

ModusLink Global Solutions Inc  
Form PRER14A  
January 07, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement  Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule §240.14a-12

**ModusLink Global Solutions, Inc.**

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

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(4) Proposed maximum aggregate value of transaction:

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(1) Amount Previously Paid:

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(3) Filing Party:

(4) Date Filed:

**MODUSLINK GLOBAL SOLUTIONS, INC.**

**1601 TRAPELO ROAD**

**WALTHAM, MASSACHUSETTS 02451**

**PRELIMINARY PROXY MATERIAL SUBJECT TO COMPLETION**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON \_\_\_\_\_, 2013**

To the Stockholders of ModusLink Global Solutions, Inc.:

NOTICE IS HEREBY GIVEN that the 2012 Annual Meeting of Stockholders (the 2012 Meeting ) of ModusLink Global Solutions, Inc. (the Company ) will be held at \_\_\_\_\_, on \_\_\_\_\_, 2013, at \_\_\_\_\_ Eastern time, for the following purposes:

1. To elect two Directors to serve in Class I until the 2015 Annual Meeting of Stockholders and until their respective successors are duly elected and qualified;
2. To amend the Company s Restated Certificate of Incorporation to declassify the Board of Directors;
3. To approve, on an advisory basis, the compensation of our named executive officers;
4. To ratify the appointment of KPMG LLP as the Company s independent registered public accounting firm for the current fiscal year; and
5. To transact such other business that may properly come before the 2012 Meeting or any adjournments or postponements thereof.

The Board has no knowledge of any other business to be transacted at the 2012 Meeting. Only stockholders of record at the close of business on \_\_\_\_\_, 2013 are entitled to notice of, and to vote at, the 2012 Meeting and any adjournments or postponements thereof. All stockholders are cordially invited to attend the 2012 Meeting.

By Order of the Board of Directors,

Waltham, Massachusetts

January \_\_\_\_\_, 2013

Peter L Gray, *Executive Vice President, Chief  
Administrative Officer, General Counsel and Secretary*

**IMPORTANT**

Whether or not you expect to attend the 2012 Meeting in person, please submit your proxy to vote as soon as possible. As an alternative to voting in person at the 2012 Meeting, you may submit your proxy via the Internet, by telephone, or, if you receive a paper proxy card in the mail, by mailing a completed proxy card. For detailed information regarding voting instructions, please refer to the section entitled How to Vote on page 1 of the Proxy Statement. You may revoke a previously delivered proxy at any time prior to the 2012 Meeting. If you decide to attend

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the 2012 Meeting and wish to change your proxy vote, you may do so by voting in person at the 2012 Meeting.

Please note that if you hold your shares in street name (through a bank, broker or other nominee), you will need to bring a copy of a brokerage statement reflecting your stock ownership in the Company as of the record date to be allowed into the 2012 Meeting.

If you have questions about how to vote your shares, or need additional assistance, please contact the firm assisting us in the solicitation of proxies:

INNISFREE M&A INCORPORATED

Stockholders Call Toll-Free: 877-750-5836

Banks and Brokers Call Collect: 212-750-5834

Use of cameras, cell phones, recording equipment and other electronic devices will not be permitted at the 2012 Meeting. The Company reserves the right to inspect any person or item prior to admission to the 2012 Meeting.

**Important Notice Regarding the Availability of Proxy Materials for the 2012 Meeting To Be Held on \_\_\_\_\_, 2013: This Proxy Statement and our 2012 Annual Report are available for viewing, printing and downloading at [www.moduslink.com/proxymaterials](http://www.moduslink.com/proxymaterials).**

**MODUSLINK GLOBAL SOLUTIONS, INC.**

**1601 TRAPELO ROAD**

**WALTHAM, MASSACHUSETTS 02451**

, 2013

Dear ModusLink Global Solutions Stockholder:

You are cordially invited to attend the 2012 Annual Meeting of Stockholders (the 2012 Meeting ) of ModusLink Global Solutions, Inc., which will be held at , on , 2013, at Eastern time.

Information about the meeting and the various matters on which the stockholders will act is included in the Notice of Annual Meeting of Stockholders and Proxy Statement which follow. Also included are a WHITE Proxy Card and postage-paid return envelope. You are urged to read the Proxy Statement carefully and, whether or not you plan to attend the 2012 Meeting, to promptly submit a proxy: (a) by telephone or the Internet following the easy instructions on the enclosed WHITE proxy card or (b) by signing, dating and returning the enclosed WHITE proxy card in the postage-paid envelope provided.

Whether or not you plan to attend the 2012 Meeting, it is important that your shares are represented and voted at the 2012 Meeting. Therefore, I urge you to promptly submit your proxy to vote via the Internet, by telephone or by signing, dating and returning the completed WHITE proxy card. Voting by any of these methods will ensure your representation at the 2012 Meeting.

I look forward to greeting those of you who attend the 2012 Meeting.

Sincerely,

Francis J. Jules,  
*Chairman of the Board*

**YOUR VOTE IS VERY IMPORTANT**

If you have questions about how to vote your shares, or need additional assistance, please contact the firm assisting us in the solicitation of proxies:

INNISFREE M&A INCORPORATED

Stockholders Call Toll-Free: 877-750-5836

Banks and Brokers Call Collect: 212-750-5833

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**MODUSLINK GLOBAL SOLUTIONS, INC.**

**1601 TRAPELO ROAD**

**WALTHAM, MASSACHUSETTS 02451**

**PRELIMINARY PROXY MATERIAL SUBJECT TO COMPLETION**

**PROXY STATEMENT**

**For the Annual Meeting of Stockholders**

**To Be Held on \_\_\_\_\_, 2013**

This Proxy Statement is furnished in connection with the solicitation of proxies by the Board of Directors (the Board) of ModusLink Global Solutions, Inc., a Delaware corporation (we or the Company), for use at the Company's 2012 Annual Meeting of Stockholders (the 2012 Meeting), which will be held at \_\_\_\_\_, on \_\_\_\_\_, 2013, at \_\_\_\_\_ Eastern time, and at any adjournments or postponements thereof. On or about \_\_\_\_\_, 2013, we are mailing these proxy materials together with an annual report, consisting of our Annual Report on Form 10-K for the fiscal year ended July 31, 2012 (the 2012 Annual Report) and other information required by the rules of the Securities and Exchange Commission. The Company's principal executive offices are located at 1601 Trapelo Road, Waltham, Massachusetts 02451 and its telephone number is (781) 663-5000.

**STOCKHOLDERS ENTITLED TO VOTE**

Only holders of record of the Company's (i) common stock, par value \$.01 per share (the Common Stock), (ii) Series A Junior Participating Preferred Stock, par value \$.01 per share (the Series A Stock) and (iii) Series B Junior Participating Preferred Stock, par value \$.01 per share (the Series B Stock) as of the close of business on \_\_\_\_\_, 2013 (the Record Date), are entitled to notice of and to vote at the 2012 Meeting. As of the Record Date, \_\_\_\_\_ shares of Common Stock were outstanding. No shares of Series A Stock or Series B Stock were outstanding as of the Record Date; therefore, only holders of record of the Company's Common Stock on the Record Date will vote at the 2012 Meeting. Each share of Common Stock entitles the record holder thereof to one vote on each matter brought before the 2012 Meeting.

**HOW TO VOTE**

Your vote is very important to the Board. Whether or not you plan to attend the 2012 Meeting, we urge you to submit your proxy to vote your shares today.

**If You Are a Registered Holder of Common Stock**

If you are a registered holder of Common Stock, you may vote your shares either by voting by proxy in advance of the 2012 Meeting or by voting in person at the 2012 Meeting. By submitting a proxy, you are legally authorizing another person to vote your shares on your behalf. We urge you to use the enclosed WHITE proxy card to vote FOR the Board's nominees. If you submit your executed WHITE proxy card, but you do not indicate how your shares are to be voted, then your shares will be voted in accordance with the Board's recommendations set forth in this Proxy Statement. In addition, if any other matters are brought before the 2012 Meeting (other than the proposals contained in this Proxy Statement), then the individuals listed on the WHITE proxy card will have the authority to vote your shares on those other matters in accordance with their discretion and judgment.

Whether or not you plan to attend the 2012 Meeting, we urge you to promptly submit a proxy: (a) via the Internet or by telephone following the easy instructions on the enclosed WHITE proxy card or (b) by signing, dating and returning the enclosed WHITE proxy card in the postage-paid

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envelope provided. If you later decide to attend the 2012 Meeting and vote in person, that vote will automatically revoke any previously submitted proxy.

### **If You Hold Your Shares in Street Name**

If you hold your shares in street name, i.e., through a bank, broker or other holder of record (a custodian), your custodian is required to vote your shares on your behalf in accordance with your instructions. If you do not give instructions to your custodian, your custodian will not be permitted to vote your shares with respect to non-discretionary items, such as the election of Directors.



Under the rules of The NASDAQ Stock Market LLC ( Nasdaq ), if you do not give instructions to your custodian, it will still be able to vote your shares with respect to certain discretionary items, but will not be allowed to vote your shares with respect to certain non-discretionary items. The ratification of the appointment of our independent registered public accounting firm (Proposal 4) is a discretionary item. The election of Directors (Proposal 1) and the declassification of the Board (Proposal 2) are non-discretionary items, as is the advisory vote on executive compensation (Proposal 3). Accordingly, if you do not give instructions to your custodian with respect to such proposals, or if your custodian does not exercise its discretionary authority with respect to such proposals, your shares will be treated as broker non-votes on these particular matters. Broker non-votes are shares with respect to which a bank or brokerage firm does not receive voting instructions from the beneficial holder and does not have or exercise the discretionary authority in voting on a proposal.

Accordingly, we urge you to promptly give instructions to your custodian to vote FOR the Board's nominees by using the WHITE voting instruction card provided to you by your custodian. Please note that if you intend to vote your street name shares in person at the 2012 Meeting, you must provide a legal proxy from your custodian at the 2012 Meeting.

#### **How Does the Board Recommend I Vote?**

The Board recommends a vote:

**FOR** the election of each of the Board's nominees;

**FOR** the approval of the amendment of the Company's Restated Certificate of Incorporation to declassify the Board;

**FOR** the approval, on an advisory basis, of the compensation of the Company's named executive officers, as such information is disclosed in the Compensation Discussion and Analysis, the compensation tables and the accompanying narrative disclosure beginning on page [23] (commonly referred to as say-on-pay); and

**FOR** the ratification of KPMG LLP as the Company's independent registered public accounting firm for the current fiscal year.

#### **If You Receive a Proxy From Another Party**

Representatives of Clinton Spotlight Master Fund, L.P. ( Clinton ), Handy & Harman Ltd. ( HNH ) and Peerless Systems Corporation ( Peerless ) have each stated that they may propose their own Director nominees at the 2012 Meeting. The Company does not know whether any of Clinton, HNH or Peerless will in fact nominate individuals for election as Directors at the 2012 Meeting or solicit proxies for that purpose. Nominations by Clinton, HNH or Peerless have NOT been endorsed by the Board. The Company is not responsible for the accuracy of any information contained in any proxy solicitation materials used by Clinton, HNH or Peerless or any other statements that they may otherwise make.

The Board recommends that you DO NOT sign or return any proxy card that may be sent to you by Clinton, HNH or Peerless, even as a protest. Voting against nominees on any proxy card other than a proxy card sent to you by the Company is not the same as voting for the Board's nominees, because a vote cast on any other proxy card will revoke any previous proxy submitted by you. If you have previously submitted any other color proxy card, we urge you to revoke that proxy by voting in favor of the Board's nominees by using the enclosed WHITE proxy card. Only the latest validly executed proxy that you submit will be counted.

#### **Questions on How to Vote**

If you have questions about how to vote your shares, or need additional assistance, please contact the firm assisting us in the solicitation of proxies:

**INNISFREE M&A INCORPORATED**

Stockholders Call Toll-Free: 877-750-5836

Banks and Brokers Call Collect: 212-750-5834

## QUORUM AND VOTES REQUIRED

### Quorum

The presence of a majority of the outstanding shares of Common Stock represented in person or by proxy and entitled to vote at the 2012 Meeting will constitute a quorum.

### Votes Required

The two nominees for Director receiving the highest vote totals will be elected as Directors of the Company.

Approval of Proposal 2 requires the affirmative vote of seventy-five percent (75%) of the outstanding shares of Common Stock entitled to vote.

Approval of Proposals 3 and 4 requires the affirmative vote of a majority of the votes cast.

### Withheld Votes, Abstentions and Broker Non-Votes

Abstentions and broker non-votes will be considered shares present and entitled to vote for the purpose of determining whether a quorum exists. A broker non-vote occurs when a custodian does not vote on a particular proposal because it has not received voting instructions from the applicable beneficial owner and does not have discretionary voting power on the matter in question.

With respect to Proposals 1 (Election of Directors), 3 (Advisory Vote on Executive Compensation) and 4 (Ratification of Independent Registered Public Accounting Firm), abstentions and any broker non-votes will not be included in the vote totals and, as such, will have no effect on the outcome of these proposals.

With respect to Proposal 2 (Declassification of Board), abstentions and any broker non-votes will have the same effect as votes cast against Proposal 2.

## ATTENDANCE AT THE ANNUAL MEETING

Attendance at the 2012 Meeting or any adjournment or postponement thereof will be limited to stockholders of the Company and its permitted guests. If you are a stockholder of record, your name will be verified against the list of stockholders of record prior to your admittance to the 2012 Meeting or any adjournment or postponement thereof. Please be prepared to present photo identification for admission. If you hold your shares in street name, you will need to provide proof of beneficial ownership, such as a brokerage account statement or other similar evidence of ownership, as well as photo identification, in order to be admitted to the 2012 Meeting. Please note that if you hold your shares in street name and intend to vote in person at the 2012 Meeting, you must also provide a legal proxy obtained from your custodian.

## HOW TO REVOKE YOUR PROXY

Your proxy is revocable. The procedure you must follow to revoke your proxy depends on how you hold your shares.

If you are a registered holder of Common Stock, you may revoke a previously submitted proxy by submitting another valid proxy (whether by phone, the Internet or mail) or by providing a signed letter of revocation to the Secretary of the Company, at the principal executive offices of the Company, 1601 Trapelo Road, Waltham, Massachusetts 02451, before the closing of the polls at the 2012 Meeting. Only the latest-dated validly executed proxy will count. You also may revoke any previously submitted proxy by attending the 2012 Meeting and voting your shares in person. Note that simply attending the 2012 Meeting without taking one of the above actions will not revoke your proxy.

If you hold shares in street name, in general, you may revoke a previously submitted voting instruction by submitting to your custodian another valid voting instruction (whether by phone, the Internet or mail) or a signed letter of revocation. Please contact your custodian for detailed instructions on how to revoke your voting instruction and the applicable deadlines.

**PROPOSAL 1**

**ELECTION OF DIRECTORS**

The Board has seven members and is currently divided into three classes. A class of Directors is elected each year for a three-year term. Subject to approval of Proposal 2, commencing with the Company's 2013 Annual Meeting of Stockholders, the Board will be declassified and Directors will be elected annually for one-year terms, except that Directors elected prior to the Company's 2013 Annual Meeting of Stockholders (including those directors elected under this Proposal 1) will continue to serve the balance of their existing three-year terms. If Proposal 2 is not approved, the Board will remain classified and Directors will continue to be elected for three-year terms.

The current term of the Company's Class I Directors, who are Francis J. Jules and Michael J. Mardy, will expire at the 2012 Meeting. On June 11, 2012, Joseph C. Lawler, the Company's former President and Chief Executive Officer and Class I Director, resigned from the Board. In connection with Mr. Lawler's resignation from the Board, Class I was reduced to two members to eliminate the vacancy created thereby. The nominees for Class I Director for election at the 2012 Meeting are Francis J. Jules and Michael J. Mardy. If either of Mr. Jules or Mr. Mardy is elected at the 2012 Meeting, such individual will be elected to serve for a term of three years that will expire at the Company's 2015 Annual Meeting of Stockholders and until such individual's successor is elected and qualified. The persons named as proxies will vote for each of Mr. Jules and Mr. Mardy for election to the Board as a Class I Director unless the proxy card is marked otherwise.

**THE BOARD RECOMMENDS USING THE ENCLOSED WHITE PROXY CARD TO VOTE FOR THE TWO NOMINEES LISTED BELOW.**

Clinton, HNH and Peerless have each stated that it may propose its own Director nominees for election at the 2012 Meeting. If any of Clinton, HNH or Peerless does in fact nominate candidates for election to the Board, the number of nominees for election as Directors at the 2012 Meeting will exceed the number of Directors to be elected at the 2012 Meeting. The two nominees standing for election who receive the greatest number of votes cast at the 2012 Meeting will be elected as Directors.

The Board recommends that you **DO NOT** sign or return any proxy card that may be sent to you by Clinton, HNH or Peerless, even as a protest. Voting against nominees on any proxy card other than the **WHITE** proxy card sent to you by the Company is not the same as voting for the Board's nominees, because a vote cast on any other proxy card will revoke any previous proxy submitted by you. If you have previously submitted any other color proxy card, we urge you to revoke that proxy by voting in favor of the Board's nominees by using the enclosed **WHITE** proxy card. Only the latest validly executed proxy that you submit will be counted.

**Background to the Other Solicitations**

On November 16, 2011, the Company announced that the Board had unanimously decided to explore strategic alternatives aimed at enhancing stockholder value and that the Company had retained Goldman, Sachs & Co. as its financial advisor to undertake a comprehensive and thorough review of viable strategic alternatives. The strategic alternatives review process has been overseen primarily by a committee of the Board comprised of Jeffrey J. Fenton, Virginia G. Breen and Francis J. Jules in regular consultation with the full Board; Mr. Fenton is the chairman of the committee. The Company has explored various alternatives seeking to enhance stockholder value, including a possible sale of the Company or equity investment in the Company, in an effort to enhance and/or realize value in respect of its supply chain business, as well as realize the value of certain of the Company's deferred tax assets, including those generated by net operating losses and certain other tax attributes.

*Clinton Solicitation*

Beginning in March of 2012 the Company and its advisors began discussions with Clinton regarding a potential transaction with the Company. On March 7, 2012, the Company received a letter from Clinton, pursuant to which Clinton and its affiliates proposed to make an equity investment in the Company in the event that the Company determined to sell substantially all of the Company's supply chain business. The purchase price of such investment would be at a mutually agreed premium to the tangible

asset value of the Company following such asset sale and the distribution of a substantial portion of the cash generated therefrom. In addition, the proposal was conditioned upon the Company's appointment of new executive management to be designated by Clinton. On March 26, 2012, upon execution by Clinton and the Company of a customary confidentiality agreement, Clinton was given access to the due diligence materials provided in the Company's electronic data room. The Company, its legal and financial advisors and Clinton and its legal counsel continued to exchange drafts of a term sheet and negotiate the terms of potential transactions with Clinton.

On May 23, 2012 the Company received an alternative proposal from Clinton, pursuant to which Clinton and its affiliates proposed, if the Company disposed of its supply chain business, to make an equity investment in the Company immediately following such sale (although the proposal noted that Clinton was willing to modify the proposal should the Company decide to retain its supply chain business in the near or mid-term). The purchase price of such investment would be at a mutually agreed premium to the tangible asset value of the Company following such asset sale. The proposal provided the Company's existing stockholders an option at the time of a sale of the supply chain business to either receive a portion of these sale proceeds through the distribution of a substantial portion of the net cash proceeds of sale, or elect to maintain all or a portion of their investment in the Company. The Company would be expected to pursue a new business plan that Clinton believed could effectively utilize certain of the Company's deferred tax assets. The proposal also required the election of three independent directors designated by Clinton to a newly constituted five-person Board and the Company's appointment of new executive management to be designated by Clinton.

Following the Company's receipt of the May 23 letter, the Company and its advisors continued discussions with Clinton regarding a potential transaction and a non-disclosure agreement was executed on June 11, 2012 addressing certain proprietary terms of Clinton's proposal. Following the execution of the NDA the Company and Clinton exchanged mark-ups of a term sheet which included a revised proposal from Clinton pursuant to which Clinton and its affiliates would make an equity investment in the Company and also invest directly in a newly formed subsidiary of the Company that would follow a new business plan that Clinton believed could effectively utilize certain of the Company's deferred tax assets and be managed by designees of Clinton. The alternative proposal required the Company to re-invest substantially all of the proceeds of the Clinton investment in the newly formed subsidiary and to appoint a representative of Clinton to the Board. The Board has determined that the terms and structures discussed with Clinton to date have not met the strategic objectives of the Company, as such proposals have limited the use of proceeds of the investment to an unacceptably narrow range of uses or have been unacceptable from an economic point of view.

On October 22, 2012, Clinton sent a letter to the Company's corporate secretary purportedly providing notice of its intent to nominate three directors, Gregory P. Taxin, Seth E. Gardner and Kenneth S. Grossman, at the 2012 Meeting to stand for election to the Board. As Class I was reduced in size to two members on June 11, 2012 in connection with the resignation of Joseph C. Lawler, the Company's Chief Executive Officer, from the Board of Directors, only two such individuals may be nominated at the 2012 Meeting.

#### *HNH Solicitation*

On March 7, 2012 HNH requested a waiver exemption under the Tax Benefit Preservation Plan to permit the purchase by HNH of up to 19.9% of the Company's Common Stock. On March 22, 2012, the Company sent a letter to HNH explaining that it had granted the requested waiver under the Tax Benefit Preservation Plan, but that the waiver did not extend to the Company's Rights Agreement, dated March 21, 2012.

In connection with the Company's review of strategic alternatives, in June 2012 the Company and its advisors began discussions with HNH in respect of a potential equity investment in the Company's Common Stock, which have continued through the date hereof. On June 27, 2012, upon execution by HNH and the Company of a customary confidentiality agreement, HNH was given access to the due diligence materials provided in the Company's electronic data room. During these discussions HNH and the Company exchanged numerous proposals, beginning with a letter sent to the Company on July 11, 2012 (the July 11 Letter) pursuant to which HNH offered to purchase up to 23 million shares of the Company's Common Stock at a cash purchase price per share in the range of \$3.75 to \$5.25 subject to customary conditions including the completion of satisfactory due diligence. HNH's offer detailed in the July 11 Letter was also conditioned upon receiving three of seven seats on the Board and senior management positions to be designated by HNH and its affiliates to oversee operations of the Company.

Following the receipt of the July 11 Letter, the Company entered into discussions with HNH. Through early September 2012, the Company, its legal and financial advisors and HNH and its legal counsel continued to exchange drafts of a term sheet and negotiate the terms of a potential transaction including HNH's proposal to make a direct investment in the Company's Common Stock of approximately \$100 million in the aggregate at a cash purchase price of approximately \$5 per share. As part of these ongoing negotiations, HNH participated in a management presentation on September 13, 2012. HNH was also invited to present its business plan for the Company at the Board's September 19 meeting; however, on the evening before the planned presentation, HNH submitted a different and significantly diminished proposal in a letter dated September 18, 2012 (the September 18 Letter) pursuant to which HNH would only invest on a pro rata basis in a rights offering intended to raise up to \$100 million, provided that other stockholders subscribed for at least \$20 million of the Company's Common Stock at \$5 per share. HNH's revised offer was further conditioned upon the Company agreeing to appoint two of its representatives to the Board immediately upon an agreement in principle on a term sheet but before definitive agreements would bind HNH to make an investment. HNH also offered, although the Company had not solicited, a bridge loan facility for up to \$50 million at an annual rate of 10%, increasing at a rate of 1% per month commencing on April 1, 2013, which would mature upon the earlier of the closing of the rights offering and September 30, 2013. In addition, upon entering into the bridge loan the September 18 Letter required the Company to issue to HNH warrants to acquire up to 19.9% of the Company's Common Stock for an exercise price of \$0.01. Upon receipt of this materially different and conditional proposal (including Board representation prior to consummation of the proposed transaction), the Board disinvited HNH from presenting at the September 19, 2012 Board meeting, and advisors for the Company sought to have HNH restore the prior proposal.

On September 28, 2012, HNH sent a letter to the Company's corporate secretary purportedly providing notice of its intent to nominate three directors, Warren G. Lichtenstein, Glen M. Kassan and Richard K. McClelland, at the 2012 Meeting to stand for election to the Board. As Class I was reduced in size to two members on June 11, 2012, only two such individuals may be nominated at the 2012 Meeting.

Notwithstanding these developments, the Company maintained communications with HNH, and on October 9, 2012, HNH sent a letter to the Company (the October 9 Letter) withdrawing its September 18 proposal and resurrecting its proposal to invest up to \$100 million in the Company's Common Stock at a per share price of \$5, without a related rights offering. This offer was further conditioned upon HNH being granted three of seven seats on the Board, the appointment of Mr. Lichtenstein as chairman of the board of directors, and approval rights as to and the appointment of the Company's CEO. Following the receipt of the October 9 Letter, HNH's representatives were provided the Company's most recent forecasts and access to members of management and the Board. HNH, the Company and their respective representatives also reentered into discussions and exchanged multiple drafts of a term sheet. HNH insisted that it would not proceed to conduct additional due diligence unless the Company agreed to a period of exclusivity (or agreed to reimburse HNH's expenses up to \$750,000). On November 27, 2012 HNH submitted through its representatives a mark-up of the term sheet (the November 27 Term Sheet) that contained a limited set of open issues on the principal terms and included the \$100 million direct investment and purchase price of \$5 per share. Upon receipt of the November 27 Term Sheet and confirmation by the Company's advisors with HNH of the size and purchase price of HNH's investment, the Company offered through its representatives to accept the principal terms set forth in the November 27 Term Sheet with the exception of the timing for completion of HNH's due diligence and offered HNH a period of exclusivity. At that time the Company believed that it and HNH had agreed upon all of the material terms of the potential transaction other than the timing for completion of HNH's due diligence, and delivered to HNH's legal counsel on December 1, 2012 a proposed exclusivity letter and on December 6, 2012 definitive documentation reflecting such agreed upon terms. To date, HNH has not provided a mark-up or other response to the definitive documentation provided by the Company's legal counsel to HNH's legal counsel on December 17, 2012.

On December 17, 2012, HNH sent a letter to the Board pursuant to which it withdrew its previous proposals, including the amount of any direct investment and the \$5 per share purchase price, and proposed that the Company immediately appoint two directors designated by HNH to the Board and then to conduct a rights offering to be backstopped by HNH on terms to be determined by the Board following the appointment of the HNH directors. HNH further expressed concern about the Company's business performance and prospects, purporting to justify its decision to withdraw its prior proposals based on changes in the Company's financial position, results and prospects since its original September proposal. On December 21, 2012, the Company responded to HNH and advised it that at the time of what the Company believed was HNH's acceptance of the principal terms in late November, including the \$5 per share purchase price, that HNH and its advisors had received the Company's then current

financial information and forecast and that no change in this information had occurred since that time. HNH was urged to provide a definitive proposal, whether conforming to the November 27 Term Sheet or, if HNH was withdrawing its proposal, the revised terms it was then proposing.

#### *Peerless Solicitation*

At the Company's 2011 Annual Meeting of Stockholders, Peerless nominated Timothy E. Brog and Jeffrey S. Wald for election to the Board and presented a non-binding stockholder proposal recommending that the Board amend the Company's certificate of incorporation and the Bylaws to eliminate the Company's classified Board. Mr. Wald was elected to hold office until the Company's 2014 Annual Meeting of Stockholders and until his successor has been duly elected and qualified.

On October 18, 2012, Peerless sent a letter to the Company's corporate secretary purportedly providing notice of its intent to nominate two directors, Timothy E. Brog and James W. Westphal, at the 2012 Meeting to stand for election to the Board and its intent to present a non-binding stockholder proposal recommending that the Board amend the Company's certificate of incorporation and the Bylaws to eliminate the Company's classified Board.

#### **Information Concerning the Directors and the Board's Nominees**

Biographical and certain other information concerning the members of the Board and the nominees for election as a member of the Board, each of whom has consented to be named in this Proxy Statement and to serve if elected, are set forth below:

#### **Class I Director Nominees for a three year term expiring at the 2015 Annual Meeting of Stockholders**

*Francis J. Jules*, age 56. Mr. Jules has served as a Director of the Company since February 2003. Mr. Jules served as presiding director from August 2006 until November 2011 and was appointed non-executive Chairman of the Board on November 15, 2011. Mr. Jules has served as President, Global Business Solutions, of AT&T, Inc., a local telephone and access provider, since November 2010. From September 2007 until November 2010, Mr. Jules served as President and Chief Executive Officer of AT&T Advertising Solutions, a subsidiary of AT&T, Inc. From November 2005 until September 2007, Mr. Jules served as Senior Vice President, Network Integration, of AT&T Operations, Inc. From February 2003 to November 2005, Mr. Jules served as President of SBC Global Markets East, a subsidiary of SBC Communications, Inc., a data, voice and Internet service provider. During 2002, Mr. Jules served as Chief Executive Officer and as a director of US LEC Corp., a public telecommunications company now conducting business as PAETEC Holding Corp. Mr. Jules provides the Board with experience through his service in executive leadership roles in global organizations in the telecommunications industry, including extensive sales management responsibilities and expertise.

*Michael J. Mardy*, age 63. Mr. Mardy has served as a Director of the Company since May 2003. Since July 2003, Mr. Mardy has served as Executive Vice President and Chief Financial Officer of Tumi Holdings, Inc., a retailer of prestige luggage and business accessories. Since April 2012, Mr. Mardy has also served as a director of Tumi Holdings, Inc. Mr. Mardy is also the chairman of the audit committee and a member of the compensation committee of the board of directors of Green Mountain Coffee Roasters, Inc. Mr. Mardy provides to the Board expertise in finance and accounting, including experience gained through a career in finance including serving as chief financial officer of several companies. Mr. Mardy also brings experience serving as a public company outside director and chairman of public company audit committees.

#### **The Board's Recommendation**

We believe that Messrs. Jules and Mardy are highly qualified and in light of their experience, relevant expertise, and diverse industry and educational backgrounds, these nominees, who bring leadership based on their executive leadership roles with global companies, will serve as superior and independent Board members best suited to lead ModusLink into the future. We believe that the continuity of Mr. Jules's leadership as Chairman of the Board is critical to the Company during this period in which the Company is preparing to transition leadership to a new Chief Executive Officer. We also believe that Mr. Mardy's on-going role as chairman of the Company's Audit Committee is critical to the implementation of the Company's changes to its accounting policies and systems following completion of its restatement of financial reports for prior periods.

We believe that each of our nominees has professional experience in areas relevant to our strategy and operations and offers experience, leadership and continuity at a critical time for the Company's future. Mr. Mardy also brings experience serving as a public company outside director and chairman of public company audit committees. Mr. Jules provides the Board with experience through his service in executive leadership roles in global organizations in the telecommunications industry, including extensive sales management responsibilities and expertise. We further believe that our nominees have other attributes necessary to create an effective board: high personal and professional ethics, integrity and values; vision and long-term strategic perspective; practical judgment and excellent decision-making skills; the ability to devote significant time to serve on our board and its committees and to work in a collaborative manner with other board members; and a commitment to representing the long-term interests of all our stockholders.

**The Board unanimously recommends a vote FOR each of the two above nominees for Director using the enclosed WHITE proxy card.**

#### **Vote Required**

The two nominees for Director receiving the highest vote totals will be elected as Directors of the Company. With respect to this proposal to elect Directors and assuming that any of Clinton, HNH or Peerless does in fact nominate its own slate of two Directors, withheld votes and any broker non-votes would have the effect of reducing the likelihood that the applicable Director nominee of the Company would be elected, as only the two nominees that receive the highest vote totals will be elected. If none of Clinton, HNH or Peerless nominates any Directors, withheld votes and broker non-votes will have no practical effect in the election of Directors, as only two nominees will be up for election.

#### **Class II Directors Continuing in Office until the 2013 Annual Meeting of Stockholders**

*Virginia G. Breen*, age 48. Ms. Breen has served as a Director of the Company since April 2001. Since July 2011, Ms. Breen has been a Partner of Chelsea Partners, a company providing board advisory services. From 1995 to 2011, Ms. Breen was a General Partner of Blue Rock Capital, L.P., a venture capital firm, which she co-founded, that invests in information technology and service businesses. Ms. Breen was also a General Partner of Sienna Ventures, a venture capital firm that invests in information technology and service businesses from 2002 to 2011. In addition, Ms. Breen serves as a Director/Trustee of two alternative asset funds that are associated with Bank of America/US Trust Company, N.A. and 10 hedge fund complexes associated with UBS Alternative Investments US. Ms. Breen is also a director of LaSalle, a public REIT. Ms. Breen provides the Board with extensive industry knowledge in information technology and service business markets, as well as leadership and governance experience through service as a director of numerous financial services investment funds sponsored by leading investment banking firms.

*Edward E. Lucente*, age 72. Mr. Lucente has served as a Director of the Company since April 2006. From January 1998 to December 2000, Mr. Lucente served as President, Chief Executive Officer and Chairman of the Board of QMS, Inc., a developer, manufacturer, and supplier of document printing solutions. From 1991 to 1993, Mr. Lucente served as Executive Vice President of Northern Telecom (Nortel), a designer and manufacturer of telephone and IP-optimized networks. From 1961 to 1991, Mr. Lucente served in various senior management positions with International Business Machines Corporation (IBM), including President of the Information Products Division; Group Executive, Marketing, Services and Sales; and IBM Vice President and Group Executive, Asia Pacific Group. Mr. Lucente is also a Trustee Emeritus of Carnegie Mellon University. Mr. Lucente brings to the Board leadership experience, including service in executive roles at several international corporations, sales and marketing insights, as well as extensive experience overseas, especially in Asia.

*Joseph M. O'Donnell*, age 66. Mr. O'Donnell has served as a Director of the Company since November 2010. From March 2008 to April 2009, Mr. O'Donnell served as Chief Executive Officer of Inmar Inc., a leading provider of technology-driven logistics and supply chain software and services. From June 1994 to May 2006, Mr. O'Donnell served as Chief Executive Officer and Chairman of the Board of Directors of Artesyn Technologies, Inc., a supplier of power conversion equipment and real-time embedded computing solutions to telecommunications equipment suppliers. Mr. O'Donnell currently serves as a director of DTx Inc. and as a trustee of the BPV Family of Funds, a diversified, open-end management investment company advised by BPV Wealth Management, LLC. Mr. O'Donnell also serves as a member of the University of Tennessee School of Business Advisory Board and as a member of the National Association of Corporate Directors (NACD) board of directors (Florida chapter). Mr. O'Donnell is a NACD Governance Fellow and a member of the NACD standing committee on risk. Mr. O'Donnell's prior

board experience includes Boca Research Inc., Cincinnati Microwave Inc., Comverge, Inc., Comverse Technology, Inc., MTS Systems Corporation, Parametric Technology Corporation, Superior Essex Inc. and V Band Corp. Mr. O'Donnell brings to the Board over 30 years of management experience in the technology, electronics and supply chain industries, including service in the chief executive officer role, as well as extensive experience serving as an outside director of multiple public companies.

### **Class III Directors Continuing in office until the 2014 Annual Meeting of Stockholders**

*Jeffrey J. Fenton*, age 55. Mr. Fenton has served as a Director of the Company since November 2010. Mr. Fenton was initially appointed to the Board pursuant to a Settlement Agreement among the Company, LCV Capital Management, LLC, Raging Capital Management, LLC and certain of their affiliates, dated October 20, 2010. Since March 2004, Mr. Fenton has served as a Principal of Devonshire Advisors LLC, an advisory services firm. From March 2004 to April 2008, Mr. Fenton also served as Senior Advisor to Cerberus Capital Management L.P., a leading private investment firm. Mr. Fenton served as a director of Bluelix Holdings Inc., Formica Corporation, IAP Worldwide Services, Global Motorsports Group, Inc. and Transamerica Trailer Leasing Co. Mr. Fenton brings to the Board significant finance, international business and leadership experience, having served as a senior advisor at a leading private investment firm as well as chief executive officer of a major industrial company.

*Jeffrey S. Wald*, age 38. Mr. Wald has been a Director of the Company since February 2012. Mr. Wald was elected to the Board at the Company's 2011 annual meeting of stockholders after being nominated for election by Peerless Systems Corporation. Since May 2010, Mr. Wald has been the Chief Operating Officer and Chief Financial Officer of Work Market, Inc., a labor resource platform that he co-founded that enables an on demand work force. Mr. Wald was a consultant to Peerless Systems Corporation from December 2008 until October 2010, advising the company on a day-to-day basis regarding sourcing and executing potential acquisitions, and from 2010 to 2012, served as a director of Peerless Systems Corporation. From May 2008 to May 2010, Mr. Wald was a Managing Director at Barington Capital Group, L.P. an activist hedge fund manager, where he initiated investments and managed Barington's portfolio of investments. From March 2007 through May 2008, Mr. Wald was the Chief Operating Officer and Chief Financial Officer of Spinback, Inc., an internet commerce company he co-founded. From January 2003 to March 2007, Mr. Wald was a Vice President at The GlenRock Group, a private equity firm which invests in undervalued, middle market companies as well as emerging and early stage companies. Earlier in his career, Mr. Wald held positions in the mergers and acquisitions department at J.P. Morgan Chase & Co. Mr. Wald is currently a director of Work Market, Inc. and CoStar Technologies, Inc., where he also serves on the audit committee. From 2009 to 2010, Mr. Wald also served on the board of Register.com. Mr. Wald brings to the Board substantial experience in the area of venture capital, technology, principal investing and operations.

### **CORPORATE GOVERNANCE AND BOARD MATTERS**

The Company maintains a corporate governance page on its website which includes key information about its corporate governance initiatives, including its Code of Business Conduct and Ethics, Corporate Governance Guidelines, and charters for each of the Audit Committee, Human Resources and Compensation Committee and Nominating and Corporate Governance Committee of the Board. The corporate governance page can be found by clicking on "Governance" under the Investor Relations tab on our website at [www.moduslink.com](http://www.moduslink.com). The contents of our website are not part of this Proxy Statement, and our internet address is included in this document as an inactive textual reference only.

The Company has policies and practices that promote good corporate governance and are compliant with the listing requirements of Nasdaq and the corporate governance requirements of the Sarbanes-Oxley Act of 2002, including:

The Board has adopted clear corporate governance policies;

A majority of the Board members are independent of the Company and its management;

All members of the Audit Committee, the Human Resources and Compensation Committee, and the Nominating and Corporate Governance Committee are independent;

The independent members of the Board meet regularly without the presence of management;



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The Company has a code of business conduct and ethics, which applies to all employees, is monitored by its internal audit function and Chief Compliance Officer and is annually affirmed by its employees;

The charters of the Board committees clearly establish their respective roles and responsibilities;

The Company has an ethics hotline available to all employees, and the Company's Audit Committee has procedures in place for the anonymous submission of employee complaints on accounting, internal accounting controls, or auditing matters;

The Company's internal audit control function maintains critical oversight over the key areas of its business and financial processes and controls, and reports directly to the Company's Audit Committee; and

The Company also has stock ownership guidelines for its non-employee Directors and executive officers.

#### **Board Leadership Structure**

On November 15, 2011, the Board determined, as an enhancement to its governance structure, to separate the Chairman and Chief Executive Officer roles and appointed Mr. Jules to serve as the non-executive Chairman of the Board. The duties of the non-executive Chairman include (i) calling and chairing meetings of the Board, including meetings of the independent Directors (ii) setting the agenda for and chairing meetings of the independent Directors in executive session, (iii) chairing the annual meeting of stockholders, (iv) briefing the Chief Executive Officer on issues arising from and/or discussed in executive sessions of the independent Directors, (v) facilitating discussions among independent Directors on key issues regarding the Company, (vi) facilitating communications between other members of the Board and the Chief Executive Officer (however, each Director is free to communicate directly with the Chief Executive Officer), (vii) in the event a stockholder seeks to communicate with the Board, accepting and responding to such communications, (viii) reviewing periodically the Company's business plan, financial performance and other activities with the Chief Executive Officer, (ix) recommending Board committee assignments for consideration by the Nominating and Corporate Governance Committee (provided, however, that no such recommendation shall be required in order for such committee to carry out its duties with respect to committee composition) and (x) in consultation with the other independent Directors and the Chief Executive Officer, developing Board agendas.

Prior to the creation of the non-executive Chairman position, upon the appointment of Mr. Lawler, the Company's former President and Chief Executive Officer, as Chairman of the Board, the Company established the position of presiding director, to serve as its lead independent director. The duties of the presiding director were similar to those of the non-executive Chairman of the Board. The position of presiding director was eliminated upon the creation of the non-executive Chairman position.

#### **Independence of Members of the Board**

The Board has determined that each of Virginia G. Breen, Jeffrey J. Fenton, Francis J. Jules, Edward E. Lucente, Michael J. Mardy, Joseph M. O'Donnell and Jeffrey S. Wald, constituting all of the Directors of the Company, satisfies the criteria for being an independent director under the standards of Nasdaq and has no material relationship with the Company other than by virtue of service on the Board.

#### **Board and Committee Meetings**

During the fiscal year ended July 31, 2012 (fiscal 2012), the Board held thirty-nine (39) meetings (including by telephone conference). During fiscal 2012, each incumbent Director attended at least 75% of the aggregate of the total number of meetings of the Board and the total number of meetings of the committees on which he or she served. During fiscal 2012, all of the independent Directors of the Company met regularly, in an executive session of a regularly scheduled Board meeting, outside of the presence of the non-independent Director and executive officers of the Company. The Company's Directors are strongly encouraged to attend the Company's Annual Meeting of Stockholders.

The Board has an Audit Committee, a Human Resources and Compensation Committee, and a Nominating and Corporate Governance Committee. Each committee reports regularly to the full Board on its activities.

#### *Audit Committee*

The Board has an Audit Committee established in accordance with Section 3(a)(58)(A) of the Securities Exchange Act of 1934, as amended, which assists the Board in fulfilling its responsibilities to stockholders concerning the Company's financial

reporting and internal controls and facilitates open communication among the Audit Committee, Board, outside auditors and management. The Audit Committee discusses with management and the Company's outside auditors the financial information developed by the Company, the Company's systems of internal controls and the Company's audit process. The Audit Committee is solely and directly responsible for appointing, evaluating, retaining and, when necessary, terminating the engagement of the independent auditor. The independent auditors meet with the Audit Committee (both with and without the presence of the Company's management) to review and discuss various matters pertaining to the audit, including the Company's financial statements, the report of the independent auditors on the results, scope and terms of their work, and their recommendations concerning the financial practices, controls, procedures and policies employed by the Company. The Audit Committee oversees the internal audit functions and the senior-most internal auditor reports directly to the Audit Committee. The Audit Committee pre-approves all audit services to be provided to the Company, whether provided by the principal auditor or other firms, and all other services (review, attest and non-audit) to be provided to the Company by the independent auditor. The Audit Committee coordinates the Board's oversight of the Company's internal control over financial reporting, disclosure controls and procedures and code of conduct. The Audit Committee is charged with establishing procedures for (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and (ii) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting, internal accounting controls or auditing matters. The Audit Committee reviews all related party transactions on an ongoing basis and all such transactions must be approved or ratified by the Audit Committee. The Audit Committee is authorized, without further action by the Board, to engage such independent legal, accounting and other advisors as it deems necessary or appropriate to carry out its responsibilities. The Board has adopted a written charter for the Audit Committee, a copy of which can be found under the Investor Relations Governance section of the Company's website at [www.moduslink.com](http://www.moduslink.com). The contents of our website are not part of this Proxy Statement, and our internet address is included in this document as an inactive textual reference only. The Audit Committee currently consists of Virginia G. Breen, Francis J. Jules, Edward E. Lucente, Michael J. Mardy (Chair) and Joseph M. O'Donnell, each of whom is independent as defined in applicable Nasdaq listing standards and Rule 10A-3 under the Securities Exchange Act of 1934, as amended. Mr. Lucente joined the Audit Committee on June 20, 2012. The Audit Committee met sixteen (16) times during fiscal 2012.

#### *Human Resources and Compensation Committee*

The Board has a Human Resources and Compensation Committee (the Compensation Committee), which administers the Company's 2010 Incentive Award Plan, 2004 Stock Incentive Plan, 2002 Non-Officer Employee Stock Incentive Plan, 2000 Stock Incentive Plan and Amended and Restated 1995 Employee Stock Purchase Plan, as well as the Company's cash incentive plans, performance-based restricted stock program and other equity-based awards. The Compensation Committee approves salaries, bonuses and other compensation arrangements and policies for the Company's executive officers. The Compensation Committee is authorized, without further action by the Board, to engage such independent legal, accounting and other advisors as it deems necessary or appropriate to carry out its responsibilities. The Board has adopted a written charter for the Compensation Committee, a copy of which can be found under the Investor Relations Governance section of the Company's website at [www.moduslink.com](http://www.moduslink.com). The Compensation Committee currently consists of Jeffrey J. Fenton, Francis J. Jules (Chair), Edward E. Lucente, Joseph M. O'Donnell and Jeffrey S. Wald, each of whom is an independent Director as determined in accordance with the Compensation Committee charter and applicable Nasdaq rules. Messrs. O'Donnell and Wald joined the Compensation Committee on June 20, 2012. The Compensation Committee met fifteen (15) times during fiscal 2012.

During fiscal 2012, the Company's former President and Chief Executive Officer and its Senior Vice President, Human Resources regularly attended Compensation Committee meetings to provide information and recommendations regarding the Company's executive compensation program. The former President and Chief Executive Officer formulated and presented recommendations regarding any change in the base salary, bonus, equity compensation and other benefits of other executive officers, but the Compensation Committee was not bound by such recommendations and the Compensation Committee ultimately approved the compensation of all executive officers. In addition, the Senior Vice President, Human Resources and members of the human resources staff compile relevant data at the request of the Compensation Committee. Other than making recommendations and participating in discussions regarding the compensation of other executive officers, the Company's former President and Chief Executive Officer generally did not play a role in determining the amount or form of executive compensation. The Compensation Committee generally met in executive sessions without any member of management present when discussing compensation matters pertaining to the former President and Chief Executive Officer and, at times, on other compensation-related matters. The

Compensation Committee also reviewed with the Board the compensation of the former President and Chief Executive Officer, prior to taking final action with respect to such compensation. The former President and Chief Executive Officer did not make proposals or recommendations regarding his own compensation.

In addition, to the extent permitted by applicable law and the provisions of a particular equity-based incentive plan while he was employed by the Company, the Board delegated authority to the former President and Chief Executive Officer to grant stock options to non-executive employees within certain limits, including a prohibition on making grants to direct reports and per person limits, which authority was generally used to facilitate making new hire grants and to recognize promotions or reward special accomplishments and achievements. The Compensation Committee approved the number of shares included in an annual stock option pool for annual grants to non-executive employees and thereafter the former President and Chief Executive Officer was authorized to determine the amounts, recipients and date of grant of the annual stock option grants to non-executive employees. The Board authorized the former President and Chief Executive Officer to make restricted stock awards and restricted stock unit awards to non-executive employees in an amount not to exceed 1,000 shares in any one instance, and 10,000 shares in the aggregate in any fiscal year. Such authority has been given to the Chairman of the Board following the former President and Chief Executive Officer's announced retirement in June 2012.

The Compensation Committee's practice is to engage an outside compensation consultant to advise it as needed and to conduct a comprehensive review of executive compensation every two years. In intervening years, it is the Compensation Committee's practice to adjust the data from the prior year, as it deems necessary, to reflect prevailing market trends for executive compensation. For certain of the years included in the Summary Compensation Table, the Compensation Committee has used Hewitt Associates LLC (Hewitt) and Pearl Meyer & Partners (PM&P), as discussed below.

Pursuant to its charter, the Compensation Committee has the sole authority to retain, terminate, obtain advice from, oversee and compensate its outside advisors, including its compensation consultant. The Company has provided appropriate funding to the Compensation Committee to do so.

In fiscal 2005, the Company retained Hewitt as an independent advisor reporting to the Compensation Committee on executive compensation matters. During the fiscal years ended July 31, 2009 and July 31, 2010, Hewitt provided independent advice on compensation matters pertaining to the named executive officers and our other executives as requested by management or the Compensation Committee. During fiscal 2009, Hewitt reviewed with the Compensation Committee the overall executive compensation landscape, conducted a review of all elements of our executive compensation program, including bonus, long-term incentives, supplemental benefits, perquisites and severance, and provided a competitive review of compensation levels for a selected group of senior executive positions, including the named executive officers. Hewitt's findings were delivered in early fiscal 2010, and were taken into consideration in making fiscal 2010 executive compensation determinations and fiscal 2011 executive compensation determinations (other than with respect to the compensation of the former President and Chief Executive Officer, as discussed below). Hewitt acted as an advisor to the Compensation Committee and also has provided, with the knowledge and consent of the Compensation Committee, advice and expertise to management on matters to be presented by management to the Compensation Committee. The Company did not retain Hewitt to provide any other services to the Company.

During fiscal 2010, the Compensation Committee retained PM&P as an independent advisor regarding fiscal 2011 compensation of the former President and Chief Executive Officer. In fiscal 2011, the Compensation Committee retained PM&P as its independent executive compensation consultant. None of the Company's management participated in the Compensation Committee's decision to retain PM&P. PM&P reports directly to the Compensation Committee and the Compensation Committee may replace PM&P or hire additional consultants at any time. PM&P attends meetings of the Compensation Committee, as requested, and communicates with the Chair of the Compensation Committee between meetings; however, the Compensation Committee makes all decisions regarding the compensation of the Company's executive officers.

PM&P provides various executive compensation services to the Compensation Committee with respect to the Company's executive officers and other key employees pursuant to a written consulting agreement with the Compensation Committee. The services PM&P provides under the agreement include advising the Compensation Committee on the principal aspects of the Company's executive compensation program and evolving best practices, and providing market information and analysis regarding the competitiveness of the Company's program design and award values in relationship to its performance.

The Compensation Committee regularly reviews the services provided by its outside consultants and believes that PM&P is independent in providing executive compensation consulting services. The Compensation Committee conducted a specific review of its relationship with PM&P and determined that PM&P's work for the Compensation Committee did not raise any conflicts of interest, consistent with the guidance provided under the Dodd-Frank Act, the SEC and the Nasdaq. In making this determination, the Compensation Committee noted that during fiscal 2012:

PM&P did not provide any services to the Company or its management other than service to the Compensation Committee, and its services were limited to executive compensation consulting. Specifically, it does not provide, directly or indirectly through affiliates, any non-executive compensation services, including, but not limited to, pension consulting or human resource outsourcing;

Fees from the Company were far less than 1% of PM&P's total revenue;

PM&P maintains a Conflicts Policy which was provided to the Compensation Committee with specific policies and procedures designed to ensure independence;

None of the PM&P consultants on the Company matter had any business or personal relationship with Compensation Committee members;

None of the PM&P consultants on the Company matter, or PM&P, had any business or personal relationship with executive officers of the Company; and

None of the PM&P consultants on the Company matter directly own Company stock.

The Compensation Committee continues to monitor the independence of its compensation consultant on a periodic basis.

The Compensation Committee reviews executive compensation on an ongoing basis and consults with its independent consultant as deemed necessary. The Compensation Committee also annually reviews the results of the Company's management succession planning activities as it relates to the management team, and shares its findings with the full Board.

#### *Nominating and Corporate Governance Committee*

The Board has a Nominating and Corporate Governance Committee (the Governance Committee), which makes recommendations to the Board concerning all facets of the Director-nominee selection process, develops and recommends to the Board corporate governance principles applicable to the Company and oversees the evaluation of the Board and management. The Governance Committee has the authority to engage such independent legal and other advisors as it deems necessary or appropriate to carry out its responsibilities. The Governance Committee is responsible for overseeing an annual self-evaluation of the Board to determine whether it and its committees are functioning effectively and determines the nature of the evaluation, supervises the conduct of the evaluation and prepares an assessment of the performance of the Board, which is discussed with the Board. The Governance Committee also oversees the Company's enterprise risk management program and activities. The Governance Committee may, at the request of the Board, periodically review and make recommendations to the Board relating to management succession planning, including policies and principles for Chief Executive Officer selection and performance review, as well as policies regarding succession in the event of an emergency or the retirement of the Chief Executive Officer. The Board has adopted a written charter for the Governance Committee, a copy of which can be found under the Investor Relations Governance section of the Company's website at [www.moduslink.com](http://www.moduslink.com).

In recommending candidates for election to the Board, the Governance Committee considers nominees recommended by directors, officers, employees, stockholders and others, using the same criteria to evaluate all candidates. The Governance Committee reviews each candidate's qualifications, including whether a candidate possesses any of the specific qualities and skills desirable in certain members of the Board. Evaluations of candidates generally involve a review of background materials, internal discussions, and interviews with selected candidates as appropriate. Upon selection of a qualified candidate, the Governance Committee would recommend the candidate for consideration by the full Board. The Governance Committee may engage consultants or third-party search firms to assist in identifying and evaluating potential nominees. The Board requires that all nominees for the Board have a reputation for integrity, honesty and adherence to high ethical standards. In

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addition, nominees should also have demonstrated business acumen, experience and ability to exercise sound judgment in matters that relate to the current and long-term objectives of the Company and should be willing and able to contribute positively to the decision-making process of the Company. The Governance Committee will consider nominees for the Board recommended by stockholders in accordance with the Third Amended and Restated Bylaws of the Company (the Bylaws ).

Stockholders wishing to propose Director candidates for consideration by the Governance Committee may do so by writing, by deadlines specified in the Company's Bylaws, to the Secretary of the Company and providing information concerning the nominee and his or her proponent(s) required by the Company's Bylaws. The Company's Bylaws set forth further requirements for stockholders wishing to nominate director candidates for consideration by stockholders including, among other things, that a stockholder must give timely written notice of an intent to make such a nomination to the Secretary of the Company. See *Proposals of Stockholders for 2013 Annual Meeting and Nomination of Directors* in this Proxy Statement for more information.

The Governance Committee currently consists of Virginia G. Breen, Jeffrey J. Fenton, Francis J. Jules, Edward E. Lucente (Chair) and Michael J. Mardy, each of whom is independent as defined in applicable Nasdaq listing standards. The Governance Committee met nine (9) times during fiscal 2012.

### **Board's Role in Risk Oversight**

We believe that risk is inherent in innovation and the pursuit of long-term growth opportunities. The Company's management is responsible for day-to-day risk management activities. The Board, acting directly and through its committees, is responsible for the oversight of the Company's risk management. With the oversight of the Board, the Company has implemented practices and programs designed to help manage the risks to which we are exposed in our business and to align risk-taking appropriately with our efforts to increase stockholder value.

The Governance Committee has primary responsibility for initial consideration of all risk oversight matters and oversees our financial and risk management policies and enterprise risk management activities. As part of the overall risk oversight framework, the Governance Committee's risk oversight responsibilities include, among other things, reviewing annually: (i) the categories of risk the Company faces; (ii) the design of the Company's risk management functions; (iii) the internal communication of the Company's risk management strategy; (iv) the risk policies and procedures adopted by management and the implementation of such policies and procedures; and (v) the reports of management, independent auditors, legal counsel and outside experts regarding risks the Company faces. Additionally, the Governance Committee meets with the Company's management team (i) on a quarterly basis to discuss the risks the Company faces and (ii) every six months to do an in-depth review of one particular risk area the Company faces. Our management team reviews risks on a regular basis and meets quarterly to discuss the Company's risk management.

In addition, the Board participates in regular discussions with the Company's senior management on many core subjects, including strategy, operations, finance, and legal and public policy matters, in which risk oversight is an inherent element. The Board believes that the leadership structure described above under *Board Leadership Structure* facilitates the Board's oversight of risk management because it allows the Board, with leadership from the non-executive Chairman and working through its committees, including the independent Governance Committee, to participate actively in the oversight of management's actions.

### **Diversity**

Diversity has always been very important to us. Although we have no formal separate written policy, pursuant to our Corporate Governance Guidelines, the Board annually reviews the appropriate skills and characteristics of the members of the Board, and diversity is one of the factors used in this assessment.

### **Director Stock Ownership Guidelines**

In September 2008, the Compensation Committee adopted stock ownership guidelines for our Directors, which guidelines were updated in December 2010. The Compensation Committee believes that it is appropriate for the Directors to hold equity in the Company. Under these guidelines, as updated, the non-employee Directors' ownership requirement is set at three times the annual retainer. All individuals will have five years from the later of the adoption of the guidelines or his or her first appointment or election as a Director to reach these ownership levels. In computing the amounts owned, the Company will consider the value of shares owned outright, restricted stock held by the individual, and in-the-money vested options. Compliance is measured at the end of each calendar year.

### **Stockholder Communications with the Board**

Stockholders may send written communications to the Board, the presiding director or any individual member of the Board to the following address: c/o Secretary, ModusLink Global Solutions, Inc., 1601 Trapelo Road, Waltham, Massachusetts 02451. The Company will forward all such correspondence accordingly, except for mass mailings, job inquiries, surveys, business solicitations or advertisements, or patently offensive or otherwise inappropriate material.





**PROPOSAL 2**

**APPROVAL OF THE AMENDMENT TO THE COMPANY S**

**RESTATED CERTIFICATE OF INCORPORATION**

The Board has unanimously adopted and is submitting for stockholder approval an amendment to the Company s Restated Certificate of Incorporation (the Charter Amendment ) that would phase in the declassification of the Board and provide instead for the annual election of Directors.

The Company s current classified board structure has been in place since 1994. The Board believes that its classified structure has helped assure continuity of the Company s business strategies and has reinforced a commitment to long-term stockholder value. Although these are important benefits, the Board acknowledged the affirmative vote by stockholders at the Company s 2011 annual meeting of stockholders to declassify the Board and recognized the growing sentiment among the investment community in favor of annual elections. After careful consideration, the Board determined that it is appropriate to propose declassifying the Board, commencing with the Company s 2013 annual meeting of stockholders.

The proposed Charter Amendment eliminates the classification of the Board over a three-year period and provides for the annual election of all Directors beginning at the 2015 annual meeting of stockholders and makes certain conforming changes to the Company s Restated Certificate of Incorporation and the Bylaws. If approved, the Charter Amendment would become effective upon the filing of a certificate of amendment with the Secretary of State of the State of Delaware, which the Company would do promptly after stockholder approval is obtained for the Charter Amendment. Board declassification would be phased-in over a three-year period, beginning at the 2013 annual meeting of stockholders as follows:

From the effective time of the certificate of amendment until the election of Directors at the 2013 annual meeting, the Board shall be divided into three classes of Directors, Class I, Class II and Class III, with the Directors in Class II having a term expiring at the 2013 annual meeting, the Directors in Class III having a term expiring at the 2014 annual meeting and the Directors in Class I having a term expiring at the 2015 annual meeting.

Commencing with the election of Directors at the 2013 annual meeting, the Board shall be divided into two classes of directors, Class I and Class II, with the directors in Class II having a term that expires at the 2014 annual meeting and the Directors in Class I having a term that expires at the 2015 annual meeting. The successors of the Directors who, immediately prior to the 2013 annual meeting, were members of Class II (and whose terms expire at the 2013 annual meeting) shall remain members of Class II; the Directors who, immediately prior to the 2013 annual meeting, were members of Class III and whose terms were scheduled to expire at the 2014 annual meeting shall be elected to Class II; and the Directors who, immediately prior to the 2013 annual meeting, were members of Class I and whose terms were scheduled to expire at the 2015 annual meeting shall remain members of Class I with a term expiring at the 2015 annual meeting.