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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported):

March 15, 2005

The Toro Company

(Exact name of registrant as specified in its charter)

Delaware

1-8649

41-0580470

(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

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

8111 Lyndale Avenue South, Bloomington,  
Minnesota

55420

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

952-888-8801

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01. Entry into a Material Definitive Agreement.**

On March 15, 2005, the Compensation and Human Resources Committee of the Toro Board of Directors certified that Kendrick B. Melrose, Toro's Chief Executive Officer and Chairman of the Board until March 15, 2005, had achieved Goal 3 under the Chief Executive Officer Succession Incentive Award Agreement (the "Succession Agreement"), with the election of Michael J. Hoffman, a candidate identified and developed by Mr. Melrose as successor CEO of the Company before October 31, 2005. The Committee also certified the release and delivery to Mr. Melrose of remaining shares of Restricted Stock granted under the Agreement (70% of the total) and certified the vesting and payment of the value of remaining Performance Units (70% of the total), to be used for the purchase of a retirement annuity to Mr. Melrose, subject, in the case of the payment of the retirement annuity, to his retirement as an employee of the Company and to his entering into and complying with the terms and conditions of a noncompetition agreement in accordance with the Succession Agreement. The aggregate value of the Restricted Stock (24,454 shares) was \$2,128,721, based on the closing price of the Common Stock on March 15, 2005. Mr. Melrose's income tax withholding obligation of \$808,963.87 will be satisfied by the withholding of delivery to him of 9,294 shares of Common Stock, valued at the closing price on the New York Stock Exchange on March 15, 2005 (\$87.05). The Performance Units will be valued at the date of Mr. Melrose's retirement as an employee of Toro, when the value will be used to purchase the retirement annuity payable until his 75th birthday. The Succession Agreement was previously filed with the Securities and Exchange Commission as Exhibit 10(j) to the Company's Quarterly Report on Form 10-Q for the quarter ended August 2, 2002).

**Item 5.02. Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers.**

On March 15, 2005, the Toro Board of Directors established a new officer position of Executive Chairman of the Board of Directors and elected Kendrick B. Melrose to serve in the position until his retirement as an employee of the Company, which is expected in December 2005. The primary functions of the position of Executive Chairman of the Board of Directors include, but are not limited to, directing the activities and meetings of the Board; facilitating the CEO transition by serving as a mentor to the new Chief Executive Officer, Michael J. Hoffman, participating in corporate and strategic planning, policy formulation, investor and community relations, key customer relationships, mergers and acquisitions and development of new business strategies. The terms and conditions of Mr. Melrose's employment as previously established by the Board and the Compensation and Human Resources Committee are unchanged.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

(A) On March 15, 2005, the stockholders of the Company approved the amendment of Toro's Amended and Restated Certificate of Incorporation (1) to increase the total authorized shares of Common Stock, par value \$1.00 per share, from 50,000,000 to 100,000,000, and to increase the total authorized capital stock from 51,850,000 to 101,850,000, to reflect the increase in the authorized Common Stock; and (2) to increase the maximum number of directors comprising the Board of Directors from 11 to 12 persons. The amendment became effective March 15, 2005, upon Toro filing the Amended and Restated Certificate of Incorporation with the Delaware Secretary of State. A copy of the Amended and Restated Certificate of Incorporation is an exhibit to this Current Report on Form 8-K.

(B) On March 15, 2005, the Board of Directors of the Company approved the amendment of Toro's Bylaws to increase the maximum number of directors comprising the Board from 11 to 12 persons. The amendment became effective March 15, 2005, following the filing of the Amended and Restated Certificate of Incorporation with the Delaware Secretary of State.

**Item 8.01. Other Events.**

On March 15, 2005, the Board of Directors of the Company approved a two-for-one split of the Toro Common Stock, par value \$1.00 per share, to be effected in the form of a 100% stock dividend (the "Stock Split"). Stockholders of record at the close of business on March 28, 2005, will receive one additional share of Common Stock and one additional Preferred Share Purchase Right for each share of Common Stock held of record at the close of business on March 28, 2005. The additional shares are expected to be credited April 12, 2005. Any fractional share will be paid in cash, valued on the record date at the 4:00 p.m. Eastern Time closing sale price of the Common Stock as reported by the New York Stock Exchange.

In connection with the Stock Split, the Toro Board of Directors will make adjustments to the terms of the Rights Agreement between the Company and Wells Fargo Bank, National Association dated May 20, 1998, as appropriate in order to preserve, without increasing or decreasing, the benefits accruing to holders of the Rights following the Stock Split.

Exhibit 99 to this Current Report on Form 8-K is a copy of the Company's press release in connection with the announcement

**Item 9.01. Financial Statements and Exhibits.**

3(i)(a) and 4(a) The Toro Company Amended and Restated Certificate of Incorporation

3(ii)(a) and 4(b) The Toro Company Bylaws

99 Toro's press release dated March 15, 2005. The press release is not deemed filed for purposes of the Securities Exchange Act of 1934 and is not deemed incorporated by reference by any general statement incorporating by reference this report or future filings into any filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent the Company specifically incorporates the information by reference.

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**SIGNATURES**

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

The Toro Company

March 16, 2005

By: *J. Lawrence McIntyre*

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*Name: J. Lawrence McIntyre*

*Title: Vice President, Secretary and General Counsel*

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Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
3.(i)(a)and4(a)	The Toro Company Amended and Restated Certificate of Incorporation
3.(ii)(a)and4(b) 99	The Toro Company Bylaws Toro's press release dated March 15, 2005 announcing two-for-one stock split

# AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

## THE TORO COMPANY

The Toro Company (hereinafter called the “corporation”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify:

FIRST: The present name of the corporation is The Toro Company, which is the name under which the corporation was originally incorporated; and the date of filing the original Certificate of Incorporation of the corporation with the Secretary of State of the State of Delaware was November 7, 1983.

SECOND: This Amended and Restated Certificate of Incorporation was duly adopted by and in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code.

THIRD: This Amended and Restated Certificate of Incorporation not only restates and integrates, but also amends the provisions of the corporation’s Certificate of Incorporation as heretofore amended or supplemented.

FOURTH: All amendments reflected in this Amended and Restated Certificate of Incorporation have been duly proposed by the Board of Directors of the corporation and adopted by the stockholders of the corporation in the manner and by the vote prescribed by Section 242 of the General Corporation Law of the State of Delaware.

FIFTH: The text of the Certificate of Incorporation of the corporation is hereby amended and restated to read in its entirety as follows:

### ARTICLE I.

#### Name

The name of this corporation shall be The Toro Company.

### ARTICLE II.

#### Registered Office

The address of the registered office of the corporation in the State of Delaware is 9 East Loockerman Street, City of Dover, County of Kent, and the name of its registered agent at that address is National Registered Agents, Inc.

### ARTICLE III.

#### Purpose

The purpose for which the corporation is formed is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

### ARTICLE IV.

#### Capital Stock

Section 1. The corporation shall be authorized to issue three classes of shares of capital stock to be designated, respectively, “Common Stock”, “Voting Preferred Stock” and “Non-Voting Preferred Stock”. The total number of shares of capital stock which the corporation shall have authority to issue is one hundred one million eight hundred fifty thousand (101,850,000); the total number of shares of Common Stock shall be one hundred million (100,000,000) and each such share shall have a par value of \$1.00; the total number of shares of Voting Preferred Stock shall be one million (1,000,000), and each such share shall have a par value of \$1.00 and 200,000 of such shares are designated as a series to be called the Series B Junior Participating Voting Preferred Stock, such series to have the rights, voting power, preferences and restrictions set forth in Section 2 of this Article IV; and the total number of shares of Non-Voting Preferred Stock shall be eight hundred and fifty thousand (850,000), and each such share shall have a par value of \$1.00.

Except as herein provided or as otherwise provided by law or by the resolution or resolutions adopted by the Board designating the rights, powers and preferences of any series of Preferred Stock, the Common Stock shall have the exclusive right to vote for the election of directors and for all other purposes, each holder of the Common Stock being entitled to one vote for each share held; and except as provided below with respect to the Series B Junior Participating Voting Preferred Stock, Voting Preferred Stock and Non-Voting Preferred Stock shall have only such voting rights, if any, as fixed by the Board of Directors and as required by law as to matters affecting such Voting Preferred Stock and Non-Voting Preferred Stock. Whenever this Amended and Restated Certificate of Incorporation or the Bylaws of the corporation shall require the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors (such capital stock is hereinafter referred to in this Amended and Restated Certificate of Incorporation as “Voting Stock”), voting

together as a single class, for the taking of corporate action: (A) such affirmative vote shall be in addition to any other affirmative vote required by law or by the resolution or resolutions designating the rights, powers and preferences of any outstanding series of Preferred Stock; and (B) each outstanding share of Common Stock shall be entitled to one vote and each outstanding share of each series of Voting Preferred Stock shall be entitled to the number of votes to which it is generally entitled, pursuant to the resolution or resolutions designating the rights, powers and preferences of such series of Preferred Stock, in the election of directors.

The Board of Directors is authorized to establish more than one series or class of Common Stock, Voting Preferred Stock and Non-Voting Preferred Stock and, other than the Series B Junior Participating Voting Preferred Stock, to fix the relative rights and preferences of any such class or series, which rights and preferences need not be equal.

There shall be no cumulative voting of the shares of this corporation and the holders of shares of any class of this corporation shall not have preemptive rights to subscribe for any shares or securities convertible into shares of this corporation.

## Section 2. *Series B Junior Participating Voting Preferred Stock.*

A. Designation and Amount. The shares of such series shall be designated as “Series B Junior Participating Voting Preferred Stock” (the “Series B Preferred Stock”) and the number of shares constituting the Series B Preferred Stock shall be 200,000. Such number of shares may be increased or decreased by resolution of the Board of Directors; *provided*, that no decrease shall reduce the number of shares of Series B Preferred Stock to a number less than the number of shares then outstanding plus the number of shares reserved for issuance upon the exercise of outstanding options, rights or warrants or upon the conversion of any outstanding securities issued by the corporation convertible into Series B Preferred Stock.

### B. Dividends and Distributions.

- (i) Subject to the rights of the holders of any shares of any series of Voting Preferred Stock, par value \$1.00 per share, of the corporation (“Voting Preferred Stock”) or Non-Voting Preferred Stock, par value \$1.00 per share, of the corporation (“Non-Voting Preferred Stock” and, together with the Voting Preferred Stock, the “Preferred Stock”) (or any similar stock) ranking prior and superior to the Series B Preferred Stock with respect to dividends, the holders of shares of Series B Preferred Stock, in preference to the holders of Common Stock, par value \$1.00 per share (the “Common Stock”), of the corporation, and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of March, June, September and December in each year (each such date being referred to herein as a “Quarterly Dividend Payment Date”), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series B Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) \$1 or (b) subject to the provision for adjustment hereinafter set forth, 100 times the aggregate per share amount of all cash dividends, and 100 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions, other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series B Preferred Stock. In the event the corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event under clause (b) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.
- (ii) The corporation shall declare a dividend or distribution on the Series B Preferred Stock as provided in paragraph (B)(i) of this Section 2 immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock); provided that, in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of \$1 per share on the Series B Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.
- (iii) Dividends shall begin to accrue and be cumulative on outstanding shares of Series B Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series B Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series B Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders

of shares of Series B Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof.

C. Voting Rights. The holders of shares of Series B Preferred Stock shall have the following voting rights:

- (i) Subject to the provision for adjustment hereinafter set forth, each share of Series B Preferred Stock shall entitle the holder thereof to 100 votes on all matters submitted to a vote of the stockholders of the corporation. In the event the corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.
- (ii) Except as otherwise provided herein, in any Certificate of Designations creating a series of Preferred Stock or any similar stock, or by law, the holders of shares of Series B Preferred Stock and the holders of shares of Common Stock and any other capital stock of the corporation having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the corporation.
- (iii) Except as set forth herein, or as otherwise provided by law, holders of Series B Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

D. Certain Restrictions.

- (i) Whenever quarterly dividends or other dividends or distributions payable on the Series B Preferred Stock as provided in this Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series B Preferred Stock outstanding shall have been paid in full, the corporation shall not:
  - (a) declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock;
  - (b) declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series B Preferred Stock, except dividends paid ratably on the Series B Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;
  - (c) redeem or purchase or otherwise acquire for consideration shares of any stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock, provided that the corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of any stock of the corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series B Preferred Stock; or
  - (d) redeem or purchase or otherwise acquire for consideration any shares of Series B Preferred Stock, or any shares of stock ranking on a parity with the Series B Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.
- (ii) The corporation shall not permit any subsidiary of the corporation to purchase or otherwise acquire for consideration any shares of stock of the corporation unless the corporation could, under paragraph (D)(i) of this Section 2, purchase or otherwise acquire such shares at such time and in such manner.

E. Reacquired Shares. Any shares of Series B Preferred Stock purchased or otherwise acquired by the corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance set forth herein, in the Amended and Restated Certificate of Incorporation, or in any Certificate of Designations creating a series of Preferred Stock or any similar stock or as otherwise required by law.

F. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the corporation, no distribution shall be made (i) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock unless, prior thereto, the holders of shares of Series B Preferred Stock shall have received \$100 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of

such payment, provided that the holders of shares of Series B Preferred Stock shall be entitled to receive an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount to be distributed per share to holders of shares of Common Stock, or (ii) to the holders of shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series B Preferred Stock, except distributions made ratably on the Series B Preferred Stock and all such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event under the proviso in clause (i) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

G. *Consolidation, Merger, etc.* In case the corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series B Preferred Stock shall at the same time be similarly exchanged or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series B Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

H. *No Redemption.* The shares of Series B Preferred Stock shall not be redeemable.

I. *Rank.* The Series B Preferred Stock shall rank, with respect to the payment of dividends and the distribution of assets, junior to all series of any other class of the corporation's Preferred Stock.

J. *Amendment.* If any shares of Series B Preferred Stock are outstanding, the Amended and Restated Certificate of Incorporation of the corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series B Preferred Stock so as to affect them adversely without the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series B Preferred Stock, voting together as a single class.

## ARTICLE V.

### Bylaws

In furtherance and not in limitation of the powers conferred by law, the Board is expressly authorized to make, repeal, alter, amend and rescind the Bylaws of the corporation by a majority vote of the entire Board at any regular or special meeting of the Board; provided however, that, notwithstanding anything contained in this Amended and Restated Certificate of Incorporation or the Bylaws of the corporation to the contrary, the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of Voting Stock, voting together as a single class, shall be required to (1) alter, amend or repeal any provision of the Bylaws which is substantially identical to or implements the last sentence of Article IV, Section 1, or Articles VI, VII or VIII, of this Amended and Restated Certificate of Incorporation or (2) alter, amend or repeal any provision of this proviso to Article V.

## ARTICLE VI.

### Board of Directors

*Section 1. Number, Election and Terms.* The business and affairs of the corporation shall be managed under the direction of a Board of Directors which, subject to any right of the holders of any series of Preferred Stock then outstanding to elect additional directors under specified circumstances, shall consist of not less than eight nor more than twelve persons. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board pursuant to a resolution adopted by a majority of the entire Board. The directors shall be divided into three classes, designated Classes A, B and C, as nearly equal in number as possible, with the term of office of each class to expire at the third succeeding Annual Meeting of Stockholders after its election at an Annual Meeting of Stockholders.

*Section 2. Newly Created Directorships and Vacancies.* Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled only by a majority vote of the directors then in office, and directors so chosen shall hold office for a term expiring at the Annual Meeting of Stockholders at which the term of the class to which they have been elected expires. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director.

*Removal.* Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of the Voting Stock, voting together as a single class.

*Amendment, Repeal, etc.* Notwithstanding anything contained in this Amended and Restated Certificate of Incorporation to the contrary, the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of Voting Stock, voting together as a single class, shall be required to alter, amend or repeal this Article VI.

## ARTICLE VII.

### Actions by Stockholders

Any action required or permitted to be taken by the stockholders of the corporation must be effected at a duly called annual or special meeting of stockholders of the corporation and may not be effected by any consent in writing by such stockholders. Special meetings of stockholders of the corporation may be called only by the Board pursuant to a resolution approved by a majority of the entire Board. Notwithstanding anything contained in this Amended and Restated Certificate of Incorporation to the contrary, the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of Voting Stock, voting together as a single class, shall be required to alter, amend or repeal this Article VII.

## ARTICLE VIII.

### Certain Business Combinations

*Vote Required for Certain Business Combinations.*

*A. Higher Vote for Certain Business Combinations.* Except as otherwise expressly provided in Section 2 of this Article VIII,

- (i) any merger or consolidation of the corporation or any Subsidiary (as hereinafter defined) with (a) any Interested Stockholder (as hereinafter defined) or (b) any other corporation (whether or not itself an Interested Stockholder) which is, or after such merger or consolidation would be, an Affiliate (as hereinafter defined) of an Interested Stockholder; or
- (ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with any Interested Stockholder or any Affiliate of any Interested Stockholder of any assets of the corporation or any Subsidiary having an aggregate Fair Market Value (as hereinafter defined) of \$1,000,000 or more; or
- (iii) the issuance or transfer by the corporation or any Subsidiary (in one transaction or a series of transactions) of any securities of the corporation or any Subsidiary to any Interested Stockholder or any Affiliate of any Interested Stockholder or any Affiliate of any Interested Stockholder in exchange for cash, securities or other property (or a combination thereof) having an aggregate Fair Market Value of \$1,000,000 or more; or
- (iv) the adoption of any plan or proposal for the liquidation or dissolution of the corporation proposed by or on behalf of an Interested Stockholder or any Affiliate of any Interested Stockholder; or
- (v) any reclassification of securities (including any reverse stock split), or recapitalization of the corporation, or any merger or consolidation of the corporation with any of its Subsidiaries or any other transaction (whether or not with or into or otherwise involving an Interested Stockholder) which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of equity or convertible securities of the corporation or any Subsidiary which is directly or indirectly owned by any Interested Stockholder or any Affiliate of any Interested Stockholder;

shall require the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of Voting Stock, voting together as a single class and any necessary vote of the outstanding shares of Preferred Stock. Such affirmative vote shall be required notwithstanding the fact that no vote may be required or that a lesser percentage may be specified, by law or in any agreement with any national securities exchange or otherwise.

*B. Definition of "Business Combination."* The term "Business Combination" as used in this Article VIII shall mean any transaction which is referred to in any one or more of clauses (i) through (v) of paragraph A of this Section 1.

*When Higher Vote is Not Required.* The provisions of Section 1 of this Article VIII shall not be applicable to any particular Business Combination, and such Business Combination shall require only such affirmative vote as is required by law, this Amended and Restated Certificate of Incorporation and any resolution or resolutions designating the rights, powers and preferences of any outstanding series of Preferred Stock, if all of the conditions specified in either of the following paragraphs (A) and (B) are met (it being intended that in the case of a Business Combination not involving any cash or consideration other than cash to be received by the holders of each class or series of outstanding Voting Stock (other than Institutional Voting Stock, as hereinafter defined), the provisions of such Section 1 shall not be applicable only if the condition specified in the following paragraph (A) is met):

C. *Approval by Continuing Directors.* The Business Combination shall have been approved by a majority of the Continuing Directors (as hereinafter defined).

D. *Price and Procedure Requirements.* All of the following conditions shall have been met.

- (i) The aggregate amount of the cash and the Fair Market Value (as hereinafter defined) as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of Common Stock in such Business Combination shall be at least equal to the highest of the following:
  - (a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it (1) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination (the "Announcement Date") or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;
  - (b) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Stockholder became an Interested Stockholder (such latter date is referred to in this Article VIII as the "Determination Date"), whichever is higher; and
  - (c) (if applicable) the price per share equal to the Fair Market Value per share of Common Stock on the Announcement Date or the Determination Date, whichever is higher, multiplied by the ratio of (1) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it within the two-year period immediately prior to the Announcement Date to (2) the Fair Market Value per share of Common Stock on the first day in such two-year period upon which the Interested Stockholder acquired any shares of Common Stock.
- (ii) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any other series of outstanding Voting Stock (other than Institutional Voting Stock, as hereinafter defined) shall be at least equal to the highest of the following (it being intended that the requirements of this paragraph (B)(ii) shall be required to be met with respect to every series of outstanding Voting Stock (other than Institutional Voting Stock), whether or not the Interested Stockholder has previously acquired any shares of a particular series of Voting Stock):
  - (a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of such series of Voting Stock acquired by it (1) within the two-year period immediately prior to the Announcement Date or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;
  - (b) (if applicable) the highest preferential amount per share to which the holders of shares of such series of Voting Stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation;
  - (c) the Fair Market Value per share of such series of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher; and
  - (d) (if applicable) the price per share equal to the Fair Market Value per share of such series of Voting Stock on the Announcement Date or the Determination Date, whichever is higher, multiplied by the ratio of (1) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of such series of Voting Stock acquired by it within the two-year period immediately prior to the Announcement Date to (2) the Fair Market Value per share of such series of Voting Stock on the first day in such two-year period upon which the Interested Stockholder acquired any shares of such series of Voting Stock.
- (iii) The consideration to be received by holders of a particular class (in the case of Common Stock) or series (in the case of Preferred Stock) of the outstanding Voting Stock shall be in cash or in the same form as the Interested Stockholder has previously paid for shares of any class or series of Voting Stock. If the Interested Stockholder has paid for shares of any class or series of Voting Stock with varying forms of consideration, the form of consideration for such class or series of Voting Stock shall be either cash or the form used to acquire the largest number of shares of such class or series of Voting Stock previously acquired by it.
- (iv) After such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combination: (a) except as approved by a majority of the Continuing Directors, there shall have been no failure to declare and pay at the regular date therefor any full quarterly dividends (whether or not cumulative) on the outstanding Preferred Stock; (b) there shall have been (1) no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any subdivision of the Common Stock), except as approved by a majority of the Continuing Directors, and (2) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization,

reorganization or any similar transaction which has the effect of reducing the number of outstanding shares of Common Stock, unless the failure so to increase such annual rate is approved by a majority of the Continuing Directors; and (c) such Interested Stockholder shall have not become the beneficial owner of any additional shares of Voting Stock except as part of the transaction which results in such Interested Stockholder becoming an Interested Stockholder.

- (v) After such Interested Stockholder has become an Interested Stockholder, such Interested Stockholder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the corporation, whether in anticipation of or in connection with such Business Combination or otherwise.
- (vi) A proxy or information statement describing the proposed Business Combination and complying with the requirements of the Securities and Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to public stockholders of the corporation at least 30 days prior to the consummation of such Business Combination (whether or not such proxy or information statement is required to be mailed pursuant to such Act or subsequent provisions).

*Certain Definitions.* For the purposes of this Article VIII:

E. A “person” shall mean any individual, firm, corporation or other entity.

F. “Interested Stockholder” shall mean any person (other than the corporation or any Subsidiary) who or which:

- (i) is the beneficial owner, directly or indirectly, of more than 10% of the voting power of the outstanding Voting Stock; or
- (ii) is an Affiliate of the corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding Voting Stock; or
- (iii) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question beneficially owned by an Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

G. A person shall be a “beneficial owner” of any Voting Stock:

- (i) which such person or any of its Affiliates or Associates (as hereinafter defined) beneficially owns, directly or indirectly; or
- (ii) which such person or any of its Affiliates or Associates has (a) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (b) the right to vote pursuant to any agreement, arrangement or understanding; or
- (iii) which are beneficially owned, directly or indirectly, by any other person with which such person or any of its Affiliates or Associates has any agreement, or arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of Voting Stock.

H. For the purpose of determining whether a person is an Interested Stockholder pursuant to paragraph (B) of this Section 3, the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of paragraph (C) of this Section 3 but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

I. “Affiliate” or “Associate” shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on October 3, 1983.

J. “Subsidiary” means any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the corporation; provided, however, that for the purposes of the definition of Interested Stockholder set forth in paragraph (B) of this Section 3, the term “Subsidiary” shall mean only a corporation of which a majority of each class of equity security is owned, directly or indirectly, by the corporation.

K. “Continuing Director” means any member of the Board who is unaffiliated with the Interested Stockholder and was a member of the Board prior to the time that the Interested Stockholder became an Interested Stockholder, and any successor of a Continuing Director who is unaffiliated with the Interested Stockholder and is recommended to succeed a Continuing Director by a majority of Continuing Directors then on the Board.

L. “Fair Market Value” means: (i) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange—Listed Stocks, or, if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, on the principal United States securities

exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by the Board in good faith; and (ii) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the Board in good faith.

M. “Institutional Voting Stock” shall mean any series of Voting Stock which was issued to and continues to be held solely by one or more insurance companies, pension funds, commercial banks, savings banks or similar financial institutions or institutional investors.

N. In the event of any Business Combination in which the corporation survives, the phrase “consideration other than cash to be received” as used in Section 2 of this Article VIII shall include the shares of Common Stock or the shares of any series of outstanding Voting Stock retained by the holders of such shares.

*Powers of the Board of Directors.* A majority of the directors of the corporation shall have the power and duty to determine for the purposes of this Article VIII, on the basis of information known to them after reasonable inquiry, (A) whether a person is an Interested Stockholder, (B) the number of shares of Voting Stock beneficially owned by any person, (C) whether a person is an Affiliate or Associate of another, (D) whether a series of Voting Stock is Institutional Voting Stock and (E) whether the assets which are the subject of any Business Combination have, or the consideration to be received for the issuance or transfer of securities by the corporation or any Subsidiary in any Business Combination has, an aggregate Fair Market Value of \$1,000,000 or more.

*No Effect on Fiduciary Obligations of Interested Stockholders.* Nothing contained in this Article VIII shall be construed to relieve any Interested Stockholder from any fiduciary obligation imposed by law.

*Amendment, Repeal, etc.* Notwithstanding anything contained in this Amended and Restated Certificate of Incorporation to the contrary, the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of the Voting Stock, voting together as a single class, shall be required to alter, amend or repeal this Article VIII.

## **ARTICLE IX.**

### **Amendment of Amended and Restated Certificate of Incorporation**

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on Stockholders herein are granted subject to this reservation. Notwithstanding the foregoing, the provisions set forth in the last sentence of Article IV, Section 1, and in Articles VI, VII and VIII, may not be altered, amended or repealed in any respect unless such alteration, amendment or repeal is approved as specified in each thereof.

## **ARTICLE X.**

### **Indemnity**

*Elimination of Certain Liability of Directors.*

A director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (A) for any breach of the director’s duty of loyalty to the corporation or its stockholders, (B) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (C) under Section 174 of the Delaware General Corporation Law, or (D) for any transaction from which the director derived an improper personal benefit.

*Indemnification and Insurance.*

A. *Right to Indemnification.* Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason for the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer, of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys’ fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (B) hereof, the corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of

Directors of the corporation. The right to indemnification conferred in this Section 2 shall be a contract right, which may, by action of the Board of Directors of the corporation and at its option, be expressed in a separate written instrument, and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section 2 or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

*B. Right of Claimant to Bring Suit.* If a claim under paragraph (A) of this Section 2 is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition whether the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the corporation. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

*C. Non-Exclusivity of Rights.* The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section 2 shall not be exclusive of any other right which any persons may have or hereafter acquire under any statute, provision of the Amended and Restated Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

*D. Insurance.* The corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

IN WITNESS WHEREOF, the corporation has caused this Amended and Restated Certificate of Incorporation to be executed this 15th day of March, 2005, in its name and on its behalf by its Vice President and Secretary pursuant to Section 103 of the General Corporation Law of the State of Delaware.

/s/ J. Lawrence McIntyre

J. Lawrence McIntyre  
Vice President and Secretary

# BYLAWS

## OF

### THE TORO COMPANY

(A Delaware Corporation)

#### ARTICLE I

##### Offices, Corporate Seal, and Records

Section 1.1 The registered office of the Corporation shall be established and maintained in the City of Dover, in the County of Kent, in the State of Delaware, and the Corporation may have other offices, either within or without the State of Delaware, at such place or places as the Board of Directors may from time to time determine. Unless otherwise determined by the Board of Directors, the principal executive office of the Corporation shall be at 8111 Lyndale Avenue South, in the City of Bloomington, County of Hennepin, State of Minnesota.

Section 1.2 The Corporation may have a corporate seal in such form as determined by the Board of Directors, which may be altered at its pleasure, and the seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 1.3 The Corporation shall at all times keep at its principal executive office, or at such other place or places as the Board of Directors may determine, a share register giving the names and addresses of the stockholders, the number and classes of shares held by each, and the dates on which the certificates therefor were issued, or, in the case of uncertificated shares, the date the electronic entry evidencing the ownership of the shares was made in the Company's records.

Section 1.4 The Corporation shall at all times keep at its principal executive office the following records:

- (a) The original or copies of records of all proceedings of stockholders and directors, of its Bylaws and all amendments thereto, and of reports made to stockholders or any of them within the next preceding three years;
- (b) A statement of names and usual business addresses of its directors and principal officers;
- (c) Appropriate financial statements.

Section 1.5 Subject to law and any order of the Court of Chancery, any stockholder of record shall have the right to inspect and make copies or extracts therefrom, upon proper written demand under oath stating the purpose thereof, in person or by attorney or other agent, at any reasonable time or times, for any proper purpose, and at the principal executive offices of the corporation, the stock ledger, a list of stockholders, and other books and records, required financial statements, and the records of the proceedings of the stockholders and directors.

#### ARTICLE II

##### Meeting of Stockholders

Section 2.1 All meetings of the stockholders shall be held at such place within or without the State of Delaware as may be designated by the Board of Directors in the notice of the meeting.

Section 2.2 The Regular Meetings of the stockholders, if any, shall be held on the day or date and at the time and place as the Board of Directors may fix from time to time in its discretion, for the election of directors and the transaction of such other business as may come before the meeting; provided, however, that any previously scheduled regular meeting of the stockholders may be postponed by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such regular meeting of the stockholders; and provided, further, that no business with respect to which special notice is required by law shall be transacted at a regular meeting unless such notice shall have been given.

Section 2.3 Special meetings of the stockholders for any purpose or purposes may be called only by the Board of Directors, pursuant to a resolution approved by a majority of the entire Board of Directors; provided, however, that any previously scheduled special meeting of the stockholders may be postponed by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such special meeting of the stockholders. Business transacted at a special meeting shall be confined to the purposes stated in the call and notice thereof.

Section 2.4 Notice of each regular and special meeting of stockholders stating the date, time and place thereof, and the general nature of the business to be considered thereat, shall be given at least ten (10) days and not more than sixty (60) days before the date of the meeting to each stockholder entitled to vote thereat. Such notice shall be deemed delivered when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation.

Section 2.5 Each stockholder who is entitled to vote pursuant to the terms of the Certificate of Incorporation and these Bylaws, or who is entitled to vote pursuant to the laws of the State of Delaware, shall be entitled to vote in person or by proxy, but no proxy shall be voted after three years from its date unless such proxy provides for a longer period. All elections for directors shall be determined by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on

the election of directors. All other questions shall be decided by the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on such question.

A complete list of the stockholders entitled to vote at any meeting of stockholders at which directors are to be elected, arranged in alphabetical order, with the address of each, and the number of shares held by each, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including without limitation as officers, employees, agents or representatives of the Corporation, to act at the meeting and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate inspector has been appointed to act or is able to act at a meeting of stockholders, the Chair of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by law.

The Chair of the meeting shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at the meeting.

Section 2.6 Except as otherwise required by law, by the Certificate of Incorporation or by these Bylaws, the presence, in person or by proxy, of stockholders holding a majority of the voting power of the outstanding stock of the Corporation shall constitute a quorum at all meetings of the stockholders. The Chair of any regular or special meeting of the stockholders or a majority in interest of the stockholders entitled to vote thereat shall have the power to adjourn such meeting from time to time, without notice other than announcement at the meeting, whether or not there is such a quorum. No notice of the time and place of adjourned meetings need be given except as required by law; provided, however, that if such adjournment is for more than thirty (30) days, or if after such adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such adjourned meeting. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted which might have been transacted at the meeting as originally noticed; but only those stockholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof unless the Board of Directors shall have fixed a new record date for such adjournment or adjournments pursuant to Section 2.7 of these Bylaws.

The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.7 In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect to any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be less than ten nor more than sixty days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment or adjournments of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 2.8 (A) (1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at a regular meeting of stockholders (a) pursuant to the Corporation's notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this Bylaw, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Bylaw.

(2) For nominations or other business to be properly brought before a regular meeting by a stockholder pursuant to clause (c) of paragraph (A) (1) of this Bylaw, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than forty-five (45) days nor more than ninety (90) days prior to the first anniversary of the date on which the Corporation first mailed its proxy materials for the preceding year's regular meeting; provided, however, that in the event that the date of the regular meeting is advanced by more than thirty (30) days or delayed by more than sixty (60) days from the anniversary date of the preceding year's regular meeting, notice by the stockholder to be timely must be so delivered not earlier than the 90th day prior to such rescheduled regular meeting and not later than the close of business on the later of the 60th day prior to such rescheduled regular meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the

class and number of shares of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner.

(3) Notwithstanding anything in paragraph (A) (2) of this Bylaw, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Corporation at least seventy (70) days prior to the first anniversary of the preceding year's regular meeting, a stockholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(B) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Bylaw, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Bylaw. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (A) (2) at the principal executive offices of the Corporation not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 60th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by; the Board of Directors to be elected at such meeting.

(C) (1) Only such persons who are nominated in accordance with the procedures set forth in this Bylaw shall be eligible to serve as directors and only such business shall be conducted at a regular meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Bylaw and, if any proposed nomination or business is not in compliance with this Bylaw, to declare that such defective proposal shall be disregarded. The Chair of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Bylaw and, if any proposed nomination or business is not in compliance with this Bylaw, to declare that such defective proposal shall be disregarded.

(2) Notwithstanding the foregoing provisions of this Bylaw, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bylaw. Nothing in this Bylaw shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(3) For purposes of this Bylaw, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

## **ARTICLE III**

### **Directors**

Section 3.1 The business and affairs of the Corporation shall be managed under the direction of a Board of Directors which, subject to any right of the holders of any series of Preferred Stock then outstanding to elect additional directors under specified circumstances, shall consist of not less than eight (8) nor more than twelve (12) persons. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board pursuant to a resolution adopted by a majority of its members. The directors shall be divided into three classes, as nearly equal in number as possible, with the term of office of Class A to expire at the 1984 Annual Meeting of Stockholders, the term of office of Class B to expire at the 1985 Annual Meeting of Stockholders and the term of office of Class C to expire at the 1986 Annual Meeting of Stockholders. At each Annual Meeting of Stockholders following such initial classification and election, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding Annual Meeting of Stockholders after their election.

Section 3.2 Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled only by majority vote of the directors then in office, and directors so chosen shall hold office for a term expiring at the Annual Meeting of Stockholders at which the term of the Class to which they have been elected expires. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 80% of the voting power of the then outstanding Common Stock of the Company.

Section 3.3 Regular meetings of the Board shall be held at bi-monthly intervals during each fiscal year, or on such alternate intervals or dates as the Board may fix from time to time in its discretion, and at such time and place as the Chairman of the Board of Directors or, in his absence, the President shall determine, preferably at the principal executive office of the Corporation during

the third week of the month. At least three (3) days' notice thereof shall be given by the Secretary to each director, either personally or by telephone, mail, electronic mail or facsimile transmission.

Section 3.4 Special meetings of the Board may be called by the Chief Executive Officer or by any two directors, and not less than twenty-four (24) hours' notice thereof shall be given by the Secretary to any director, either personally or by telephone, mail, telegram or facsimile transmission.

Section 3.5 Any action taken by the Board or any committee thereof at any meeting where all members are present shall be valid whether or not notice of such meeting was in fact given, except as provided by law. Any action which might be taken at a meeting of the Board, or at a meeting of any committee thereof as the case may be, may be taken without meeting as provided by law.

Section 3.6 At all meetings of the Board a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, but if less than a quorum are present, those present may adjourn the meeting from time to time until a quorum shall be present.

Section 3.7 The Board may unanimously elect from among the directors an Executive Committee, a Compensation and Human Resources Committee, an Audit Committee, and a Nominating and Governance Committee, and such other committees as the Board may from time to time determine, to serve at the pleasure of the Board. The members of the Board of Directors and of said Committees shall have the role of monitoring the conduct of the business and affairs of the corporation on behalf of all of the constituencies of the Corporation, including in particular, those who invest in the stock of the Corporation, in an environment of loyal but independent oversight. Each Committee shall maintain independent minutes of action, and with the exception of the Audit Committee, and resolutions of the Compensation and Human Resources Committee relating to matters governed by or within the scope of Section 16 of the Securities and Exchange Act of 1934 or Section 162(m) of the Internal Revenue Code of 1986, or its successor provision, such minutes shall be subject to approval by the Board.

Section 3.8 The Executive Committee shall consist of a minimum of three directors of the Corporation, including the Chairman of the Board of Directors, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Executive Committee shall preside at all meetings of the Executive Committee and shall perform such other duties as may be prescribed by the Board of Directors. The underlying purpose of the Executive Committee is to exercise all of the powers and authority of the Board during intervals between meetings of the Board, including the power to declare dividends on the Corporation's common stock. The Committee shall have discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.9 The Audit Committee shall consist of a minimum of three directors of the Corporation, none of whom shall be officers or employees of the Corporation, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Audit Committee shall preside at all meetings of the Audit Committee and shall perform such other duties as may be prescribed by the Board of Directors. The purpose of the Audit Committee is to assist the Board of Directors in fulfilling the Board's responsibility to oversee the Corporation's financial reports and accounting and reporting practices and to perform its duties and responsibilities as outlined in the Audit Committee Charter. The manager of the Corporation's internal auditing function, when operative, shall have an indirect reporting relationship to the Audit Committee, and shall perform such duties as may be prescribed by the Board of Directors or by the Audit Committee. The Committee shall have discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.10 The Compensation and Human Resources Committee shall consist of a minimum of three directors of the Corporation, none of whom shall be officers or employees of the Corporation, and one of the members shall be designated by the Board of Directors as its Chair. The Chair of the Compensation and Human Resources Committee shall preside at all meetings of the Compensation and Human Resources Committee and shall perform such other duties as may be prescribed by the Board of Directors. The purposes of the Compensation and Human Resources Committee include: to administer all employee benefit plans heretofore or hereafter established including the granting of stock options and incentive awards authorized under employee benefit plans governed by or within the scope of Section 16 of the Securities and Exchange Act of 1934 or Section 162(m) of the Internal Revenue Code of 1986, or its successor provision; to study and analyze specific and general matters of management compensation; to periodically review management compensation policies and practices; to make recommendations to the Board respecting incentive compensation awards; and to consider and approve officer salary adjustments of elected officers of the Corporation at the level of Vice President and above.

Section 3.11 The Nominating and Governance Committee shall consist of a minimum of three directors of the Corporation who do not have any direct or indirect material economic or personal association with the Corporation, or with any of its affiliates or the employees thereof. One of the members of the Committee shall be designated as its Chair by the Board of Directors. The Chair of the Nominating and Governance Committee shall preside at all meetings of the Nominating and Governance Committee and shall perform such other duties as may be prescribed by the Board of Directors. The primary functions of the Nominating and Governance Committee are to review with the Chief Executive Officer of the Corporation an appropriate size and makeup for the Board of Directors, including individuals having such background and business experience as are consistent with and compatible to the long-range interests and future direction of the Corporation; to consider the qualifications of persons identified as prospective Directors to either fill vacancies on the Board or enlarge its membership; to conduct research to identify and recommend nomination of suitable candidates who are willing to serve as members of the Board of Directors and who will make a substantial contribution to the Corporation based upon a careful review of their experience, background, interests, ability and availability to meet time commitments for board and committee responsibilities; and to determine whether any prospective or seated member of the Board has any economic or familial relationship with the Corporation which may negate his/her suitability for such service and to name a lead director to oversee the non-management executive sessions of the Board and to serve as an ongoing liaison between

the directors and the employees. The Committee shall also monitor current members of the Board in light of the same guidelines used to select candidates, shall direct the activities of the Board and management in matters of corporate governance, and shall have general discretionary authority to undertake additional activities within the scope of its primary functions.

Section 3.12 Meetings of each committee shall be held from time to time as the Chair of such committee, the Chairman of the Board of Directors, or any two members of such committee shall determine, preferably at the principal executive office of the Corporation. All members of each committee shall be given written notice of any meeting by the Secretary, such notice to be mailed to each member at least three (3) days prior to the date thereof; provided, however, such written notice shall not be required as to any member who shall receive notice in person at least twenty-four (24) hours prior to the time of the meeting. Any member may in writing, before or after any meeting, waive notice thereof, and any member by his attendance at, and participation in, the action taken at any meeting shall be deemed to have waived notice thereof. A majority of the members of a committee shall constitute a quorum. Any action which might be taken at a meeting of a committee may be taken without meeting if evidenced by a resolution signed by all members. The Chair of each Board committee shall preside at all meetings of such committee and shall perform such other duties as may be prescribed by the Board of Directors or the Chairman thereof.

Section 3.13 All action taken by the Board committees shall be reported to the Board of Directors at its meeting next succeeding such action and shall be subject to revision by the Board of Directors provided that no acts or rights of third parties shall be prejudiced thereby. All such action shall also be recorded in the minute books of the Corporation in the same manner in which action taken by the Board of Directors is recorded. The affirmative vote of the majority of all members of each committee shall be necessary to its adoption of any resolution.

## **ARTICLE IV**

### **Officers**

Section 4.1 The officers of this Corporation shall be elected by the Board from time to time as it deems appropriate, and shall include a Chairman of the Board of Directors, who shall serve as Chief Executive Officer, to be elected by the Board of Directors from among its members, a president, and one or more vice presidents one of whom shall perform the duties of the Chief Financial Officer, a secretary, a treasurer, and such other officers, including one or more group vice presidents or one or more executive vice presidents, and agents as may from time to time be elected by the Board of Directors. Any two offices except those of the President and Vice President may be held by the same person. All officers shall hold office at the pleasure of the Board of Directors and be subject to dismissal by it, with or without cause.

Section 4.2 The salary and other compensation of the Chairman of the Board, the President and all elected Vice Presidents shall be fixed by the Board of Directors. If any vacancy shall occur among the elected officers, it shall be filled by the Board.

Section 4.3 The Chairman of the Board of Directors, or in his absence the Chair of the Compensation and Human Resources Committee, shall preside at all meetings of the Board of Directors. The Chairman of the Board has authority to appoint certain officers of the Company, including vice presidents and certain assistant officers whose responsibilities do not warrant election by the Board of Directors, and shall also perform such other duties as may be prescribed by the Board of Directors.

Section 4.4 The President shall be Chief Operating Officer of the Corporation and, as such, shall carry out the plans for the Corporation as approved by the Chairman of the Board and the Board of Directors. In the absence of the Chairman of the Board of Directors, he shall preside at all meetings of the stockholders and otherwise perform the Chief Executive Officer's duties as prescribed by the Board of Directors.

Section 4.5 Each Vice President shall perform such duties as may be prescribed by the Board of Directors. The Vice President of Finance shall be the Chief Financial Officer. In the absence or disability of the Chairman of the Board, the President shall succeed to his powers and duties, and in the absence of the President, the Chief Financial Officer shall first succeed to his powers and duties, then the Executive or Group Vice Presidents in order of seniority and in the event all are unable to serve for any reason, the Vice Presidents shall succeed to their power and duties in the order in which elected.

Section 4.6 The Secretary shall attend all meetings of the Board of Directors, Executive Committee, and of the stockholders, and record all votes and keep minutes of all proceedings. He shall give, or cause to be given, required notices of meetings of the Board of Directors, Executive Committee and of the stockholders. He shall keep in safe custody the seal of the Corporation and, when authorized by the Board, affix the same to any instrument requiring it, and shall perform such other duties as may be prescribed by the Board of Directors.

Section 4.7 The Treasurer shall maintain necessary relationships with banks and other financial institutions and provide for adequate lines of credit; shall plan for and maintain adequate funds in appropriate working and depository accounts to meeting outstanding and planned commitments; and shall be responsible for safe custody and control of all funds and securities of the Corporation. He shall establish policies and procedures in relation to, and supervise management of, the extension of credit, and the collection of receivables. He shall maintain appropriate bond and dividend records, provide for proper signature or endorsement on all financial documents of the Corporation, and shall perform such other duties as may be prescribed by the President.

Section 4.8 The assistant to any officer shall, in the absence or disability of that officer, perform his duties and shall perform such other duties as may be prescribed by the Board of Directors.

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## **FOR IMMEDIATE RELEASE**

### **The Toro Company Announces Two-for-One Stock Split; Declares Regular Quarterly Dividend**

BLOOMINGTON, Minn., (March 15, 2005) — The board of directors of The Toro Company (NYSE:TTC) announced it has approved a two-for-one stock split of its Common Stock, which will be effected in the form of a 100 percent stock dividend payable April 12, 2005. Holders of Toro's Common Stock will receive one additional share of Common Stock for every share held on the March 28, 2005 record date. Additionally, Toro's board of directors declared a regular quarterly cash dividend on a pre-split basis of 12 cents per share (six cents per share on a post-split basis) payable April 12, 2005 to stockholders of record March 28, 2005. As of March 15, the company has 22,411,301 common shares outstanding. As a result of the split, the number of outstanding common shares will double.

#### **About The Toro Company:**

The Toro Company (NYSE: TTC), with fiscal year 2004 sales of \$1.6 billion, is a leading provider of outdoor maintenance and beautification products for home, recreation, and commercial landscapes around the world. Together with its distributors, Toro provides innovative products, agronomic expertise and exemplary service that helps consumers and professionals maintain their landscapes.