant to delayed delivery contracts accepted by us.

In connection with an underwritten offering, we and any selling security holder would execute an underwriting agreement with an underwriter or underwriters. Unless otherwise indicated in the revised prospectus or applicable prospectus supplement, such underwriting agreement would provide that the obligations of the underwriter or underwriters are subject to certain conditions precedent, and that the underwriter or underwriters with respect to a sale of the covered securities will be obligated to purchase all of the covered securities, if any such securities are

purchased. We or any selling security holder may grant to the underwriter or

**Table of Contents**

underwriters an option to purchase additional securities at the public offering price, less any underwriting discount, as may be set forth in the revised prospectus or applicable prospectus supplement. If we or any selling security holder grants any such option, the terms of that option will be set forth in the revised prospectus or applicable prospectus supplement.

Underwriters, agents, brokers or dealers may be entitled, pursuant to relevant agreements entered into with us, to indemnification by us or any selling security holder against certain civil liabilities, including liabilities under the Securities Act that may arise from any untrue statement or alleged untrue statement of a material fact, or any omission or alleged omission to state a material fact in this prospectus, any supplement or amendment hereto, or in the registration statement of which this prospectus forms a part, or to contribution with respect to payments which the underwriters, agents, brokers or dealers may be required to make.



**Table of Contents**

**LEGAL MATTERS**

The validity of the securities offered in this prospectus and any related prospectus supplement and certain legal matters will be passed upon for us by Morgan, Lewis & Bockius LLP, New York, New York. If the securities are being distributed in an underwritten offering, certain legal matters will be passed upon for the underwriters by counsel identified in the related prospectus supplement.

**EXPERTS**

The consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2014, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. These SEC filings are available to the public over the Internet at the SEC's website at <http://www.sec.gov> and our website at <http://www.amwater.com>. You may also read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room.

We are incorporating by reference into this prospectus specific documents that we file with the SEC, which means that we can disclose important information to you by referring you to those documents that are considered part of this prospectus. Information that we file subsequently with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below, and any future documents that we file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, which we refer to as the Exchange Act, until the termination of the offerings of all of the securities covered by this prospectus. This prospectus is part of a registration statement filed with the SEC.

We are incorporating by reference into this prospectus the following documents filed with the SEC (excluding any portions of such documents that have been furnished but not filed for purposes of the Exchange Act):

<b>Filings</b>	<b>Period Covered or Date Filed</b>
Annual Report on Form 10-K, including the portions of our Proxy Statement on Schedule 14A filed on March 27, 2015 that are incorporated therein	Year ended December 31, 2014
Quarterly Report on Form 10-Q	Quarter ended March 31, 2015
Current Reports on Form 8-K (other than the portions not deemed to be filed)	Filed on February 20, 2015 and March 10, 2015
Registration Statement on Form 8-A for a description of our common stock, par value \$0.01 per share	Filed on April 22, 2008, including any amendments or reports filed to update such description

We will provide to each person, including any beneficial owner, to whom a prospectus is delivered, upon written or oral request and without charge, a copy of the documents referred to above that we have incorporated

**Table of Contents**

in this prospectus by reference. You can request copies of such documents if you write to us at the following address or call us at the following telephone number: American Water Works Company, Inc., 1025 Laurel Oak Road, Voorhees, New Jersey 08043, Attention: General Counsel, (856) 346-8200.

This prospectus, any accompanying prospectus supplement or information incorporated by reference herein or therein, contains summaries of certain agreements that we have filed as exhibits to various SEC filings, as well as certain agreements that we will enter into in connection with the offering of securities covered by any particular accompanying prospectus supplement. The descriptions of these agreements contained in this prospectus, any accompanying prospectus supplement or information incorporated by reference herein or therein do not purport to be complete and are subject to, and qualified in their entirety by reference to, the definitive agreements. Copies of the definitive agreements will be made available without charge to you by making a written or oral request to us.

You should rely only upon the information contained in this prospectus, any prospectus supplement or incorporated by reference into this prospectus or in any prospectus supplement. We have not authorized anyone to provide you with different information. You should not assume that the information in this prospectus is accurate as of any date other than that on the front cover of this prospectus.

Any statement contained herein or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein, in any other subsequently filed document which also is or is deemed to be incorporated by reference herein or in any accompanying prospectus supplement, modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified and superseded, to constitute a part of this prospectus.

**Table of Contents**

**American Water Capital Corp.**

**\$ % Senior Notes due 2027**

**\$ % Senior Notes due 2047**

**Prospectus Supplement dated August , 2017**

***Joint Book-Running Managers***

**J.P. Morgan**

**US Bancorp**

**Wells Fargo Securities**

th the Company s management. Based on such review and discussions with management, the compensation committee recommended to the board that the foregoing Compensation Discussion and Analysis be included in this proxy statement.

**THE COMPENSATION COMMITTEE**

Michael E. Marks, Chairman  
Raymond D. Croghan

**CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

**Related Transactions**

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On January 1, 2005, we entered into a separation and release agreement with George B. Boedecker, Jr., relating to his resignation as our Chief Executive Officer. In exchange for certain releases granted by Mr. Boedecker, we agreed to pay him a severance amount of \$600,000, less all legally required deductions and withholdings, in 16 equal quarterly installments at the beginning of each calendar quarter for a four year period. The agreement provides that Mr. Boedecker is entitled to participate in our standard medical benefits package until December 31, 2009, and that Mr. Boedecker is entitled to a reimbursement of business expenses he incurred before January 1, 2005. In accordance with the terms of the agreement, Mr. Boedecker remained on our board of directors, but there is no agreement requiring us to nominate him to the board in any future period. Mr. Boedecker resigned from our board of directors in May 2006.

21

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Under the terms of the separation and release agreement, on April 1, 2005, we entered into a distribution agreement with Crocodile Distribution, LLC, an entity controlled by Mr. Boedecker, which granted Crocodile Distribution the exclusive rights to distribute our products in Mexico, the Dominican Republic, Costa Rica and, to the extent it complies with United States law in the future, Cuba. The initial term of the agreement is 10 years from July 1, 2005 and it is renewable on a non-exclusive basis for an additional five year term. The exclusivity portion of the agreement may be terminated by us if Crocodile Distribution fails to purchase certain minimum amounts of our products. Crocodile Distribution will receive a discount from our standard wholesale list price for the purchase of our products. In addition, on July 1, 2005, we entered into a kiosk agreement with Crocodile Kiosk, LLC, an entity controlled by Mr. Boedecker, which granted Crocodile Kiosk exclusive rights to license or sell certain crocs-related franchises to third parties. The license or franchise rights will give the licensee or franchisee the right to establish retail kiosks in airport locations. The term of the license agreement is 10 years but the termination of the kiosk agreement will not have an effect on a licensee's or franchisee's right to operate the kiosk for a term of up to 15 years. If Crocodile Kiosk fails to license or franchise a minimum number of kiosks during the term, the agreement will become non-exclusive. In 2006, we recognized \$2.3 million of revenue related to these agreements.

In May 2005, we subleased an office building from Flextronics USA, Inc. Two of our directors, Messrs. Marks and Sharp, also serve as directors of Flextronics and Mr. Smach serves as its Chief Financial Officer. We paid Flextronics \$215,000 and \$91,000 for lease payments and common area maintenance charges for the years ended December 31, 2006 and 2005, respectively. This lease expired on March 31, 2007. We paid \$40,000 in lease payments in 2007.

#### **Policy on Transactions with Related Persons**

Our audit committee has adopted a written policy which requires that any transaction involving us in which one of our directors, nominees for director, executive officers, or greater than five percent stockholders, or their immediate family members, have a material interest be approved or ratified by the audit committee if the amount involved exceeds \$100,000. The full board of directors reviews ordinary course of business transactions in which directors have an interest as part of the board's annual director independence review. In determining whether to approve or ratify any such transaction, the audit committee must consider, in addition to other factors it deems appropriate, whether the transaction is on terms no less favorable to us than those involving unrelated parties.

All transactions disclosed above were reviewed and approved or ratified in accordance with this policy.

#### **Director and Officer Indemnification**

We have entered into agreements to indemnify our directors and executive officers, in addition to the indemnification provided for in our certificate of incorporation and bylaws. These agreements, among other things, provide for indemnification of our directors and executive officers for certain expenses (including attorneys' fees), judgments, fines and settlement amounts incurred by any such person in any action or proceeding, including any action by or in the right of our company, arising out of such person's services as a director or executive officer of ours, any subsidiary of ours or any other company or enterprise to which the person provided services at our request. We believe that these provisions and agreements are necessary to attract and retain qualified persons as directors and executive officers.

#### **SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE**

Section 16(a) of the Securities Exchange Act of 1934 requires our executive officers, directors and beneficial owners of more than 10% of our common stock to file initial reports of ownership and reports of

changes in ownership of our securities with the Securities and Exchange Commission. Those persons are required to furnish us with copies of these reports. Based solely on copies of reports we have received and representations from our executive officers and directors, we believe that all Section 16(a) filing requirements applicable to our executive officers, directors and beneficial owners of more than 10% of our common stock were timely made in 2006, except for one late Form 4 filed by John P. McCarvel reporting a sale transaction.

#### REPORT OF THE AUDIT COMMITTEE

The audit committee has reviewed and discussed the audited financial statements for the fiscal year ended December 31, 2006 with the company's management and Deloitte & Touche LLP, the company's independent registered public accounting firm. Management is primarily responsible for the preparation, presentation and integrity of the financial statements, accounting and financial reporting principles and internal control over financial reporting. Deloitte & Touche LLP is responsible for performing an independent audit of the financial statements in accordance with generally accepted auditing standards and for expressing opinions on the conformity of the financial statements with accounting principles generally accepted in the United States.

The audit committee has discussed with Deloitte & Touche LLP the matters required to be discussed by Statement on Auditing Standards No. 61, *Communication with Audit Committees*, as amended, and has received the written disclosures and the letter from Deloitte & Touche LLP required by Independence Standards Board Standard No. 1, *Independence Discussions with Audit Committees*. The audit committee has also discussed with Deloitte & Touche LLP its independence.

Based on its reviews and discussions referred to above, the audit committee has recommended to the board of directors that the audited financial statements be included in the company's Annual Report on Form 10-K for the year ended December 31, 2006, for filing with the Securities and Exchange Commission.

The Audit Committee:

Thomas J. Smach (Chairman)  
Raymond D. Croghan  
Ronald L. Frasch

#### Securities Authorized for Issuance under Equity Compensation Plans

As shown in the table below, as of December 31, 2006, we reserved 4,542,718 shares of common stock for future issuance on exercise of outstanding options under equity compensation plans.

	Number of Securities to be Issued on Exercise of Outstanding Options	Weighted Average Exercise Price of Outstanding Options	Number of Shares Remaining Available for Issuance Under Equity Compensation Plans, Excluding Securities Available in First Column
Equity compensation plans approved by stockholders(1)	3,577,902	\$ 19.88	1,352,873 (3)
Equity compensation plans not approved by stockholders(2)	964,816	1.16	
<b>Total</b>	<b>4,542,718</b>	<b>15.91</b>	<b>1,352,873</b>

(1) On April 27, 2005, our board of directors adopted the 2005 Equity Incentive Plan, referred to as the 2005 Plan. On January 10, 2006, our board of directors amended the 2005 Plan to increase the number

of shares of our common stock available for issuance under the 2005 Plan from 5,840,500 shares to 7,008,600 shares. The 2005 Plan provides for the grant of incentive stock options, within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended, to our employees, and nonstatutory stock options, restricted stock, performance units, and other stock based awards to our employees, directors, and consultants.

(2) Represents non-plan stock options granted to our officers, directors and employees prior to the adoption of the 2005 Equity Incentive Plan.

(3) Includes 441,098 shares of common stock reserved for issuance under our 2005 Plan to employees and consultants in the future under restricted stock award agreements.

## **PROPOSAL 2 APPROVAL OF THE CROCS, INC. 2008 CASH INCENTIVE PLAN**

The Crocs, Inc. 2008 Cash Incentive Plan is designed to:

- advance our interests by promoting our pay for performance philosophy;
- attract and retain key employees; and
- stimulate the efforts of such employees toward the continued success and growth of our business.

### **Introduction**

On May 2, 2007, our board of directors approved the Crocs, Inc. 2008 Cash Incentive Plan (the 2008 Incentive Plan ). At that time, our board of directors directed that the 2008 Incentive Plan be submitted to our stockholders for approval at the Annual Meeting. If the stockholders approve the 2008 Incentive Plan, it will be effective as of January 1, 2008. A copy of the 2008 Incentive Plan is attached to this proxy statement as Appendix A, and this discussion is qualified in its entirety by reference to the full text of the 2008 Incentive Plan.

Our stockholders are being asked to approve the adoption of the 2008 Incentive Plan in order to preserve our federal income tax deduction for incentive compensation paid to our executive officers based on the attainment of established performance goals. We generally seek to preserve our ability to claim tax deductions for compensation paid to executives to the greatest extent practicable.

Section 162(m) of the Internal Revenue Code generally does not allow a publicly held company to obtain a tax deduction for compensation of more than \$1,000,000 paid in any fiscal year to certain covered employees unless such compensation is considered performance-based in accordance with Section 162(m) and its implementing regulations published by the Treasury Department. Each of our executive officers is currently a covered employee . Cash bonuses and incentive payments will qualify as performance-based compensation if:

- they are payable solely on account of the attainment of one or more objective performance goals;
- the performance goals are determined by a compensation committee comprised solely of outside directors at a time when the achievement of the goals is still substantially uncertain;
- the material terms under which the bonuses are to be paid, including the nature of the performance goals, are approved by the stockholders; and
- the compensation committee certifies that the performance goals and other material terms have been satisfied before the bonuses are paid.

Our board of directors maintains a compensation committee comprised solely of outside directors with a view toward satisfying the requirements of Section 162(m), and we have structured the 2008 Incentive Plan in a manner intended to comply with the requirements of Section 162(m).  
The 2008





Incentive Plan is now being submitted to our stockholders for their approval so that we will be able to qualify compensation paid to our executive officers under the 2008 Incentive Plan as performance-based compensation and deduct the entire amount of such compensation paid.

### **Description of the 2008 Incentive Plan**

The significant features of the 2008 Incentive Plan are described below.

#### *Administration*

Our compensation committee, all of whose members are outside directors, will administer the 2008 Incentive Plan. The compensation committee will have the authority to grant awards upon such terms, not inconsistent with the terms of the 2008 Incentive Plan, as it considers appropriate. In addition, the compensation committee will have complete authority to interpret all provisions of the 2008 Incentive Plan, to adopt, amend, and rescind rules and regulations pertaining to the administration of the 2008 Incentive Plan, and to make all other determinations necessary or advisable for the administration of the 2008 Incentive Plan, and to reduce or eliminate, in its discretion, the amount of any award otherwise payable under the 2008 Incentive Plan.

#### *Eligibility*

All of our employees, who currently number approximately 3,400, will be eligible to participate under the 2008 Incentive Plan. Our compensation committee determines which employees will be participants under the 2008 Incentive Plan. However, the criteria for participation may change in subsequent years. Other annual or short-term bonus arrangements will be made available to employees who are not considered covered employees for purposes of Section 162(m).

#### *Performance Measures*

Participants will receive awards under the 2008 Incentive Plan whose payout will be contingent upon the degree of attainment of specified performance measures over the applicable performance period. The performance measures are set by our compensation committee at the start of each performance period and are based on one or a combination of two or more of the following performance criteria: net sales; net earnings; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share (basic or diluted); profitability as measured by return ratios (including return on assets, return on equity, return on investment and return on net sales) or by the degree to which any of the foregoing earnings measures exceed a percentage of net sales; cash flow; market share; margins (including one or more of gross, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; operating income; pre- or after-tax income; cash flow per share; operating assets; improvement in or attainment of expense levels or cost savings; economic value added; and improvement in or attainment of working capital levels.

Any performance measure utilized may be expressed in absolute amounts, on a per share basis, as a change from preceding performance periods, as a percentage of another criteria, or as a comparison to the performance of specified companies or other external measures, and may relate to corporate, group, unit, division, affiliate or individual performance.

#### *Performance Periods*

A performance period is the measure of time specified by our compensation committee over which the degree of attainment of the specified performance measures will be measured.

*Payment of Awards*

All awards under the 2008 Incentive Plan for a performance period will be paid in cash following the end of such performance period and our compensation committee's certification of the degree to which applicable performance measures were attained. The maximum individual award payment that can be made under the 2008 Incentive Plan may not exceed \$2 million for a quarterly performance period or the corresponding multiple of that amount for any performance period that is more than one quarter in duration.

*Termination of Employment*

Except as otherwise provided below, no award for a performance period will be paid to a participant who is not actively employed by us at the end of the performance period. If a participant's employment ends during a performance period, our compensation committee has the discretion to approve payment to the participant, or his or her beneficiaries, of a pro rata portion of the award payment the participant would have received but for the fact that the participant's employment ended.

*Amendment and Termination*

Our compensation committee or board of directors may amend, suspend or terminate the 2008 Incentive Plan from time to time. An amendment will be subject to the approval of our stockholders only if such approval is necessary to maintain the 2008 Incentive Plan in compliance with Section 162(m) or other applicable laws and regulations.

*Federal Income Tax Consequences*

All cash award payments made under the 2008 Incentive Plan are taxable to the participant when made. The 2008 Incentive Plan has been designed to comply with Section 162(m) such that all award payments under the 2008 Incentive Plan will qualify as performance-based compensation and, therefore, we will be entitled to claim a federal income tax deduction for the full amount of any cash award paid under the 2008 Incentive Plan.

**New Plan Benefits**

The specific individuals who will be granted awards under the 2008 Incentive Plan and the type and amount of any such awards will be determined by the compensation committee, subject to limits on the maximum amounts that may be awarded to any individual, as described above. Accordingly, future awards to be received by or allocated to particular individuals under the 2008 Incentive Plan are not presently determinable.

The approval of the 2008 Incentive Plan requires the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the proposal.

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 2.**

**PROPOSAL 3 APPROVAL OF THE CROCS, INC. 2007 INCENTIVE PLAN**

The Crocs, Inc. 2007 Incentive Plan ( 2007 Incentive Plan ), is designed to:

- encourage teamwork and individual performance by providing annual incentive compensation based on our diluted earnings per share;
- advance our interests by attracting and retaining key executives; and

- reward contributions made by the our Chief Executive Officer and other executive officers in optimizing long-term value to our stockholders by connecting a portion of each such executive s total potential cash compensation to the attainment of objective our financial goals.

Effective March 30, 2007, our compensation committee approved the 2007 Incentive Plan. At that time, our compensation committee directed that the 2007 Incentive Plan be submitted to our stockholders for approval at the Annual Meeting. If the stockholders approve the 2007 Incentive Plan, it will be effective as of March 30, 2007.

Our stockholders are being asked to approve the adoption of the 2007 Incentive Plan in order to preserve our federal income tax deduction for incentive compensation paid to our executive officers based on the attainment of established performance goals. We generally seek to preserve our ability to claim tax deductions for compensation paid to executives to the greatest extent practicable.

As described in Proposal 2, Section 162(m) of the Internal Revenue Code generally does not allow a publicly held company to obtain a tax deduction for compensation of more than \$1,000,000 paid in any fiscal year to certain covered employees unless such compensation is considered performance-based in accordance with Section 162(m) and its implementing regulations.

Our board of directors maintains a compensation committee comprised solely of outside directors with a view toward satisfying the requirements of Section 162(m), and have set the awards under the 2007 Incentive Plan in a manner intended to comply with the requirements of Section 162(m). The 2007 Incentive Plan is now being submitted to our stockholders for their approval so that we will be able to qualify compensation paid to our executive officers under the 2007 Incentive Plan as performance-based compensation and deduct the entire amount of such compensation paid. The payment of the awards to our executive officers described below are contingent upon receipt of stockholder approval for the 2007 Incentive Plan.

#### *Description of the 2007 Incentive Plan*

Our four current executive officers, including our Chief Executive Officer, are eligible to receive cash bonus payments under the 2007 Incentive Plan. No other employees are eligible to participate in the 2007 Incentive Plan. The bonus levels under the 2007 Incentive Plan expressed as a percentage of 2007 base salary range from 25% to 800% based on achieving earnings per share growth of 10% to 175% in the year ending December 31, 2007 over our earnings per share for the year ended December 31, 2006. If we do not reach the minimum earnings per share target, the executive officers will not be eligible for bonuses under the plan.

Our board of directors is considering adopting a new deferred compensation plan, pursuant to which a group of participating employees selected by the compensation committee may elect to defer certain compensation otherwise due them. The initial group of selected participating employees is expected to include the persons eligible to participate in the 2007 Incentive Plan. We currently anticipate that the board of directors will take action on the proposed deferred compensation plan in June 2007. If we adopt the proposed deferred compensation plan, any bonus amount exceeding a set portion of the executive officer s 2007 base salary will be treated as deferred compensation and each executive officer will vest in such amount over a three year period. Participants in the deferred compensation plan may also be allowed to defer other bonus and salary amounts. The proposed deferred compensation plan will be administered by the compensation committee. Under the terms of the proposed deferred compensation plan, we will maintain a recordkeeping account in the name of each participant in the proposed plan for deferrals made by a participant pursuant to a deferral election and will deposit all deferred amounts in a trust administered by a third party financial institution. Amounts deferred under the proposed deferred compensation plan will be paid to the plan participants after their employment with us ends, in accordance with a schedule or upon certain other events, in accordance with their payout elections as permitted under the proposed plan. At all times, participants in

the proposed deferred compensation plan will be our unsecured creditors and the assets of the trust will be available to our creditors in the event of our insolvency or bankruptcy.

Amounts credited to a participant's deferral account will be deemed to be invested, at the participant's direction, in an array of hypothetical investments selected from a list established by the compensation committee. The hypothetical investments will be used for measurement purposes only and will not represent an actual investment of a participant's deferral account. The taxable income and losses of the trust established for the deferred compensation plan will be included in the computation of our taxable income. Our tax deductions for any compensation deferred under the proposed deferred compensation plan will be delayed until the funds held in the trust are distributed to the participants. We are not seeking stockholder approval for the proposed deferred compensation plan.

Set forth below are the maximum incentive awards that were determined by the compensation committee for our Chief Executive Officer and the other executive officers in 2007 if we meet all established target performance levels.

**New Plan Benefits  
2007 Incentive Plan**

Name and Position	Maximum
Ronald R. Snyder, Chief Executive Officer and President	\$ 6,400,000
John P. McCarvel, Chief Operating Officer	\$ 2,560,000
Peter S. Case, Chief Financial Officer, Senior Vice President Finance and Treasurer	\$ 1,440,000
Michael Margolis, Vice President Sales & Marketing	\$ 1,200,000
Executive officers as a group	\$ 11,600,000

The approval of the 2007 Incentive Plan requires the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the proposal.

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 3.**

**PROPOSAL 4 APPROVAL OF THE CROCS 2007 EQUITY INCENTIVE PLAN**

**Introduction**

On May 2, 2007, our board of directors, upon recommendation of the compensation committee of the board, approved the Crocs, Inc. 2007 Equity Incentive Plan (the "2007 Plan"). At that time, our board of directors directed that the 2007 Plan be submitted to our stockholders for approval at the Annual Meeting.

The 2007 Plan is similar to our prior 2005 Plan, although it contains certain new or revised terms, including:

- No more than 1,500,000 of shares of our common stock reserved for issuance under the 2007 Plan may be issued in the form of full value share awards, which are awards other than stock options and stock appreciation rights.
- Repricing of stock options and stock appreciation rights is prohibited without stockholder approval.
- Awards that are not subject to the satisfaction of performance measures, such as restricted stock awards and stock options, must have a minimum vesting period of three years, except in limited circumstances.

- Awards that are subject to the satisfaction of performance measures, such as performance units, must have a performance period of at least one year.
- Awards will generally terminate immediately if a participant's employment is terminated for cause.
- Shares tendered to us or retained by us in settlement of an award may not become available again for issuance under the 2007 Plan because we have prohibited liberal share counting provisions.

Consistent with our prior equity compensation plans, the 2007 Plan continues to provide the following terms:

- All stock options must be issued at fair market value; as a result, the 2007 Plan prohibits discounted awards.
- Our compensation committee, consisting of independent directors, administers the 2007 Plan.

In addition, because the vesting and payout of awards under the 2007 Plan may be conditioned upon the satisfaction of performance measures specified in the 2007 Plan, such awards are intended to meet the requirements of Section 162(m) of the Internal Revenue Code (Section 162(m)) regarding the deductibility of executive compensation that is performance-based. We are therefore seeking approval from stockholders of the performance measures set forth in the 2007 Plan.

**Summary of the 2007 Plan**

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The 2007 Plan will be effective when approved by our stockholders at the Annual Meeting. A copy of the 2007 Plan is attached to this proxy statement as Appendix B, and this discussion is qualified in its entirety by reference to the full text of the 2007 Plan.

### *Purpose of the 2007 Plan*

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The purpose of the 2007 Plan is to promote our interests by aligning the interests of participants in the 2007 Plan with those of our stockholders; to provide participants with incentive to put forth maximum efforts for our continued growth and success; and to assist us in attracting, motivating and retaining the best available individuals.

### *Administration*



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The 2007 Plan will be administered by our compensation committee. The compensation committee has the authority to establish, amend and waive rules relating to the 2007 Plan and to determine the identity of participants, the timing and amount of any awards and other terms and conditions of awards. The compensation committee may delegate its responsibilities under the 2007 Plan to members of our management or to others with respect to the selection and grants of awards to employees who are not deemed to be officers, directors or 10% stockholders under applicable federal securities laws.

The regulations under Section 162(m) require that the directors who serve as members of the compensation committee must be outside directors. The 2007 Plan provides that directors serving on the compensation committee are to be outside directors within the meaning of Section 162(m). This limitation would exclude from the compensation committee directors who are (i) our current employees or an affiliate, (ii) our former employees or an affiliate receiving compensation for past services, other than benefits under a tax-qualified retirement plan, (iii) our current and former officers or an affiliate, (iv) our directors currently receiving direct or indirect remuneration or an affiliate in any capacity, other than as a director, and (v) any other person who is not otherwise considered an outside director for purposes of Section 162(m). The definition of an outside director under Section 162(m) is generally narrower than the definition of a non-employee director under Rule 16b-3 of the Securities Exchange Act of 1934.

*Eligibility*

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All of our employees and those of our affiliates are eligible to receive awards under the 2007 Plan. We currently have approximately 3,400 employees. Awards other than incentive stock options (see "Types of Awards" below) also may be awarded by the compensation committee to individuals who are not employees but who provide services to us or our affiliates in the capacity of a non-employee director or an independent contractor.

*Number of Shares Available for Issuance under 2007 Plan*

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The total number of shares of our common stock available for distribution under the 2007 Plan is 4,500,000, subject to adjustment for future stock splits, stock dividends and similar changes in the our capitalization. This number of shares has not been, but will be, adjusted to give effect to our previously announced two-for-one stock split in the form of a stock dividend, which will be distributed on June 14, 2007 to holders of record on May 31, 2007. Any shares of our common stock subject to an award under the 2007 Plan that is forfeited or expires or terminates unexercised or unearned, that is settled in cash or other property, or otherwise does not result in the issuance of shares of common stock, may again be used for an award under the 2007 Plan; provided that the gross number of shares with respect to which a stock appreciation right has been exercised may not again be awarded under the 2007 Plan if such exercise is settled in shares.

The maximum number of shares that may be the subject of awards other than options and stock appreciation rights is 1,500,000, while the maximum number of shares that may be issued pursuant to incentive stock options is 4,500,000. The aggregate number of shares subject to options and/or stock appreciation rights granted during any calendar year to any one participant shall not exceed 500,000. The aggregate number of shares subject to restricted stock and/or restricted stock unit awards granted during any calendar year to any one participant shall not exceed 500,000. These share numbers have not been, but will be, adjusted to give effect to our previously announced two-for-one stock split in the form of a stock dividend, which will be distributed on June 14, 2007 to holders of record on May 31, 2007. The closing sale price of a share of our common stock on the NASDAQ Global Select Market on May 31, 2007 was \$81.45 per share.

### *Types of Awards*

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The types of awards that may be granted under the 2007 Plan include incentive and non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance units, and other stock-based awards. Subject to certain restrictions applicable to incentive stock options, awards will be exercisable by the recipients at such times as are determined by the compensation committee, but in no event may the term of an award be longer than ten years after the date of grant.

In addition to the general characteristics of all of the awards described in this proxy statement, the basic characteristics of awards that may be granted under the 2007 Plan are as follows:

*Incentive and Non-Qualified Stock Options.* Both incentive and non-qualified stock options may be granted to recipients at such exercise prices as the compensation committee may determine but not less than 100% of the fair market value (as defined in the 2007 Plan) of a share of our common stock as of the date the option is granted. We determine fair market value of our common stock based on the closing price of our common stock on the NASDAQ Global Select Market on the date of grant; however, if no sale of our stock occurred on that date, we will use the closing price on the next preceding date on which a sale of our stock occurred. Stock options may be granted and exercised at such times as the compensation committee may determine, except that, unless applicable federal tax laws are modified, the aggregate fair market value of the shares our common stock with respect to which incentive stock options may first become exercisable in any calendar year for any employee may not exceed \$100,000 under the 2007 Plan

and any other plan we have in effect. Additional restrictions apply to an incentive stock option granted to an individual who beneficially owns more than 10% of the combined voting power of all classes of our stock.

The purchase price payable upon exercise of options may be paid in cash, or, if the compensation committee permits, by reducing the number of shares delivered to the participant or by delivering stock already owned by the participant (where the fair market value of the shares withheld or delivered on the date of exercise is equal to the option price of the stock being purchased), or in a combination of cash and such stock, unless otherwise provided in the related agreement. The participants may also simultaneously exercise options and sell the stock purchased upon such exercise pursuant to brokerage or similar relationships and use the sale proceeds to pay the purchase price.

*Stock Appreciation Rights.* The value of a stock appreciation right granted to a recipient is determined by the appreciation in our common stock, subject to any limitations upon the amount or percentage of total appreciation that the compensation committee may determine at the time the right is granted. The recipient receives all or a portion of the amount by which the fair market value of a specified number of shares, as of the date the stock appreciation right is exercised, exceeds a base price specified by the compensation committee at the time the right is granted. The base price specified by the compensation committee must be at least 100% of the fair market value (determined as described above) of the specified number of shares of our common stock to which the right relates determined as of the date the stock appreciation right is granted. A stock appreciation right may be granted in connection with a previously or contemporaneously granted option, or independent of any option.

*Performance Units.* Performance units entitle the recipient to payment in amounts determined by the compensation committee based upon the achievement of specified performance measures during a specified term. With respect to recipients who are covered employees under Section 162(m) of the Code, the performance measures are set by our compensation committee at the start of each performance period and are based on one or a combination of two or more of the following performance criteria: net sales; net earnings; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share (basic or diluted); profitability as measured by return ratios (including return on assets, return on equity, return on investment and return on net sales) or by the degree to which any of the foregoing earnings measures exceed a percentage of net sales; cash flow; market share; margins (including one or more of gross, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; operating income; pre- or after-tax income; cash flow per share; operating assets; improvement in or attainment of expense levels or cost savings; economic value added; and improvement in or attainment of working capital levels.

Any performance measure utilized may be expressed in absolute amounts, on a per share basis, as a change from preceding performance periods, as a percentage of another criteria, or as a comparison to the performance of specified companies or other external measures, and may relate to corporate, group, unit, division, affiliate or individual performance. No participant may receive awards of performance units relating to more than 500,000 shares in any year under the 2007 Plan.

Payments with respect to stock appreciation rights and performance units may be paid, as determined by the compensation committee, in cash, shares of our common stock, or a combination of cash and shares.

*Restricted Stock, Restricted Stock Units and Other Stock-Based Awards.* Our common stock granted to recipients may contain such restrictions as the compensation committee may determine, including provisions requiring forfeiture and imposing restrictions upon stock transfer. Awards of restricted stock may, in the discretion of the compensation committee, provide the participant with dividends and voting rights prior to vesting. Restricted stock unit awards entitle the recipient to receive a number of shares of our common stock equal to the number of units awarded (or the fair market value of such shares in cash) following the lapse of any forfeiture conditions and the satisfaction of any performance measures that may



be imposed by the compensation committee. The compensation committee may also from time to time grant awards of unrestricted stock or other stock-based awards such as awards denominated in stock units, securities convertible into stock, and phantom securities.

*No Grants of Reload Options.* The 2007 Plan prohibits the issuance of reload options, which involve the automatic grant of a new option when the payment of the exercise price of the original option, or the payment of tax withholdings, is made through the delivery to us of shares held by such optionee.

*Acceleration of Awards, Lapse of Restrictions*



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Consistent with the terms of the 2007 Plan, the compensation committee may accelerate vesting requirements, performance periods, and the expiration of the applicable term or restrictions, and adjust performance targets and payments, upon such terms and conditions as are set forth in the participant's award agreement, or otherwise in the compensation committee's discretion, which may include, without limitation, acceleration resulting from a change of control or a fundamental change (as those terms are defined in the 2007 Plan), or the participant's death, disability, or retirement.

*Duration, Adjustments, Modifications, Terminations*

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The 2007 Plan provides that all awards are subject to agreements containing the terms and conditions of the awards. Such agreements will be entered into by the recipients of the awards and us on or after the time the awards are granted and are subject to amendment, including unilateral amendment by the compensation committee, unless any such amendment is determined by the compensation committee to be materially adverse to the participant and not required as a matter of law. No amendment shall reduce the exercise price of, or reprice, any outstanding award, without stockholder approval.

The 2007 Plan will remain in effect until the tenth anniversary of its effectiveness, which will occur upon stockholder approval, or such earlier date on which the 2007 Plan is terminated. The 2007 Plan also gives the board of directors the right to amend, modify, terminate or suspend the 2007 Plan, except that amendments to the 2007 Plan are subject to stockholder approval if needed to comply with the NASDAQ rules.

In the event of any equity restructuring within the meaning of FAS 123R, such as a stock dividend or a stock split, the 2007 Plan requires the compensation committee to adjust the number and type of shares available for awards or subject to outstanding awards, and the exercise or strike price of such awards. In the event of any other change in corporate capitalization, which may include a merger or consolidation, the compensation committee has the discretion to make such equitable adjustments similar to those described above as it deems appropriate to prevent enlargement or diminution of participants' rights. Adjustments in performance targets and payments on performance units are also permitted upon the occurrence of such events as may be specified in the related agreements, which may include a change of control. Under the 2007 Plan, the compensation committee may cancel outstanding options and stock appreciation rights generally in exchange for cash payments to the recipients in the event of a fundamental change (defined as certain dissolutions, liquidations, mergers, consolidations, statutory share exchanges, or other similar events involving us).

### *Federal Tax Considerations*

## Edgar Filing: American Water Capital Corp. - Form 424B5

The following summary sets forth the tax events generally expected for United States citizens under current United States federal income tax laws in connection with awards under the 2007 Plan.

*Incentive Stock Options.* A recipient will realize no taxable income, and we will not be entitled to any related deduction, at the time an incentive stock option is granted under the 2007 Plan. If certain statutory employment and holding period conditions are satisfied before the recipient disposes of shares acquired pursuant to the exercise of such an option, then no taxable income will result upon the exercise of such

32

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option, and we will not be entitled to any deduction in connection with such exercise. Upon disposition of the shares after expiration of the statutory holding periods, any gain or loss realized by a recipient will be a long-term capital gain or loss. We will not be entitled to a deduction with respect to a disposition of the shares by a recipient after the expiration of the statutory holding periods.

Except in the event of death, if shares acquired by a recipient upon the exercise of an incentive stock option are disposed of by such recipient before the expiration of the statutory holding periods (a disqualifying disposition), such recipient will be considered to have realized as compensation, taxable as ordinary income in the year of disposition, an amount, not exceeding the gain realized on such disposition, equal to the difference between the exercise price and the fair market value of the shares on the date of exercise of the option. We will be entitled to a deduction at the same time and in the same amount as the recipient is deemed to have realized ordinary income. Any gain realized on the disposition in excess of the amount treated as compensation or any loss realized on the disposition will constitute capital gain or loss, respectively. Such capital gain or loss will be long-term or short-term based upon how long the shares were held. If the recipient pays the option price with shares that were originally acquired pursuant to the exercise of an incentive stock option and the statutory holding periods for such shares have not been met, the recipient will be treated as having made a disqualifying disposition of such shares, and the tax consequence of such disqualifying disposition will be as described above.

The foregoing discussion applies only for regular tax purposes. For alternative minimum tax purposes, an incentive stock option will be treated as if it were a non-qualified stock option, the tax consequences of which are discussed below.

*Non-Qualified Stock Options.* A recipient will realize no taxable income, and we will not be entitled to any related deduction, at the time a non-qualified stock option is granted under the 2007 Plan. At the time of exercise of a non-qualified stock option, the recipient will realize ordinary income, and we will be entitled to a deduction, equal to the excess of the fair market value of the stock on the date of exercise over the option price. Upon disposition of the shares, any additional gain or loss realized by the recipient will be taxed as a capital gain or loss, long-term or short-term, based upon how long the shares are held.

*Stock Appreciation Rights and Performance Units.* Generally: (a) the recipient will not realize income upon the grant of a stock appreciation right or performance unit award; (b) the recipient will realize ordinary income, and we will be entitled to a corresponding deduction, in the year cash or shares of common stock are delivered to the recipient upon exercise of a stock appreciation right or in payment of the performance unit award; and (c) the amount of such ordinary income and deduction will be the amount of cash received plus the fair market value of the shares of common stock received on the date of issuance. The federal income tax consequences of a disposition of unrestricted shares received by the recipient upon exercise of a stock appreciation right or in payment of a performance unit award are the same as described below with respect to a disposition of unrestricted shares.

*Restricted and Unrestricted Stock; Restricted Stock Units.* Unless the recipient files an election to be taxed under Section 83(b) of the Code: (a) the recipient will not realize income upon the grant of restricted stock; (b) the recipient will realize ordinary income, and we will be entitled to a corresponding deduction, when the restrictions have been removed or expire; and (c) the amount of such ordinary income and deduction will be the fair market value of the restricted stock on the date the restrictions are removed or expire. If the recipient files an election to be taxed under Section 83(b) of the Code, the tax consequences to the recipient will be determined as of the date of the grant of the restricted stock rather than as of the date of the removal or expiration of the restrictions.

With respect to awards of unrestricted stock: (a) the recipient will realize ordinary income, and we will be entitled to a corresponding deduction upon the grant of the unrestricted stock and (b) the amount of such ordinary income and deduction will be the fair market value of such unrestricted stock on the date of grant.

When the recipient disposes of restricted or unrestricted stock, the difference between the amount received upon such disposition and the fair market value of such shares on the date the recipient realizes ordinary income will be treated as a capital gain or loss, long-term or short-term, based upon how long the shares are held.

A recipient will not realize income upon the grant of restricted stock units, but will realize ordinary income, and we will be entitled to a corresponding deduction, when the restricted stock units have vested and been settled in cash and/or shares of our common stock. The amount of such ordinary income and deduction will be the amount of cash received plus the fair market value of the shares of our common stock received on the date of issuance.

*Withholding.* The 2007 Plan permits us to withhold from awards an amount sufficient to cover any required withholding taxes. In lieu of cash, the compensation committee may permit a participant to cover withholding obligations through a reduction in the number of shares to be delivered to such participant or by delivery of shares already owned by the participant.

**New Plan Benefits**

## Edgar Filing: American Water Capital Corp. - Form 424B5

The specific individuals who will be granted awards under the 2007 Plan and the type and amount of any such awards will be determined by the compensation committee, subject to annual limits on the maximum amounts that may be awarded to any individual, as described above. Accordingly, future awards to be received by or allocated to particular individuals under the 2007 Plan are not presently determinable.

The approval of the 2007 Plan requires the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the proposal.

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 4.**

**PROPOSAL 5** APPROVAL OF THE AMENDMENT TO THE RESTATED CERTIFICATE OF INCORPORATION OF CROCS, INC. TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF CAPITAL STOCK FROM 130,000,000 TO 255,000,000.

## Edgar Filing: American Water Capital Corp. - Form 424B5

On May 2, 2007, our board of directors approved a two-for-one stock split of our common stock in the form of a stock dividend to be distributed on June 14, 2007 to stockholders of record at the close of business on May 31, 2007. Our board of directors also approved an amendment of our Restated Certificate of Incorporation (the Restated Certificate ) to increase our authorized capital stock from 130,000,000 shares, of which 125,000,000 are common stock and 5,000,000 are preferred stock, to 255,000,000 shares, of which 250,000,000 would be common stock and 5,000,000 would be preferred stock. At that time, our board of directors directed that the amendment to our Restated Certificate be submitted to our stockholders for approval at the Annual Meeting. This increase would be effected by amending Section 1 of Article IV of the Restated Certificate to read as follows in its entirety:

Section 1. *Authorization.* The Corporation shall be authorized to issue 255,000,000 shares of capital stock, of which 250,000,000 shares shall be shares of Common Stock, par value \$0.001 per share ( Common Stock ), and 5,000,000 shares shall be shares of Preferred Stock, par value \$0.001 per share ( Preferred Stock ).

The additional shares will be used both to replenish the shares used to implement the stock split and to authorize shares of common stock to be used for general corporate purposes. The board of directors considers it desirable to have additional authorized shares of capital stock available for possible future stock offerings, acquisitions, stock awards and options, stock dividends or stock splits and for other general corporate purposes. Authorization of additional shares of capital stock will allow the board of directors to move promptly to issue additional shares, if appropriate opportunities should arise, without the delay and expense of calling a special meeting of stockholders.

34

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We have no current plans, arrangements or understandings regarding the issuance of any of the additional shares of capital stock for which authorization is sought, and there are no negotiations pending with respect to the issuance thereof for any purpose. If the stockholders approve the increase in the authorized number of shares of capital stock, the additional shares may be issued at such time and on such terms and conditions as the board of directors may determine without further approval by the stockholders. Stockholders do not have preemptive rights with respect to the current authorized capital stock.

Stockholders should be aware that the increase in our authorized capital stock could have an anti-takeover effect since new shares could be issued to dilute the stock ownership of a person attempting to acquire control of us. The proposed increase has not, however, been proposed for an anti-takeover-related purpose, and the board of directors has no current knowledge of any current efforts by a third party to effect a change in our control.

The approval of the amendment to the Restated Certificate requires the affirmative vote of the majority of the outstanding shares of our common stock entitled to vote at the Annual Meeting.

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 5.**

**PROPOSAL 6 RATIFICATION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The audit committee has selected Deloitte & Touche LLP, as the independent registered public accounting firm for the fiscal year ending December 31, 2007. Deloitte & Touche LLP has served as our independent registered public accounting firm since 2005. We are not required to submit this appointment to the stockholders for approval but our board of directors believes it is desirable as a matter of policy.

If the stockholders do not ratify this appointment, the audit committee will investigate the reasons for the rejection and consider other independent registered public accounting firms. Even if the appointment is ratified, the audit committee may, in its discretion, appoint a different independent registered public accounting firm.

**PRINCIPAL ACCOUNTING FIRM FEES AND SERVICES**

The following table sets forth the aggregate fees we paid to Deloitte & Touche LLP, our independent registered public accounting firm, and other member firms of Deloitte Touche Tohmatsu and their respective affiliates, which we refer to collectively as Deloitte entities, for professional services provided during 2006 and 2005. All fees paid to the Deloitte entities were pre-approved by the Audit Committee, which concluded that the provision of such services by the Deloitte entities was compatible with the maintenance of that firm's independence in the conduct of its auditing functions. We expect that a representative of Deloitte & Touche LLP will attend the Annual Meeting, respond to appropriate questions, and be given an opportunity to speak.

	2006	2005
Audit fees(1)	\$ 851,767	\$ 977,710
Audit-related fees		
Tax fees(2)	138,597	65,763
All other fees		
Total fees	\$ 990,364	\$ 1,043,473

(1) Audit fees relate to professional services rendered in connection with the audit of our annual financial statements included in our Annual Report on Form 10-K and services attendant to, or required by, statute or regulation, such as: (i) comfort letters, consents and other audit services related to SEC and other regulatory filings; and (ii) accounting consultation related to the audit.

(2) Tax fees include professional services rendered in connection with tax compliance, tax advice, tax consulting and tax planning.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR PROPOSAL 6.**

**STOCKHOLDERS SHARING THE SAME ADDRESS**

To reduce the expense of delivering duplicate proxy solicitation materials, we and some brokers may take advantage of the SEC's householding rules. These householding rules permit the delivery of only one set of proxy solicitation materials to stockholders who share the same address, unless otherwise requested. Any stockholder of record who shares an address with another stockholder of record and who has received only one set of proxy solicitation materials may receive a separate copy of those materials, without charge and/or request future delivery of separate materials upon writing the Corporate Secretary, Crocs, Inc., 6328 Monarch Park Place, Niwot, Colorado 80503 or calling 303-848-7000. Likewise, any stockholder of record who shares an address with another stockholder of record and who has received multiple sets of proxy solicitation materials may request future delivery of a single copy of those materials upon writing the Corporate Secretary, Crocs, Inc., 6328 Monarch Park Place, Niwot, Colorado 80503 or calling 303-848-7000.

**STOCKHOLDER PROPOSALS AND NOMINATIONS FOR 2008 ANNUAL MEETING**

Any proposal of a stockholder intended to be included in our proxy statement for the 2008 annual meeting of stockholders pursuant to Rule 14a-8 of the SEC's rules, must be received by us no later than February 14, 2008, unless the date of our 2008 annual meeting is more than 30 days before or after July 9, 2008, in which case the proposal must be received a reasonable time before we begin to print and mail our proxy materials. All proposals should be addressed to the Corporate Secretary, Crocs, Inc., 6328 Monarch Park Place, Niwot, Colorado 80503.

In order for a stockholder to nominate a candidate for director for election or to bring other business before the 2008 annual meeting, we must receive timely notice of the nomination or business in writing by the close of business not less than 90 days nor more than 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders. However, in the event that the annual meeting is called for a date that is not within 30 days before or 60 days after such anniversary date, notice by the stockholder to be timely must be received not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the tenth day following the date on which notice of the date of the annual meeting was made public.

**OTHER MATTERS**

We do not intend to bring before the Annual Meeting any matters other than the proposals specifically described above and we know of no matters other than those to come before the Annual Meeting. If any other matters properly come before the Annual Meeting, it is the intention of the persons named in the accompanying proxy to vote such proxy in accordance with the recommendation of the our management or board of directors on such matters, including any matters dealing with the conduct of the meeting.

**Appendix A**

**CROCS, INC.**

**2008 CASH INCENTIVE PLAN**

1. **Purpose.** The purpose of the Crocs, Inc. 2008 Cash Incentive Plan (the *Plan*) is to advance the interests of Crocs, Inc. ( *Crocs* ) and its stockholders by promoting Crocs' pay for performance philosophy, attracting and retaining key employees of Crocs and its subsidiaries, and stimulating the efforts of such employees toward the continued success and growth of Crocs' business. Amounts paid pursuant to the Plan are intended to qualify as performance-based compensation within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended.

2. **Definitions.** When the following terms are used with capital letters in this Plan, they will have the meanings indicated:

- (a) *Award* means an annual incentive award which, subject to the terms and conditions prescribed by the Committee, entitles a Participant to receive a cash payment from the Company in accordance with Section 3.
- (b) *Board* means the Board of Directors of Crocs.
- (c) *Code* means the Internal Revenue Code of 1986, as amended.
- (d) *Committee* means the Compensation Committee of the Board or such other committee as may be designated by the Board to administer the Plan.
- (e) *Company* means Crocs and its subsidiaries.
- (f) *Covered Officer* means any Participant whose compensation, in the Performance Period for which the annual incentive is calculated, is subject to the compensation expense deduction limitations set forth in Section 162(m) of the Code.
- (g) *Eligible Employee* means any employee of the Company.
- (h) *Participant* means an Eligible Employee designated by the Committee to participate in the Plan as provided in Section 3.1. Designation by the Committee as a Participant for a specific Performance Period or series of Performance Periods does not confer on the Participant the right to participate in the Plan for any other Performance Periods.
- (i) *Performance-Based Compensation* means an Award that is intended to constitute performance-based compensation within the meaning of Section 162(m)(4)(C) of the Code and the regulations promulgated thereunder.
- (j) *Performance Measures* means one or a combination of two or more of the following performance criteria: net sales; net earnings; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share (basic or diluted); profitability as measured by return ratios (including return on assets, return on equity, return on investment and return on net sales) or by the degree to which any of the foregoing earnings measures exceed a percentage of net sales; cash flow; market share; margins (including one or more of gross, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; operating income; pre- or after-tax income; cash flow per share; operating assets; improvement in or attainment of expense levels or cost savings; economic value added; and improvement in or attainment of working capital levels. In addition, for any Award to a Participant who is not a Covered Officer or that is not intended to constitute Performance-Based Compensation, Performance Measures may include, alone or in combination with any of the foregoing Performance Measures, any other measure of performance as determined by the Committee. Any Performance Measure utilized may be expressed in

absolute amounts, on a per share basis, as a change from preceding Performance Periods, as a comparison to the performance of specified companies or other external measures, and may relate to one or any combination of corporate (including such direct and indirect subsidiaries of the Company as the Committee may determine or on such consolidated basis as the Committee may determine), group, unit, division, affiliate or individual performance.

(k) *Performance Period* means the period of time specified by the Committee over which the degree of attainment of specified Performance Measures will be measured.

### 3. Awards.

**3.1 Allocation of Awards.** Prior to the earlier of (i) 90 days following the commencement of a Performance Period or (ii) the passage of 25 percent of the duration of such Performance Period, the Committee will designate such Eligible Employees as it deems appropriate to participate in the Plan for such Performance Period. The Committee's designation of an Eligible Employee as entitled to participate in the Plan may be for a single Performance Period, or for a fixed or indefinite series of future Performance Periods, in its discretion. A designation for more than one Performance Period shall be subject to the Participant's continued employment by the Company, and may be rescinded at any time as to future Performance Periods by the Committee. Awards may be granted to a Participant in such amounts and on such terms as may be determined by the Committee. At the time an Award is made, the Committee will specify the terms and conditions that will govern the Award, which will include that the Award will be earned only upon, and to the extent that, the applicable Performance measures as described in Section 3.2 are satisfied over the course of the applicable Performance Period. Different terms and conditions may be established by the Committee for different Awards and for different Participants.

**3.2 Performance Measures.** The payment of an Award will be contingent upon the degree of attainment of such Performance Measures over the applicable Performance Period as are specified by the Committee. Performance Measures for any Performance Period will be established by the Committee prior to the earlier of (i) 90 days following the commencement of the Performance Period or (ii) the passage of 25 percent of the duration of the Performance Period. The Committee may, in its discretion, modify the Performance Measures applicable to a Performance Period if it determines that as a result of changed circumstances, such modification is required to reflect the original intent of such Performance Measures. However, no such modification may be made to the extent it would increase the amount of compensation that would otherwise be payable to any Participant who is a Covered Officer.

**3.3 Maximum Amount of Awards.** No Participant who is a Covered Officer shall be entitled to receive an Award payment for any Performance Period that exceeds \$2,000,000 for a quarterly Performance Period or the corresponding multiple of that amount for any Performance Period that is more than one quarter in duration.

**3.4 Adjustments.** The Committee is authorized at any time during or after a Performance Period, in its sole and absolute discretion, to reduce or eliminate the amount of an Award otherwise payable to any Participant for any reason. No reduction in the amount of an Award payable to any Participant shall increase the amount of an Award payable to any other Participant.

**3.5 Payment of Awards.** Following the completion of each Performance Period, the Committee shall certify in writing the degree to which the Performance Measures were attained and the Awards payable to Participants. Each Participant shall receive payment in cash of the Award as soon as practicable following the Committee's determination and certification made pursuant to this Section 3.5.

### 4. Administration.

**4.1 Authority of Committee.** The Committee shall administer this Plan. The Committee shall have exclusive power, subject to the limitations contained in this Plan, to make Awards and to determine when

A-2

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and to whom Awards will be granted, and the form, amount and other terms and conditions of each Award, subject to the provisions of this Plan. The Committee shall have the authority to interpret this Plan and any Award made under this Plan, to establish, amend, waive and rescind any rules and regulations relating to the administration of this Plan, and to make all other determinations necessary or advisable for the administration of this Plan. The Committee may correct any defect, supply any omission or reconcile any inconsistency in this Plan or in any Award in the manner and to the extent it shall deem desirable. The determinations of the Committee in the administration of this Plan, as described herein, shall be final, binding and conclusive, subject to the provisions of this Plan. A majority of the members of the Committee shall constitute a quorum for any meeting of the Committee.

**4.2 Indemnification.** To the greatest extent permitted by law, (i) no member or former member of the Committee shall be liable for any action or determination taken or made in good faith with respect to the Plan or any Award made under the Plan, and (ii) the members or former members of the Committee shall be entitled to indemnification by the Company against and from any loss incurred by such members by reason of any such actions and determinations.

**5. Effective Date of the Plan.** The Plan shall become effective as of January 1, 2008; provided that this Plan is approved and ratified by Crocs's stockholders before such date. The Plan shall remain in effect until it has been terminated pursuant to Section 8.

**6. Right to Terminate Employment.** Nothing in the Plan shall confer upon any Participant the right to continue in the employment of the Company or affect any right which the Company may have to terminate the employment of a Participant with or without cause.

**7. Tax Withholding.** The Company shall have the right to withhold from cash payments under the Plan to a Participant or other person an amount sufficient to cover any required withholding taxes.

**8. Amendment, Modification and Termination of the Plan.** The Board or Committee may at any time terminate, suspend or modify the Plan and the terms and provisions of any Award to any Participant which has not been paid. Amendments are subject to approval of Crocs's stockholders only if such approval is necessary to maintain the Plan in compliance with the requirements of Section 162(m) of the Code, its successor provisions or any other applicable law or regulation. No Award may be granted during any suspension of the Plan or after its termination.

**9. Unfunded Plan.** The Plan shall be unfunded, and the Company shall not be required to segregate any assets that may at any time be represented by Awards under the Plan. No Participant shall, by virtue of this Plan, have any interest in any specific assets of the Company.

**10. Other Benefit and Compensation Programs.** Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company shall be construed as creating any limitation on the power of the Board or Committee to adopt such other incentive arrangements as it may deem appropriate. Payments received by a Participant under an Award made pursuant to the Plan shall not be deemed a part of a Participant's regular recurring compensation for purposes of the termination, indemnity or severance pay law of any state and shall not be included in, nor have any effect on, the determination of benefits under any other employee benefit plan, contract or similar arrangement provided by the Company unless expressly so provided by such other plan, contract or arrangement, or unless the Committee expressly determines otherwise.

**11. Governing Law.** To the extent that Federal laws do not otherwise control, the Plan and all determinations made and actions taken pursuant to the Plan shall be governed by the laws of the State of Colorado and construed accordingly.

A-3

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12. **Other Provisions.**

12.1 **Non-transferability.** Participants and beneficiaries shall not have the right to assign, pledge or otherwise dispose of any part of an Award under this Plan.

12.2 **Termination of Employment.** Except as otherwise provided in this section, no Award shall be paid to a Participant who is not actively employed by the Company as of the end of the applicable Performance Period. If a Participant's employment with the Company ends during a Performance Period, the Committee may, in its discretion, determine that the Participant (or his or her beneficiaries) shall be paid a pro rata portion of the Award payment that the Participant would have received but for the fact that the Participant's employment ended. Any such pro rated Award payment will be paid at the same time as other Award payments with respect to the applicable Performance Period.

A-4

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**Appendix B**

**CROCS, INC.**

**2007 EQUITY INCENTIVE PLAN**

1. *Purpose.* The purpose of the Crocs, Inc. 2007 Equity Incentive Plan (the *Plan*) is to promote the interests of the Company and its stockholders by aligning the interests of employees and others who are selected to be Participants with those of the Company's stockholders, providing Participants with a strong incentive to put forth maximum effort for the continued success and growth of the Company and its Affiliates, and assisting the Company in attracting, motivating and retaining the best available individuals for service to the Company.

2. *Definitions.* The capitalized terms used in the Plan have the meanings set forth below.

(a) *Affiliate* means any corporation that is a parent corporation or subsidiary corporation of the Company, as those terms are defined in Code Sections 424(e) and (f), or any successor provisions, and for purposes other than the grant of Incentive Stock Options, any joint venture in which the Company or any such parent corporation or subsidiary corporation owns an equity interest.

(b) *Agreement* means any written or electronic agreement, instrument or document evidencing the grant of an Award in such form as has been approved by the Committee, including all amendments thereto.

(c) *Award* means a grant made under the Plan in the form of Restricted Stock, Restricted Stock Units, Options, Stock Appreciation Rights, Performance Units, Stock or any other stock-based award.

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

(e) *Cause* means (i) the Participant's material breach of any confidentiality, non-disclosure, non-solicitation, non-competition, invention assignment or similar agreement with the Company or any Affiliate; (ii) an act or acts of dishonesty undertaken by the Participant resulting in gain or personal enrichment of the Participant at the expense of the Company; (iii) persistent failure by the Participant to perform the duties of the Participant's employment, which failure is demonstrably deliberate on the part of the Participant and constitutes gross neglect of duties by the Participant; (iv) any failure by the Participant to materially conform to the Company's Code of Business Conduct and Ethics; or (v) the indictment or conviction of the Participant for a felony if the act or acts constituting the felony are substantially detrimental to the Company or its reputation.

(f) *Change of Control* means one of the following:

(1) a majority of the directors of the Company shall be persons other than persons

(i) for whose election proxies shall have been solicited by the Board, or

(ii) who are then serving as directors appointed by the Board to fill vacancies on the Board caused by death or resignation (but not by removal) or to fill newly created directorships;

(2) 35% or more of (1) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors ( *Outstanding Company Voting Securities* ) or (2) the then outstanding Shares of Stock ( *Outstanding Company Common Stock* ) is acquired or beneficially owned (as defined in Rule 13d-3 under the Exchange Act, or any successor rule thereto) by any individual, entity or group (within the meaning of Section 13d(3) or 14(d)(2) of the Exchange Act), provided, however, that the following acquisitions and beneficial ownership shall not constitute Changes of Control pursuant to this Section 2(f)(2):

(i) any acquisition or beneficial ownership by the Company or a subsidiary of the Company, or

B-1



(ii) any acquisition or beneficial ownership by any employee benefit plan (or related trust) sponsored or maintained by the Company or one or more of its subsidiaries, or

(iii) any acquisition or beneficial ownership by a parent entity of the Company (after giving effect to the merger or statutory share exchange) or its wholly-owned subsidiaries, as long as they shall remain wholly-owned subsidiaries, directly or indirectly of 100% of the Outstanding Company Voting Securities as a result of a merger or statutory share exchange that complies with Section 2(f)(3)(i)(A), (B) and (C) or the exception in Section 2(f)(3)(ii) in all respects;

(3) the Company consummates

(i) a merger of the Company with or into another entity, other than a merger in which:

(A) the persons who were the beneficial owners, respectively, of the Outstanding Company Voting Securities and Outstanding Company Common Stock immediately prior to such merger beneficially own, directly or indirectly, immediately after the merger, more than 50% of, respectively, the then outstanding common stock and the then outstanding voting power of the voting securities (or comparable equity interests) of the surviving entity in the merger or its direct or indirect parent entity in substantially the same proportions (except for those exercising statutory dissenters' rights) as their ownership of the Outstanding Company Voting Securities and Outstanding Company Common Stock immediately prior to the merger,

(B) if voting securities of the direct or indirect parent entity of the Company (after giving effect to the merger) are exchanged for Outstanding Company Voting Securities in the merger, all holders of any class or series of Outstanding Company Voting Securities immediately prior to the merger have the right to receive substantially the same per share consideration in exchange for their Outstanding Company Voting Securities as all other holders of such class or series (except for those exercising statutory dissenters' rights), and

(C) no individual, entity or group (other than a direct or indirect, parent entity that, after giving effect to the merger, directly or indirectly through one or more wholly owned subsidiaries, beneficially owns 100% of the outstanding voting securities of the entity resulting from the merger) beneficially owns, directly or indirectly, immediately after the merger, 35% or more of the voting power of the outstanding voting securities or the outstanding common stock of the entity (or comparable equity interests) resulting from the merger.

(ii) an exchange, pursuant to a statutory exchange of Outstanding Company Voting Securities held by stockholders of the Company immediately prior to the exchange, of shares of one or more classes or series of Outstanding Company Voting Securities for cash, securities or other property, except for voting securities of a direct or indirect parent entity of the Company (after giving effect to the statutory share exchange) owning directly, or indirectly through wholly-owned subsidiaries, both beneficially and of record 100% of the Outstanding Company Voting Securities immediately after the statutory share exchange if (1) the persons who were the beneficial owners, respectively, of the Outstanding Company Voting Securities and the Outstanding Common Stock of the Company immediately before such statutory share exchange own, directly or indirectly, immediately after the statutory share exchange more than 50% of, respectively, the voting power of the then outstanding voting securities and the then outstanding common stock (or comparable equity interests) of such parent entity, and (2) all holders of any class or series of Outstanding Company Voting Securities immediately prior to the statutory share exchange have the right to receive substantially the same per share consideration in

B-2

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exchange for their Outstanding Company Voting Securities as all other holders of such class or series (except for those exercising statutory dissenters' rights), or

(iii) a sale or other disposition of all or substantially all of the assets of the Company (in one transaction or a series of transactions); or

(4) the stockholders of the Company approve a definitive agreement or plan to liquidate or dissolve the Company.

Notwithstanding anything herein stated, no Change of Control shall be deemed to occur unless it would be deemed to constitute a change in ownership or effective control, or a change in the ownership of a substantial portion of the assets, of a business under Section 409A of the Code.

(g) Code means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute, and the regulations promulgated thereunder.

(h) Committee means two or more Non-Employee Directors designated by the Board to administer the Plan under Section 3.1, each member of which shall be (i) an independent director within the meaning of Rule 4200(15) of the Nasdaq Marketplace Rules, (ii) considered a non-employee director within the meaning of Exchange Act Rule 16b-3, and (iii) an outside director for purposes of Code Section 162(m).

(i) Company means Crocs, Inc., a Delaware corporation, or any successor to all or substantially all of its businesses by merger, consolidation, purchase of assets or otherwise.

(j) Disability means the disability of a Participant such that the Participant is considered disabled under any retirement plan of the Company which is qualified under Section 401 of the Code, or as otherwise determined by the Committee.

(k) Employee means an employee (including an officer or director who is also an employee) of the Company or an Affiliate.

(l) Exchange Act means the Securities Exchange Act of 1934, as amended and in effect from time to time or any successor statute.

(m) Fair Market Value as of any date means, unless otherwise expressly provided in the Plan, the closing sale price of a Share on the Nasdaq Global Select Market (or such other national securities exchange as may at the time be the principal market for the Shares) on that date or, if no sale of the Company's Shares occurred on that date, on the next preceding day on which a sale of Shares occurred. If the Shares are not then listed and traded upon the Nasdaq Global Select Market or other national securities exchange, Fair Market Value shall be what the Committee determines in good faith to be 100% of the fair market value of a Share on that date, using such criteria as it shall determine, in its sole discretion, to be appropriate for valuation.

(n) Fundamental Change means a dissolution or liquidation of the Company, a sale of substantially all of the assets of the Company, a merger or consolidation of the Company with or into any other corporation, regardless of whether the Company is the surviving corporation, or a statutory share exchange involving capital stock of the Company.

(o) Grant Date means the date on which the Committee approves the grant of an Award under the Plan, or such later date as may be specified by the Committee on the date the Committee approves the Award.

(p) Incentive Stock Option means any Option designated as such and granted in accordance with the requirements of Code Section 422.

B-3

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## Edgar Filing: American Water Capital Corp. - Form 424B5

- (q) **Insider** as of a particular date means any person who, as of that date is an officer of the Company as defined under Exchange Act Rule 16a-1(f).
- (r) **Non-Employee Director** means a member of the Board who is not an Employee.
- (s) **Non-Statutory Stock Option** means an Option other than an Incentive Stock Option.
- (t) **Option** means a right to purchase a number of Shares at a specified price.
- (u) **Participant** means a person to whom an Award is or has been made in accordance with the Plan.
- (v) **Performance-Based Compensation** means an Award to a covered officer (as defined in Section 162(m)(3) of the Code) that is intended to constitute performance-based compensation within the meaning of Section 162(m)(4)(c) of the Code.
- (w) **Performance Period** means the period of time as specified in an Agreement over which Performance Units or any other Award subject to Performance Measures are to be earned.
- (x) **Performance Measures** means any measures of performance established by the Committee in connection with the grant of an Award. In the case of any such grant intended to constitute Performance-Based Compensation, the Performance Measures shall consist of one or a combination of two or more of the following performance criteria: net sales; net earnings; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share (basic or diluted); profitability as measured by return ratios (including return on assets, return on equity, return on investment and return on net sales) or by the degree to which any of the foregoing earnings measures exceed a percentage of net sales; cash flow; market share; margins (including one or more of gross, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; operating income; pre- or after-tax income; cash flow per share; operating assets; improvement in or attainment of expense levels or cost savings; economic value added; and improvement in or attainment of working capital levels. Any Performance Measure utilized may be expressed in absolute amounts, on a per share basis, as a growth rate or change from preceding periods, or as a comparison to the performance of specified companies or other external measures, and may relate to one or any combination of corporate, group, unit, division, Affiliate or individual performance.
- (y) **Performance Unit** means the right to receive the Fair Market Value of one Share upon the achievement of specified levels of one or more Performance Measures in accordance with an Award granted under Section 11.
- (z) **Plan** means this Crocs, Inc. 2007 Equity Incentive Plan, as amended and in effect from time to time.
- (aa) **Restricted Stock** means Shares issued in accordance with an Award granted under Section 7 so long as the retention and/or vesting of such Shares remains subject to conditions or restrictions.
- (bb) **Restricted Stock Unit** means a derivative security provided in accordance with an Award granted under Section 8 which represents the right to receive, in cash and/or Stock as determined by the Committee, the Fair Market Value of one Share, and the retention, vesting and/or settlement of which is subject to conditions or restrictions.
- (cc) **Retirement** means termination of an Employee's employment, other than for Cause, at or after age 65.
- (dd) **Share** means a share of Stock.
- (ee) **Stock** means the common stock, no par value, of the Company.

B-4

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(ff) **Stock Appreciation Right** means a right, the value of which is determined in relation to the appreciation in value of Shares in accordance with an Award granted under Section 10.

(gg) **Subsidiary** means a subsidiary corporation as that term is defined in Code Section 424(f) or any successor provision.

(hh) **Successor** means the legal representative of an incompetent Participant, or if the Participant is deceased means the estate of the Participant or the person or persons who may, by bequest or inheritance, or pursuant to the terms of an Award, acquire the right to exercise an Option or Stock Appreciation Right or to receive cash and/or Shares issuable in satisfaction of an Award in the event of the Participant's death.

(ii) **Transferee** means any family member (as defined by the general instructions to Form S-8 under the Securities Act of 1933) of the Participant.

### 3. *Administration and Indemnification.*

#### (a) *Administration.*

(1) The Committee shall administer the Plan. The Committee shall have exclusive power to (i) make Awards; (ii) determine when and to whom Awards will be granted, the form of each Award, the amount of each Award, and any other terms or conditions of each Award consistent with the Plan; (iii) prescribe and amend the terms of Agreements evidencing Awards; and (iv) determine whether, to what extent and under what circumstances, Awards may be settled, paid or exercised in cash, Shares or other Awards, or other property or canceled, forfeited or suspended. A majority of the members of the Committee shall constitute a quorum for any meeting of the Committee, and acts of a majority of the members present at any meeting at which a quorum is present or the acts unanimously approved in writing by all members of the Committee shall be the acts of the Committee. Notwithstanding the foregoing, the Board shall perform the duties and have the responsibilities of the Committee with respect to Awards made to Non-Employee Directors.

(2) Solely for purposes of determining and administering Awards to Participants who are not Insiders, the Committee may delegate all or any portion of its authority under the Plan to one or more persons who are not Non-Employee Directors.

(3) To the extent within its discretion and subject to Sections 16 and 17, the Committee may amend the terms and conditions of any outstanding Award.

(4) It is the intent that the Plan and all Awards granted pursuant to it shall be administered by the Committee so as to permit the Plan and Awards to comply with Exchange Act Rule 16b-3, except in such instances as the Committee, in its discretion, may so provide. If any provision of the Plan or of any Award would otherwise frustrate or conflict with the intent expressed in this Section 3(a)(4), that provision to the extent possible shall be interpreted and deemed amended in the manner determined by the Committee so as to avoid the conflict. To the extent of any remaining irreconcilable conflict with this intent, the provision shall be deemed void as applied to Insiders to the extent permitted by law and in the manner deemed advisable by the Committee.

(5) The Committee's interpretation of the Plan and of any Award or Agreement made under the Plan and all related decisions or resolutions of the Board or Committee shall be final and binding on all parties with an interest therein. Consistent with its terms, the Committee shall have the power to establish, amend or waive regulations to administer the Plan. In carrying out any of its responsibilities, the Committee shall have discretionary authority to construe the terms of the Plan and any Award or Agreement made under the Plan.

(6) In order to facilitate compliance with the applicable provisions of the laws in other countries in which the Company or its Affiliates operate or have Employees or non-employee consultants and

B-5

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advisors, and notwithstanding any other provision of this Plan, the Committee shall have the power and authority to (i) determine which (if any) individuals rendering services or employed outside the United States are eligible to participate in the Plan or to receive any type of Award hereunder; (ii) determine which non-U.S.-based Affiliates or operations may participate in the Plan; (iii) modify the terms and conditions of any Awards made to such individuals or with respect to such non-U.S.-based Affiliates or operations; and (iv) establish sub-plans, modify methods of exercise, modify payment restrictions on sale or transfer of Shares and other terms and procedures to the extent deemed necessary or desirable by the Committee to comply with applicable laws of the non-U.S. jurisdiction.

(b) *Indemnification.* Each person who is or shall have been a member of the Committee, or of the Board, and any other person to whom the Committee delegates authority under the Plan, shall be indemnified and held harmless by the Company, to the extent permitted by law, against and from any loss, cost, liability or expense that may be imposed upon or reasonably incurred by such person in connection with or resulting from any claim, action, suit or proceeding to which such person may be a party or in which such person may be involved by reason of any action taken or failure to act, made in good faith, under the Plan and against and from any and all amounts paid by such person in settlement thereof, with the Company's approval, or paid by such person in satisfaction of any judgment in any such action, suit or proceeding against such person, provided such person shall give the Company an opportunity, at the Company's expense, to handle and defend the same before such person undertakes to handle and defend it on such person's own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such person or persons may be entitled under the Company's Certificate of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

#### 4. *Shares Available Under the Plan.*

(a) Subject to adjustment pursuant to Section 17, the number of Shares that may be granted under the Plan shall not exceed 4,500,000, of which not more than 1,500,000 Shares may be the subject of Awards other than Options and Stock Appreciation Rights. The Shares issued under the Plan may come from authorized and unissued shares or treasury shares.

(b) Any Shares subject to that portion of an Award which, for any reason, is forfeited or expires or terminates unexercised or unearned may again be used for future Awards.

(c) Any Shares subject to an Award settled in cash or other property in lieu of Shares may again be used for future Awards.

(d) For the purposes of computing the total number of Shares granted under the Plan, the following rules shall apply to Awards payable in Shares where appropriate:

(1) Each Award shall initially be deemed to involve the grant of the maximum number of Shares in which the particular Award is denominated.

(2) If a Stock Appreciation Right has been exercised and settled in Shares, the gross number of Shares with respect to which such exercise occurred shall be deemed granted and may not again be the subject of Awards under the Plan.

(3) To the extent an Award is paid or settled in some other security, it shall be deemed to have involved the grant of the number of Shares in which that portion of the Award was denominated.

(4) Where the number of Shares available under the Award is variable on the Grant Date, the number of Shares granted shall be deemed, prior to the settlement of the Award, to be the maximum number of Shares that could be received under that particular Award.

B-6

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- (5) Where two or more types of Awards (all of which are payable in Shares) are granted to a Participant in tandem with each other, such that the exercise of one type of Award with respect to a number of Shares cancels at least an equal number of Shares of the other, such joint Awards shall be deemed to involve the grant of the maximum number of Shares available under the largest single Award.
- (6) Shares tendered or withheld in payment of an Option exercise price or to satisfy any tax withholding obligation shall not be added to the total number of Shares available for grant under the Plan.
- (7) Shares that are repurchased by the Company with Option proceeds shall not be added to the total number of Shares available for grant under the Plan.
- (e) No fractional Shares may be issued under the Plan; however, cash shall be paid in lieu of any fractional Share in settlement of an Award.
- (g) The maximum number of Shares that may be issued pursuant to Incentive Stock Options shall be 4,500,000, which limit will be subject to adjustment under Section 17 to the extent such adjustment is consistent with adjustments permitted of a plan authorizing the grant of incentive stock options under Code Section 422. The aggregate number of Shares subject to Options and/or Stock Appreciation Rights granted during any calendar year to any one Participant shall not exceed 500,000. The aggregate number of Shares subject to Restricted Stock and/or Restricted Stock Unit Awards granted during any calendar year to any one Participant shall not exceed 500,000. The foregoing limits shall be subject to adjustment under Section 17, but only to the extent that such adjustment will not affect the status of any Award intended to qualify as performance-based compensation under Code Section 162(m).
5. *Eligibility.* Participation in the Plan shall be limited to (i) Employees, (ii) individuals who are not Employees but who provide services to the Company or an Affiliate, including services provided in the capacity of a consultant, advisor or director, such as a Non-Employee Director, and (iii) any individual the Company desires to induce to become an Employee or Non-Employee Director, provided that any such grant shall be contingent upon such individual becoming an Employee or Non-Employee Director, as the case may be. The granting of Awards is solely at the discretion of the Committee, except that Incentive Stock Options may only be granted to Employees. References herein to employed, employment or similar terms (except Employee ) shall include the providing of services in any capacity, including as a director. Neither the transfer of employment of a Participant between any of the Company or its Affiliates, nor a leave of absence granted to such Participant and approved by the Committee, nor any change in status from an Employee to a consultant of the Company shall be deemed a termination of employment for purposes of the Plan.

6. *General Terms of Awards.*

- (a) *Amount of Award.* Each Award shall be evidenced by an Agreement setting forth the number of Shares subject to the Award together with such other terms and conditions applicable to the Award (and not inconsistent with the Plan) as determined by the Committee, which may include conditions on vesting, exercisability, lapsing of restrictions or payment that are tied to Performance Measures.
- (b) *Vesting and Term.* Each Agreement, other than those relating solely to Awards of Shares without restrictions, shall set forth the period until the applicable Award is scheduled to expire, which shall not be more than ten years from the Grant Date, and any applicable Performance Period. The Committee may provide for such vesting conditions as it may determine, subject to the following limitations:
- (1) an Award that is not subject to the satisfaction of Performance Measures may not fully vest or become fully exercisable earlier than three years from the Grant Date; and
- (2) the Performance Period of a Performance Unit or other Award subject to Performance Measures may not be shorter than one year.

B-7

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The limitations in clauses (1) and (2) above will not, however, apply in the following situations: (i) an Award made to attract a key executive to join the Company; (ii) upon a Change of Control; (iii) termination of employment due to death, Disability or Retirement; (iv) Restricted Stock or Restricted Stock Units issued in exchange for other compensation; (v) a substitute Award granted pursuant to Section 20; and (vi) Awards issued to Non-Employee Directors.

(c) *Transferability.* Except as provided in this Section, (i) during the lifetime of a Participant, only that Participant (or that Participant's Successor) may exercise an Option or Stock Appreciation Right, or receive payment with respect to any other Award, and (ii) no Award may be sold, assigned, transferred, exchanged or otherwise encumbered other than to a Successor in the event of a Participant's death or pursuant to a qualified domestic relations order as defined in the Code or Title 1 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), or the rules thereunder. Any attempted transfer in violation of this Section 6(c) shall be of no effect. The Committee may, however, provide in an Agreement or otherwise that an Award (other than an Incentive Stock Option) may be transferable, to the extent permitted by law, to a Transferee if the Participant does not receive any consideration for the transfer. Any Award held by a Transferee shall continue to be subject to the same terms and conditions that were applicable to that Award immediately before the transfer thereof to the Transferee. For purposes of any provision of the Plan relating to notice to a Participant or to acceleration or termination of an Award upon the death or termination of employment of a Participant, the references to Participant shall mean the original grantee of an Award and not any Transferee.

(d) *Termination of Employment.* Except as otherwise determined by the Committee or provided by the Committee in an Agreement, in case of a Participant's termination of employment with the Company and all of its Affiliates, the following provisions shall apply:

(1) *Options and Stock Appreciation Rights.*

(i) *Death or Disability.* If a Participant's employment terminates because of death or Disability before an Award of an Option or Stock Appreciation Right has expired, the portion of such Award that was exercisable immediately prior to such termination shall remain exercisable for one year after the date of such termination of employment (but not after the scheduled expiration date of such Award). The unexercisable portion of such Award shall terminate at the date of termination of employment.

(ii) *Retirement.* If the employment of a Participant who is an Employee terminates because of Retirement before an Award of an Option or Stock Appreciation Right has expired, the portion of such Award that was exercisable immediately prior to such termination shall remain exercisable for one year after the date of such termination of employment (but not after the scheduled expiration date of such Award). The unexercisable portion of such Award shall terminate at the date of termination of employment.

(iii) *Cause.* If a Participant's employment is terminated for Cause, all Awards to the Participant will terminate immediately upon such termination.

(iv) *Termination for Other Reasons.* If a Participant's employment terminates for any reason other than death, Disability, Retirement or Cause, then the unexercisable portion of any Award of an Option or Stock Appreciation Right held by such Participant shall terminate at the date of termination of employment, and any portion of such Award that was exercisable immediately prior to such termination shall remain exercisable for three months after termination of the Participant's employment (but not after the scheduled expiration date of such Award) if the Participant is not a Non-Employee Director, and shall remain exercisable until the scheduled expiration of the Award if the Participant is a Non-Employee Director.

B-8

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(2) *Performance Units.* If a Participant's employment with the Company and all of its Affiliates terminates during a Performance Period because of death, Disability or Retirement, the Participant shall be entitled to a payment of Performance Units at the end of the Performance Period based upon the extent to which achievement of Performance Measures was satisfied at the end of such period and prorated for the portion of the Performance Period during which the Participant was employed by the Company or any Affiliate. Except as provided in this Section 6(d)(2) or in the applicable Agreement, if a Participant's employment terminates with the Company and all of its Affiliates during a Performance Period, then such Participant shall not be entitled to any payment with respect to that Performance Period.

(3) *Restricted Stock and Restricted Stock Unit Awards.* If a Participant's employment with the Company and all of its Affiliates terminates because of death, Disability or Retirement, a pro rata portion of any outstanding Award of Restricted Stock or Restricted Stock Units shall immediately vest. The portion of the Award that will vest will involve that number of Shares or Units which, when combined with the number of Shares or Units subject to the Award that have previously vested, will represent the same ratio to the total number of Shares or Units subject to the original Award as the portion of the scheduled vesting period of the Award during which the Participant was employed by the Company and its Affiliates bears to the scheduled vesting period. The portion of any Award of Restricted Stock or Restricted Stock Units that does not vest as provided in the preceding sentence will terminate at the date of the Participant's termination of employment, and any Shares of Restricted Stock will be forfeited to the Company.

(e) *Rights as Stockholder.* Each Agreement shall provide that a Participant shall have no rights as a stockholder with respect to any securities covered by an Award unless and until the date the Participant becomes the holder of record of the Stock, if any, to which the Award relates.

(f) *Performance-Based Awards.* Any Award may be granted as a performance-based Award if the Committee establishes one or more Performance Measures upon which vesting, the lapse of restrictions or settlement in cash or Shares is contingent. With respect to any Award intended to be Performance-Based Compensation, the Committee shall establish and administer Performance Measures in the manner described in Section 162(m) of the Code and the then current regulations of the Secretary of the Treasury.

#### 7. *Restricted Stock Awards.*

(a) An Award of Restricted Stock under the Plan shall consist of Shares subject to restrictions on transfer and conditions of forfeiture, which restrictions and conditions shall be included in the applicable Agreement. The Committee may provide for the vesting of such Shares and the corresponding lapse or waiver of any such restrictions or conditions based on such factors or criteria as the Committee, in its sole discretion, may determine.

(b) Except as otherwise provided in the applicable Agreement, the Shares subject to an Award of Restricted Stock shall be evidenced by a book-entry in the name of the Participant with the Company's transfer agent or by one or more Stock certificates issued in the name of the Participant. Any such Stock certificate shall either be deposited with the Company or its designee, together with an assignment separate from the certificate, in blank, signed by the Participant, or bear such legend with respect to the restricted nature of the Restricted Stock evidenced thereby as shall be provided for in the applicable Agreement. Any book-entry shall be accompanied by a similar legend.

(c) Upon the vesting of Restricted Stock and the corresponding lapse of the restrictions and conditions, unrestricted Shares shall be issued to the Participant or a Successor or Transferee.

(d) Unless otherwise provided in an Agreement, a Participant or a Transferee with a Restricted Stock Award shall have all the other rights of a stockholder including, but not limited to, the right to receive dividends and the right to vote the Shares of Restricted Stock.

B-9

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8. *Restricted Stock Unit Awards.* An Award of Restricted Stock Units under the Plan shall be subject to restrictions on transfer and conditions of forfeiture, which restrictions and conditions shall be included in the applicable Agreement. The Committee may provide for the vesting of Restricted Stock Units and the corresponding lapse or waiver of any such restrictions or conditions based on such factors or criteria as the Committee, in its sole discretion, may determine. Following the vesting of a Restricted Stock Unit Award, payment to the Participant or a Successor or Transferee shall be made at such time or times as shall be provided in the Agreement in the form of cash, Shares or a combination of cash and Shares as determined by the Committee.

9. *Stock Options.*

(a) *Terms of All Options.*

(1) An Option shall be granted pursuant to an Agreement as either an Incentive Stock Option or a Non-Statutory Stock Option. The purchase price of each Share subject to an Option shall be determined by the Committee and set forth in the Agreement, but shall not be less than the Fair Market Value of a Share as of the Grant Date (except as provided in Section 20).

(2) The purchase price of the Shares with respect to which an Option is exercised shall be payable in full at the time of exercise, which may include, to the extent permitted by the Committee, payment under a broker-assisted sale and remittance program acceptable to the Committee. The purchase price may be paid in cash or, if the Committee so permits, by withholding Shares otherwise issuable to the Participant upon exercise of the Option or by delivery to the Company of Shares (by actual delivery or attestation) already owned by the Participant (in each case, such Shares having a Fair Market Value as of the date the Option is exercised equal to the purchase price of the Shares being purchased), or a combination thereof, unless otherwise provided in the Agreement. A Participant exercising an Option shall not be permitted to pay any portion of the purchase price with Shares if, in the opinion of the Committee, payment in such manner could have adverse financial accounting consequences for the Company.

(3) Each Option shall be exercisable in whole or in part on the terms provided in the Agreement. In no event shall any Option be exercisable at any time after its scheduled expiration. When an Option is no longer exercisable, it shall be deemed to have terminated.

(4) Options will not be granted under the Plan in consideration for, and the grant of Options will not be conditioned on, the delivery of Shares to the Company in payment of the exercise price and/or tax withholding obligation under any other Option.

(b) *Incentive Stock Options.* In addition to the other terms and conditions applicable to all Options:

(1) The aggregate Fair Market Value (determined as of Option Grant Date) of the Shares with respect to which Incentive Stock Options held by an individual first become exercisable in any calendar year (under the Plan and all other incentive stock option plans of the Company and its Affiliates) shall not exceed \$100,000 (or such other limit as may be required by the Code) if this limitation is necessary to qualify the Option as an Incentive Stock Option. To the extent an Option granted to a Participant exceeds this limit, the Option shall be treated as a Non-Statutory Stock Option.

(2) An Incentive Stock Option shall not be exercisable more than 10 years after its Grant Date (or such other limit as may be required by the Code) if this limitation is necessary to qualify the Option as an Incentive Stock Option.

(3) An Incentive Stock Option shall not be exercisable more than one year after termination of the Participant's employment with the Company and its Affiliates if such termination is due to the

B-10

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Participant's death or Disability, or more than three months after termination of the Participant's employment if such termination is due to any other reason.

(4) The Agreement covering an Incentive Stock Option shall contain such other terms and provisions that the Committee determines necessary to qualify the Option as an Incentive Stock Option.

(5) No Participant may receive an Incentive Stock Option under the Plan if, immediately after the grant of such Award, the Participant would own (after application of the rules contained in Code Section 424(d)) Shares possessing more than 10% of the total combined voting power of all classes of stock of the Company or its Subsidiaries, unless (i) the option price for that Incentive Stock Option is at least 110% of the Fair Market Value of the Shares subject to that Incentive Stock Option on the Grant Date and (ii) that Option is not exercisable after the date five years from its Grant Date.

10. *Stock Appreciation Rights.* An Award of a Stock Appreciation Right shall entitle the Participant (or a Successor or Transferee), subject to terms and conditions determined by the Committee, to receive upon exercise of the Stock Appreciation Right all or a portion of the excess of (i) the Fair Market Value of a specified number of Shares as of the date of exercise of the Stock Appreciation Right over (ii) a specified price that shall not be less than 100% of the Fair Market Value of such Shares as of the Grant Date of the Stock Appreciation Right. Each Stock Appreciation Right may be exercisable in whole or in part on the terms provided in the Agreement. No Stock Appreciation Right shall be exercisable at any time after its scheduled expiration. When a Stock Appreciation Right is no longer exercisable, it shall be deemed to have terminated. Upon exercise of a Stock Appreciation Right, payment to the Participant or a Successor or Transferee shall be made at such time or times as shall be provided in the Agreement in the form of cash, Shares or a combination of cash and Shares as determined by the Committee. The Agreement may provide for a limitation upon the amount or percentage of the total appreciation on which payment (whether in cash and/or Shares) may be made in the event of the exercise of a Stock Appreciation Right.

11. *Performance Units.*

(a) *Initial Award.*

(1) An Award of Performance Units under the Plan shall entitle the Participant (or a Successor or Transferee) to future payments of cash, Shares or a combination thereof, as determined by the Committee, based upon the achievement of specified levels of one or more Performance Measures. The Agreement may provide that a portion of a Participant's Award will be paid for performance that exceeds the minimum target but falls below the maximum target applicable to the Award. The Agreement shall also provide for the timing of the payment.

(2) Following the conclusion or acceleration of each Performance Period, the Committee shall determine the extent to which (i) Performance Measures have been attained, (ii) any other terms and conditions with respect to an Award relating to the Performance Period have been satisfied and (iii) payment is due with respect to an Award of Performance Units.

(3) No Participant may receive Awards of Performance Units relating to more than 500,000 Shares in any year under this Plan.

(b) *Acceleration and Adjustment.* The Agreement may permit an acceleration of the Performance Period and an adjustment of Performance Measures and payments with respect to some or all of the Performance Units awarded to a Participant upon the occurrence of certain events, which may include a Change of Control, a Fundamental Change, a recapitalization, a change in the accounting practices of the Company, a change in the Participant's title or employment responsibilities, the Participant's death, Disability or Retirement or, with respect to payments in Shares, a reclassification, stock dividend, stock

B-11

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split or stock combination as provided in Section 17. The Agreement also may provide for a limitation on the value of an Award of Performance Units that a Participant may receive.

12. *Other Awards.* The Committee may from time to time grant Stock and other Awards under the Plan including, without limitation, those Awards pursuant to which Shares are or may in the future be acquired, Awards denominated in Stock units, securities convertible into Stock and phantom securities. The Committee, in its sole discretion, shall determine the terms and conditions of such Awards provided that such Awards shall not be inconsistent with the terms and purposes of the Plan. The Committee may, in its sole discretion, direct the Company to issue Shares subject to restrictive legends and/or stop transfer instructions that are consistent with the terms and conditions of the Award to which the Shares relate.

13. *Effective Date and Duration of the Plan.*

(a) *Effective Date.* The Plan shall become effective on the date it is approved by the requisite vote of Company's stockholders at the 2007 Annual Meeting of Stockholders or any adjournment thereof.

(b) *Duration of the Plan.* The Plan shall remain in effect until all Shares subject to it shall be distributed, all Awards have expired or terminated, the Plan is terminated pursuant to Section 16, or the tenth anniversary of the date of stockholder approval of the Plan, whichever occurs first (the Termination Date). Awards made before the Termination Date may be exercised, vested or otherwise effectuated beyond the Termination Date unless limited in the Agreement or otherwise.

14. *Plan Participation and Employment Status.*

(a) Status as an eligible Employee shall not be construed as a commitment that any Award will be made under the Plan to that eligible Employee or to eligible Employees generally.

(b) Nothing in the Plan or in any Agreement or related documents shall confer upon any Employee or Participant any right to continue in the employment of the Company or any Affiliate or constitute any contract of employment or affect any right that the Company or any Affiliate may have to change such person's compensation, other benefits, job responsibilities, or title, or to terminate the employment of such person with or without cause.

15. *Tax Withholding.* The Company shall have the right to withhold from any cash payment under the Plan to a Participant or other person (including a Successor or a Transferee) an amount sufficient to cover any required withholding taxes. The Company shall have the right to require a Participant or other person receiving Shares under the Plan to pay the Company a cash amount sufficient to cover any required withholding taxes before actual receipt of those Shares. In lieu of all or any part of a cash payment from a person receiving Shares under the Plan, the Committee may permit the individual to cover all or any part of the required withholdings through a reduction in the number of Shares delivered or a delivery or tender to the Company of Shares held by the Participant or other person, in each case valued in the same manner as used in computing the withholding taxes under applicable laws.

16. *Amendment and Termination of the Plan and Agreements.*

(a) Except as limited in (b) below, (i) the Board may at any time and from time to time terminate, suspend or amend the Plan and (ii) the Committee may at any time alter or amend any or all Agreements under the Plan. The Company shall submit any amendment of the Plan to its stockholders for approval if the rules of the Nasdaq Global Select Market or other applicable laws or regulations require stockholder approval of such amendment.

(b) No termination, suspension, or amendment of the Plan will materially and adversely affect any right acquired by any Participant or Successor or Transferee under an Award granted before the date of termination, suspension, or amendment, unless otherwise agreed to by the Participant in the Agreement or otherwise, or required as a matter of law; but it will be conclusively presumed that any adjustment for

B-12

changes in capitalization provided for in Sections 11(b) or 17 does not adversely affect these rights. Except as provided in Section 17, no Option or Stock Appreciation Right granted under the Plan may be amended to decrease the exercise price thereof, or be cancelled in conjunction with the grant of any new Option or Stock Appreciation Right with a lower exercise price, or otherwise be subject to any action that would be treated under accounting rules or otherwise as a repricing of such Option or Stock Appreciation Right, unless such action is approved by the Company's stockholders.

17. *Adjustment for Changes in Capitalization.* In the event of any equity restructuring (within the meaning of Statement of Financial Accounting Standards No. 123 (revised 2004), referred to as FAS 123R) that causes the per Share value of Shares to change, such as a stock dividend or stock split, the Committee shall cause there to be made an equitable adjustment to the number and kind of Shares or other securities issued or reserved for issuance pursuant to the Plan and to outstanding Awards (including but not limited to the number and kind of Shares to which such Awards are subject, and the exercise or strike price of such Awards) to the extent such other Awards would not otherwise automatically adjust in the equity restructuring; provided, in each case, that with respect to Incentive Stock Options, no such adjustment shall be authorized to the extent that such adjustment would cause such Incentive Stock Options to violate Section 422(b) of the Code or any successor provision; provided further, that no such adjustment shall be authorized under this Section to the extent that such adjustment would cause an Award to be subject to adverse tax consequences under Section 409A of the Code. In the event of any other change in corporate capitalization, which may include a merger, consolidation, any reorganization (whether or not such reorganization comes within the definition of such term in Section 368 of the Code), or any partial or complete liquidation of the Company to the extent such events do not constitute equity restructurings or business combinations within the meaning of FAS No. 123R, such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights. In either case, any such adjustment shall be conclusive and binding for all purposes of the Plan. Unless otherwise determined by the Committee, the number of Shares subject to an Award shall always be a whole number.

18. *Fundamental Change.* In the event of a proposed Fundamental Change, the Committee may, but shall not be obligated to:

(a) if the Fundamental Change is a merger or consolidation or statutory share exchange, make appropriate provision for the protection of the outstanding Options and Stock Appreciation Rights by the substitution of options, stock appreciation rights and appropriate voting common stock of the corporation surviving any merger or consolidation or, if appropriate, the parent corporation of the Company or such surviving corporation; or

(b) at least ten days before the occurrence of the Fundamental Change, declare, and provide written notice to each holder of an Option or Stock Appreciation Right of the declaration, that each outstanding Option and Stock Appreciation Right, whether or not then exercisable, shall be canceled at the time of, or immediately before the occurrence of the Fundamental Change in exchange for payment to each holder of an Option or Stock Appreciation Right, within ten days after the Fundamental Change, of cash equal to (i) for each Share covered by the canceled Option, the amount, if any, by which the Fair Market Value (as defined in this Section) per Share exceeds the exercise price per Share covered by such Option or (ii) for each Stock Appreciation Right, the price determined pursuant to Section 10, except that Fair Market Value of the Shares as of the date of exercise of the Stock Appreciation Right, as used in clause (i) of Section 10, shall be deemed to mean Fair Market Value for each Share with respect to which the Stock Appreciation Right is calculated determined in the manner hereinafter referred to in this Section. At the time of the declaration provided for in the immediately preceding sentence, each Stock Appreciation Right and each Option shall immediately become exercisable in full and each person holding an Option or a Stock Appreciation Right shall have the right, during the period preceding the time of cancellation of the Option or Stock Appreciation Right, to exercise the Option as to all or any part of the Shares covered

B-13

thereby or the Stock Appreciation Right in whole or in part, as the case may be. In the event of a declaration pursuant to Section 17(b), each outstanding Option and Stock Appreciation Right granted pursuant to the Plan that shall not have been exercised before the Fundamental Change shall be canceled at the time of, or immediately before, the Fundamental Change, as provided in the declaration. Notwithstanding the foregoing, no person holding an Option or a Stock Appreciation Right shall be entitled to the payment provided for in this Section 17(b) if such Option or Stock Appreciation Right shall have terminated, expired or been cancelled. For purposes of this Section only, Fair Market Value per Share means the cash plus the fair market value, as determined in good faith by the Committee, of the non-cash consideration to be received per Share by the stockholders of the Company upon the occurrence of the Fundamental Change.

19. *Dividends and Dividend Equivalents.* An Award may, if so determined by the Committee, provide the Participant with the right to receive dividend payments or dividend equivalent payments with respect to Shares subject to the Award (both before and after the Shares subject to the Award are earned, vested or acquired), which payments may be either made currently or credited to an account for the Participant, and may be settled in cash or Shares, as determined by the Committee. Any such settlements, and any such crediting of dividends or dividend equivalents or reinvestment in Shares, may be subject to such conditions, restrictions and contingencies as the Committee shall establish, including the reinvestment of such credited amounts in Share equivalents.

20. *Corporate Mergers, Acquisitions, Etc.* The Committee may also grant Awards under the Plan in substitution for, or in connection with the assumption of, existing awards granted or issued by another corporation and assumed or otherwise agreed to be provided for by the Company pursuant to or by reason of a transaction involving a corporate merger, consolidation, acquisition of property or stock, separation, reorganization or liquidation to which the Company or a Subsidiary is a party. The terms and conditions of the substitute Awards may vary from the terms and conditions set forth in the Plan to the extent as the Board at the time of the grant may deem appropriate to conform, in whole or in part, to the provisions of the awards in substitution for which they are granted.

21. *Unfunded Plan.* The Plan shall be unfunded and the Company shall not be required to segregate any assets that may at any time be represented by Awards under the Plan. Neither the Company, its Affiliates, the Committee, nor the Board of Directors shall be deemed to be a trustee of any amounts to be paid under the Plan nor shall anything contained in the Plan or any action taken pursuant to its provisions create or be construed to create a fiduciary relationship between the Company and/or its Affiliates, and a Participant or Successor or Transferee. To the extent any person acquires a right to receive an Award under the Plan, this right shall be no greater than the right of an unsecured general creditor of the Company.

22. *Limits of Liability.*

(a) Any liability of the Company to any Participant with respect to an Award shall be based solely upon contractual obligations created by the Plan and the Award Agreement.

(b) Except as may be required by law, neither the Company nor any member of the Board of Directors or of the Committee, nor any other person participating (including participation pursuant to a delegation of authority under Section 3(a)(2) of the Plan) in any determination of any question under the Plan, or in the interpretation, administration or application of the Plan, shall have any liability to any party for any action taken, or not taken, in good faith under the Plan.

23. *Compliance with Applicable Legal Requirements.* No Shares distributable pursuant to the Plan shall be issued and delivered unless the issuance of the Shares complies with all applicable legal requirements including, without limitation, compliance with the provisions of applicable state securities laws, the Securities Act of 1933, as amended and in effect from time to time or any successor statute, the

B-14

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Exchange Act and the requirements of the exchanges on which the Company's Shares may, at the time, be listed.

24. *Deferrals and Settlements.* The Committee may require or permit Participants to elect to defer the issuance of Shares or the settlement of Awards in cash under such rules and procedures as it may establish under the Plan. It may also provide that deferred settlements include the payment or crediting of interest on the deferral amounts.

25. *Other Benefit and Compensation Programs.* Payments and other benefits received by a Participant under an Award made pursuant to the Plan shall not be deemed a part of a Participant's regular, recurring compensation for purposes of the termination, indemnity or severance pay laws of any country and shall not be included in, nor have any effect on, the determination of benefits under any other employee benefit plan, contract or similar arrangement provided by the Company or an Affiliate unless expressly so provided by such other plan, contract or arrangement, or unless the Committee expressly determines that an Award or portion of an Award should be included to accurately reflect competitive compensation practices or to recognize that an Award has been made in lieu of a portion of competitive cash compensation.

26. *Beneficiary Upon Participant's Death.* To the extent that the transfer of a Participant's Award at death is permitted by this Plan or under an Agreement, (i) a Participant's Award shall be transferable to the beneficiary, if any, designated on forms prescribed by and filed with the Committee and (ii) upon the death of the Participant, such beneficiary shall succeed to the rights of the Participant to the extent permitted by law and this Plan. If no such designation of a beneficiary has been made, the Participant's legal representative shall succeed to the Awards, which shall be transferable by will or pursuant to laws of descent and distribution to the extent permitted by this Plan or under an Agreement.

27. *Requirements of Law.*

(a) To the extent that federal laws do not otherwise control, the Plan and all determinations made and actions taken pursuant to the Plan shall be governed by the laws of the State of Minnesota without regard to its conflicts-of-law principles and shall be construed accordingly.

(b) If any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not effect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

B-15

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**Annual Meeting Proxy Card**

**A. Proposals The Board of Directors recommends a vote FOR all of the nominees listed and FOR Proposals 2-6.**

1. Election of Directors

	<b>For</b>	<b>Withhold</b>
Raymond D. Croghan	o	o
Michael E. Marks	o	o
Richard L. Sharp	o	o

	<b>For</b>	<b>Against</b>	<b>Abstain</b>
2. Approval of the Crocs, Inc. 2008 Cash Incentive Plan	o	o	o
3. Approval of the Crocs, Inc. 2007 Incentive Plan	o	o	o
4. Approval of the Crocs, Inc. 2007 Equity Incentive Plan	o	o	o
5. Approval of the amendment to the Restated Certificate of Incorporation of Crocs, Inc. to increase the number of authorized shares of capital stock from 130,000,000 to 255,000,000	o	o	o
6. Ratification of the selection of Deloitte & Touche LLP as our independent registered public accounting firm for fiscal year 2007	o	o	o

7. In their discretion, to transact other business as may properly come before the meeting or any postponement or adjournment thereof

**B. Authorized Signatures - This section must be completed for your vote to be counted. Date and sign below.**

The undersigned hereby revokes all proxies heretofore given by the undersigned for said meeting. The proxy may be revoked prior to its exercise.

Note: Please sign exactly as your name or names appear hereon. When shares are held by joint tenants, both should sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such. If a corporation, please sign in full corporate name by President or other authorized officer. If a partnership, please sign in partnership name by an authorized person.

Name: \_\_\_\_\_ Date: \_\_\_\_\_



**Proxy - Crocs, Inc.**

**PROXY SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS FOR THE ANNUAL MEETING OF STOCKHOLDERS ON JULY 9, 2007**

The undersigned hereby appoints Ronald R. Snyder and Peter S. Case, and each of them, with power of substitution, as proxies of the undersigned, to attend the Annual Meeting of Stockholders of Crocs, Inc. (the Company ), to be held at the Beaver Creek Lodge, Beaver Creek, Colorado, on July 9, 2007 at 9:00 a.m., Mountain time, and all adjournments thereof, and to vote, as indicated on the reverse side, the shares of common stock of the Company which the undersigned is entitled to vote with all the powers the undersigned would possess if present at the meeting.

**This proxy, when properly executed, will be voted in the manner directed herein by the undersigned stockholder(s). If no specific direction is given, this proxy will be voted FOR each of the proposals.**

**PLEASE DATE AND SIGN ON THE REVERSE SIDE AND MAIL PROMPTLY IN THE ENCLOSED ENVELOPE.**

**(Continued and to be signed on reverse side.)**

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