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): November 5, 2013

Commission file number 1-10948

OFFICE DEPOT, INC.
(Exact name of registrant as specified in its charter)

Delaware	**59-2663954**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
6600 North Military Trail, Boca Raton, Florida	**33496**
(Address of principal executive offices)	**(Zip Code)**

(561) 438-4800
(Registrant's telephone number, including area code)

Former name or former address, if changed since last report: N/A

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))

ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

The information contained in Item 2.03 of this Current Report on Form 8-K is incorporated herein by reference.

ITEM 2.01 COMPLETION OF ACQUISITION OR DISPOSITION OF ASSETS.

Completion of Merger of Equals with OfficeMax Incorporated

On November 5, 2013, Office Depot, Inc. (the "Company"), together with its wholly-owned subsidiaries Dogwood Merger Sub Inc. and Dogwood Merger Sub LLC, completed its previously announced merger of equals transaction with OfficeMax Incorporated ("OfficeMax") and its subsidiaries Mapleby Holdings Merger Corporation and Mapleby Merger Corporation. Pursuant to the terms and conditions of the Agreement and Plan of Merger, dated as of February 20, 2013, as amended on November 5, 2013 (the "Merger Agreement"), by and among the Company, Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax, OfficeMax became an indirect, wholly-owned subsidiary of the Company (the "Merger").

In connection with the Merger, each former share of OfficeMax common stock, par value $2.50 per share, issued and outstanding immediately prior to the effective time of the Merger (excluding any shares of OfficeMax common stock held by the Company, Dogwood Merger Sub Inc. or in the treasury of OfficeMax) were converted into the right to receive 2.69 shares of Company common stock, together with cash in lieu of fractional shares.

Pursuant to the Merger Agreement, the Company will issue approximately 240 million shares of Company common stock to former holders of OfficeMax common stock, representing approximately 45 per cent of approximately 530 million total shares of Company common stock outstanding.

The Company's common stock will continue to trade on the New York Stock Exchange (the "NYSE") under the symbol "ODP." Following completion of the Merger, the OfficeMax common stock ceased trading on, and was delisted from, the NYSE.

The foregoing description of the Merger Agreement and the Merger is not complete and is qualified in its entirety by reference to the full text of the Merger Agreement, a copy of which was attached as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on February 22, 2013, and the First Amendment to the Merger Agreement, a copy of which is attached to this Current Report on Form 8-K, and which is incorporated herein by reference.

ITEM 2.03 CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.

Amended Credit Agreement

The Company, together with certain of its European subsidiaries, as borrowers (the "European Borrowers") and certain of its domestic subsidiaries as guarantors (the "Domestic Guarantors"), entered into a Third Amendment (the "Third Amendment") to its Amended and Restated Credit Agreement, dated as of May 25, 2011 (as previously amended, the "Prior Credit Agreement"), with the lenders party thereto, JPMorgan Chase Bank, N.A., London Branch, as European Administrative Agent and European Collateral Agent, JPMorgan Chase Bank, N.A., as Administrative Agent (the "Agent") and US Collateral Agent, Bank of America, N.A., as Syndication Agent and Citibank, N.A. and Wells Fargo Bank, N.A., as Documentation Agents. The Third Amendment became effective on November 5, 2013 as of the effective time of the Merger.

The Third Amendment amends and restates the Prior Credit Agreement (as so amended and restated, the "Amended Credit Agreement") governing the Company's existing $1.00 billion revolving credit facility to increase the aggregate available amount thereunder to up to $1.25 billion, to account for the Merger and to modify certain of the covenants under the Prior Credit Agreement to provide greater operational flexibility to the Company

and its subsidiaries (including expanded amounts for permitted indebtedness, liens, investments and asset sales as well as increases in the amounts permitted for restricted payments and capital expenditures, among others). The maturity date of the Amended Credit Agreement remained unchanged from the May 25, 2016 maturity date of the Prior Credit Agreement.

The Amended Credit Agreement provides for an asset-based, multi-currency revolving credit facility of up to $1.25 billion (the "Facility"). The amount that can be drawn at any given time will be determined based on percentages of certain accounts receivable, inventory and credit card receivables (the "Borrowing Base"). Any existing letters of credit and loans issued and outstanding under the Prior Credit Agreement will continue to remain issued and outstanding under the Amended Credit Agreement. In addition, an aggregate undrawn amount of $37.6 million of letters of credit previously issued under a credit agreement of OfficeMax and certain of its subsidiaries, which credit facility was terminated in connection with and immediately prior to the consummation of the Merger, are deemed as having been issued and being outstanding under the Amended Credit Agreement. The Facility includes a sub-facility of up to $200 million which is available to the Company and the European Borrowers, subject to limitations based on their (and, at such time as the Canadian Subsidiary (defined below) provides its guaranty and security as described below, the Canadian Subsidiary's) and the Company's aggregate Borrowing Base. The Domestic Guarantors guaranty the obligations of the Company and the European Borrowers under the Facility. The Amended Credit Agreement also provides for a letter of credit sub-facility of up to $400 million, as well as a swingline loan sub-facility of up to $125 million to the Company and an additional swingline loan sub-facility of up to $25 million to the European Borrowers. All loans borrowed under the Amended Credit Agreement may be borrowed, repaid and re-borrowed from time to time until May 25, 2016, the maturity date. The Amended Credit Agreement also provides that the Company may elect to increase the aggregate amount of commitments under the Facility by up to $250 million, subject to certain terms and conditions set forth in the Amended Credit Agreement (including obtaining such increased commitments from existing or new lenders).

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a first priority lien on the Company's and the Domestic Guarantors' accounts receivables, inventory, cash, cash equivalents and deposit accounts and a second priority lien on substantially all of the Company's and the Domestic Guarantors' other assets. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on the European Borrowers' accounts receivable, inventory, cash, cash equivalents and deposit accounts, as well as certain other assets.

Following the effectiveness of the Third Amendment, OfficeMax and certain of its domestic subsidiaries will become Domestic Guarantors by entering into a joinder agreement and related security documentation. In addition, a Canadian subsidiary (the "Canadian Subsidiary") of OfficeMax will also, following the effectiveness of the Third Amendment, guaranty the obligations of the European Borrowers under the Facility and will secure such obligations by a lien on certain of its assets, at which time the assets of such Canadian Subsidiary will be included in the Borrowing Base.

Borrowings made pursuant to the Amended Credit Agreement will bear interest at the Company's option, either at (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent), the Federal Funds Rate plus ½ of 1% and the one month Adjusted LIBO Rate (defined below) plus 1%) or (ii) the Adjusted LIBO Rate (defined as the LIBO Rate as adjusted for statutory reserves) plus, in either case, a certain margin based on the aggregate average availability under the Facility.

The Amended Credit Agreement contains customary representations, warranties, fees, affirmative and negative covenants, including certain financial covenants, limitations on investments, loans, advances, guarantees and acquisitions, asset sales and capital expenditures. The Amended Credit Agreement contains customary events of default, including without limitation, payment defaults (subject to certain grace and cure periods in certain circumstances), breach of representations and warranties, breach of covenants (subject to certain grace and cure periods in certain circumstances), bankruptcy events, cross defaults to certain other indebtedness, certain judgment defaults and change of control. If an event of default occurs and is continuing, the lenders may decline to provide additional advances on the Facility, impose a default rate of interest and declare all amounts outstanding under the Amended Credit Agreement immediately due and payable.

ITEM 5.02 DEPARTURE OF DIRECTORS OR CERTAIN OFFICERS; ELECTION OF DIRECTORS; APPOINTMENT OF CERTAIN OFFICERS; COMPENSATORY ARRANGEMENTS OF CERTAIN OFFICERS.

Directors

On November 5, 2013, in connection with the Merger and effective as of the effective time of the Merger, Ms. Kathleen Mason and Messrs. Justin Bateman, Thomas J. Colligan, Eugene V. Fife and Raymond Svider resigned from the Company's board of directors.

Effective at the same time and immediately following the resignation of the directors referred to in the immediately preceding paragraph, each of Warren F. Bryant, Rakesh Gangwal, V. James Marino, Francesca Ruiz de Luzuriaga, Ravi K. Saligram and David M. Szymanski were appointed to the Company's board of directors to hold office until the next annual meeting of the stockholders of the Company or until a successor is duly elected and qualified or until his or her earlier resignation or removal as provided in the Restated Bylaws (as defined below). Pursuant to and in accordance with the Restated Bylaws, Messrs. Nigel Travis and Rakesh Gangwal were appointed as the co-chairmen and co-lead directors of the Company's newly constituted board of directors (the "Board").

Warren F. Bryant, 67, has been a director of OfficeMax since 2004. From 2002 to 2008, Mr. Bryant served as a Director and the President and Chief Executive Officer of Longs Drug Stores Corporation, a retail drug store chain on the West Coast and in Hawaii. From 2003 to 2008, he served as the Chairman of the Board of Longs Drug Stores. Mr. Bryant served as Senior Vice President of The Kroger Co., a retail grocery chain, from 1999 to 2002. From 1996 to 1999, he served as President and Chief Executive Officer of Dillon Companies, Inc., a retail grocery chain and subsidiary of The Kroger Co. Mr. Bryant also served as a director of The National Association of Chain Drug Stores from 2003 to 2008 and as Chairman of the Association during 2008. Mr. Bryant previously served as a director of Longs Drug Stores Corporation (2002-2008) and Pathmark Stores, Inc., a retail grocery chain (2004-2005). Since 2009, Mr. Bryant has served as a director of Dollar General Corporation, a discount retailer, and, since 2010, Mr. Bryant has served as a director of George Weston Limited, a food processing and distribution company.

Rakesh Gangwal, 59, has been a director of OfficeMax since 1998. From June 2003 to August 2007, Mr. Gangwal was the Chairman, President and Chief Executive Officer of Worldspan Technologies, Inc., a provider of travel technology and information services to the travel and transportation industry. From 2002 to 2003, Mr. Gangwal was involved in various personal business endeavors, including private equity projects and consulting projects. He was the President and Chief Executive Officer of US Airways Group, Inc., the parent corporation for US Airways' mainline jet and express divisions as well as several related companies, from 1998 until his resignation in 2001. Mr. Gangwal was also the President and Chief Executive Officer of US Airways, Inc., the main operating arm of US Airways Group, from 1998 until his resignation. He was the President and Chief Operating Officer of US Airways Group, Inc., and US Airways, Inc., from 1996 to 1998. On August 11, 2002, US Airways Group, Inc., and its seven domestic subsidiaries, including its principal operating subsidiary, US Airways, Inc., filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Virginia. US Airways Group, Inc., and its subsidiaries emerged from bankruptcy protection under the First Amended Joint Plan of Reorganization of US Airways Group, Inc., and Affiliated Debtors and Debtors-in-Possession, as Modified, which became effective on March 31, 2003. Mr. Gangwal has been a director of PetSmart, Inc., a specialty retailer of pet products and services, since 2005 and a director of CarMax, Inc., a retailer of used cars, since 2011.

V. James Marino, 62, has been a director of OfficeMax since 2011. From 2006 until his retirement in August 2011, Mr. Marino was President and Chief Executive Officer of Alberto-Culver Company, a personal care products company. Prior to holding that position, Mr. Marino served as President of Alberto-Culver Consumer Products Worldwide from 2004 to November 2006 and as President of Alberto Personal Care Worldwide, a division of Alberto-Culver Company, from 2002 to 2004. Mr. Marino has been a member of the board of directors of PVH Corp., a leading apparel company, since 2007. He was also a member of the board of directors of Alberto-Culver Company from 2006 to 2011.

Francesca Ruiz de Luzuriaga, 58, has been a director of OfficeMax since 1998. From 1999 to 2000, Ms. Luzuriaga served as the Chief Operating Officer of Mattel Interactive, a business unit of Mattel, Inc., one of the major toy manufacturers in the world. Prior to holding this position, she served Mattel as its Executive Vice President, Worldwide Business Planning and Resources, from 1997 to 1999 and as its Chief Financial Officer from 1995 to 1997. Since leaving Mattel in 2000, Ms. Luzuriaga has been working as an independent business development consultant. From 2002 until 2005, she was also a director of Providian Financial Corporation. Since January 2012, she has been a director of SCAN Health Plan, a not-for-profit Medicare Advantage health plan.

Ravichandra ("Ravi") K. Saligram, 56, has been a director of OfficeMax since November 8, 2010, the effective date of his election as Chief Executive Officer and President of OfficeMax. Until his election as Chief Executive Officer and President of OfficeMax, Mr. Saligram had been Executive Vice President of ARAMARK Corporation ("ARAMARK"), a global professional services company, since November 2006, President of ARAMARK International since June 2003, and ARAMARK'S Chief Globalization Officer since June 2009. Mr. Saligram held the position of Senior Vice President of ARAMARK from November 2004 until November 2006. From 1994 until 2002, Mr. Saligram served in various capacities for the InterContinental Hotels Group, a global hospitality company, including as President of Brands & Franchise, North America; Chief Marketing Officer & Managing Director, Global Strategy; President, International; and President, Asia Pacific. Earlier in his career, Mr. Saligram held various general and brand management positions with S. C. Johnson & Son, Inc. in the United States and overseas. Since 2006, he has been a director of Church & Dwight Co., Inc., a consumer and specialty products company.

David M. Szymanski, 56, has been a director of OfficeMax since 2004. Dr. Szymanski became the Dean of the University of Cincinnati Lindner College of Business in 2010. Prior to that, Dr. Szymanski was a Professor of Marketing at Texas A&M University, where he had served since 1987. Dr. Szymanski served as the Director of the Center for Retailing Studies at Texas A&M University from 2000 to 2006. From 2004 until 2010, Dr. Szymanski was a director of Zale Corporation, a specialty retailer of fine jewelry.

Continuing Directors Committees

Effective as of the effective time of the Merger and in accordance with the Restated Bylaws, the Board established a committee consisting of Warran F. Bryant, Rakesh Gangwal, V. James Marino, Francesca Ruiz de Luzuriaga and David M. Szymanski (the "Continuing OfficeMax Directors Committee") and a committee consisting of Cynthia T. Jamison, Michael J. Massey, Jeffrey C. Smith, Nigel Travis and Joseph S. Vassaluzzo (the "Continuing Office Depot Directors Committee"). Under the Restated Bylaws, the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee will have the power and may exercise all the authority of the Board to, among other things, (i) fill vacancies on the Board created by cessation of service of a director who was a director of OfficeMax or the Company, as applicable, prior to the effective time of the Merger or who was later appointed by the Continuing OfficeMax Directors Committee or the Continuing Office Depot Directors Committee, as applicable, and (ii) nominate directors for election at each annual meeting or at any special meeting at which directors of the Company are to be elected to fill each seat previously held by a director who was a director of OfficeMax or the Company, as applicable, prior to the effective time of the Merger or who was later appointed by the Continuing OfficeMax Directors Committee or the Continuing Office Depot Directors Committee, as applicable.

Selection Committee

On April 9, 2013, in accordance with the Merger Agreement, the Company and OfficeMax announced the formation of a committee consisting of an equal number of directors of each company tasked with overseeing the process to select a candidate for the position of the sole chief executive officer of the combined company. Effective as of the effective time of the Merger and in accordance with the Restated Bylaws, the Board established a Selection Committee consisting of Rakesh Gangwal, Francesca Ruiz de Luzuriaga, V. James Marino, Jeffrey C. Smith, Nigel Travis and Joseph S. Vassaluzzo to continue the previously initiated selection process and identify a candidate for the position of the sole chief executive officer of the Company. As with the committee previously formed by the Company and OfficeMax, V. James Marino and Nigel Travis were appointed co-chairpersons of the Selection Committee.

Other Board Committees

Effective as of the effective time of the Merger and in accordance with the Restated Bylaws, the Board also reconstituted the membership of its Audit Committee, Compensation Committee, Corporate Governance and Nominating Committee and Finance Committee. As reconstituted, the Audit Committee consists of Cynthia T. Jamison, Francesca Ruiz de Luzuriaga, David M. Szymanski and Joseph S. Vassaluzzo, and Francesca Ruiz de Luzuriaga was appointed chairperson of the committee. The Compensation Committee consists of V. James Marino, Michael J. Massey, Jeffrey C. Smith and David M. Szymanski, and David M. Szymanski was appointed chairperson of the committee. The Corporate Governance and Nominating Committee consists of Rakesh Gangwal, Cynthia T. Jamison, V. James Marino and Nigel Travis, and Nigel Travis will serve as chairperson of the committee. The Finance Committee was re-named "Finance and Integration Committee" and consists of Warren F. Bryant, Rakesh Gangwal, Michael J. Massey, Francesca Ruiz de Luzuriaga, Jeffrey C. Smith and Joseph S. Vassaluzzo, and Joseph S. Vassaluzzo was appointed chairperson of the committee.

Certain Officers

At the effective time of the Merger and in accordance with the Restated Bylaws, Messrs. Neil R. Austrian and Ravi K. Saligram were appointed Co-Chief Executive Officers of the Company. Ravi K. Saligram will also remain the President and Chief Executive Officer of OfficeMax. Under the Restated Bylaws, Neil R. Austrian will maintain sole chief executive officer authority reporting directly to the Board for the operation of the Office Depot businesses, and Ravi K. Saligram will maintain sole chief executive officer authority reporting directly to the Board for the operation of the OfficeMax businesses.

In addition, Matthew R. Broad, the General Counsel of OfficeMax, was appointed Co-General Counsel of the Company, and Deborah O'Connor, the Interim Chief Financial Officer and Chief Accounting Officer of OfficeMax, was appointed Co-Chief Financial Officer and Co-Chief Accounting Officer of the Company.

Matthew R. Broad, 53, has served as Executive Vice President, General Counsel of OfficeMax since October 2004. Prior to that, Mr. Broad served as associate general counsel for Boise Cascade Corporation.

Deborah O'Connor, 50, has been the Interim Chief Financial Officer of OfficeMax since August 7, 2013. Ms. O'Connor was elected Senior Vice President and Chief Accounting Officer of OfficeMax in July 2008. Prior to that, she served as senior vice president and controller of the ServiceMaster Company, one of the world's largest residential services networks, from December 1999 to December 2007.

Each of the newly appointed officers will serve until a successor is duly elected and qualified or until his or her earlier resignation or removal as provided in the Restated Bylaws and otherwise in accordance with the Restated Bylaws.

Assumption of OfficeMax Stock Awards and Plans

At the effective time of the Merger and in accordance with the Merger Agreement, the Company assumed all outstanding OfficeMax stock-based awards and converted such awards into Company stock-based awards with respect to approximately 19.8 million shares of Company common stock. The Company has also assumed the OfficeMax stock plans pursuant to which the assumed and converted OfficeMax awards were issued, including the 2003 OfficeMax Incentive and Performance Plan under which the Company can issue new awards in the future with respect to approximately 27.8 million shares of Company common stock.

ITEM 5.03 AMENDMENTS TO ARTICLES OF INCORPORATION OR BYLAWS; CHANGE IN FISCAL YEAR.

Pursuant to the Merger Agreement, on November 5, 2013 the Company amended and restated its bylaws (the "Restated Bylaws"), which became effective as of the effective time of the Merger. The Restated Bylaws contain certain provisions relating to the governance of the Company following completion of the Merger, which are summarized below. During the four-year period following completion of the Merger (the "Specified Post-Merger Period"), the provisions in the Restated Bylaws relating to the governance matters of the Company during

the Specified Post-Merger Period may not be amended or repealed by the Board except with the affirmative vote of at least 75% of the entire Board and a majority of each of the Continuing Office Depot Directors Committee and the Continuing OfficeMax Directors Committee.

Successor CEO

Until a successor has been appointed as the sole chief executive officer of the Company (the "Successor CEO"), the chief executive officers of the Company and OfficeMax immediately prior to the effective time of the Merger will be appointed as co-chief executive officers of the Company. The Board will constitute a Selection Committee consisting of an equal number of independent directors of the Company and OfficeMax immediately prior to the effective time of the Merger to identify Successor CEO candidates. The Successor CEO will be elected by a majority vote of the Board, except that the appointment of any former or current executive officer of the Company or OfficeMax will require the vote of at least two-thirds of the independent directors of the Company. Unless and until a Successor CEO has been appointed, each co-chief executive officer will maintain sole chief executive officer authority, reporting directly to the Board, for the operation of the Office Depot or OfficeMax business, as the case may be.

Board of Directors

During the Specified Post-Merger Period, unless and until the Successor CEO has been appointed, the Board will be comprised of not less than ten (10) and no more than (12) directors, with five independent directors designated by the Continuing Office Depot Directors Committee, five independent directors designated by the Continuing OfficeMax Directors Committee and the co-chief executive officers. Upon the appointment of the Successor CEO, the Board will be comprised of eleven members, with the ten independent directors and the Successor CEO. If the Successor CEO is, however, a former or current executive officer of the Company or OfficeMax, the Board will include an additional independent director that will be designated, if the Successor CEO is a former or current executive officer of OfficeMax, by the Continuing Office Depot Directors Committee and, if the Successor CEO is a former or current executive officer of the Company, by the Continuing OfficeMax Directors Committee, and the Board will be comprised of twelve members.

During the Specified Post-Merger Period, each committee of the Board will be comprised of an equal number of independent directors designated by the Continuing Office Depot Directors Committee and the Continuing OfficeMax Directors Committee. In addition, the Audit Committee will include an independent director designated by the Continuing Office Depot Directors Committee and an independent director designated by the Continuing OfficeMax Directors Committee each of whom must qualify as an audit committee financial expert under federal securities laws. Except for the Selection Committee (which will be co-chaired by designees of the members of the Selection Committee as provided in the Restated Bylaws), the chairpersons of the committees will be selected in alternation between the Continuing Office Depot Directors Committee and the Continuing OfficeMax Continuing Directors Committee, with the Continuing OfficeMax Directors Committee initially selecting the chairperson of the Audit Committee.

Chairperson and Lead Outside Director

During the Specified Post-Merger Period, unless and until the Successor CEO has been appointed, the Board will be led by two co-chairmen and co-lead outside directors designated by each of the Continuing Office Depot Directors Committee and the Continuing OfficeMax Directors Committee from among their respective members.

Upon the appointment of the Successor CEO, the chairman and lead outside director will be designated, if the Successor CEO is a former or current executive officer of the Company, by the Continuing OfficeMax Directors Committee from among its members and, if the Successor CEO is a former or current executive officer of OfficeMax, by the Continuing Office Depot Directors Committee from among its members.

If the Successor CEO is not a former or current executive officer of the Company or OfficeMax, then the Continuing Office Depot Directors Committee will have the right to initially designate the chairman and lead outside director (or only the lead outside director, if the Successor CEO is appointed as both chief executive

officer and chairperson) from among its members to serve until the date that is nearest to one-half of the period from the time of such appointment until the expiration of the Specified Post-Merger Period, at which time a new chairman and/or lead outside director will be designated by the Continuing OfficeMax Directors Committee from among its members to serve until the expiration of the Specified Post-Merger Period.

Company Name and Headquarters

The Company's name and the location of its headquarters will be determined by the Board, taking into consideration the recommendation of the Successor CEO after his or her appointment. The Company will have dual headquarters in Naperville, Illinois and Boca Raton, Florida, and the businesses of the Company and OfficeMax will continue to operate under their existing names, in each case until otherwise determined in accordance with the Restated Bylaws.

The foregoing description of the Restated Bylaws is not complete and is qualified in its entirety by reference to the full text of the Restated Bylaws, a copy of which is attached as Exhibit 3.1 to this Current Report on Form 8-K and which is incorporated herein by reference.

ITEM 7.01 REGULATION FD DISCLOSURE

Attached to this Current Report on Form 8-K as Exhibit 99.1 are financial statements of Office Depot de México, S.A. de C.V. ("ODM"), which was a 50% subsidiary of the Company until July 9, 2013, updated in Note 16 of such financial statements for subsequent events through the period ended November 7, 2013. These financial statements should be read in connection with the financial statements of ODM filed as an exhibit in the Company's Form 10-K for fiscal year ended December 29, 2012. As previously disclosed, the Company sold its interests in ODM on July 9, 2013 to the Company's joint venture partner, Grupo Gigante, S.A.B. de C.V. ODM's financial statements are prepared by management of ODM and not by the Company. Since the Company is no longer affiliated with ODM or Grupo Gigante S.A.B. de C.V., the Company makes no representations as to the adequacy or accuracy of the information furnished by ODM as Exhibit 99.1 to this Current Report.

This information is furnished pursuant to Item 7.01 of Form 8-K. The information in this report shall not be treated as filed for purposes of the Securities Exchange Act of 1934, as amended.

The furnishing of the information in this Item 7.01 is not intended to, and does not, constitute a representation that such furnishing is required by Regulation FD or that the information in this Item 7.01 is material information that is not otherwise publicly available.

ITEM 8.01 OTHER EVENTS.

Redemption of Office Depot Convertible Preferred Stock

On November 5, 2013, prior to the effective time of the Merger, the Company redeemed all of the outstanding shares of its convertible preferred stock for cash at an aggregate redemption price of approximately $218 million pursuant to the Voting Agreement, dated as of February 20, 2013, by and among the Company, OfficeMax, BC Partners, Inc. and the other investors party thereto.

Amendment to Merger Agreement

On November 5, 2013, prior to the effective time of the Merger, the Company, OfficeMax and the other parties to the Merger Agreement entered into the First Amendment to the Merger Agreement (the "Merger Agreement Amendment"), pursuant to which the parties modified the structure of the Merger and the form of amended and restated bylaws for the Company following completion of the Merger. Pursuant to the Merger Agreement Amendment, the previously contemplated conversion of Mapleby Holdings Merger Corporation into a limited liability company prior to the Merger and the merger of Mapleby Holdings Merger Corporation with and into Dogwood Merger Sub LLC following the Merger were abandoned.

This summary of the Merger Agreement Amendment is qualified in its entirety by reference to the full text of the Merger Agreement Amendment, a copy of which is attached as Exhibit 99.2 to this Current Report on Form 8-K and which is incorporated herein by reference.

Press Release Announcing Completion of Merger

On November 5, 2013, following the effectiveness of the Merger, the Company and OfficeMax issued a joint press release announcing the completion of the Merger. A copy of the press release is attached as Exhibit 99.3 to this Current Report on Form 8-K and incorporated herein by reference.

ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial Statements of Businesses Acquired.

The Company intends to file the financial statements of OfficeMax required by Item 9.01(a) as part of an amendment to this Current Report on Form 8-K not later than 71 calendar days after the date this Current Report on Form 8-K is required to be filed.

(b) Pro Forma Financial Information.

The Company intends to file the pro forma financial information required by Item 9.01(b) as an amendment to this Current Report on Form 8-K not later than 71 days after the date this Current Report on Form 8-K is required to be filed.

(d) Exhibits.

Exhibit 2.1	Agreement and Plan of Merger, dated as of February 20, 2013, by and among Office Depot, Inc., Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax Incorporated (incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on February 22, 2013) (the Company hereby agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon request)
Exhibit 3.1	Amended and Restated Bylaws of Office Depot, Inc.
Exhibit 99.1	Consolidated financial statements of Office Depot de México, S. A. de C. V. and Subsidiaries
Exhibit 99.2	First Amendment to Agreement and Plan of Merger, dated as of February 20, 2013, by and among Office Depot, Inc., Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax Incorporated
Exhibit 99.3	Press release dated November 5, 2013

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.

Date: November 8, 2013

OFFICE DEPOT, INC.

By: /s/ Elisa D. Garcia C.

Elisa D. Garcia C.
Executive Vice President,
General Counsel and Secretary

EXHIBIT INDEX

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Exhibit 99.3	Press release dated November 5, 2013

AMENDED AND RESTATED BYLAWS OF OFFICE DEPOT, INC., A DELAWARE CORPORATION

ARTICLE I
OFFICES

Section 1. Registered Office. The registered office of the corporation shall be located at the corporation's principal place of business in the State of Delaware or at the office of the person or entity then acting as the corporation's registered agent in Delaware. The registered office and/or registered agent of the corporation may be changed from time to time by resolution of the Board of Directors.

Section 2. Other Offices. The corporation may also have offices at such other places as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II
STOCKHOLDERS

Section 1. Annual Meeting. The annual meeting of stockholders for the election of directors and the conduct of such other business as may properly come before the meeting in accordance with these Bylaws shall be held at such place and time on such day, other than a legal holiday, as the Chief Executive Officer of the corporation (or, if applicable, as the Co-Chief Executive Officers of the corporation) in each such year determines; *provided*, that if the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) do not act, the Board of Directors shall determine the place, time and date of such meeting.

Section 2. Special Meetings. Special meetings of stockholders may be called for any purpose and may be held at such time and place as shall be stated in a notice of meeting or in a duly executed waiver of notice thereof. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the corporation's notice of meeting.

(a) A special meeting of stockholders may be called at any time by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or, if directed by resolution of the Board of Directors, the Secretary.

(b) A special meeting of stockholders shall be called by the Secretary at the written request (a "Special Meeting Request") of holders of record of at least 25% of the outstanding common stock of the corporation entitled to vote on the matter or matters to be brought before the proposed special meeting (the "Requisite Percentage"). A Special Meeting Request to the Secretary shall be signed by each stockholder requesting the special meeting (each, a "Requesting Stockholder") and shall be accompanied by a notice setting forth the information required by Section 14(a)(2)(A)-(D) of this Bylaw, as if such Section were applicable to Special Meeting Requests. Requesting Stockholders who collectively hold at least the Requisite Percentage on the date the Special Meeting Request is submitted to the Secretary must (i)

continue to hold at least the number of shares of common stock set forth in the Special Meeting Request with respect to each such Requesting Stockholder through the date of the special meeting and (ii) submit a written certification (an "Ownership Certification") confirming the continuation of such holdings on the business day immediately preceding the special meeting, which Ownership Certification shall include the information required by Section 14(a)(2)(A) of this Bylaw as of the date of such special meeting with respect to each such Requesting Stockholder.

(c) A special meeting called pursuant to Section 2(a) or Section 2(b) of this Bylaw shall be held at such date, time and place as may be fixed by the Board of Directors in accordance with these Bylaws; *provided*, *however*, that the date of any special meeting called pursuant to Section 2(b) of this Bylaw shall not be more than 90 days after a Special Meeting Request that satisfies the requirements of this Section 2 is received by the Secretary. The day, place and hour of such special meeting shall be set forth in the notice of special meeting. If a valid Special Meeting Request is received by the Secretary subsequent to a valid Special Meeting Request and before the date of the corresponding special meeting of shareholders, all items of business contained in such Special Meeting Requests may be presented at one special meeting.

(d) Notwithstanding the foregoing provisions of this Section 2, a special meeting requested by stockholders pursuant to Section 2(b) of this Bylaw shall not be held if (i) the Special Meeting Request does not comply with this Section 2; (ii) the Special Meeting Request relates to an item of business that is not a proper subject for stockholder action under applicable law; (iii) the Special Meeting Request is received by the corporation during the period commencing 90 days prior to the first anniversary of the date of the immediately preceding annual meeting and ending on the date of the next annual meeting; (iv) an annual or special meeting of stockholders that included a substantially similar item of business ("Similar Business") (as determined in good faith by the Board of Directors) was held not more than 120 days before the Special Meeting Request was received by the Secretary; (v) the Board of Directors has called or calls for an annual or special meeting of stockholders to be held within 90 days after the Special Meeting Request is received by the Secretary and the Board of Directors determines in good faith that the business to be conducted at such meeting includes the Similar Business; (vi) such Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other applicable law; or (vii) two or more special meetings of stockholders called pursuant to the request of stockholders have been held within the 12-month period before the Special Meeting Request was received by the Secretary. For purposes of this Section 2(d), the nomination, election or removal of directors shall be deemed to be Similar Business with respect to all items of business involving the nomination, election or removal of directors, changing the size of the Board of Directors and filling of vacancies and/or newly created directorships resulting from any increase in the authorized number of directors.

(e) Any Requesting Stockholder may revoke such stockholder's participation in a Special Meeting Request at any time by written revocation delivered to the Secretary and if, following any such revocation, there are outstanding un-revoked requests from stockholders holding less than the Requisite Percentage in accordance with this Section 2, the Board of Directors may, in its discretion, cancel the special meeting. If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business to be presented for consideration that was specified in the Special Meeting Request, or if the Ownership Certification does not satisfy the requirements set forth in Section 2(b) of this Bylaw, the corporation need not present such business for a vote at such special meeting.

(f) Business conducted at a special meeting requested by stockholders pursuant to Section 2(b) of this Bylaw shall be limited to the matters described in the applicable Special Meeting Request; *provided* that nothing herein shall prohibit the Board of Directors from submitting matters to the stockholders at any such special meeting requested by stockholders.

Section 3. Place of Meetings. Annual and special meetings may be held at such place as the Board of Directors may determine.

Section 4. Notice. Whenever stockholders are required or permitted to take action at a meeting, written or printed notice stating the place, date, time, and, in the case of special meetings, the purpose or purposes, of such meeting, shall be given to each stockholder entitled to vote at such meeting not less than 10 nor more than 60 days before the date of the meeting. All such notices shall be delivered, either (a) personally or by mail, by or at the direction of the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or the Secretary, and if mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the stockholder at his, her or its address as the same appears on the records of the corporation or (b) by a form of electronic transmission, including electronic mail, in the manner provided in and to the extent permitted by the General Corporation Law of the State of Delaware (the "Delaware General Corporation Law"). Nothing in these Bylaws shall preclude the stockholders from waiving notice as provided in Article IV hereof. Any previously scheduled annual meeting of the stockholders may be postponed, and any previously scheduled special meeting of the stockholders may be postponed or cancelled, by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 5. Fixing a Record Date for Stockholder Meetings. 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, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of any such meeting. Only stockholders as of the record date are entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment or postponement of the meeting; *provided*, *however*, that the Board of Directors may fix a new record date for the adjourned or postponement meeting.

Section 6. Quorum. The holders of a majority of the issued and outstanding shares of common stock of the corporation entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. If a quorum is not present, the

chairman of the meeting or the holders of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote at the meeting may adjourn the meeting to another time and/or place from time to time. When a quorum is once present to commence a meeting of stockholders, it shall not be broken by the subsequent withdrawal of the stockholders or their proxies.

Section 7. Adjourned Meetings. When a meeting is adjourned to another time and place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At any such adjourned meeting at which a quorum shall be present or represented, the corporation may transact any business which might have been transacted at the original meeting. Notwithstanding the foregoing, if the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in Section 4 of Article II hereof, but such notice may be waived as provided in Article IV hereof.

Section 8. Voting by Stockholders on Matters Other Than the Election of Directors. With respect to any matters as to which no other voting requirement is specified by the Delaware General Corporation Law, the certificate of incorporation of the corporation (the "Certificate of Incorporation") or these Bylaws, the affirmative vote required for stockholder action shall be that of a majority of the shares present in person or represented by proxy (as counted for purposes of determining the existence of a quorum) and entitled to vote at a meeting of stockholders at which a quorum is present. In the case of a matter submitted for a vote of the stockholders as to which a stockholder approval requirement is applicable under the stockholder approval policy of the New York Stock Exchange, the requirements of Rule 16b-3 under the Exchange Act, or any provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Code Section 162(m), in each case for which no higher voting requirement is specified by the Delaware General Corporation Law, the Certificate of Incorporation or these Bylaws, the vote required for approval shall be the requisite vote specified in such stockholder approval policy, Rule 16b-3 or such Code provision, as the case may be (or the highest such requirement if more than one is applicable). For the approval of the appointment of independent public accountants (if submitted for a vote of the stockholders), the vote required for approval shall be a majority of the votes cast on the matter.

Section 9. Voting by Stockholders in the Election of Directors. Each director to be elected by the stockholders shall be elected by a majority of the votes cast at any meeting held for the purpose of the election of directors at which a quorum is present, subject to the following provisions:

(a) Resignation of Incumbent Director Who Fails to Receive a Majority Vote: In any non-contested election of directors, any director nominee who is an incumbent director who receives a greater number of votes "withheld" from his or her election (or "against" or "no" votes) than votes "for" such election shall immediately tender his or her resignation to the Board of Directors, which resignation shall be irrevocable. Thereafter, the Board of Directors shall decide, through a process managed by the Corporate Governance and Nominating Committee (and excluding the nominee in question from all Board of Directors and Committee deliberations), whether to accept such resignation within 90 days of the date of such resignation. Absent a compelling reason for the director to remain on the Board of Directors (as determined

by the Board of Directors), the Board of Directors shall accept the resignation from the director. To the extent that the Board of Directors determines that there is a compelling reason for the director to remain on the Board of Directors and does not accept the resignation, the Board of Directors' explanation of its decision shall be disclosed promptly in a Current Report on Form 8-K filed with the United States Securities and Exchange Commission (the "SEC") or in a press release that is widely disseminated.

(b) Definition of "Compelling Reason": For purposes of this policy, a "compelling reason" shall be determined by the Board of Directors (excluding the nominee in question from all Board of Directors and Committee deliberations) and could include, by way of example and without limitation, situations in which a director nominee was the target of a "vote no" or "withhold" campaign on what the Board of Directors believes to be an illegitimate or inappropriate basis or if the resignation would cause the corporation to be in violation of its constituent documents or regulatory requirements.

(c) Consequences of the Board of Directors' Acceptance or Non-Acceptance of a Director's Resignation: If such incumbent director's resignation is accepted by the Board of Directors, then such director shall immediately cease to be a member of the Board of Directors upon the date of action taken by the Board of Directors to accept such resignation. If such incumbent director's resignation is not accepted by the Board of Directors, such director will continue to serve until the next annual meeting, or until his or her subsequent resignation or removal.

(d) Failure of a Non-Incumbent Director to Win Election: If any nominee for director who is not an incumbent fails in a non-contested election to receive a majority vote for his or her election at any meeting for the purpose of the election of directors at which a quorum is present, such candidate shall not be elected and shall not take office.

(e) Filling Vacancies: If an incumbent director's resignation is accepted by the Board of Directors pursuant to this Bylaw, or if a non-incumbent nominee for director is not elected, the Board of Directors, may, subject to the provisions of Article VI of these Bylaws, fill any resulting vacancy pursuant to the provisions of Article III, Section 4 of these Bylaws, or may decrease the size of the Board of Directors pursuant to the provisions of Article III, Section 2 of these Bylaws.

(f) Nominees to Agree in Writing to Abide by this Bylaw: To be eligible for election as a director of the corporation, each nominee (including incumbent directors and nominees proposed by stockholders in accordance with Article II, Section 14 of these Bylaws) must agree in writing in advance to comply with the requirements of this Section 9 of Article II of these Bylaws.

(g) Majority Vote Defined: For purposes of this Bylaw, a majority of votes cast shall mean that the number of shares voted "for" a director's election exceeds 50% of the total number of votes cast with respect to that director's election. Votes "cast" shall include votes to withhold authority and votes "against" and "no" votes but shall exclude abstentions with respect to a director's election or with respect to the election of directors in general.

(h) Vote Standard in Contested Elections: Notwithstanding anything to the contrary contained in this Article II, Section 9 of these Bylaws, in the event of a contested election, directors shall be elected by the vote of a plurality of the votes cast at any meeting for the election of directors at which a quorum is present. For purposes of this Bylaw, a contested election shall mean any election of directors in which the number of candidates for election as directors exceeds the number of directors to be elected, with the determination thereof being made by the Secretary (i) as of the close of the applicable notice of nomination period set forth in Article II, Section 14 of these Bylaws based on whether one or more notice(s) of nomination were timely filed in accordance with said Bylaws or (ii) if later, reasonably promptly following the determination by any court or other tribunal of competent jurisdiction that one or more notice(s) of nomination were timely filed in accordance with said Bylaws; *provided*, that the determination that an election is a contested election by the Secretary pursuant to clause (i) or (ii) shall be determinative only as to the timeliness of a notice of nomination and not otherwise as to its validity. If, prior to the time the corporation mails its initial proxy statement in connection with such election of directors, one or more notices of nomination are withdrawn (or declared invalid or untimely by any court or other tribunal of competent jurisdiction) such that the number of candidates for election as director no longer exceeds the number of directors to be elected, the election shall not be considered a contested election, but in all other cases, once an election is determined to be a contested election, directors shall be elected by the vote of a plurality of the votes cast.

Section 10. Voting Rights. Except as otherwise provided by the Delaware General Corporation Law or by the Certificate of Incorporation and subject to Article VIII, Section 3 of these Bylaws, every stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of common stock held by such stockholder.

Section 11. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him or her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy specifically provides for a longer period. Each proxy shall be in writing executed by the stockholder giving the proxy or by his duly authorized attorney. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it, or his legal representatives or assigns except in those cases where an irrevocable proxy permitted by statute has been given. Any proxy is suspended when the person executing the proxy is present at a meeting of stockholders and elects to vote, except that when such proxy is coupled with an interest sufficient in law to support an irrevocable power and the fact of the interest appears on the face of the proxy, the agent named in the proxy shall have all voting and other rights referred to in the proxy, notwithstanding the presence of the person executing the proxy. At each meeting of the stockholders, and before any voting commences, all proxies filed at or before the meeting shall be submitted to and examined by the Secretary or a person designated by the Secretary, and no shares may be represented or voted under a proxy that has been found to be invalid or irregular.

Section 12. Action by Written Consent.

(a) General. Any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken and bearing the dates of signature of the stockholders who signed the consent or consents, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in the State of Delaware, or the corporation's principal place(s) of business, or an officer or agent of the corporation having custody of the book or books in which proceedings of meetings of the stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested, *provided*, *however*, that no consent or consents delivered by certified or registered mail shall be deemed delivered until received at the registered office. All consents properly delivered in accordance with this Section shall be deemed to be recorded when so delivered. Any action taken pursuant to such written consent or consents of the stockholders shall have the same force and effect as if taken by the stockholders at a meeting of stockholders.

(b) Inspectors of Written Consent. In the event of the delivery, in the manner provided by Section 12(a) of this Bylaw, to the corporation of the requisite written consent or consents to take corporate action and/or any related revocation or revocations, the corporation shall engage nationally recognized independent inspectors of elections for the purpose of promptly performing a ministerial review of the validity of the consents and revocations. For the purpose of permitting the inspectors to perform such review, no action by written consent without a meeting shall be effective until such date as the independent inspectors certify to the corporation that the consents delivered to the corporation in accordance with Section 12(a) of this Bylaw represent at least the minimum number of votes that would be necessary to take the corporate action. Nothing contained in this paragraph shall in any way be construed to suggest or imply that the Board of Directors or any stockholder shall not be entitled to contest the validity of any consent or revocation thereof, whether before or after such certification by the independent inspectors, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(c) Effectiveness of Action by Written Consent. No written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered to the corporation as required by this section, written consents signed by the holders of a sufficient number of shares to take such corporate action are so recorded.

(d) Notice of Action by Written Consent. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take the action were recorded.

(e) Fixing a Record Date for Action by Written Consent. In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Only stockholders as of the record date are entitled to consent to corporate action in writing without a meeting. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within 10 days after the date on which such a request is received, adopt a resolution fixing the record date (unless a record date has previously been fixed by the Board of Directors pursuant to the first sentence of this Bylaw). If no record date has been fixed by the Board of Directors, pursuant to this Bylaw or otherwise within 10 days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by statute, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place(s) of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by statute, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 13. Stock Records. The Secretary or agent having charge of the stock transfer books shall make, at least 10 days before each meeting or any adjournment thereof, arranged in alphabetical order and showing the address of and the number and class and series, if any, of shares held by each. For a period of 10 days prior to such meeting, such list shall be kept at the principal place(s) of business of the corporation or at the office of the transfer agent or registrar of the corporation and such other places, if any, as required by statute and shall be subject to inspection by any stockholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any stockholder at any time during the meeting.

Section 14. Notice of Stockholder Nominations and Other Business.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the corporation’s stockholders may be made at an annual meeting of stockholders (A) by or at the direction of the Board of Directors, including pursuant to the corporation’s notice of meeting, or (B) by any stockholder of the corporation who (i) was a stockholder of record at the time of giving of notice provided for in this Bylaw and at the time of the annual meeting (including any adjournment or postponement thereof), (ii) is entitled to vote at the meeting and (iii) complies with the notice procedures set forth in this Bylaw as to such business or nomination; this clause (B) shall be the exclusive means for a stockholder to make nominations or submit other business (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the corporation’s notice of meeting) before an annual meeting of stockholders.

(2) Without qualification, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 14(a)(1)(B) of this Bylaw, the stockholder must have given timely notice in writing to the Secretary and such other business must otherwise be a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting except that with regard to the corporation's annual meeting of stockholders to be held during calendar year 2013, to be timely (and notwithstanding anything to the contrary contained in this Section 14(a)(2)), a stockholder's notice of nominations must be delivered to the Secretary at the principal executive offices of the corporation not later than 5:00 p.m. (Eastern time) on the 60th day prior to the first anniversary of the preceding year's annual meeting; *provided*, *however*, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than 100 days prior to the date of such annual meeting, the tenth day following the day on which public announcement of the date of such meeting is first made by the corporation. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

To be in proper form, a stockholder's notice (whether given pursuant to this Section 14(a)(2) or Section 14(b) of this Bylaw) to the Secretary must:

(A) set forth, 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, if any, (ii) (1) the class or series and number of shares of the corporation which are, directly or indirectly, owned beneficially and of record by such stockholder and such beneficial owner, (2) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the corporation or with a value derived in whole or in part from the value of any class or series of shares of the corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the corporation, (3) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the corporation,

(4) any short interest in any security of the corporation (for purposes of this Bylaw a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to dividends on the shares of the corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the corporation, (6) any proportionate interest in shares of the corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (7) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date), and (iii) any other information relating to such stockholder and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(B) if the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the annual meeting, set forth (i) 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, in such business and (ii) a description of all agreements, arrangements and understandings between such stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(C) set forth, as to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors (i) all information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected) and (ii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and

associates, or others acting in concert therewith, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(D) with respect to each nominee for election or reelection to the Board of Directors, include a completed and signed questionnaire, representation and agreement required by Article II, Section 15 of these Bylaws. The corporation may require any proposed nominee to furnish such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director of the corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee.

(3) Notwithstanding anything in the second sentence of Section 14(a)(2) of this Bylaw to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement by the corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least 100 days prior to the first anniversary of the preceding year's annual 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 tenth day following the day on which such public announcement is first made by the corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the corporation's notice of meeting. 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 (1) by or at the direction of the Board of Directors, including pursuant to the corporation's notice of meeting, (2) pursuant to Section 2 of this Bylaw, or (3) by any stockholder of the corporation who (i) is a stockholder of record at the time of giving of notice provided for in this Bylaw and at the time of the special meeting, (ii) is entitled to vote at the meeting (including any adjournment or postponement thereof), and (iii) complies with the notice procedures set forth in this Bylaw as to such nomination. In the event a special meeting of stockholders is called 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 Section 14(a)(2) of this Bylaw with respect to any nomination (including the completed and signed questionnaire, representation and agreement required by Section 15 of this Bylaw) shall be delivered to the Secretary at the principal executive offices of the corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than 100 days prior to the date of such

special meeting, the tenth 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. In no event shall any adjournment or postponement of a special meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

(c) General.

(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 meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Bylaw. Except as otherwise provided by law, the Certificate of Incorporation or this Bylaw, the chairman 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 or proposed, as the case may be, 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 or nomination shall be disregarded.

(2) 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 SEC pursuant to Sections 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) 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; *provided*, *however*, that any references in this Bylaw to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations or proposals as to any other business to be considered pursuant to Section 14(a)(1)(B) or Section 14(b) of this Bylaw. Nothing in this Bylaw shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under law, the Certificate of Incorporation or this Bylaw.

Section 15. Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee for election or reelection as a director of the corporation, a person must complete and deliver (in accordance with the time periods prescribed for delivery of notice under Article II, Section 14 of these Bylaws) to the Secretary at the principal executive offices of the corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be in the form provided by the corporation, and shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person (a) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any

commitment or assurance to, any person or entity as to how such person, if elected as a director of the corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the corporation or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the corporation, with such person's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein and (c) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the corporation.

Section 16. Fixing a Record Date for Other Purposes. In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purposes of any other lawful action, the Board of Directors may fix a record date, which record date, shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. Only stockholders as of the record date are entitled to receive such payments, distributions or other allotments or exercise such rights or take such other lawful action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

ARTICLE III
DIRECTORS

Section 1. General Powers. The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors.

Section 2. Number, Election and Term of Office. Subject to the provisions of Article VI of these Bylaws, the number of directors which shall constitute the Board of Directors shall be established from time to time by a vote of a majority of the entire Board of Directors; *provided, however*, that the number of Directors shall not be reduced so as to shorten the term of any Director at the time in office. The Board of Directors shall be elected at the annual meeting of the stockholders and each director elected shall hold office until the next annual meeting of stockholders or until a successor is duly elected and qualified or until his or her earlier resignation or removal as hereinafter provided.

Section 3. Removal and Resignation. Any director or the entire Board of Directors may be removed at any time, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as otherwise provided by law. Any director may resign at any time upon written notice to the corporation. Such written resignation shall take effect at the time specified therein, and if no time is specified, at the time of its receipt by the Chairman (or, if applicable, the Co-Chairmen) of the Board, Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or the Secretary. Except as provided in Article II, Section 9(a) of these Bylaws, the acceptance of a resignation shall not be necessary to make it effective.

Section 4. Vacancies. Subject to the provisions of Article VI of these Bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors may only be filled by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. Each director so chosen shall hold office until the next annual meeting of stockholders or until a successor is duly elected and qualified or until his or her earlier resignation or removal as herein provided. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Each director chosen by any class or classes of stock or series thereof shall hold office until the next election of the class for which such directors have been chosen and until their successors shall be elected and qualified.

Section 5. Annual Meetings of Board of Directors. The annual meeting of each newly elected Board of Directors shall be held without other notice than this Bylaw as soon as practicable after the annual meeting of stockholders at such location as is convenient and established by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 6. Other Meetings and Notice. Regular meetings, other than the annual meeting, of the Board of Directors may be held at such location as is convenient and without notice at such time and at such place as shall from time to time be determined by resolution of the Board of Directors. Special meetings of the Board of Directors may be called (i) by the Chairman (or, if applicable, the Co-Chairmen) of the Board or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) on at least 24 hours prior notice to each director, either personally, by telephone, by mail, by telegraph, by telecopy or by e-mail or (ii) upon the request of at least three directors, by the Secretary on at least 72 hours' prior notice. If notice of less than three days is given, it shall be oral, whether by telephone or in person, or sent by special delivery mail, facsimile, telegraph or e-mail. If mailed, the notice shall be given when deposited in the United States mail, postage pre-paid. Nothing herein contained shall preclude the directors from waiving notice as provided in Article IV hereof.

Section 7. Chairman of the Board; Lead Director. Subject to the provisions of Article VI of these Bylaws, the Chairman (or, if applicable, the Co-Chairmen) of the Board shall be appointed by resolution of the Board of Directors and shall preside at all meetings of the Board of Directors and stockholders. Subject to the provisions of Article VI of these Bylaws, if the offices of the Chief Executive Officer and Chairman are not separate or if the Chairman is not considered by the Board of Directors to be an independent director, the independent directors will elect one of their number to serve as Lead Director. The Lead Director (or, if applicable, the Co-Lead Directors), if any, will chair meetings of independent directors, will facilitate communications between other members of the Board of Directors and the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) and the Chairman (or, if applicable, the Co-Chairmen), and will assume other duties which the independent directors as a whole may designate from time to time.

Section 8. Quorum, Required Vote and Adjournment. A majority of the total number of directors shall constitute a quorum for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation or these Bylaws. The vote of a majority of directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless otherwise provided by an applicable provision of law, by these Bylaws, by the Certificate of Incorporation or by a resolution of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 9. Emergency Management Committee. If as a result of a catastrophe or other emergency condition a quorum of any committee of the Board of Directors having power to act in the premises cannot readily be convened and a quorum of the Board of Directors cannot readily be convened, then all the powers and duties of the Board of Directors shall automatically vest and continue, until a quorum of the Board of Directors can be convened, in the Emergency Management Committee, which shall consist of all readily available members of the Board of Directors (provided that during the Specified Post-Merger Period, such committee shall consist of an equal number of readily available Continuing Office Depot Directors and Continuing OfficeMax Directors) and two of whose members shall constitute a quorum. The Emergency Management Committee shall call a meeting of the Board of Directors as soon as circumstances permit for the purpose of filling any vacancies on the Board of Directors and its committees and taking such other action as may be appropriate, subject to the provisions of Article VI of these Bylaws.

Section 10. Other Committees of the Board. Subject to the provisions of Article VI of these Bylaws, the corporation shall have an Audit Committee, consisting of at least three independent directors of the corporation, a Compensation Committee, consisting of at least two independent directors of the corporation who have never been employees or officers of the corporation (except that employment or service as an Interim Office Depot CEO or an Interim OfficeMax CEO, as the case may be, shall not disqualify a director from being independent following the time such director was employed or served as an Interim Office Depot CEO or an Interim OfficeMax CEO, as the case may be), and a Corporate Governance and Nominating Committee, consisting of at least three independent directors. The Board of Directors may, by resolution passed by a majority of the whole Board, designate other committees, and each such other committee shall, subject to the provisions of Article VI of these Bylaws, consist of two or more of the directors of the corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of a committee; *provided*, *however*, that during the Specified Post-Merger Period (as defined in Article VI of these Bylaws), one or more Continuing Office Depot Directors (as defined in Article VI of these Bylaws) shall be designated as alternates for any absent or disqualified members of any committee who are Continuing Office Depot Directors, and one or more Continuing OfficeMax Directors (as defined in Article VI of these Bylaws) shall be designated as alternates for any absent or disqualified members of any committee who are Continuing OfficeMax Directors. Subject to the provisions of Article VI of these Bylaws, such committee or committees (including the members thereof) shall serve at the pleasure of the Board of Directors and have such name or names and have as many members as may be determined from time to time by resolution adopted by the Board of Directors. Any member of

the Board of Directors may participate in the meetings of any such committee, subject to the approval of the chairman of such committee. The Board of Directors shall adopt a charter for each committee it designates (other than special committees), and each committee shall assess the adequacy of such charter annually and recommend any changes to the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Section 11. Limitations on Committee Powers. No committee of the Board of Directors, acting without concurrence of the entire Board, shall have power or authority to:

(a) amend the Certificate of Incorporation or recommend the same to the stockholders;

(b) adopt an agreement of merger or consolidation or recommend the same to the stockholders;

(c) recommend to the stockholders the sale, lease, or exchange of all or substantially all of the corporation's property and assets;

(d) recommend to the stockholders a dissolution of the corporation or a revocation of a dissolution;

(e) amend or repeal these Bylaws;

(f) unless expressly so provided by resolution of the Board of Directors, (i) declare a dividend; or (ii) authorize the issuance of shares of the corporation of any class; and

(g) amend, alter, or repeal any resolution of the Board of Directors which, by its terms, provides that it shall not be amended, altered or repealed by any committee or, as applicable, a certain committee.

Section 12. Committee Rules. Each committee of the Board of Directors may fix its own rules of procedure and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee. Unless otherwise provided in such a resolution, the presence of at least a majority of the members of the committee shall be necessary to constitute a quorum. In the event that a member and that member's alternate, if alternates are designated by the Board of Directors as provided in Section 10 of this Article III, of such committee is or are absent or disqualified, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member; *provided, however*, that during the Specified Post-Merger Period, one or more Continuing Office Depot Directors shall be appointed as alternates for any absent or disqualified members of such committee who are Continuing Office Depot Directors, and one or more Continuing OfficeMax Directors shall be appointed as alternates for any absent or disqualified members of such committee who are Continuing OfficeMax Directors.

Section 13. Use of Communications Equipment in Conducting Meetings. Members of the Board of Directors or any committee thereof may participate in and act at any meeting of the Board of Directors or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting pursuant to this section shall constitute attendance and presence in person at the meeting of the person or persons so participating.

Section 14. Action Without a Meeting by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee.

Section 15. Compensation. The Board of Directors shall have the authority to fix the compensation of directors by written resolution. Nothing herein shall be construed to preclude any director from serving the corporation in any other capacity as an officer, employee, agent or otherwise, and receiving compensation therefor.

Section 16. Books and Records. The Board of Directors shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board of Directors and of the stockholders, appropriate stock books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the corporation.

ARTICLE IV
WAIVER OF NOTICE

Whenever a notice is required to be given by any provision of law, by these Bylaws, or by the Certificate of Incorporation, a written waiver, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to such notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the sole and express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE V
OFFICERS

Section 1. Number and Authority. Subject to the provisions of Article VI of these Bylaws, the Board of Directors of the corporation shall from time to time elect from its membership a Chairman of the Board, who may also be the Chief Executive Officer or any other officer of the corporation. The officers of the corporation shall consist of at least the following: (1) a Chief Executive Officer or, if the Successor CEO Designation (as defined in Article VI of these Bylaws) has not occurred, two Co-Chief Executive Officers until the due appointment of the Successor CEO (as defined in Article VI of these Bylaws) in accordance with the provisions of Article VI of these Bylaws, (2) a Chief Financial Officer, (3) a Secretary and (4) a Treasurer.

The Board of Directors may appoint such other officers and agents, including but not limited to, a President, a Chief Operating Officer, one or more Presidents of Divisions or Business Groups, one or more Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers, as it shall at any time or from time to time deem necessary or advisable. Subject to the provisions of Article VI of these Bylaws, pursuant to Section 10 of this Article V, the Board of Directors may delegate to the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) the right to appoint such Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, Assistant Treasurers and agents, as the Chief Executive Officer (or, if applicable, as the Co-Chief Executive Officers) shall deem appropriate and necessary from to time.

Any number of offices may be held by the same person, except that neither the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) nor any President shall also hold the office of either Treasurer or Secretary. All officers, as between themselves and the corporation, shall have such authority and perform such duties in the management of the business and affairs of the corporation as may be provided in these Bylaws, or, to the extent not so provided, as may be prescribed by the Board of Directors or by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 2. Election and Term of Office. The officers of the corporation (other than those appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw) shall be elected at least once annually by the Board of Directors, and each such officer shall hold office until the next annual meeting of the Board of Directors or until a successor is duly elected and qualified or until his or her earlier resignation or removal as herein provided. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors (or by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw).

Section 3. Removal. All officers and agents shall hold office at the pleasure of the Board of Directors, and any officer or agent elected or appointed by the Board of Directors (or appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw) may, subject to the provisions of Article VI of these Bylaws, be removed at any time by the Board of Directors for cause or without cause at any regular or special meeting, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Officers and agents appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw may be removed at any time by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) for cause or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. Subject to the provisions of Article VI of these Bylaws, any vacancy occurring in any office because of death, resignation, removal, disqualification or otherwise, may be filled by resolution of the Board of Directors.

Section 5. Compensation. Compensation of all officers and agents (other than the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers)) shall be fixed by or in the manner prescribed by the Compensation Committee, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a director of the corporation. The compensation of the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall be fixed by or in the manner prescribed by the Compensation Committee, but such compensation shall be subject to the approval of a majority of the independent directors of the Board of Directors.

Section 6. Chairman of the Board. The Chairman (or, if applicable, the Co-Chairmen) of the Board shall preside at all meetings of the directors, or (a) if the offices of the Chairman of the Board and Lead Director are separate, the Chairman may delegate such duties to the Lead Director or (b) if the offices of the Chief Executive Officer and Chairman of the Board are separate, the Chairman may delegate such duties to the Chief Executive Officer. The Chairman (or, if applicable, the Co-Chairmen) of the Board shall perform such other duties as are required of him by the Board of Directors and shall have no other duties except such as are delegated to him by the Board of Directors. At any time at which there are Co-Chairmen of the Board, any action to be taken by the Co-Chairmen shall be taken jointly by such Co-Chairmen.

Section 7. Chief Executive Officer. Subject to the provisions of Article VI of these Bylaws, the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) of the corporation shall have the general charge of the business and affairs of the corporation and shall oversee the management of the business of the corporation. In the absence of the Chairman (or, if applicable, the Co-Chairmen) of the Board, or if designated to do so by the Board of Directors, the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall preside at all meetings of the stockholders and of the directors and shall exercise the other powers and perform the other duties of the Chairman (or, if applicable, the Co-Chairmen) of the Board or designate the executive officers of the corporation by whom such other powers shall be exercised and other duties performed. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall see to it that all resolutions and orders of the Board of Directors are carried into effect, and the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have full power of delegation in so doing. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have such other powers and perform such other duties as the Board of Directors or these Bylaws may, from time to time, prescribe. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have the power to execute any and all instruments and documents on behalf of the corporation and to delegate to any other officer of the corporation the power to execute any and all such instruments and documents. At any time at which there are Co-Chief Executive Officers of the corporation, any action to be taken by the Co-Chief Executive Officers shall be taken jointly by such Co-Chief Executive Officers.

Section 8. Secretary. The Secretary shall attend all meetings of the Board of Directors and its committees and all meetings of the stockholders and shall record all the proceedings of the meetings in a book or books to be kept for that purpose; he or she shall see that all notices required to be given by these Bylaws or by law are duly given in accordance with the provisions of these Bylaws or as required by law; he or she shall be the custodian of the records and of the corporate seal or seals of the corporation; he or she shall have authority to affix the corporate seal or seals to all documents, the execution of which, on behalf of the corporation, under its seal, is duly authorized, and when so affixed it may be attested by his or her signature; and in general, he or she shall perform all duties incident to the office of the Secretary of a corporation, and such other duties as the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) may from time to time prescribe.

Section 9. Treasurer. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the corporation and shall deposit, or cause to be deposited, all moneys and other valuable effects in the name and to the credit of the corporation in such banks, trust companies, or other depositories as shall from time to time be selected by the Board of Directors. He or she shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation; he or she shall render to the Chairman (or, if applicable, the Co-Chairmen) of the Board and to each member of the Board of Directors, whenever requested, an account of the Treasurer's actions and of the financial condition of the corporation. The Treasurer shall perform all of the duties incident to the office of the Treasurer of a corporation, and have such other powers and perform such other duties as the Board of Directors may, from time to time, prescribe. In the event the corporation shall fail to have a Treasurer at any time, then the duties of the Treasurer may be assumed and performed by the Chief Financial Officer and delegated by him to one or more assistant Treasurers.

Section 10. Other Officers, Assistant Officers and Agents. The Board of Directors may also elect or may delegate to the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) the power to appoint such other officers, assistant officers and agents, as it may at any time or from time to time deem advisable, and any officers, assistant officers and agents so elected or appointed shall have such authority and perform such duties as the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) may from time to time prescribe.

Section 11. Reservation of Authority. All other powers not expressly delegated or provided for herein, or in the Delaware General Corporation Law to any officer, are expressly reserved to the Board of Directors and may be delegated by it to any officer by resolution adopted from time to time by the Board of Directors.

ARTICLE VI
CERTAIN GOVERNANCE MATTERS

Section 1. Definitions.

(a) "Appointment Date" shall have the meaning set forth in Section 3(b) of this Bylaw.

(b) "Cessation Date" shall mean the date of the death, resignation, removal, disqualification or other cessation of service of either of the Co-Chief Executive Officer that is the Office Depot CEO or the Co-Chief Executive Officer that is the OfficeMax CEO.

(c) "Closing" shall mean the consummation of the merger transactions contemplated by the Merger Agreement.

(d) "Continuing Office Depot Directors" shall mean (i) the directors as of the Closing who were designated by the corporation pursuant to Section 1.5(b) of the Merger Agreement (including any such director who may serve as an Interim Office Depot CEO) and (ii) any director who takes office after the Closing who is designated by the Continuing Office Depot Directors Committee pursuant to Section 2(d) of this Bylaw; *provided*, *however*, that each Continuing Office Depot Director shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation, except that employment or service as an Interim Office Depot CEO shall not disqualify a director from being a Continuing Office Depot Director either during or following the time such director was employed or served as an Interim Office Depot CEO.

(e) "Continuing Office Depot Directors Committee" shall mean the committee established by Section 2(d) of this Bylaw.

(f) "Continuing OfficeMax Directors" shall mean (i) the directors as of the Closing who were designated by OfficeMax pursuant to Section 1.5(b) of the Merger Agreement (including any such director who may serve as an Interim OfficeMax CEO) and (ii) any director who takes office after the Closing who is designated by the Continuing OfficeMax Directors Committee pursuant to Section 2(e) of this Bylaw; *provided*, *however*, that each Continuing OfficeMax Director shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation, except that employment or service as an Interim OfficeMax CEO shall not disqualify a director from being a Continuing OfficeMax Director either during or following the time such director was employed or served as an Interim OfficeMax CEO.

(g) "Continuing OfficeMax Directors Committee" shall mean the committee established by Section 2(e) of this Bylaw.

(h) "Interim Office Depot CEO" shall have the meaning set forth in Section 5(a) of this Bylaw.

(i) "Interim OfficeMax CEO" shall have the meaning set forth in Section 5(a) of this Bylaw.

(j) "Merger Agreement" shall mean the Agreement and Plan of Merger, dated as of February 20, 2013, by and among the corporation, Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax, as amended, restated or otherwise modified from time to time.

(k) "Office Depot CEO" shall mean the Chief Executive Officer of the corporation immediately prior to the Closing.

(l) "Office Depot Executive" shall mean the Office Depot CEO or any other current or former executive officer of the corporation.

(m) "OfficeMax" shall mean OfficeMax Incorporated.

(n) "OfficeMax CEO" shall mean the chief executive officer of OfficeMax immediately prior to the Closing.

(o) "OfficeMax Executive" shall mean the OfficeMax CEO or any other current or former executive officer of OfficeMax.

(p) "Remaining Co-CEO Director" shall have the meaning set forth in Section 2(b) of this Bylaw.

(q) "Rotation Date" shall have the meaning set forth in Section 3(b) of this Bylaw.

(r) "Selection Committee" shall mean the committee established by Section 5(b) of this Bylaw.

(s) "Specified Post-Merger Period" shall have the meaning set forth in Section 2(a) of this Bylaw.

(t) "Successor CEO" shall have the meaning set forth in Section 5(b) of this Bylaw.

(u) "Successor CEO Designation" shall have the meaning set forth in Section 5(b) of this Bylaw.

Section 2. Board of Directors; Appointment of Officers.

(a) From and after the Closing until the fourth anniversary of the Closing (the "Specified Post-Merger Period"), the Board of Directors shall be comprised of (i) not less than ten (10) and no more than twelve (12) directors if the Successor CEO Designation has not occurred, (ii) twelve (12) directors in the event the Successor CEO Designation has occurred and the Successor CEO is either an OfficeMax Executive or an Office Depot Executive and (iii) eleven (11) directors in the event the Successor CEO Designation has occurred and the Successor CEO is neither an OfficeMax Executive nor an Office Depot Executive.

(b) Subject to the failure of any Continuing Office Depot Director or any Continuing OfficeMax Director to be reelected to the Board of Directors in accordance with Article II of these Bylaws, during the Specified Post-Merger Period, the Board of Directors shall be composed of (i) five (5) Continuing Office Depot Directors (which shall include any Interim Office Depot CEO who is a Continuing Office Depot Director), (ii) five (5) Continuing OfficeMax Directors (which shall include any Interim OfficeMax CEO who is a Continuing OfficeMax Director), (iii) if the Successor CEO Designation has not occurred, until the Cessation Date, each of the Office Depot CEO and the OfficeMax CEO (and, if applicable following the Cessation Date, an additional director that is, if the Remaining Co-CEO Director is the OfficeMax CEO, designated by the Continuing Office Depot Directors Committee or, if the Remaining Co-CEO Director is the Office Depot CEO, designated by the Continuing OfficeMax Directors Committee, in each case in accordance with the proviso of the immediately following sentence), and (iv) if the Successor CEO Designation has occurred, (A) the Successor CEO and (B) if the Successor CEO is an OfficeMax Executive or an Office Depot Executive, an additional director that is, if the Successor CEO is an OfficeMax Executive, a Continuing Office Depot Director or, if the Successor CEO is an Office Depot Executive, a Continuing OfficeMax

Director. In the event that the Office Depot CEO and the OfficeMax CEO serve as Co-Chief Executive Officers of the corporation, each of the Co-Chief Executive Officers shall resign as director of the corporation effective as of the earlier of (x) the Appointment Date and (y) the Cessation Date; *provided*, *however*, that, in the case of clause (y), in the event that as of the Cessation Date one of the Co-Chief Executive Officers of the corporation has ceased to serve as a director of the corporation and the resignation of the other Co-Chief Executive Officer as director of the corporation is not effective for any reason (such director, the "Remaining Co-CEO Director"), the Continuing Office Depot Directors Committee (if the Remaining Co-CEO Director is the OfficeMax CEO) or the Continuing OfficeMax Directors Committee (if the Remaining Co-CEO Director is the Office Depot CEO) shall designate one (1) additional director to become a Continuing Office Depot Director or Continuing OfficeMax Director, as applicable, to serve until the effectiveness of the resignation of the Remaining Co-CEO Director.

(c) During the Specified Post-Merger Period, all vacancies on the Board of Directors created by death, resignation, removal, disqualification or other cessation of service of a Continuing Office Depot Director shall be filled by a nominee selected by the Continuing Office Depot Directors Committee and all vacancies on the Board of Directors created by such cessation of service of a Continuing OfficeMax Director shall be filled by a nominee selected by the Continuing OfficeMax Directors Committee. During the Specified Post-Merger Period, the Continuing Office Depot Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing Office Depot Director. During the Specified Post-Merger Period, the Continuing OfficeMax Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing OfficeMax Director.

(d) The Board of Directors shall constitute a Continuing Office Depot Directors Committee, which shall be comprised of all the Continuing Office Depot Directors. The Continuing Office Depot Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill the vacancies on the Board of Directors created by the death, resignation, removal, disqualification or other cessation of service of a Continuing Office Depot Director and (ii) nominate directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing Office Depot Director. At the end of the Specified Post-Merger Period, the Continuing Office Depot Directors Committee shall be automatically disbanded.

(e) The Board of Directors shall constitute a Continuing OfficeMax Directors Committee, which shall be comprised of all the Continuing OfficeMax Directors. The Continuing OfficeMax Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill the vacancies on the Board of Directors created by the death, resignation, removal, disqualification or other cessation of service of a Continuing OfficeMax Director and (ii) nominate directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing OfficeMax Director. At the end of the Specified Post-Merger Period, the Continuing OfficeMax Directors Committee shall be automatically disbanded.

(f) Each Continuing Office Depot Director and Continuing OfficeMax Director and each director nominated by the Continuing Office Depot Directors Committee or the Continuing OfficeMax Directors Committee shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation; *provided*, *however*, that (i) employment or service as an Interim Office Depot CEO or Interim OfficeMax CEO, as the case may be, shall not disqualify a director from being a Continuing Office Depot Director or Continuing OfficeMax Director, as the case may be, either during or following the time such director was employed or served as an Interim Office Depot CEO or Interim OfficeMax CEO, as the case may be, and (ii) for all purposes of this Article VI, an Office Depot Executive, an OfficeMax Executive and the Successor CEO shall be deemed not to qualify as "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation.

Section 3. Chairman and Lead Director. During the Specified Post-Merger Period:

(a) if the Successor CEO Designation has not occurred, a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee and a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee shall serve as Co-Chairmen of the Board of Directors and Co-Lead Directors; and

(b) following such time that the Successor CEO Designation has occurred, (i) if the Successor CEO is an OfficeMax Executive, the Chairman of the Board and Lead Director shall be a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee (and if a Continuing OfficeMax Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing OfficeMax Director shall resign from such positions as of the Appointment Date), (ii) if the Successor CEO is an Office Depot Executive, the Chairman of the Board and Lead Director shall be a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee (and if a Continuing Office Depot Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing Office Depot Director shall resign from such positions as of the Appointment Date), and (iii) if the Successor CEO is neither an OfficeMax Executive nor an Office Depot Executive, the Chairman of the Board and Lead Director (or only the Lead Outside Director, if the Successor CEO is appointed as both Chief Executive Officer and Chairman of the Board pursuant to Article III, Section 2 of these Bylaws) shall be (A) a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee from and after the date of the appointment of the Successor CEO (the "Appointment Date") (and if a Continuing OfficeMax Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing OfficeMax Director shall resign from such positions as of the Appointment Date) until the date that is nearest to one half of the period from the Appointment Date until the expiration of the Specified Post-Merger Period (such date, the "Rotation Date"), and (B) a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee from and after the Rotation Date until the expiration of the Specified Post-Merger Period.

Section 4. Composition of Committees. During the Specified Post-Merger Period, each committee of the Board of Directors shall be composed of an equal number of Continuing Office Depot Directors and Continuing OfficeMax Directors. With respect to each such committee

(other than, if applicable, the Selection Committee, which shall be subject to Section 5(b) of this Bylaw), (i) the Continuing OfficeMax Directors Committee shall designate the chairperson of the Audit Committee among the members of the Audit Committee, (ii) the Continuing Office Depot Directors Committee shall designate the chairperson of a committee (other than the Audit Committee) among the members of such committee, (iii) following the designation by the Continuing Office Depot Directors Committee pursuant to clause (ii), the Continuing OfficeMax Directors Committee shall designate the chairperson of a committee (other than the committees referred to in clauses (i) and (ii)) among the members of such committee, (iv) following the designation of the Continuing OfficeMax Directors Committee pursuant to clause (iii), the Continuing Office Depot Directors Committee shall designate the chairperson of a committee (other than the committees referred to in clauses (i), (ii) and (iii)) among the members of such committee, and (v) with respect to any additional committee of the Board of Directors, the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee shall alternately designate the chairperson of a committee among the members of such committee (with the Continuing OfficeMax Directors Committee designating first following the Continuing Office Depot Directors Committee's designation pursuant to clause (iv). During the Specified Post-Merger Period, the Audit Committee shall include a Continuing Office Depot Director and a Continuing OfficeMax Director who shall each qualify as an Audit Committee financial expert for purposes of Item 407(d)(5)(ii) of Regulation S-K promulgated under the Exchange Act.

Section 5. Co-Chief Executive Officers; Successor CEO; Selection Committee.

(a) If the Successor CEO Designation has occurred, the Successor CEO shall be appointed to serve as the Chief Executive Officer of the corporation. If the Successor CEO Designation has not occurred, the Office Depot CEO and the OfficeMax CEO shall be appointed to serve as Co-Chief Executive Officers of the corporation until the due appointment of the Successor CEO; *provided*, *however*, that (i) upon the death, resignation, removal, disqualification or other cessation of service of the Co-Chief Executive Officer that is the Office Depot CEO (or any of his or her successors selected and appointed pursuant to this clause (i)), an individual selected by the Continuing Office Depot Directors Committee (including, if so desired, from among the Continuing Office Depot Directors) shall be appointed to serve as Co-Chief Executive Officer of the corporation (such Co-Chief Executive Officer, an "Interim Office Depot CEO") and (ii) upon the death, resignation, removal, disqualification or other cessation of service of the Co-Chief Executive Officer that is the OfficeMax CEO (or any of his or her successors selected and appointed pursuant to this clause (ii)), an individual selected by the Continuing OfficeMax Directors Committee (including, if so desired, from among the Continuing OfficeMax Directors) shall be appointed to serve as Co-Chief Executive Officer of the corporation (such Co-Chief Executive Officer, an "Interim OfficeMax CEO").

(b) If the Successor CEO Designation has not occurred, the Board of Directors shall constitute a Selection Committee comprised of such equal number of Continuing OfficeMax Directors (one of whom shall be a co-chairman of such committee) and Continuing Office Depot Directors (one of whom shall be a co-chairman of such committee) selected prior to the Closing in accordance with Section 1.5(d) of the Merger Agreement. The Selection Committee shall engage an independent search firm to identify and recommend Successor CEO candidates with the terms of the engagement and the search criteria to be established by the Selection Committee;

provided, however, that the Selection Committee shall cause the search firm to consider each of the Office Depot CEO and the OfficeMax CEO as potential candidates. The Selection Committee shall, working through the search firm, seek to recommend to the Board of Directors, by a majority vote of the members of the Selection Committee, an individual to serve as Chief Executive Officer of the corporation (the "Successor CEO") as soon as practicable after the Closing (the "Successor CEO Designation"). As soon as practicable following any Successor CEO Designation, the Board of Directors shall take all actions as may be necessary to appoint the Successor CEO as the sole Chief Executive Officer of the corporation, and the Co-Chief Executive Officers of the corporation shall resign their offices as Co-Chief Executive Officers effective as of the Appointment Date. The appointment of the Successor CEO shall require the vote of a majority of the entire Board of Directors; *provided, however*, that the election of either an Office Depot Executive or an OfficeMax Executive as the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors. Upon the due appointment of the Successor CEO, the Selection Committee shall be automatically disbanded.

(c) In the event of the death, resignation, removal, disqualification or other cessation of service of the Successor CEO prior to the second anniversary of the Appointment Date, the election of either an Office Depot Executive or an OfficeMax Executive as successor to the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors.

(d) During the Specified Post-Merger Period, if the Successor CEO is either an Office Depot Executive or an OfficeMax Executive, the removal of the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors.

Section 6. Corporate Headquarters; Operation of Businesses; Brand Names; Reporting Authority.

(a) From and after the Closing, the corporation shall have dual headquarters in Boca Raton, Florida and Naperville, Illinois (which headquarters shall, for purposes of these Bylaws, be deemed to be the "principal executive offices" and "principal places of business" of the corporation) unless and until the Board of Directors shall approve new headquarters.

(b) From and after the Closing, the businesses of the corporation and its subsidiaries as conducted immediately prior to the Closing shall continue to operate under the name "Office Depot," and the businesses of OfficeMax and its subsidiaries as conducted immediately prior to the Closing shall continue to operate under the name "OfficeMax," unless and until the Board of Directors shall approve the name under which the combined businesses of the corporation and its subsidiaries shall operate.

(c) From and after the Closing until the Appointment Date, except as may be otherwise determined by a majority of each of the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee, the Office Depot CEO shall maintain sole chief executive officer authority reporting directly to the Board of Directors for the operation of the businesses of Office Depot and its subsidiaries (other than OfficeMax and its subsidiaries) and the OfficeMax CEO shall maintain sole chief executive officer authority reporting directly to the Board of Directors for the operation of the businesses of OfficeMax and its subsidiaries.

Section 7. Amendments; Interpretation. During the Specified Post-Merger Period, the provisions of this Article VI, Section 10 of Article III and Section 12 of Article III of these Bylaws may be modified, amended or repealed, and any provision of these Bylaws or other resolution inconsistent with this Article VI, Section 10 of Article III or Section 12 of Article III of these Bylaws may be adopted, or any such modification, amendment, repeal or inconsistent provision of these Bylaws or other resolutions recommended for adoption by the stockholders of the corporation, only by an affirmative vote of at least (a) 75 per cent of the entire Board of Directors and (b) a majority of each of the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee. In the event of any inconsistency between any other provision of these Bylaws and any provision of this Article VI, the provisions of this Article VI shall control.

ARTICLE VII
INDEMNIFICATION OF OFFICERS, DIRECTORS AND OTHERS

Section 1. Coverage. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative ("proceeding"), by reason of the fact that he or she is or was a director, officer of the corporation (which term shall include any predecessor corporation of the corporation) or is or was serving at the request of the corporation as a director, officer, employee, fiduciary or agent of another corporation or of a partnership, joint venture, trust or other enterprise of any type or kind, domestic or foreign, including service with respect to employee benefit plans ("indemnitee"), whether the basis of such proceeding is an alleged action in an official capacity as a director, officer, employee, fiduciary or agent or in any other capacity while serving as a director, officer, employee, fiduciary 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 expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement or other disposition) incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators. The right to indemnification conferred in this Bylaw shall be a contract right that vests at the time of such person's service to or at the request of the corporation and includes the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition, such advances to be paid by the corporation within 20 days after the receipt by the corporation of a statement or statements from the claimant requesting such advance or advances from time to time; *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 Bylaw or otherwise.

Section 2. Claims. To obtain indemnification under this Bylaw, a claimant shall submit to the corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon such written request by a claimant for indemnification, a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (a) if requested by the claimant, by Independent Counsel (as defined below), or (b) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority vote of a quorum consisting of Disinterested Directors (as defined below), or (ii) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iii) if a quorum of Disinterested Directors so directs, by the stockholders of the corporation. In the event the determination of entitlement to indemnification is to be made by Independent Counsel at the request of the claimant, the Independent Counsel shall be selected by the Board of Directors unless there shall have occurred within two years prior to the date of the commencement of the action, suit or proceeding for which indemnification is claimed a "Change of Control" as defined in the 2008 Office Depot Bonus Plan for Executive Management Employees, in which case the Independent Counsel shall be selected by the claimant unless the claimant shall request that such selection be made by the Board of Directors. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such determination.

For purposes of this Bylaw:

"Disinterested Director" means a director of the corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

"Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the corporation or the claimant in an action to determine the claimant's rights under this Bylaw.

Section 3. Enforcement of Claims. If a claim under Section 1 of this Bylaw is not paid in full by the corporation within 60 days after a written claim pursuant to Section 2 of this Bylaw 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 where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standard

of conduct which makes 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 Counsel or 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 Counsel or 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. If a determination shall have been made pursuant to this Section 2 that the claimant is entitled to indemnification, the corporation shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 3. The corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 3 that the procedures and presumptions of this Bylaw are not valid, binding and enforceable and shall stipulate in such proceeding that the corporation is bound by all the provisions of this Bylaw.

Section 4. Enforceability. If any provision or provisions of this Bylaw shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Bylaw (including, without limitation, each portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Bylaw (including, without limitation, each such portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

Section 5. Rights Not Exclusive. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Bylaw (i) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise and (ii) cannot be terminated by the corporation, the Board of Directors or the stockholders of the corporation with respect to a person’s service prior to the date of such termination. No repeal or modification of this Bylaw shall in any way diminish or adversely affect the rights of any current or former director, officer, employee or agent of the corporation hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

Section 6. Employees and Agents. Persons who are not covered by the foregoing provisions of this Article VII and who are or were employees or agents of the corporation may be indemnified and may have their expenses paid to the extent and subject to such terms and conditions as may be authorized at any time or from time to time by the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 7. Insurance. The corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a director, officer, employee, fiduciary or agent of the corporation or who is serving or has served at the request of the corporation as a director,

officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify such person against such liability under this Article VII.

Section 8. Merger or Consolidation. For purposes of this Article VII, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article VII with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

Section 9. Notices. Any notice, request or other communication required or permitted to be given to the corporation under this Article VII shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary and shall be effective only upon receipt by the Secretary.

ARTICLE VIII
CERTIFICATES OF STOCK

Section 1. Form. The shares of capital stock of the corporation shall be represented by certificates; *provided*, that the Board of Directors of the corporation may provide by a resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of capital stock in the corporation represented by certificates shall be entitled to have a certificate for shares of capital stock of the corporation signed by or in the name of the corporation by the Chairman of the Board (or, if applicable, the Co-Chairmen), the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the corporation, certifying the number of shares owned by such holder in the corporation and registered in certificated form. Any or all such signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, any such certificate or certificates shall cease to be such officer, transfer agent or registrar of the corporation whether because of death, resignation or otherwise before such certificate or certificates have been delivered by the corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer, transfer agent or registrar of the corporation. All certificates for shares shall be consecutively numbered or otherwise identified. The name of the person to whom certificated or uncertificated shares are issued, together with the number of shares and date of issue, shall be entered on the books of the corporation. Shares of stock of the corporation shall only be transferred on the books of the corporation by the holder of record thereof or by such holder's

attorney duly authorized in writing and, (i) if such shares are certificated, upon surrender to the corporation of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization and other matters as the corporation may reasonably require, and accompanied by all necessary stock transfer stamps, or (ii) upon proper instructions from the holder of uncertificated shares. In the event of such transfer of certificated shares, it shall be the duty of the corporation to issue a new certificate or evidence of the issuance of uncertificated shares to the person entitled thereto, cancel the old certificate or certificates and record the transaction on its books. Upon receipt of proper transfer instructions from the holder of uncertificated shares, the corporation shall cancel such uncertificated shares and issue new equivalent uncertificated shares or certificated shares to the person entitled thereto and record such transaction upon its books. Except as otherwise provided by law, the Board of Directors may make or adopt such additional rules and regulations, not inconsistent with these Bylaws, as it may deem expedient, concerning the issue, transfer and registration of securities of the corporation. The Board of Directors may appoint or authorize any officer or officers to appoint, one or more transfer agents or registrars or both in connection with the transfer of any class or series of securities of the corporation.

Section 2. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the corporation alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his or her legal representative, to indemnify the corporation or to give the corporation a bond sufficient to indemnify the corporation against any claim that may be made against the corporation on account of the loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 3. Registered Stockholders. Prior to the surrender to the corporation of the certificate or certificates for a share or shares of stock with a request to record the transfer of such share or shares, the corporation may treat the registered owner as the person entitled to receive dividends or other distributions, to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner, and as the person to hold liable for calls and assessments. The corporation shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Dividends and Distributions. The Board of Directors shall have full power and discretion pursuant to law, at any regular or special meeting, subject to the provisions of the Certificate of Incorporation or the terms of any other corporate document or instrument, to determine what, if any, dividends or distributions shall be declared and paid or made upon or with respect to outstanding shares of the capital stock of the corporation. Dividends may be paid in cash, bonds, property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any

funds of the corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or any other purpose and the directors may modify or abolish any such reserve in the manner in which it was created.

Section 2. Checks, Drafts or Orders. All checks, drafts, or other orders for the payment of money by or to the corporation and all notes and other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers or agent, or agents of the corporation, and in such manner, as shall be determined by resolution of the Board of Directors or a duly authorized committee thereof.

Section 3. Contracts. The Board of Directors may authorize any officer or officers or any agent or agents of the corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 4. Loans. Subject to applicable laws limiting or prohibiting the corporation's ability to make such loans, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiary, including any officer or employee who is a director of the corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in this section contained shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

Section 5. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

Section 6. Corporate Seal. The Board of Directors may provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the corporation and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 7. Voting Securities Owned By Corporation. Voting securities in any other entity held by the corporation shall be voted by the Chairman (or, if applicable, the Co-Chairmen) of the Board or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers), unless the Board of Directors specifically confers authority to vote with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with or without general power of substitution.

Section 8. General and Special Bank Accounts. The Board of Directors may authorize from time to time the opening and keeping of general and special bank accounts with such banks, trust companies or other depositories as the Board of Directors may designate or as may be

designated by any officer or officers of the corporation to whom such power of designation may be delegated by the Board of Directors from time to time. The Board of Directors may make such special rules and regulations with respect to such bank accounts, not inconsistent with the provisions of these Bylaws, as it may deem expedient.

Section 9. Section Headings. Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 10. Election Out of Section 203. The corporation expressly elects not to be governed by Section 203 of the General Corporation Law of Delaware. The Bylaw amendment adopting this provision shall not be further amended by the Board of Directors of the corporation.

ARTICLE X
AMENDMENTS

Subject to the requirements of Article VI, Section 7, these Bylaws may be amended, altered, or repealed and new Bylaws adopted at any meeting of the Board of Directors by a majority vote; *provided*, that these Bylaws and any other Bylaws amended or adopted by the Board of Directors may be amended, may be reinstated, and new Bylaws may be adopted, by the stockholders of the corporation entitled to vote at the time for the election of directors; *provided*, that notice of the proposed change was given in the corporation's notice of meeting.

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Exhibit 99.1

Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante,
S. A. B. de C. V. and 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Consolidated Financial Statements for the Years Ended December 31, 2012, 2011 and 2010 (Unaudited) and Independent Auditors' Report Dated February 15, 2013 (November 7, 2013 with respect to Note 16)

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Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Independent Auditors' Report and Consolidated
Financial Statements for 2012, 2011 and 2010
(Unaudited)

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Independent Auditors' Report to the Board of Directors and Stockholders of Office Depot de México, S. A. de C. V.

We have audited the accompanying consolidated financial statements of Office Depot de México, S. A. de C. V. and its subsidiaries (the "Company"), which comprise the consolidated balance sheets as of December 31, 2012 and 2011, and the related consolidated statements of income, changes in stockholders' equity, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Mexican Financial Reporting Standards; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Office Depot de México, S. A. de C. V. and its subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for the years then ended in accordance with Mexican Financial Reporting Standards.

MFRS vary in certain significant respects from accounting principles generally accepted in the United States of America ("U.S. GAAP"). Information relating to the nature and effect of such differences is presented in Note 18 to the accompanying consolidated financial statements.

The accompanying consolidated financial statements have been translated into English for the convenience of readers.

Galaz, Yamazaki, Ruiz Urquiza, S. C.
Member of Deloitte Touche Tohmatsu Limited

/s/ C. P. C. Ma. Isabel Romero Miranda

February 15, 2013
(November 7, 2013 with respect to Note 16)
México City, México

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Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Consolidated Balance Sheets
As of December 31, 2012 and 2011
(In thousands of Mexican pesos)

	2012	2011
Assets		
Current assets:		
Cash and cash equivalents	$ 348,761	$ 302,656
Accounts receivable and recoverable taxes – Net	1,033,617	862,920
Due from related parties	307	224
Inventories – Net	3,368,349	2,933,151
Prepaid expenses	94,436	105,851
Total current assets	4,845,470	4,204,802
Property, equipment and leasehold improvements – Net	4,327,788	4,133,426
Deferred income taxes	98,288	27,224
Deferred statutory employee profit sharing	808	798
Intangible assets – Net	78,295	100,149
Goodwill	61,648	61,648
Total	$9,412,297	$8,528,047
Liabilities and stockholders' equity		
Current liabilities:		
Trade accounts payable	$2,208,524	$2,185,112
Office Depot Asia Holding Limited – Related party	17,309	5,898
Accrued expenses	414,388	374,817
Taxes payable	118,178	96,008
Total current liabilities	2,758,399	2,661,835
Employee benefits	44,951	40,775
Total liabilities	2,803,350	2,702,610
Stockholders' equity:		
Common stock	1,266,239	1,266,239
Retained earnings	5,204,895	4,385,233
Foreign currency translation	137,813	173,965
Total stockholders' equity	6,608,947	5,825,437
Total	$9,412,297	$8,528,047

See accompanying notes to consolidated financial statements.

Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and a 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Consolidated Statements of Income
For the years ended December 31, 2012, 2011 and 2010 (Unaudited)
(In thousands of Mexican pesos)

	2012	2011	2010 (Unaudited)
Revenues:			
Net sales	$15,086,057	$14,051,901	$12,157,735
Other	47,048	70,722	76,289
	15,133,105	14,122,623	12,234,024
Costs and expenses:			
Cost of sales	10,482,201	9,941,600	8,605,431
Selling, administrative and general expenses	3,260,774	2,912,261	2,420,183
	13,742,975	12,853,861	11,025,614
Other expenses	(588)	(39,334)	—
Net comprehensive financing cost:			
Bank commissions	(212,687)	(172,290)	(155,184)
Interest expense	(5,283)	(21,580)	(6,684)
Interest income	9,352	10,486	12,391
Exchange (loss) gain	(7,456)	5,107	(1,065)
Other financial income – Net	56,873	74,047	71,773
Monetary position gain	—	—	1,506
	(159,201)	(104,230)	(77,263)
Income before income taxes	1,230,341	1,125,198	1,131,147
Income tax expense	410,679	396,936	354,031
Consolidated net income	$ 819,662	$ 728,262	$ 777,116

See accompanying notes to consolidated financial statements.

Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and a 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Consolidated Statements of Changes in Stockholders' Equity
For the years ended December 31, 2012, 2011 and 2010 (Unaudited)
(In thousands of Mexican pesos)

	Common Stock	Retained Earnings	Foreign Currency Translation	Total Stockholders' Equity
Balances as of January 1, 2010 (Unaudited)	$1,266,239	$3,479,855	$ 41,400	$ 4,787,494
Comprehensive income (Unaudited)	—	777,116	(18,334)	758,782
Balances as of December 31, 2010 (Unaudited)	1,266,239	4,256,971	23,066	5,546,276
Dividends paid ($10.81 pesos per share)	—	(600,000)	—	(600,000)
Comprehensive income	—	728,262	150,899	879,161
Balances as of December 31, 2011	1,266,239	4,385,233	173,965	5,825,437
Comprehensive income	—	819,662	(36,152)	783,510
Balances as of December 31, 2012	$1,266,239	$5,204,895	$ 137,813	$ 6,608,947

See accompanying notes to consolidated financial statements.

Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and a 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Consolidated Statements of Cash Flows
For the years ended December 31, 2012, 2011 and 2010 (Unaudited)
(In thousands of Mexican pesos)

	2012	2011	2010 (Unaudited)
Operating activities:			
Income before income taxes	$1,230,341	$1,125,198	$1,131,147
Items related to investing activities:			
Depreciation and amortization	329,049	302,872	262,653
(Gain) loss on sale of fixed assets	(1,195)	(1,147)	15,520
Interest income	(9,352)	(10,486)	(12,391)
Other	—	(708)	—
Items related to financing activities:			
Interest expense	5,283	21,580	6,684
	1,554,126	1,437,309	1,403,613
Accounts receivable and recoverable taxes	(170,697)	(51,571)	(95,802)
Due to/from related parties – Net	17,226	(527)	463
Inventories	(435,198)	(204,088)	(495,636)
Prepaid expenses	11,415	17,365	(51,692)
Trade accounts payable	49,430	54,145	208,820
Accrued expenses	(130,535)	(88,054)	(143,557)
Income taxes paid	(289,477)	(251,339)	(218,166)
Other liabilities	4,176	(20,136)	(17,468)
Net cash provided by operating activities	610,466	893,104	590,575
Investing activities:			
Purchases of equipment and investments in leasehold improvements	(538,834)	(529,491)	(321,450)
Acquisition of subsidiaries, net of cash acquired	—	—	(178,353)
Purchase of trademark	—	—	(10,786)
Proceeds from sale of equipment	6,556	6,321	2,876
Interest received	9,352	10,486	12,391
Net cash used in investing activities	(522,926)	(512,684)	(495,322)
Financing activities:			
Borrowings from related party	550,000	400,000	—
Banks borrowings	—	100,000	100,000
Repayments to related party	(550,000)	(400,000)	—
Repayments of bank borrowings	—	(100,000)	(100,000)
Interest paid	(5,283)	(21,580)	(6,684)
Dividends paid	—	(600,000)	—
Net cash used in financing activities	(5,283)	(621,580)	(6,684)
Net (decrease) increase in cash and cash equivalents	82,257	(241,160)	88,569
Effects of exchange rate changes on cash	(36,152)	150,899	(17,870)
Cash and cash equivalents at beginning of year	302,656	392,917	322,218
Cash and cash equivalents at end of year	$ 348,761	$ 302,656	$ 392,917

See accompanying notes to consolidated financial statements.

Office Depot de México, S. A. de C. V. and Subsidiaries
(A 50% Owned Subsidiary of Grupo Gigante, S. A. B. de C. V.
and a 50% Owned Affiliate of Office Depot Delaware Overseas Finance 1, LLC)

Notes to Consolidated Financial Statements
For the years ended December 31, 2012, 2011 and 2010 (Unaudited)
(In thousands of Mexican pesos, unless stated otherwise)

1. Nature of business

Office Depot de México, S. A. de C. V. ("ODM", a 50% owned subsidiary of Grupo Gigante, S. A. B. de C. V. and 50% owned affiliate of Office Depot Delaware Overseas Finance 1, LLC) and subsidiaries (collectively, the "Company") is a chain of 215 stores in Mexico, five in Costa Rica, eight in Guatemala, three in El Salvador, two in Honduras, three in Panama, 12 in Colombia, nine distribution centers, a cross dock in Mexico that sells office supplies and electronic goods, and a printing service specializing in the retail and catalogue business for office supplies.

2. Basis of presentation

a. ***Comparability***—The most significant events and transactions affecting comparability of the accompanying consolidated financial statements are discussed below:

Acquisition of subsidiaries: On September 30, 2010, ODM acquired, directly and indirectly through its subsidiaries, 100% of the voting common stock of the companies Formas Eficientes, S. A. de C. V. and Papelera General, S. A. de C. V. in Mexico, Ofixpres, S. A. S. in Colombia, Ofixpres, S. A. de C. V. in El Salvador; and FESA Formas Eficientes, S. A. in Costa Rica. The primary activities of these companies include the distribution and handling of inventories as well as fabrication of printed forms. The activities of the acquired companies are aligned with the business strategy of ODM to increase sales and augment presence in Latin America.

The results of operations of the entities were included in the Company's consolidated financial statements beginning October 1, 2010.

Consideration paid, in cash, totaled U.S.$15,408 million, equivalent to $192,293

b. ***Explanation for translation into English***—The accompanying consolidated financial statements have been translated from Spanish into English for use outside of Mexico. These consolidated financial statements are presented on the basis of Mexican Financial Reporting Standards ("MFRS"), individually referred to as Normas de Información Financiera or "NIFs"). Certain accounting practices applied by the Company that conform with MFRS may not conform with accounting principles generally accepted in the country of use.

c. ***Monetary unit of the financial statements***—The consolidated financial statements and notes as of December 31, 2012 and 2011 and for the years ended December 31, 2012, 2011 and 2010, include balances and transactions denominated in Mexican pesos of different purchasing power.

d. ***Consolidation of financial statements***—The consolidated financial statements include the financial statements of ODM and those of its subsidiaries over which it exercises control. ODM's shareholding percentage in their capital stock is shown below:

Company	Equity	Activity
Direct Subsidiaries:		
Centro de Apoyo, S. A. de C. V.	99.998%	A Mexican real estate company, which owns properties where several stores of ODM are located.
O. D. G. Caribe, S. A. de C. V.	99.999999%	A Mexican holding company of subsidiaries specialized in the retail, catalogue business for office supplies, located in Colombia.
Servicios Administrativos Office Depot, S. A. de C. V.	99.84%	Provides administrative services to Mexican related parties, located in Mexico.
OD Guatemala y Cía. LTDA	99.9999%	Operates stores specializing in the sale of services and office supplies, located in Guatemala.
Erial BQ, S. A.	100%	Operates stores specializing in the sale of services and office supplies, located in Costa Rica.
OD El Salvador, LTDA de C. V.	99.99%	Operates stores specializing in the sale of services and office supplies, located in El Salvador.
OD Honduras, S. de R. L.	99.999%	Operates stores specializing in the sale of services and office supplies, located in Honduras.
OD Panamá, S. A.	100%	Operates stores specializing in the sale of services and office supplies, located in Panama.
Formas Eficientes, S. A. de C. V.	99.922%	The distribution and handling of office supplies inventories as well as printed forms, located in Mexico.
FESA Formas Eficientes, S. A.	100%	The distribution and handling of office supplies inventories as well printed forms, located in Costa Rica.
Ofixpres, S.A. de C.V.	99.939%	The distribution and handling of office supplies inventories as well as printed forms, located in El Salvador.

Company	Equity	Activity
Indirect subsidiaries:		
Centro de Apoyo Caribe S. A. de C. V.	90.00%	The acquisition and leasing of all types of real estate. This company has not initiated operations as of the date of these consolidated financial statements (subsidiary of Centro de Apoyo, S. A. de C. V.), located in Mexico.
OD Colombia, S. A. S.	89.90%	Stores specializing in the sale of services and office supplies (subsidiary of ODG Caribe, S. A. de C. V.), located in Colombia.
Papelera General, S. A. de C. V.	99.99%	The distribution of office supplies (subsidiary of Formas Eficientes, S. A. de C. V.), located in México.
Ofixpres, S. A. S.	100%	The distribution and handling of office supplies inventories as well as fabrication of printed forms, located in Colombia, (subsidiary of OD Colombia, S. A. S.).

Significant intercompany balances and transactions have been eliminated in the accompanying consolidated financial statements.

e. ***Translation of financial statements of foreign subsidiaries***—To consolidate financial statements of foreign subsidiaries, the accounting policies of the foreign entity are converted to MFRS using the currency in which transactions are recorded. As the functional currency is the same as the currency in which transactions are recorded for all of the Company's foreign operations, the financial statements are subsequently translated to Mexican pesos using the following exchange rates: 1) the closing exchange rate in effect at the balance sheet date for assets and liabilities; 2) historical exchange rates for stockholders' equity, and 3) the rate on the date of accrual of revenues, costs and expenses. Translation effects are recorded in stockholders' equity.

The currency in which transactions are recorded and the functional currency of foreign operations and the exchange rates used in the different translation processes are as follows:

Company	Recording currency	Functional currency	Exchange rate to translate from functional currency to Mexican pesos
OD Guatemala y Cía. LTDA	Quetzal	Quetzal	1.6436
Erial BQ, S. A.	Colon	Colon	0.0253
FESA Formas Eficientes, S. A.	Colon	Colon	0.0253
OD El Salvador, LTDA de C. V.	US dollars	US dollars	12.9880
Ofixpres, S.A. de C.V.	US dollars	US dollars	12.9880
OD Honduras, S. de R. L.	Lempiras	Lempiras	0.6508
OD Panamá, S. A.	US Dollars	US Dollars	12.9880
OD Colombia, S. A. S.	Colombian pesos	Colombian pesos	0.0073
Ofixpres, S. A. S.	Colombian pesos	Colombian pesos	0.0073

f. ***Comprehensive income***—Represents changes in stockholders' equity during the year, for concepts other than distributions and activity in contributed common stock, and is comprised of the net income of the year, plus other comprehensive income items of the same period, which are presented directly in stockholders' equity without affecting the consolidated statements of income. Other comprehensive income is represented solely by the translation effects of operations of foreign entities.

g. ***Classification of costs and expenses***—Costs and expenses presented in the consolidated statements of income were classified according to their function. Consequently, cost of sales is presented separately from the other costs and expenses.

3. Summary of significant accounting policies

The accompanying consolidated financial statements have been prepared in conformity with MFRS, which require that management make certain estimates and use certain assumptions that affect the amounts reported in the consolidated financial statements and their related disclosures; however, actual results may differ from such estimates. The Company's management, upon applying professional judgment, considers that estimates made and assumptions used were adequate under the circumstances. The significant accounting policies of the Company are as follows:

a. ***Accounting changes*** -

Beginning January 1, 2012, the Company adopted the following new NIF:

NIF C-6, *Property, Plant and Equipment*.—This standard establishes the obligation to separately depreciate significant components that comprise a single item of property, plant and equipment.

NIF C-15, *Impairment of Long-Lived Assets*—Eliminates a) the restriction that an asset should not be in use to be classified as available for sale and b) the reversal of impairment losses of goodwill. It also establishes that impairment losses of long-lived assets should be presented in the statements of income as costs or operating expenses depending where they correspond to and not within other income or expenses.

The adoption of these new standards did not have material effects in the accompanying consolidated financial statements.

b. ***Recognition of the effects of inflation***—Beginning on January 1, 2008, the Company discontinued recognition of the effects of inflation in its consolidated financial statements for those entities that do not operate in an inflationary environment, as that term is defined in MFRS. However, assets and stockholders' equity include the restatement effects recognized by those entities through December 31, 2007. The cumulative inflation rate in Mexico for the three fiscal years prior to those ended December 31, 2012, 2011 and 2010 was 12.26%, 15.19% and 14.48%, respectively, for which reason the economic environment continued to be considered non-inflationary in all periods. Inflation rates for the years ended 2012, 2011 and 2010 were 3.57%, 3.82% and 4.40%, respectively.

c. ***Cash and cash equivalents***—Cash and cash equivalents consist mainly of bank deposits in checking accounts and readily available daily investments of cash surpluses. Cash and cash equivalents are stated at nominal value plus accrued yields, which are recognized in results as they accrue. The Company considers all short-term highly-liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents.

d. ***Concentration of credit risk***—The Company sells products to customers primarily in the retail trade in Mexico. The Company conducts periodic evaluations of its customers' financial condition and generally does not require collateral. The Company does not believe that significant risk of loss from a concentration of credit risk exists given the large number of customers that comprise its customer base and their geographical dispersion. The Company also believes that its potential credit risk is adequately covered by the allowance for doubtful accounts.

e. ***Inventories and cost of sales***—Inventories are stated at the lower of cost or realizable value. Cost is determined using the average cost method.

f. ***Property, equipment and leasehold improvements***—Property, equipment and leasehold improvements are recorded at acquisition cost. Balances from acquisitions made through December 31, 2007, were restated for the effects of inflation by applying factors derived from the NCPI (National Consumer Price Index) through that date.

Depreciation is calculated using the straight-line method based on the useful lives of the related assets, as follows:

	Average years
Buildings	40
Leasehold improvements	9-25
Furniture and fixtures	4-10
Computers	4
Vehicles	4-8

The useful lives of fixed assets are reviewed at least annually to determine whether events and circumstances warrant a revision.

g. ***Impairment of long-lived assets in use***—The Company reviews the carrying amounts of long-lived asset in use, other than goodwill and intangible assets with indefinite useful lives, when an impairment indicator suggests that such amounts might not be recoverable, considering the greater of the present value of future net cash flows or the net sales price upon disposal. Impairment is recorded when the carrying amounts exceed the greater of the aforementioned amounts. Impairment indicators considered for these purposes are, among others, operating losses or negative cash flows in the period if they are combined with a history or projection of losses, depreciation and amortization charged to results, which in percentage terms in relation to revenues are substantially higher than that of previous years, obsolescence, competition and other legal and economic factors.

h. ***Goodwill and intangible assets***—Goodwill represents the excess of consideration paid over the fair value of the net assets acquired in subsidiary shares, as of the date of acquisition. Through December 31, 2007, goodwill was restated for the effects of inflation using the NCPI. Intangible assets with indefinite useful lives are carried at cost. Goodwill and intangible assets with indefinite useful lives are not amortized and are subject to impairment tests at least once a year, regardless of the existence of impairment indicators.

The Company amortizes the cost of its intangible assets with definite useful lives over such estimated useful lives. These lives are reviewed at least annually to determine whether events and circumstances warrant a revision. Useful lives are as follows:

	Years
Customer list	5
Non-compete agreement	10

i. ***Provisions***—Provisions are recognized for current obligations that arise from a past event, that are probable to result in the use of economic resources, and that can be reasonably estimated.

j. ***Direct employee benefits***—Direct employee benefits are calculated based on the services rendered by employees, considering their most recent salaries. The liability is recognized as it accrues. These benefits include mainly statutory employee profit sharing (“PTU”) payable, compensated absences, such as vacation and vacation premiums, and incentives.

k. ***Employee benefits for termination, retirement and other***—Liabilities related to seniority premiums and, severance payments are recognized as they accrue and are calculated by independent actuaries based on the projected unit credit method using nominal interest rates.

l. ***Statutory employee profit sharing (PTU)***—PTU is recorded in the results of the year in which it is incurred and presented under selling, administrative and general expenses in the accompanying consolidated statements of income. Deferred PTU is derived from temporary differences that result from comparing the accounting and PTU bases of assets and liabilities and is recognized only when it can be reasonably assumed that such difference will generate a liability or benefit, and there is no indication that circumstances will change in such a way that the liabilities will not be paid or benefits will not be realized.

m. ***Income taxes***—Income tax (“ISR”) and the Business Flat Tax (“IETU”) are recorded in the results of the year they are incurred. To recognize deferred income taxes, based on its financial projections, the Company determines whether it expects to incur ISR or IETU and, accordingly, recognizes deferred taxes based on that expectation. Deferred taxes are calculated by applying the corresponding tax rate to temporary differences resulting from comparing the accounting and tax bases of assets and liabilities and including, if any, future benefits from tax loss carryforwards and certain tax credits. Deferred tax assets are recorded only when there is a high probability of recovery.

n. ***Foreign currency transactions***—Foreign currency transactions are recorded at the applicable exchange rate in effect at the transaction date. Monetary assets and liabilities denominated in foreign currency are translated into functional currency amounts at the applicable exchange rate in effect at the balance sheet date. Exchange fluctuations are recorded as a component of net comprehensive financing cost in the consolidated statements of income.

o. ***Revenue recognition***—Revenues are recognized in the period in which the risks and rewards of ownership of the inventories are transferred to the customers, which generally coincides with the delivery of products to customers in satisfaction of orders.

Revenue is recognized at the point of sale for retail transactions and at the time of successful delivery for contract, catalog and internet sales. Sales taxes collected are not included in reported sales. The Company does not charge shipping and handling costs to its customers; such costs are included within selling, administrative and general expenses within the consolidated statements of income and amounted to $124,109, $118,037 and $101,803 in 2012, 2011 and 2010 (unaudited), respectively.

p. ***Advertising***—Advertising costs are charged to expense when incurred. Advertising expense for the years ended December 31, 2012, 2011 and 2010 (unaudited) was $239,639, $203,451and $202,107, respectively. Prepaid advertising costs were $44,723 and $59,936 as of December 31, 2012 and 2011.

q. ***Reclassifications***—Certain amounts in the consolidated financial statements as of December 31, 2011 and for the years ended December 31, 2011 and 2010 (unaudited) have been reclassified in order to conform to the presentation of the consolidated financial statements as of and for the year ended December 31, 2012.

4. Cash and cash equivalents

	2012	2011
Checking accounts	$258,009	$290,598
Readily available daily investments	90,752	12,058
	$348,761	$302,656

5. Accounts receivable and recoverable taxes

	2012	2011
Trade accounts receivable	$ 663,894	$619,977
Allowance for doubtful accounts	(5,728)	(10,259)
	658,166	609,718
Sundry debtors	33,263	32,871
Recoverable taxes, mainly value-added tax and income tax	342,188	220,331
	$1,033,617	$862,920

Movements in the allowance for doubtful accounts for the years ended December 31 are as follows:

	Balance at beginning of period	Additional charged to expenses	Write-offs of uncollectible accounts	Balance at ending of period
2012	$ 10,259	$ 1,107	$ 5,638	$ 5,728
2011	4,109	7,556	1,406	10,259
2010 (Unaudited)	2,305	3,276	1,472	4,109

6. Inventories

	2012	2011
Inventories	$3,337,106	$2,904,640
Allowance for obsolete inventories	(19,516)	(12,659)
	3,317,590	2,891,981
Goods in-transit	50,759	41,170
	$3,368,349	$2,933,151

Movements in the allowance for obsolete inventories for the years ended December 31 are as follows:

	Balance at beginning of period	Additional charged to expenses	Shrinkage	Balance at ending of period
2012	$ 12,659	$ 20,712	$ 13,855	$ 19,516
2011	11,983	16,759	16,083	12,659
2010 (Unaudited)	5,022	16,622	9,661	11,983

7. Property, equipment and leasehold improvements

	2012	2011	2010 (Unaudited)
a) Investment			
Land	$1,378,984	$1,365,260	$1,248,269
Buildings	1,803,077	1,713,779	1,609,980
Leasehold improvements	1,600,527	1,476,640	1,374,739
Furniture and fixtures	1,064,491	966,230	868,628
Computers	375,465	314,352	276,494
Vehicles	171,582	160,225	146,038
Construction in-progress	86,554	73,774	11,482
	$6,480,680	$6,070,260	$5,535,630
b) Accumulated depreciation and amortization			
Buildings	$ 380,134	$ 325,758	$ 270,620
Leasehold improvements	713,485	644,443	566,612
Furniture and fixtures	675,835	612,433	534,718
Computers	270,329	247,264	217,385
Vehicles	113,109	106,936	92,288
	$2,152,892	$1,936,834	$1,681,623
	$4,327,788	$4,133,426	$3,854,007

Depreciation expense for the years ended December 31, 2012, 2011 and 2010 (unaudited) was $230,248, $207,982 and $196,794, respectively.

Amortization expense for the years ended December 31, 2012, 2011 and 2010 (unaudited) was $98,801, $94,890 and $65,859, respectively, which includes amortization of leasehold improvements as well as intangibles detailed in Note 8.

8. Intangible assets

Intangible assets as of December 31, are as follows:

	2012	2011
Intangible assets with finite useful lives:		
Non-compete agreement	$ 22,412	$ 24,121
Customer list	105,908	103,346
	128,320	127,467
Accumulated amortization	(63,575)	(40,308)
	64,745	87,159
Intangible asset with indefinite useful life:		
Trademark	13,550	12,990
	$ 78,295	$100,149

Amortization expense of intangible assets for the years ended December 31, 2012, 2011 and 2010 (unaudited) was $23,266, $36,641 and $0, respectively. The estimated amortization expense of intangible assets with finite lives for each of the three following years is as follows:

2013	$23,340
2014	23,340
2015	18,065

9. Employee benefits

a. The Company pays seniority premium benefits to its employees, which consist of a lump sum payment of 12 days' wage for each year worked, calculated using the most recent salary, not to exceed twice the minimum wage established by law. The related liability and annual cost of such benefits are calculated by an independent actuary on the basis of formulas defined in the plans using the projected unit credit method.

b. The Company also provides statutorily mandated severance benefits to its employees terminated under certain circumstances. Such benefits consist of a one-time payment of three months wages plus 20 days wages for each year of service payable upon involuntary termination without just cause.

c. Present value of these obligations are:

	2012	2011
Defined benefit obligation—Underfunded	$(45,804)	$(42,316)
Unrecognized items:		
Past service costs, change in methodology and changes to the plan	989	1,020
Transition liability	83	291
Actuarial gains and losses	(219)	230
Total unrecognized amounts pending amortization	853	1,541
Net projected liability	$(44,951)	$(40,775)

d. Nominal rates used in actuarial calculations are as follows:

	2012 %	2011 %
Discount of the projected benefit obligation at present value	8.19	7.98
Salary increase	5.73	5.86
Minimum wage increase rate	4.27	4.27

The transition liability balance generated in 2007 will be amortized over a five-year period.

e. Net cost for the period includes the following items:

	2012	2011	2010 (Unaudited)
Service cost	$10,913	$ 9,255	$ 9,220
Interest cost	2,954	2,880	2,068
Amortization of unrecognized prior service costs	208	5,197	3,978
Amortization of actuarial gains	1,412	(6,977)	(1,759)
Effect of personnel reduction or early termination (other than a restructuring or discontinued operation)	(605)	(605)	(509)
Net cost for the period	$14,882	$ 9,750	$ 12,998

f. Changes in present value of the defined benefit obligation are as follows:

	2012	2011	2010 (Unaudited)
Benefit obligation at beginning of year	$ 40,775	$33,997	$ 24,773
Service cost	10,913	9,255	9,220
Interest cost	2,954	2,880	2,068
Amortization of unrecognized prior service costs	208	5,197	3,977
Actuarial gains and losses – Net	1,412	(6,977)	(1,759)
Benefits paid	(10,706)	(2,972)	(3,775)
Effect of personnel reduction or early termination	(605)	(605)	(507)
Present value of the defined benefit obligation as of December 31	$ 44,951	$40,775	$ 33,997

g. Under Mexican legislation, the Company must make payments equivalent to 2% of its workers' daily integrated salary to a defined contribution plan that is part of the retirement savings system. The expense in 2012, 2011 and 2010 (unaudited) was $15,908, $14,348 and $12,552, respectively.

h. Balance of PTU as of December 31 is as follows:

	2012	2011	2010 (Unaudited)
PTU:			
Current	$(11,489)	$(10,186)	$ (8,822)
Deferred	5	(79)	1,018
	$(11,485)	$(10,265)	$ (7,804)

10. Stockholders' equity

a. Common stock at par value (historical pesos) as of December 31, 2012 and 2011 is as follows:

	Number of Shares	Amount
Fixed capital:		
Series A	2,500	$ 25
Series B	2,500	25
	5,000	50
Variable capital:		
Series A	27,749,159	277,492
Series B	27,749,159	277,492
Total	55,498,318	554,984
	55,503,318	$555,034

Common stock consists of common nominative shares at a par value of $10 per share. Series A shares represent 50% of common stock and may only be acquired by Mexican citizens. Series B shares represent 50% of common stock and may be freely subscribed. Variable capital is unlimited.

b. Pursuant to a resolution at the general ordinary stockholders' meeting held on April 8, 2011, a dividend was declared out of the net tax income account (CUFIN) for $600,000.

c. Retained earnings include the statutory legal reserve. The General Corporate Law requires that at least 5% of net income of the year be transferred to the legal reserve until the reserve equals 20% of capital stock at par value (historical pesos). The legal reserve may be capitalized but may not be distributed unless the entity is dissolved. The legal reserve must be replenished if it is reduced for any reason. As of December 31, 2012 and 2011, the legal reserve, in historical pesos, was $111,007.

d. Stockholders' equity, except restated paid-in capital and tax retained earnings will be subject to ISR payable by the Company at the rate in effect upon distribution. Any tax paid on such distribution may be credited against annual and estimated income taxes of the year in which the tax on dividends is paid and the following two fiscal years.

e. The balances of the stockholders' equity tax accounts as of December 31, are:

	2012	2011
Contributed capital account	$1,569,241	$1,515,297
Net tax income account (CUFIN)	5,855,646	4,785,758
Total	$7,424,887	$6,301,055

11. Foreign currency balances and transactions

a. As of December 31, the foreign currency monetary position is as follows:

	2012	2011
Thousands of U.S. dollars:		
Monetary assets	$ 27,895	$ 26,083
Monetary liabilities	(35,546)	(28,639)
Net monetary liability position	(7,651)	(2,556)
Equivalent in thousands of Mexican pesos	$(99,310)	$(35,733)

b. Transactions denominated in foreign currency were as follows:

(Thousands of U.S. dollars)	2012	2011	2010 (Unaudited)
Import purchases	192,777	183,755	151,944
Acquisition of fixed assets	22,538	18,657	19,825
Other expenses	822	606	534

c. Mexican peso exchange rates in effect at the dates of the consolidated balance sheets and the date of the related independent auditors' report were as follows:

	December 31, 2012	December 31, 2011	February 15, 2013
Mexican pesos per one U. S. dollar	$ 12.98	$ 13.98	$ 12.69

12. Transactions and balances with related parties

a. Transactions with related parties, carried out in the ordinary course of business, were as follows:

	2012	2011	2010 (Unaudited)
Sales:			
Restaurantes Toks, S. A. de C. V.	$ 1,142	$ 1,144	$ 1,110
Servicios Gastronómicos Gigante, S. A. de C. V.	162	155	184
Servicios Toks, S. A. de C. V.	110	146	181
Distribuidora Store Home, S. A. de C. V.	78	76	56
Unidad de Servicios Compartidos, S. A. de C. V.	118	48	49
Grupo Gigante, S. A. B. de C. V.	32	17	30
Gigante, S. A. de C. V.	6	2	4
Gigante Grupo Inmobiliario, S. A. de C. V.	16	24	2
Other related parties	1,989	1,778	3,735
Leases and maintenance income:			
Restaurantes Toks, S. A. de C. V.	12,943	11,244	10,086
Distribuidora Store Home, S. A. de C. V.	3,350	3,004	2,400
Servicios Toks, S. A. de C. V.	2,393	2,277	2,188
Other related parties	1,210	1,167	1,119

	2012	2011	2010 (Unaudited)
Leases, maintenance and other expenses:			
Gigante Grupo Inmobiliario	40,142	38,891	32,433
Office Depot, Inc.	1,161	3,088	1,966
Gigante, S. A. de C. V.	2,680	170	91
Other related parties	15,558	9,687	9,714
Grupo Gigante, S. A. B. de C. V.	1,957	—	—
Interest expense:			
Grupo Gigante, S. A. B. de C. V.	4,832	18,899	—
Acquisition and maintenance of vehicles:			
Ola Polanco, S. A. de C. V.	1,929	2,433	3,273
Nami Naucalpan, S. A. de C. V.	—	—	18
Services paid:			
Compañía Mexicana de Aviación, S. A. de C. V.	—	—	3,654
Intermediation commissions paid:			
Office Depot Asia Holding Limited	—	—	17,526
Purchase of inventories:			
Office Depot Asia Holding Limited	426,262	269,706	17,424

b. Balances due from related parties are as follows:

	2012	2011
Restaurantes Toks, S. A. de C. V.	$194	$144
Servicios Toks, S. A. de C. V.	12	16
Grupo Gigante S. A. B. de C. V.	27	14
Distribuidora Storehome, S. A. de C. V.	18	13
Servicios Gastronómicos Gigante, S. A. de C. V.	30	10
Gigante, S. A. de C. V.	7	—
Other related parties	19	27
	$307	$224

13. Other expenses

a. Detail is as follows:

	2012	2011	2010
Colombian equity tax	$—	$(39,334)	$—
Others	588	—	—
	$588	$(39,334)	$—

14. Tax environment

Income taxes in Mexico -

The Company is subject to ISR and IETU.

The ISR rate was 30% for 2012 and 2011; it will be 30% for 2013, 29% for 2014 and 28% for 2015 and subsequent years.

IETU—Revenues, as well as deductions and certain tax credits, are determined based on cash flows of each fiscal year. The IETU rate is 17.5%. The Asset Tax (IMPAC) Law was repealed upon enactment of the IETU Law; however, under certain circumstances, IMPAC paid in the ten years prior to the year in which ISR is paid for the first time, may be recovered, according to the terms of the law.

Income tax incurred will be the higher of ISR and IETU.

Based on its financial projections and according to Interpretation of Financial Information Standard ("INIF") 8, *Effects of the Business Flat Tax*, the Company determined that certain subsidiaries will pay ISR while others will pay IETU. Therefore, deferred income taxes are calculated under both tax regimes.

Income taxes in other countries -

The foreign subsidiaries calculate income taxes on their individual results, in accordance with the regulations of each country.

The tax rates applicable in other countries where the Company operates and the period in which tax losses may be applied, are as follows:

	Statutory income tax rate (%)			Period of expiration
	2012	2011	2010	
Colombia	33.0	33.0	33.0	(a)
Costa Rica	30.0	30.0	30.0	3
El Salvador	30.0	25.0	25.0	(b)
Guatemala	31.0	31.0	31.0	(b)
Honduras	31.0	35.0	35.0	4
Panama	25.0	25.0	27.5	5

(a) Tax losses generated in 2006 may be amortized up to 25% in each fiscal year. Beginning 2007, tax losses may be amortized without limitation on the value or period.

(b) Operating losses are not amortizable.

a. Income taxes are as follows:

	2012	2011	2010 (Unaudited)
ISR:			
Current	$446,002	$398,200	$ 365,899
Deferred	(79,600)	(41,574)	(43,345)
	366,402	356,626	322,554
IETU:			
Current	33,660	25,728	23,892
Deferred	10,617	14,582	7,585
	44,277	40,310	31,477
Total	$410,679	$396,936	$ 354,031

b. Income taxes and the reconciliation of the statutory and effective ISR rates, expressed in amounts and as a percentage of income before income taxes, are:

	2012 %	2011 %	2010 (Unaudited) %
Statutory tax rate	30	30	30
Effects of inflation	(1)	(2)	(3)
Non-deductible expenses	1	1	1
Other	(1)	2	—
IETU	4	4	3
	33%	35%	31%

c. The main items originating the deferred ISR asset are:

	2012	2011
Deferred ISR asset:		
Effect of tax loss carryforwards	$ 96,368	$ 78,229
Property, equipment and leasehold improvements	139,298	110,500
Accrued expenses	29,050	17,422
Allowance for doubtful accounts	342	853
Other, net	11,636	11,706
Deferred ISR asset	276,694	218,710
Deferred ISR liability:		
Inventories	(18,657)	(55,539)
Prepaid expenses	(15,661)	(19,957)
Deferred ISR liability	(34,318)	(75,496)
Valuation allowance for deferred ISR asset	(93,068)	(75,587)
Net deferred ISR asset	$149,308	$ 67,627

Movements in the valuation allowance for the deferred ISR asset for the years ended December 31 are as follows:

	Balance at beginning of period	Additional charged to expenses	Amortization of tax losses	Balance at ending of period
2012	75,587	1,572	—	77,159
2011	79,242	21,147	24,802	75,587
2010 (Unaudited)	33,155	46,087	—	79,242

d. As of December 31, the main items that give rise to a deferred IETU liability are:

	2012	2011
Deferred IETU liability:		
Accounts receivable from affiliated companies	$(62,627)	$(49,690)
Vehicles	(2,261)	(1,789)
Deferred IETU liability	(64,888)	(51,479)
Deferred IETU asset:		
Accrued expenses	13,868	11,076
Deferred IETU asset:	13,868	11,076
Total IETU liability	$(51,020)	$(40,403)
Deferred income taxes	$ 98,288	$ 27,224

e. The benefits of restated tax loss carryforwards for which the deferred ISR asset has been recognized, can be recovered subject to certain conditions in different jurisdictions. Restated amounts as of December 31, 2012 and expiration dates are:

Year of Expiration	Tax loss Carryforwards
2013	$ 3,568
2014	2,556
2015	2,086
2016	2,001
2017	1,256
2018	995
2019	369
2020	23
2021	22
2022	22
	$ 12,898

In Colombia, tax losses carryforwards of $282,023 as of December 31, 2012 can be recovered without limitation on the value or period.

15. Commitments and Contingencies

Commitments

The Company leases retail stores and other facilities under operating lease agreements with initial lease terms expiring in various years through 2040. In addition to minimum rentals, there are certain executory costs such as real estate taxes, insurance and common area maintenance on most of the Company's facility leases.

The table below shows future minimum lease payments due under the non-cancelable portions of our leases as of December 31, 2012.

2013	$ 364,948
2014	340,720
2015	333,231
2016	314,707
2017	303,493
Thereafter	$2,498,292

Rent expense was $404,505 in 2012, $352,185 in 2011 and $294,838 in 2010.

Legal Matters

On August 31, 2005, in an effort to expand operations within Mexico, a sublease agreement with respect to a plot of land was signed between the Company and a third party, under which the Company would sublease the land and build one of its Office Depot stores. After subsequent analysis, in its own best interest, the Company decided not to proceed with the project and notified the third party of its intent to early terminate the sublease contract. The third party considered this to be a breach of the sublease contract, which resulted in the Company filing a lawsuit against the sublessor in July 2006, seeking the early termination of the contract. The third party filed a counterclaim against the Company seeking mandatory performance by the Company under the contract.

In October 2008, the Company was ordered under the counterclaim to comply with the terms of the sublease agreement, which requires the construction of an Office Depot store on the plot of land. The Company filed an appeal in January 2009. On August 19, 2010, the court rejected the Company's appeal of January 2009. The Company filed an *amparo* or appeal (an injunction on constitutional grounds) against the August 19, 2010 resolution as result of which (after the corresponding legal steps), the court resolved the case on October 5, 2012 by ratifying the first resolution issued on October 2008 against the Company.

Subsequently, the Company filed another appeal in November 2012.

The Company, together with its external counsel, estimated that the accrued rentals and the approximate cost of the construction of the Office Depot store were approximately $18,000 and a liability was recognized for this amount as of December 31, 2012; which is included in accrued expenses in the accompanying consolidated financial statements.

On February 14, 2013, a negotiated settlement was agreed upon between the Company and the third party, whereby the Company agreed to settle the claim for $11,600. The adjustment to the provision is not recognized in the accompanying consolidated financial statements as a result of its immateriality.

16. Subsequent events

The Company has evaluated events subsequent to December 31, 2012 to assess the need for potential recognition or disclosure in the accompanying consolidated financial statements. Such events were evaluated through November 7, 2013, the date these consolidated financial statements were available to be reissued. Based upon this evaluation, in addition to the final resolution of the legal matter disclosed in Note 15, the following events took place that require disclosure:

a. On July 9, 2013, Grupo Gigante, S. A. B. de C. V. ("Grupo Gigante") acquired 50% of the outstanding shares of the Company, which were previously owned by a subsidiary of Office Depot, Inc. As a result of the acquisition, Grupo Gigante owns 100% of the outstanding shares of ODM as of such date. Grupo Gigante issued a bridge loan to finance the acquisition. The bridge loan is guaranteed by ODM and certain of its subsidiaries, as well as certain other subsidiaries of Grupo Gigante. On September 23, 2013, Grupo Gigante pre-paid 50% of the outstanding amount of bridge loan.

b. On September 20, 2013, the Company formally issued 6.875% Senior Notes in the Mexican market and other international markets pursuant to private offerings in accordance with Rule 144A of the U.S. Securities Act of 1933 (the "Act"), amended and Regulation S of the Act, for a total of $350 million U.S. dollars, maturing on September 20, 2020. The Senior Notes are guaranteed by the Company and certain other subsidiaries of the Company. The Senior Notes establish certain restrictions such as: the inability to incur in additional debt, restrictions on the sale of assets or sale of subsidiaries, limitations on dividend payments, limitations on liens or foreclosure properties and limitations to the consolidation, merger or transfer of assets, among others. The Company used the proceeds of the issuance of the Senior Notes to grant Grupo Gigante an unsecured loan for $4,352,543, which expires on September 20, 2020. Such loan will earn annual interest of 7.225%.

c. At a shareholder's meeting held on September 20, 2013, the shareholder approved the declaration of dividends in the amount of $4,352,543, payable within 84 months from September 20, 2013. Any unpaid amount will bear interest at an annual rate of 7.175%.

17. New accounting principles

As part of its efforts to make Mexican standards converge with international standards, in 2012, the Mexican Board for Research and Development of Financial Information Standards ("CINIF") issued the following NIFs, INIFs and improvements to NIFs, which will become effective as of January 1, 2013:

B-3, Statement of Comprehensive Income
B-4, *Statement of Changes in Stockholders' Equity*
B-6, Statement of Financial Position
B-8, *Consolidated or Combined Financial Statements*
C-7, *Investments in Associates, Joint Ventures and Other Permanent Investments*
C-21, Joint Control Arrangements
Improvements to Mexican Financial Reporting Standards 2013

Some of the most important changes established by these standards are:

NIF B-3—*Statement of Comprehensive Income*, provides the option of presenting a) a single statement of comprehensive income (loss) containing the items that comprise (i) net income (loss) of the entity, (ii) other comprehensive income (loss) items of the entity and (iii) equity in other comprehensive income (loss) of other entities, such as associates, or b) two statements: a statement of income (loss), which would include only items that make up net income (loss), and a separate statement of other comprehensive income (loss), which should begin with net income (loss) and immediately present other comprehensive income (loss) items of the entity and other comprehensive income (loss) of other entities, such as associates. In addition, NIF B-3 establishes that items should not be separately presented as non-ordinary in the financial statements or the notes to the financial statements.

NIF B-4, *Statement of Changes in Stockholders' Equity*, establishes the general principles for the presentation and structure of the statement of changes in stockholders' equity, such as showing retrospective adjustments due to accounting changes and correction of errors that affect the beginning balances of stockholders' equity and presenting comprehensive income (loss) in a single line item, presenting detail of all items comprising comprehensive income (loss) based on the requirements of NIF B-3.

NIF B-6, *Statement of Financial Position*, specifies the structure of the statement of financial position as well as the rules of presentation and disclosure.

NIF B-8, *Consolidated or Combined Financial Statements*, modifies the definition of control, which is the basis for requiring that the financial information of that entity is consolidated with the reporting entity. Based on this new definition of control, certain investments which did not previously require consolidation may now be consolidated while other investments that were previously consolidated may no longer require consolidation. This NIF establishes that an entity controls another when it has power to direct the investees relevant activities; it is exposed or entitled to variable returns from such participation in the investee; and it has the ability to use its power to affect its returns. This standard introduces the concept of protective rights, defined as the rights that protect the involvement of the investor but do not necessarily give the investor control. This standard incorporates the principal-agent concept, whereby a decision-maker who has the authority to decide on the relevant activities of the investee is considered a principal, while an agent merely makes decisions on behalf of the principal and thus does not exercise control over the investee. The standard also replaces the concept of a special-purpose entity with a structured entity, which is an entity designed in such a way that voting or other similar rights are not the determining factor for deciding controls over the structured entity.

NIF C-7, *Investments in Associates, Joint ventures and Other Permanent Investments*, establishes that investments in joint ventures should be recognized through the application of the equity method and that the participation of an investor in the income or loss of investments in associated companies, joint ventures and others permanent investment should be recognized in results in a single line item representing participation in the results of such investments. It requires additional disclosures aimed at providing enahanced financial information of the associates and joint ventures and eliminates.

NIF C-21, *Joint Control Arrangements*, defines a joint arrangement as an arrangement in which two or more parties have joint control. These types of arrangements can be in the form of 1) joint operations, whereby the parties to the arrangement have direct rights to the assets and obligations for the liabilities of the arrangement or 2) joint ventures, whereby the parties have rights to participate only in the residual value of the net assets of the arrangement. This standard establishes that participation in a joint venture must be recognized as a permanent investment, and accounted for using the equity method.

Improvements to Mexican Financial Reporting Standards 2013—The main improvements that generate accounting changes that should be recognized retroactively in fiscal years beginning on January 1, 2013 are:

Bulletin C-9, *Liabilities, Provisions, Assets and Contingent Liabilities and Commitments* and Bulletin C-12, *Financial Instruments with Characteristics of Liabilities,Equity or Both*, establish that debt issuance costs must be presented net against the corresponding liability and applied to results based on the effective interest method.

Bulletin C-15, *Accounting for Impairment and Disposal of Long-lived Assets*, eliminates the obligation to restate, for comparative purposes, statements of financial position of prior periods for the effects of assets held for sale.

Bulletin D-5, *Leases*, establishes that non-refundable payments related to leasehold rights must be deferred during the lease term and applied to results in proportion to the recognition of income or expense relating to the lessor or lessee, respectively.

As of the date of these consolidated financial statements, the Company is still in the process of determining the effects of adoption of these new standards.

18. Differences between MFRS and accounting principles generally accepted in the United States of America ("U.S. GAAP")

The accompanying consolidated financial statements of the Company are prepared in accordance with MFRS, which may vary in certain significant respects from U.S. GAAP. Note 3 to the accompanying consolidated financial statements summarizes the accounting policies adopted by the Company. The principal differences between MFRS and U.S. GAAP as they affect the Company's consolidated net income, consolidated stockholders' equity, presentation of consolidated financial information and the relevant disclosures are summarized below:

	2012	2011	2010 (Unaudited)
Consolidated net income under MFRS	$819,662	$728,262	$ 777,116
(i) Elimination of effects of inflation	24,056	30,570	25,467
(ii) Employee retirement obligations	972	(485)	2,209
(iii) Rent holidays	(9,251)	411	(4,664)
(v) Deferred PTU asset	(4)	79	(1,018)
Total U.S. GAAP adjustments	15,773	30,575	21,994
(vi) Deferred income tax effects on U.S. GAAP adjustments	(3,569)	22,927	(5,412)
Consolidated net income under U.S. GAAP	$831,866	$781,764	$ 793,698

	2012	2011
Consolidated stockholders' equity under MFRS (1)	$ 6,608,947	$ 5,825,437
(i) Elimination effects of inflation	(422,222)	(449,849)
(ii) Change in employee retirement obligations	967	1,392
(iii) Rent holidays	(48,719)	(39,600)
(iv) Amortization of goodwill	13,812	13,812
(v) Deferred PTU asset	(808)	(798)
Total U.S. GAAP adjustments	$ (456,970)	$ (475,043)
(vi) Deferred income tax effects on U.S. GAAP adjustments	135,183	140,543
Consolidated stockholders' equity under U.S. GAAP	$6,287,160	$5,490,937

(1) Individual adjustments to the accompanying reconciliation of stockholders' equity include the effects of translation of foreign operations whose functional currency is different from the Mexican peso.

(i) *Elimination of the effects of inflation*—Through December 31, 2007, MFRS required the recognition of the comprehensive effects of inflation on consolidated financial information. Beginning January 1, 2008, MFRS only requires the recognition of the effects of inflation for entities that operate in an inflationary environment (one whose cumulative inflation for the preceding three-year periods equals or exceeds 26%). Since that date, Mexico has ceased to be an inflationary economic environment. However assets and stockholders' equity under MFRS include the effects of inflation recognized through December 31, 2007. The elimination of the effects of inflation on individual line items in the consolidated balance sheets under MFRS are as follows:

	2012	2011
Property, equipment and leasehold improvements	$407,875	$435,386
Intangible assets	450	566
Goodwill	13,897	13,897
Total adjustment	$422,222	$449,849

U.S. GAAP generally requires the use of the historical cost basis of accounting, except when an entity operates in a highly inflationary economy. Accordingly, the comprehensive effects of inflation recognized under MFRS have been eliminated in the accompanying reconciliation of consolidated net income and stockholders' equity to U.S. GAAP.

(ii) *Employee benefits*—Under MFRS, liabilities from seniority premiums, pension plans and severance payment are recognized as they accrue, determined based on actuarial calculations using the projected unit credit method. The liability recognized under MFRS does not include unrecognized items such as actuarial gains and losses and prior service costs, which under MFRS, will be amortized to the liability generally over the remaining service period of the employees.

U.S. GAAP requires recognition of the fully overfunded or underfunded status of the liability for defined benefit employee obligations, with an offsetting entry to other comprehensive income. The amounts included in other comprehensive income are reclassified into results generally over the remaining service period of the employees. Additionally, for certain termination benefits under MFRS, modifications to a plan and the related prior service costs are recognized within results in the year of modification; under U.S. GAAP, these prior service costs are recognized in other comprehensive income and amortized to results generally over the remaining service period of the employees. Accordingly, the adjustment in the accompanying reconciliations of consolidated net income and stockholders' equity to U.S. GAAP include (i) the recognition of the fully underfunded status of the obligation under U.S. GAAP within other comprehensive income and (ii) the difference in recognition of prior service costs related to certain termination benefits, given modifications to such benefits in 2010.

In addition, U.S. GAAP requires certain additional disclosures as shown below:

	Employee benefits 2012	Employee benefits 2011
As of December 31:		
Projected benefit obligation	$ 45,804	$ 41,780
Change in benefit obligation:		
Benefit obligation at beginning of year	41,780	35,518
Service cost	10,913	9,255
Interest cost	2,954	2,880
Amortization of transition obligation	128	3,558
Amortization of prior service cost	974	1,371
Actuarial gain	(239)	(7,830)
Benefits paid	(10,706)	(2,972)
Benefit obligation at end of year	$ 45,804	$ 41,780

	Employee benefits 2012	Employee benefits 2011
Components of net periodic cost:		
Service cost	$ 10,912	$ 9,255
Interest cost	2,954	2,880
Amortization of transition obligation	128	3,590
Amortization of prior service cost	112	1,371
Effect of personnel reduction or early termination (other than a restructuring or discontinued operation)	—	(2,395)
Amortization of net gain	(197)	(4,466)
Net periodic cost	$ 13,910	$ 10,235

The amount in accumulated other comprehensive income expected to be recognized as component of net periodic benefit cost over the following fiscal year is $1,825.

Weighted-average assumptions used to determine benefit obligations and net periodic benefit cost as of and for the year ended December 31, 2012 and 2011:

	2012 %	2011 %
Discount of the projected benefit obligation at present value	8.19	7.98
Salary increase	5.73	5.86
Minimum wage increase rate	4.27	4.27

(iii) *Rent holidays*—Under MFRS, rental expense is recorded beginning when the related store initiates operations.

Under U.S. GAAP, rental expense is recognized on a straight-line basis, or another more appropriate systematic approach, which does not necessarily depend upon initiation of operations of the related store.

(iv) *Amortization of goodwill*—Under MFRS, goodwill stemming from an acquisition of a business was amortized through 2004.

Under U.S. GAAP, amortization of goodwill ceased on January 1, 2002. The adjustment to the reconciliation of consolidated stockholders' equity represents the amortization of goodwill which occurred on goodwill from January 1, 2002 to December 31, 2005.

(v) *Deferred PTU asset*—Mexican statutory requirements require Mexican entities to pay statutory PTU to their employees. Current PTU is recorded in the results of the year in which it is incurred. The recognition of deferred PTU is also required, whether it results in a net liability or net asset position, and is determined considering temporary differences between the accounting and the PTU bases of assets and liabilities.

While U.S. GAAP also contemplates the recognition of a net deferred PTU liability, it does not permit the recognition of a net deferred PTU asset, given that it does not necessarily embody a probable future benefit to contribute directly or indirectly to the future net cash inflows of an entity. Accordingly, the adjustment in the accompanying reconciliation of consolidated net income and stockholders' equity represents the removal of such deferred PTU asset.

(vi) *Deferred income taxes*—The recognition of income taxes, including deferred income taxes, under MFRS considers a methodology similar to that required under U.S. GAAP. The adjustments to the accompanying reconciliations of consolidated net income and stockholders' equity represent the deferred income tax effects of the aforementioned U.S. GAAP adjustments.

Under both MFRS and U.S. GAAP, the change in deferred income taxes resulting from the effects of accounting for inflation with respect to the tax values of assets and liabilities is recorded as a component of income tax expense.

MFRS requires the classification of the net deferred income tax asset or liability as long-term, while U.S. GAAP requires classification based on the current or long-term nature of the asset or liability to which the deferred relates.

A reconciliation of the net deferred income tax asset from MFRS to U.S. GAAP and the composition of the net deferred income tax asset under U.S. GAAP is as follows:

	2012	2011
Reconciliation of deferred income tax asset:		
Net deferred income tax asset under MFRS	$ 98,288	$ 27,224
Effects of elimination of inflation	124,058	132,397
Effects of employee retirement obligations	215	319
Effects of rent holidays	14,669	11,880
Effects of amortization of goodwill	(4,144)	(4,144)
Effects of actuarial gains in other comprehensive income	385	91
Total U.S. GAAP adjustments to net deferred income tax asset	$ 135,183	$ 140,543
Net deferred income tax asset under U.S. GAAP	233,471	167,767
Net deferred ISR asset under U.S. GAAP	284,231	208,170
Net deferred IETU asset under U.S. GAAP	(50,760)	(40,403)

	2012	2011
Composition of net deferred income tax asset:		
ISR		
Current deferred ISR assets (liabilities):		
Allowance for doubtful accounts	$ 342	$ 853
Inventories	(18,657)	(55,539)
Accrued liabilities	28,407	17,422
Prepaid expenses	(15,661)	(19,957)
Current deferred ISR liability – Net	(5,569)	(57,221)
Non – current deferred ISR assets (liabilities):		
Rents holidays	14,669	11,880
Property, equipment and leasehold improvements	260,195	239,163
Effect of tax loss carryforwards	96,368	78,229
Other, net	11,636	11,706
Valuation allowance for deferred ISR asset	(93,068)	(75,587)
Non – current deferred ISR asset – Net	289,800	265,391
Net deferred ISR asset under U.S. GAAP	$ 284,231	$ 208,170

The effective rate differs from the statutory rate mainly due to the effects of non-deductible expenses as well as different tax rates applicable in different tax jurisdiction in which the Company operates.

	2012	2011
IETU		
Current deferred IETU liability:		
Account receivable from affiliated companies	$ (62,627)	$ (49,690)
	(62,627)	(49,690)
Non – current deferred IETU assets – (liabilities):		
Vehicles	(2,261)	(1,789)
Accrued expenses	14,128	11,076
Non – current deferred IETU asset – Net	11,867	9,287
Total IETU liability under U.S. GAAP	$ (50,760)	$ (40,403)

U.S. GAAP also provides guidance regarding recognition, measurement and disclosure of uncertain tax positions taken by an enterprise. If an entity is unable to conclude that it is not more likely than not that the position it took will be upheld upon examination by the related tax authorities, all or a portion of the benefit related to such tax position may not be recognized. The Company has not taken any tax position for which it does not believe that it is more likely than not that the full amount of the benefit taken will be sustained upon review, based on technical merits of the position taken. The tax years that remain subject to examination by tax authorities are 2006 to 2011.

(vii) *Additional presentation and disclosure differences* -

(a) *Fair value of financial instruments and fair value measurements*—Under U.S. GAAP, an entity is required to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. U.S. GAAP establishes a fair value hierarchy based on the level of independent, objective evidence surrounding the inputs used to measure fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. Inputs used to measure fair value fall within one of the following three levels:

Level 1—applies to assets or liabilities for which there are quoted prices in active markets for identical assets or liabilities.

Level 2—applies to assets or liabilities for which there are inputs other than quoted prices that are observable for the asset or liability such as quoted prices for similar assets or liabilities in active markets; quoted prices for identical assets or liabilities in markets with insufficient volume or infrequent transactions (less active markets); or model-derived valuations in which significant inputs are observable or can be derived principally from, or corroborated by, observable market data.

Level 3—applies to assets or liabilities for which there are unobservable inputs to the valuation methodology that are significant to the measurement of the fair value of the assets or liabilities.

The Company's financial instruments consist principally of cash, accounts receivable, trade accounts payable and accrued expenses. The Company believes that the recorded values of these financial instruments approximate their current fair values because of their nature and respective maturity dates or durations.

(b) *Classification of certain items in the consolidated balance sheets and consolidated statements of income*—Under MFRS, the classification of certain costs and expenses differ from that required by U.S. GAAP.

i. Other expense of $588, $38,266 and $0 in 2012, 2011 and 2010 (unaudited), respectively, is considered other operating expense under U.S. GAAP.

ii. Normal bank commissions stemming from credit card transactions are included within comprehensive financing cost in the consolidated statements of income under MFRS; these amounts are included within selling, administrative and general expenses under U.S. GAAP. The Company also incurs additional bank commissions on interest-free sales offered to customers, where such sale is ultimately financed by the bank and not the Company. In those cases, the sale price of the product sold is increased. Those additional commissions are included within comprehensive financing cost under MFRS. Under U.S. GAAP, the amounts are a reduction of the additional revenue charged to the customers. The amounts reclassified in 2012, 2011 and 2010 (unaudited) are $70,618, $62,309 and $49,013, respectively.

iii. Certain items classified within other revenues in the consolidated statements of operations under MFRS are presented within other operating income under U.S. GAAP. Such amounts in 2012, 2011 and 2010 (unaudited) are $12,069, $9,567 and $25,788, respectively.

(c) *Consolidated statement of cash flows*—Under MFRS, the Company presents a consolidated statement of cash flows similar to that required under U.S. GAAP. However, certain classification differences exist, mainly with respect to interest paid. As well, U.S. GAAP requires disclosures of non-cash investing and financing activities.

	2012	2011	2010 (Unaudited)
Net income under U.S. GAAP	$ 831,866	$ 781,764	$ 793,698
Depreciation and amortization	298,277	287,053	240,384
Allowance for doubtful accounts	4,531	(6,150)	(1,804)
(Gain) loss on sale of fixed assets	(1,195)	(1,147)	15,520
Deferred income tax	(65,415)	(49,343)	(33,808)
Net periodic cost	13,910	10,235	10,789
Unrealized foreign exchange loss (gain)	2,578	6,095	(4,999)
	1,084,552	1,028,507	1,019,780
Changes in operating assets and liabilities:			
Accounts receivable and recoverable taxes	(187,415)	(45,421)	(93,998)
Due to/from related parties	17,226	(527)	463
Inventories	(435,198)	(204,088)	(495,636)
Trade accounts payable	61,564	48,050	213,819
Accrued expenses	19,834	68,478	5,177
Accrued taxes	—	—	(39,879)
Other liabilities	52,267	(2,305)	(603)
Cash flows provided by operating activities	612,830	892,694	609,123

	2012	2011	2010 (Unaudited)
Cash flows from investing activities:			
Purchases of equipment and investments in leasehold improvements	(538,834)	(529,491)	(321,450)
Acquisitions of subsidiaries, net of cash acquired		—	(178,353)
Purchases of trade mark		—	(10,786)
Proceeds from the sale of equipment	6,556	6,321	2,876
Net cash used in investing activities	(532,278)	(523,170)	(507,713)
Cash flows from financing activities:			
Borrowings from related party	550,000	400,000	—
Banks borrowings	—	100,000	100,000
Repayments to related party	(550,000)	(400,000)	—
Repayments of banks borrowings	—	(100,000)	(100,000)
Dividends paid	—	(600,000)	—
Net cash used in financing activities	—	(600,000)	—
Effect of exchange rate changes on cash	(34,447)	140,215	(30,711)
Cash and cash equivalents:			
Net increase (decrease) for the year	46,105	(90,261)	70,699
Beginning of year	302,656	392,917	322,218
End of the year	$ 348,761	$ 302,656	$ 392,917

Supplemental disclosures of cash flow information

Cash paid during the year for:

	2012	2011	2010 (Unaudited)
Interest paid	$ 5,283	$ 21,580	$ 6,684
Income taxes paid	289,477	251,339	218,166

Supplemental disclosure of noncash investing activities:

	2012	2011	2010 (Unaudited)
Fixed assets acquired during the year included in accounts payable	$13,237	$45,152	$ 12,986

(d) *Statement of comprehensive income* – The Company's statement of comprehensive income under U.S. GAAP is as follows:

	2012	2011	2010 (Unaudited)
Consolidated net income under U.S. GAAP	$831,866	$781,764	$ 793,698
Other comprehensive income:			
Translation effects of operations of foreign entities	(34,202)	140,215	(30,711)
Effect of employee retirement obligations (net of tax of $385, $91 and $670 in 2012, 2011 and 2010, respectively)	(1,441)	2,728	(3,156)
Total comprehensive income under U.S. GAAP	$796,223	$924,707	$ 759,831

(viii) *New accounting pronouncements under U.S. GAAP:*

In 2012, the Company adopted the following pronouncements, which did not have a material effect in the accompanying consolidated financial statements:

(a) In June 2012, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2012-05, *Presentation of Comprehensive Income*, which updated the guidance in Accounting Standards Codification ("ASC") Topic 220, *Comprehensive Income*. Under the amendments in this ASU, an entity has the option to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income and a total amount for comprehensive income. This ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this update do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. In October 2012, the FASB proposed to indefinitely defer the specific requirement to present items that are reclassified from other comprehensive income to net income alongside their respective components of net income and other comprehensive income on the face of the respective statements; entities still must comply with the existing requirements during the deferral period. This indefinite deferral was eliminated in February 2013 with the issuance of ASU 2013-02, discussed below.

(b) In September 2012, the FASB issued ASU No. 2012-08, *Testing Goodwill for Impairment*, which amends the guidance in ASC 350-20. The amendments in ASU 2012-08 provide entities with the option of performing a qualitative assessment before performing the first step of the two-step impairment test. If entities determine, on the basis of qualitative factors, it is not more likely than not that the fair value of the reporting unit is less than the carrying amount, then performing the two-step impairment test would be unnecessary. However, if an entity concludes otherwise, then it is required to perform the first step of the two-step impairment test by calculating the fair value of the reporting unit and comparing the fair value with the carrying amount of the reporting unit. If the carrying amount of a reporting unit exceeds its fair value, then the entity is required to perform the second step of the goodwill impairment test to measure the amount of the impairment loss, if any. ASU 2012-08 also provides entities with the option to bypass the qualitative assessment for any reporting unit in any period and proceed directly to the first step of the two-step impairment test. Given that the Company is required under MFRS to annually test goodwill for impairment on a quantitative basis, the Company did not elect to perform a qualitative analysis under ASU 2012-08.

(c) In May 2012, the FASB issued ASU No. 2012-04, *Fair Value Measurement: Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs*, which updated the guidance in ASC Topic 820, *Fair Value Measurement*. ASU 2012-04 clarifies the application of existing fair value measurement requirements including (1) the application of the highest and best use and valuation premise concepts, (2) measuring the fair value of an instrument classified in a reporting entity's shareholders' equity, and (3) quantitative information required for fair value measurements categorized within Level 3. ASU 2012-04 also provides guidance on measuring the fair value of financial instruments managed within a portfolio, and application of premiums and discounts in a fair value measurement. In addition, ASU 2012-04 requires additional disclosure for Level 3 measurements regarding the sensitivity of fair value to changes in unobservable inputs and any interrelationships between those inputs.

(ix) The following are new pronouncements issued under U.S. GAAP which will be effective in future reporting periods:

(a) In December 2011, the FASB issued ASU No. 2011-11, *Balance Sheet: Disclosures about Offsetting Assets and Liabilities*. This ASU requires an entity to disclose information about offsetting and related arrangements to enable users of its financial statements to understand the effect of those arrangements on its financial position. The objective of this disclosure is to facilitate comparison between those entities that prepare their financial statements on the basis of U.S. GAAP and those entities that prepare their financial statements on the basis of International Financial Reporting Standards ("IFRS"). The amended guidance is effective for annual reporting periods beginning on or after January 1, 2013, and interim periods within those annual periods. The Company will adopt this ASU in 2013.

(b) In July 2012, the FASB issued ASU 2012-02, *Intangibles – Goodwill and Other (Topic 350): Testing Indefinite-Lived Intangible Assets for Impairment*. This update amends ASU 2011-08, *Intangibles – Goodwill and Other* (Topic 350): *Testing Indefinite-Lived Intangible Assets for Impairment* and permits an entity first to assess qualitative factors to determine whether it is more likely than not that an indefinite-lived intangible asset is impaired as a basis for determining whether it is necessary to perform the quantitative impairment test in accordance with Subtopic 350-30, *Intangibles - Goodwill and Other - General Intangibles Other than Goodwill*. The amendments are effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012. Early adoption is permitted, including for annual and interim impairment tests performed as of a date before July 27, 2012, if a public entity's financial statements for the most recent annual or interim period have not yet been issued or, for nonpublic entities, have not yet been made available for issuance. The adoption of ASU 2012-02 is not expected to have a material impact on the Company's financial position or results of operations.

(c) In October 2012, the FASB issued ASU 2012-04, *Technical Corrections and Improvements in Accounting Standards Update No. 2012-04*. The amendments in this update cover a wide range of Topics in the Accounting Standards Codification. These amendments include technical corrections and improvements to the Accounting Standards Codification and conforming amendments related to fair value measurements. The amendments in this update will be effective for fiscal periods beginning after December 15, 2012. The adoption of ASU 2012-04 is not expected to have a material impact on the Company's financial position or results of operations.

(d) In February 2013, the FASB issued ASU No. 2013-02, *Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income*. The ASU adds new disclosure requirements for items reclassified out of accumulated other comprehensive income (AOCI) and is intended to help entities improve the transparency of changes in other comprehensive income and items reclassified out of AOCI in their financial statements. For public entities, the new disclosure requirements are effective for fiscal years, and interim periods within those years, beginning after December 15, 2012. However, for nonpublic entities, the ASU is effective for fiscal years beginning after December 15, 2013, and interim and annual periods thereafter. Early adoption is permitted. The amendments in the ASU should be applied prospectively. The adoption of ASU 2013-02 is not expected to have a material impact on the Company's financial position or results of operations.

* * * * * *

Exhibit 99.2

FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER

This First Amendment (this "Amendment") is made and entered into as of November 5, 2013, by and among Office Depot, Inc., a Delaware corporation ("Office Depot"), Dogwood Merger Sub Inc., a Delaware corporation and a wholly owned direct subsidiary of Office Depot ("Merger Sub Two"), Dogwood Merger Sub LLC, a Delaware limited liability company and a wholly owned direct subsidiary of Office Depot ("Merger Sub Three"), Mapleby Holdings Merger Corporation, a Delaware corporation and a wholly owned direct subsidiary of OfficeMax ("Mapleby Holdco"), Mapleby Merger Corporation, a Delaware corporation and a wholly owned direct subsidiary of Mapleby Holdco ("Merger Sub One"), and OfficeMax Incorporated, a Delaware corporation ("OfficeMax" and, together with Office Depot, Merger Sub Two, Merger Sub Three, Mapleby Holdco and Merger Sub One, the "Original Parties"), and amends the Agreement and Plan of Merger, dated as of February 20, 2013 (the "Agreement"), by and among the Original Parties. Capitalized terms not otherwise defined in this Amendment shall have the respective meanings set forth in the Agreement.

WITNESSETH:

WHEREAS, the Board of Directors of Office Depot and the Board of Directors of OfficeMax have determined that this Amendment, whereby the Agreement will be amended to modify the structure for the proposed merger of equals and modify the form of bylaws for the combined company following the merger, is advisable and in the best interests of their respective corporations and their respective stockholders; and

WHEREAS, the Original Parties desire to enter into this Amendment to amend the Agreement pursuant to Section 8.3 of the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained in this Amendment, the Original Parties, each intending to be legally bound, agree as follows:

1. Amendment to Index of Defined Terms; Certain References.

(a) The Index of Defined Terms of the Agreement is hereby amended by deleting each of the following defined terms and the corresponding page number references: "Certificate of Conversion," "Conversion Effective Time," "DLLCA," "LLC Conversion," "Merger Sub Three," "OfficeMax Converted LLC," "OfficeMax Surviving LLC," "Third Certificate of Merger," "Third Effective Time" and "Third Merger."

(b) All references in the Agreement to "OfficeMax Converted LLC" and "OfficeMax Surviving LLC" shall be replaced with "OfficeMax Surviving Corporation" and "Mapleby Holdco Surviving Corporation", respectively.

2. Amendment to Preamble and Recitals.

(a) The first paragraph on page 1 of the Agreement is hereby amended by deleting the fourth parenthetical in its entirety.

(b) The last parenthetical of the first paragraph on page 1 of the Agreement is hereby amended and restated to read as follows:

"("OfficeMax" and, together with Office Depot, Merger Sub Two, Mapleby Holdco and Merger Sub One, the "parties")"

(c) The sixth Whereas clause of the Agreement is hereby amended and restated to read as follows:

"WHEREAS, the parties intend that the First Merger (as defined below) and the Second Merger (as defined below) will each constitute a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations thereunder (the "Treasury Regulations"), and that this Agreement be, and be hereby adopted as, a "plan of reorganization" for purposes of Section 368 of the Code and the Treasury Regulations thereunder; and"

3. Amendment to Section 1.1.

(a) Section 1.1(b) of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

(b) The first parenthetical in Section 1.1(c) of the Agreement is hereby amended and restated to read as follows:

"(the "Second Merger" and, together with the First Merger, the "Transactions")"

(c) Section 1.1(d) of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

4. Amendment to Section 1.2.

(a) Section 1.2(b) of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

(b) The first sentence of Section 1.2(c) of the Agreement is hereby amended and restated to read as follows:

Subject to the provisions of this Agreement, as promptly as practicable on the Closing Date following the filing of the First Certificate of Merger, the parties shall file with the Secretary of State of the State of Delaware a certificate of merger for the Second Merger, executed in accordance with the relevant provisions of the DGCL (the "Second Certificate of Merger" and, collectively with the First Certificate of Merger, the "Delaware Filings") and shall make all other filings or recordings required under the DGCL in connection with the Second Merger.

(c) Section 1.2(d) of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

5. Amendment to Section 1.3. Sections 1.3(b) and 1.3(d) of the Agreement are hereby deleted in their entirety and each replaced with "[RESERVED]".

6. Amendment to Section 1.4. Sections 1.4(b) and 1.4(d) of the Agreement are hereby deleted in their entirety and each replaced with "[RESERVED]".

7. Amendment to Section 2.2. Section 2.2 of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

8. Amendment to Section 2.7. Section 2.7 of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

9. Amendment to Section 3.1.

(a) The first and second sentences of Section 3.1 of the Agreement are hereby amended and restated to read as follows:

"Each of Office Depot and Merger Sub Two is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware with all requisite power and authority to own, lease, use and operate its properties and to conduct its business as and where now owned, leased, used, operated and conducted. Each of Office Depot and Merger Sub Two is duly qualified to do business and in good standing in each jurisdiction in which the nature of the business conducted by it or the property it owns, leases or operates, makes such qualification necessary, except where the failure to be so qualified or in good standing in such jurisdiction would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Office Depot."

(b) The sixth sentence of Section 3.1 of the Agreement is hereby deleted in its entirety.

(c) The seventh sentence of Section 3.1 of the Agreement is hereby amended and restated to read as follows:

"Office Depot has furnished to OfficeMax a complete and correct copy of the Office Depot Charter, the Office Depot Bylaws and the certificate of incorporation and bylaws of Merger Sub Two as they exist on the date of this Agreement."

10. Amendment to Section 3.3. The first three sentences of Section 3.3 of the Agreement are hereby amended and restated to read as follows:

"Each of Office Depot and Merger Sub Two has all requisite corporate power and authority to enter into and deliver this Agreement and, subject to (i) receipt of the Office Depot Stockholder Approval and (ii) adoption of this Agreement by Office Depot in its capacity as sole stockholder of Merger Sub Two with respect to the Second Merger, to perform its obligations under this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement by Office Depot and Merger Sub Two have been duly authorized by all necessary corporate action on the part of each of Office Depot and Merger Sub Two, subject to (A) receipt of the Office Depot Stockholder Approval and (B) adoption of this Agreement by Office Depot in its capacity as sole stockholder of Merger Sub Two with respect to the Second Merger. This Agreement has been duly executed and delivered by each of Office Depot and Merger Sub Two, and, assuming due authorization, execution and delivery by OfficeMax, Mapleby Holdco and Merger Sub One, constitutes the legal, valid and binding obligation of each of Office Depot and Merger Sub Two enforceable against each of them in accordance with its terms."

11. Amendment to Section 3.4.

(a) The heading to Section 3.4 of the Agreement is hereby amended and restated to read as follows:

"*Capitalization of Office Depot and Merger Sub Two*."

(b) The last two sentences of Section 3.4(b) of the Agreement are hereby deleted in their entirety.

12. Amendment to Section 3.5.

(a) The first three lines of the text of Section 3.5 of the Agreement are hereby amended and restated to read as follows:

"Neither the execution and delivery of this Agreement by Office Depot or Merger Sub Two nor the consummation of the Transactions or the Bylaw Amendment will:"

(b) Section 3.5(a) of the Agreement is hereby amended and restated to read as follows:

"conflict with, or result in a breach of any provision of, the Office Depot Charter or the Office Depot Bylaws or the certificate of incorporation or bylaws of Merger Sub Two, subject to (i) receipt of the Office Depot Stockholder Approval and (ii) adoption of this Agreement by Office Depot in its capacity as sole stockholder of Merger Sub Two with respect to the Second Merger;"

(c) Section 3.5(d) of the Agreement is hereby amended by deleting the phrase "and (C) approval of this Agreement by Office Depot as the sole member of Merger Sub Three with respect to the Third Merger" and inserting the word "and" between subclauses (i)(A) and (i)(B) of Section 3.5(d) of the Agreement.

13. Amendment to Section 3.15. Section 3.15 of the Agreement is hereby amended and restated to read as follows:

"Neither Office Depot nor any of its affiliates has taken or agreed to take any action, has failed to take any action, or has knowledge of any fact, agreement, plan or other circumstance, that would be reasonably likely to prevent or impede the First Merger or the Second Merger from constituting a reorganization qualifying under the provisions of Section 368(a) of the Code."

14. Amendment to Section 3.24.

(a) The heading to Section 3.24 of the Agreement is hereby amended by deleting the phrase "*and Merger Sub Three*".

(b) Section 3.24(b) of the Agreement is hereby deleted in its entirety and replaced with "[RESERVED]".

15. Amendment to Section 4.1. The first sentence of Section 4.1 of the Agreement is hereby amended by deleting the phrase "or limited liability company".

16. Amendment to Section 4.3. The first three sentences of Section 4.3 of the Agreement are hereby amended and restated to read as follows:

"Each of OfficeMax, Mapleby Holdco and Merger Sub One has all requisite corporate power and authority to enter into and deliver this Agreement and, subject to (i) receipt of the OfficeMax Stockholder Approval, (ii) adoption of this Agreement by Mapleby Holdco in its capacity as sole stockholder of Merger Sub One with respect to the First Merger and (iii) adoption of this Agreement by OfficeMax in its capacity as sole stockholder of Mapleby Holdco with respect to the Second Merger, to perform its obligations under this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement by each of OfficeMax, Mapleby Holdco and Merger Sub One have been duly authorized by all necessary corporate action on the part of OfficeMax, Mapleby Holdco and Merger Sub One, subject to (A) receipt of the OfficeMax Stockholder Approval, (B) adoption of this Agreement by Mapleby Holdco in its capacity as sole stockholder of Merger Sub One with respect to the First Merger and (C) adoption of this Agreement by OfficeMax in its capacity as sole stockholder of Mapleby Holdco with respect to the Second Merger. This Agreement has been duly executed and delivered by each of OfficeMax, Mapleby Holdco and Merger Sub One and, assuming due authorization, execution and delivery by Office Depot and Merger Sub Two, constitutes the legal, valid and binding obligation of each of OfficeMax, Mapleby Holdco and Merger Sub One enforceable against each of them in accordance with its terms."

17. Amendment to Section 4.5.

(a) Section 4.5(a) of the Agreement is hereby amended by deleting the phrase "and (iv) approval by Mapleby Holdco in its capacity as sole stockholder of OfficeMax with respect to the LLC conversion" and inserting the word "and" between clauses (ii) and (iii) of Section 4.5(a) of the Agreement.

(b) Section 4.5(d) of the Agreement is hereby amended by deleting the phrase "and (D) approval by Mapleby Holdco in its capacity as sole stockholder of OfficeMax with respect to the LLC Conversion" and inserting the word "and" between subclauses (i)(B) and (i)(C) of Section 4.5(d) of the Agreement.

18. Amendment to Section 4.15. Section 4.15 of the Agreement is hereby amended and restated to read as follows:

"Neither OfficeMax nor any of its affiliates has taken or agreed to take any action, has failed to take any action, or has knowledge of any fact, agreement, plan or other circumstance, that would be reasonably likely to prevent or impede the First Merger or the Second Merger from constituting a reorganization qualifying under the provisions of Section 368(a) of the Code."

19. Amendment to Section 5.5.

(a) The first sentence of Section 5.5 of the Agreement is hereby amended and restated to read as follows:

"Each of the parties shall, and shall cause each of its respective subsidiaries to, use its reasonable best efforts to cause each of the First Merger and the Second Merger to constitute a "reorganization" under Section 368(a) of the Code and to cooperate with one another in obtaining an opinion from Skadden, Arps, Slate, Meagher & Flom LLP, counsel to OfficeMax ("OfficeMax's Counsel"), as provided for in Section 7.2(d), and an opinion from Simpson Thacher & Bartlett LLP, counsel to Office Depot ("Office Depot's Counsel"), as provided for in Section 7.3(d)."

(b) The last sentence of Section 5.5 of the Agreement is hereby amended and restated to read as follows:

"None of the parties and none of their subsidiaries shall take or fail to take any action which action (or failure to act) would reasonably be expected to cause either the First Merger or the Second Merger to fail to qualify as a "reorganization" under Section 368(a) of the Code."

20. Amendment to Section 5.9(a). Subclause (a)(ii) of Section 5.9(a) of the Agreement is hereby amended by deleting the phrase “or Merger Sub Three” and inserting the word “or” between “Office Depot” and “Merger Sub Two”.

21. Amendment to Section 6.1(e). Section 6.1(e) of the Agreement is hereby amended by deleting the phrase “or Merger Sub Three” and inserting the word “or” between “any of its Significant Subsidiaries” and “Merger Sub Two” in Section 6.1(e) of the Agreement.

22. Amendment to Section 6.4. The last sentence of Section 6.4 of the Agreement is hereby deleted in its entirety.

23. Amendment to Section 7.2.

(a) Section 7.2(b) of the Agreement is hereby amended by deleting the phrase “and Merger Sub Three” and inserting the word “and” between “Office Depot” and “Merger Sub Two” in Section 7.2(b) of the Agreement.

(b) Section 7.2(d) of the Agreement is hereby amended and restated to read as follows:

“OfficeMax shall have received a written tax opinion from OfficeMax’s Counsel, in form and substance reasonably satisfactory to OfficeMax, dated as of the Closing Date, to the effect that, on the basis of certain facts, representations and assumptions set forth or referred to in such opinion, each of the First Merger and the Second Merger will qualify for United States federal income tax purposes, as a “reorganization” within the meaning of Section 368(a) of the Code.”

24. Amendment to Section 7.3.

(a) The heading to Section 7.3 of the Agreement is hereby amended and restated to read as follows:

“*Conditions to Obligations of Office Depot and Merger Sub Two*.”

(b) The first three lines of the text of Section 7.3 of the Agreement are hereby amended and restated to read as follows:

“The obligations of Office Depot and Merger Sub Two to consummate the Transactions shall be subject to the satisfaction of the following conditions unless waived by Office Depot:”

(c) Section 7.3(d) of the Agreement is hereby amended and restated to read as follows:

"Office Depot shall have received a written tax opinion from Office Depot's Counsel, in form and substance reasonably satisfactory to Office Depot, dated as of the Closing Date, to the effect that, on the basis of certain facts, representations and assumptions set forth or referred to in such opinion, each of the First Merger and the Second Merger will qualify for United States federal income tax purposes, as a "reorganization" within the meaning of Section 368(a) of the Code."

25. Amendment to Section 8.4. The second parenthetical of Section 8.4 of the Agreement is hereby amended and restated to read as follows:

"(with respect to Office Depot and Merger Sub Two)"

26. Amendment to Section 9.2(a). Section 9.2(a) of the Agreement is hereby amended by replacing the phrase "if to Office Depot, Merger Sub Two or Merger Sub Three" with "if to Office Depot or Merger Sub Two".

27. Amendment to Section 9.11. The first sentence of Section 9.11 of the Agreement is hereby amended and restated to read as follows:

"Neither this Agreement nor any of the rights, interests or obligations arising under this Agreement shall be directly or indirectly assigned, delegated sublicensed or transferred by any of the parties (whether by operation of law or otherwise), in whole or in part, to any other Person (including any bankruptcy trustee) without the prior written consent of the other parties; *provided* that until the second business day preceding the Closing, Office Depot may cause Merger Sub Two to assign all of its rights, interests and obligations arising under this Agreement to another newly formed, wholly owned subsidiary of Office Depot with substantially identical ownership, capitalization and organizational documents, which subsidiary shall be substituted for Merger Sub Two for all purposes hereunder, and OfficeMax may cause Mapleby Holdco or Merger Sub One to assign all of such Person's rights, interests and obligations arising under this Agreement to another newly formed, wholly owned subsidiary of OfficeMax with substantially identical ownership, capitalization and organizational documents, which subsidiary shall be substituted for Mapleby Holdco or Merger Sub One, as the case may be, for all purposes hereunder."

28. Amendment to Exhibit C. Exhibit C to the Merger Agreement is hereby amended and restated in its entirety to read as set forth in Exhibit A attached hereto (the "Amended and Restated Exhibit C"). The Amended and Restated Exhibit C shall supersede any inconsistent provisions in the Agreement and, from and after the Second Effective Time, shall exclusively govern the matters set forth therein.

29. Effectiveness; Waiver. This Amendment shall be effective as of the date first written above following the execution of this Amendment by the Original Parties. Any reference in the Agreement to "this Agreement" shall hereafter be deemed to refer to the Agreement as amended by this Amendment, and any reference in the Office Depot Disclosure Schedule and the OfficeMax Disclosure Schedule to "the Agreement" shall refer to the Agreement as amended by this Amendment. Except as expressly provided in this Amendment, all references in the Agreement, the Office Depot Disclosure Schedule and the OfficeMax Disclosure Schedule to

"the date hereof" and "the date of this Agreement" shall refer to February 20, 2013. The execution, delivery and performance of this Amendment shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of the Original Parties hereto under the Agreement.

30. Counterparts. This Amendment may be executed in counterparts, which together shall constitute one and the same Amendment. The Original Parties may execute more than one copy of this Amendment, each of which shall constitute an original. Signatures to this Amendment transmitted by facsimile transmission, by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

31. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

32. Other Miscellaneous Terms. The provisions of Sections 9.3(a), 9.6 and 9.9 shall apply *mutatis mutandis* to this Amendment.

33. Full Force and Effect. Except as specifically amended herein, the Original Parties hereby acknowledge and agree that all of the terms and provisions set forth in the Agreement remain in full force and effect in all respects.

IN WITNESS WHEREOF, the Original Parties have executed this Amendment as of the date first written above.

OFFICE DEPOT, INC.

By: /s/ Neil R. Austrian
Name: Neil R. Austrian
Title: Chairman and Chief Executive Officer

DOGWOOD MERGER SUB INC.

By: /s/ Michael D. Newman
Name: Michael D. Newman
Title: President

DOGWOOD MERGER SUB LLC

By: /s/ Michael D. Newman
Name: Michael D. Newman
Title: President

MAPLEBY HOLDINGS MERGER CORPORATION

By: /s/ Matthew R. Broad
Name: Matthew R. Broad
Title: President

MAPLEBY MERGER CORPORATION

By: /s/ Matthew R. Broad
Name: Matthew R. Broad
Title: President

OFFICEMAX INCORPORATED

By: /s/ Matthew R. Broad
Name: Matthew R. Broad
Title: Executive Vice President and General Counsel

EXHIBIT A

FORM OF
AMENDED AND RESTATED BYLAWS
OF
OFFICE DEPOT, INC.,
A DELAWARE CORPORATION

ARTICLE I
OFFICES

Section 1. Registered Office. The registered office of the corporation shall be located at the corporation's principal place of business in the State of Delaware or at the office of the person or entity then acting as the corporation's registered agent in Delaware. The registered office and/or registered agent of the corporation may be changed from time to time by resolution of the Board of Directors.

Section 2. Other Offices. The corporation may also have offices at such other places as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II
STOCKHOLDERS

Section 1. Annual Meeting. The annual meeting of stockholders for the election of directors and the conduct of such other business as may properly come before the meeting in accordance with these Bylaws shall be held at such place and time on such day, other than a legal holiday, as the Chief Executive Officer of the corporation (or, if applicable, as the Co-Chief Executive Officers of the corporation) in each such year determines; *provided*, that if the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) do not act, the Board of Directors shall determine the place, time and date of such meeting.

Section 2. Special Meetings. Special meetings of stockholders may be called for any purpose and may be held at such time and place as shall be stated in a notice of meeting or in a duly executed waiver of notice thereof. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the corporation's notice of meeting.

(a) A special meeting of stockholders may be called at any time by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or, if directed by resolution of the Board of Directors, the Secretary.

(b) A special meeting of stockholders shall be called by the Secretary at the written request (a "Special Meeting Request") of holders of record of at least 25% of the outstanding common stock of the corporation entitled to vote on the matter or matters to be brought before the proposed special meeting (the "Requisite Percentage"). A Special Meeting Request to the Secretary shall be signed by each stockholder requesting the special meeting (each, a "Requesting Stockholder") and shall be accompanied by a notice setting forth the information required by Section 14(a)(2)(A)-(D) of this Bylaw, as if such Section were applicable to Special Meeting Requests. Requesting Stockholders who collectively hold at least the Requisite Percentage on the date the Special Meeting Request is submitted to the Secretary must (i)

continue to hold at least the number of shares of common stock set forth in the Special Meeting Request with respect to each such Requesting Stockholder through the date of the special meeting and (ii) submit a written certification (an "Ownership Certification") confirming the continuation of such holdings on the business day immediately preceding the special meeting, which Ownership Certification shall include the information required by Section 14(a)(2)(A) of this Bylaw as of the date of such special meeting with respect to each such Requesting Stockholder.

(c) A special meeting called pursuant to Section 2(a) or Section 2(b) of this Bylaw shall be held at such date, time and place as may be fixed by the Board of Directors in accordance with these Bylaws; *provided*, *however*, that the date of any special meeting called pursuant to Section 2(b) of this Bylaw shall not be more than 90 days after a Special Meeting Request that satisfies the requirements of this Section 2 is received by the Secretary. The day, place and hour of such special meeting shall be set forth in the notice of special meeting. If a valid Special Meeting Request is received by the Secretary subsequent to a valid Special Meeting Request and before the date of the corresponding special meeting of shareholders, all items of business contained in such Special Meeting Requests may be presented at one special meeting.

(d) Notwithstanding the foregoing provisions of this Section 2, a special meeting requested by stockholders pursuant to Section 2(b) of this Bylaw shall not be held if (i) the Special Meeting Request does not comply with this Section 2; (ii) the Special Meeting Request relates to an item of business that is not a proper subject for stockholder action under applicable law; (iii) the Special Meeting Request is received by the corporation during the period commencing 90 days prior to the first anniversary of the date of the immediately preceding annual meeting and ending on the date of the next annual meeting; (iv) an annual or special meeting of stockholders that included a substantially similar item of business ("Similar Business") (as determined in good faith by the Board of Directors) was held not more than 120 days before the Special Meeting Request was received by the Secretary; (v) the Board of Directors has called or calls for an annual or special meeting of stockholders to be held within 90 days after the Special Meeting Request is received by the Secretary and the Board of Directors determines in good faith that the business to be conducted at such meeting includes the Similar Business; (vi) such Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other applicable law; or (vii) two or more special meetings of stockholders called pursuant to the request of stockholders have been held within the 12-month period before the Special Meeting Request was received by the Secretary. For purposes of this Section 2(d), the nomination, election or removal of directors shall be deemed to be Similar Business with respect to all items of business involving the nomination, election or removal of directors, changing the size of the Board of Directors and filling of vacancies and/or newly created directorships resulting from any increase in the authorized number of directors.

(e) Any Requesting Stockholder may revoke such stockholder's participation in a Special Meeting Request at any time by written revocation delivered to the Secretary and if, following any such revocation, there are outstanding un-revoked requests from stockholders holding less than the Requisite Percentage in accordance with this Section 2, the Board of Directors may, in its discretion, cancel the special meeting. If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business to be presented for consideration that was specified in the Special Meeting Request, or if the Ownership Certification does not satisfy the requirements set forth in Section 2(b) of this Bylaw, the corporation need not present such business for a vote at such special meeting.

(f) Business conducted at a special meeting requested by stockholders pursuant to Section 2(b) of this Bylaw shall be limited to the matters described in the applicable Special Meeting Request; *provided* that nothing herein shall prohibit the Board of Directors from submitting matters to the stockholders at any such special meeting requested by stockholders.

Section 3. Place of Meetings. Annual and special meetings may be held at such place as the Board of Directors may determine.

Section 4. Notice. Whenever stockholders are required or permitted to take action at a meeting, written or printed notice stating the place, date, time, and, in the case of special meetings, the purpose or purposes, of such meeting, shall be given to each stockholder entitled to vote at such meeting not less than 10 nor more than 60 days before the date of the meeting. All such notices shall be delivered, either (a) personally or by mail, by or at the direction of the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or the Secretary, and if mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the stockholder at his, her or its address as the same appears on the records of the corporation or (b) by a form of electronic transmission, including electronic mail, in the manner provided in and to the extent permitted by the General Corporation Law of the State of Delaware (the "Delaware General Corporation Law"). Nothing in these Bylaws shall preclude the stockholders from waiving notice as provided in Article IV hereof. Any previously scheduled annual meeting of the stockholders may be postponed, and any previously scheduled special meeting of the stockholders may be postponed or cancelled, by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 5. Fixing a Record Date for Stockholder Meetings. 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, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of any such meeting. Only stockholders as of the record date are entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment or postponement of the meeting; *provided*, *however*, that the Board of Directors may fix a new record date for the adjourned or postponement meeting.

Section 6. Quorum. The holders of a majority of the issued and outstanding shares of common stock of the corporation entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. If a quorum is not present, the

chairman of the meeting or the holders of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote at the meeting may adjourn the meeting to another time and/or place from time to time. When a quorum is once present to commence a meeting of stockholders, it shall not be broken by the subsequent withdrawal of the stockholders or their proxies.

Section 7. Adjourned Meetings. When a meeting is adjourned to another time and place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At any such adjourned meeting at which a quorum shall be present or represented, the corporation may transact any business which might have been transacted at the original meeting. Notwithstanding the foregoing, if the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in Section 4 of Article II hereof, but such notice may be waived as provided in Article IV hereof.

Section 8. Voting by Stockholders on Matters Other Than the Election of Directors. With respect to any matters as to which no other voting requirement is specified by the Delaware General Corporation Law, the certificate of incorporation of the corporation (the "Certificate of Incorporation") or these Bylaws, the affirmative vote required for stockholder action shall be that of a majority of the shares present in person or represented by proxy (as counted for purposes of determining the existence of a quorum) and entitled to vote at a meeting of stockholders at which a quorum is present. In the case of a matter submitted for a vote of the stockholders as to which a stockholder approval requirement is applicable under the stockholder approval policy of the New York Stock Exchange, the requirements of Rule 16b-3 under the Exchange Act, or any provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Code Section 162(m), in each case for which no higher voting requirement is specified by the Delaware General Corporation Law, the Certificate of Incorporation or these Bylaws, the vote required for approval shall be the requisite vote specified in such stockholder approval policy, Rule 16b-3 or such Code provision, as the case may be (or the highest such requirement if more than one is applicable). For the approval of the appointment of independent public accountants (if submitted for a vote of the stockholders), the vote required for approval shall be a majority of the votes cast on the matter.

Section 9. Voting by Stockholders in the Election of Directors. Each director to be elected by the stockholders shall be elected by a majority of the votes cast at any meeting held for the purpose of the election of directors at which a quorum is present, subject to the following provisions:

(a) Resignation of Incumbent Director Who Fails to Receive a Majority Vote: In any non-contested election of directors, any director nominee who is an incumbent director who receives a greater number of votes "withheld" from his or her election (or "against" or "no" votes) than votes "for" such election shall immediately tender his or her resignation to the Board of Directors, which resignation shall be irrevocable. Thereafter, the Board of Directors shall decide, through a process managed by the Corporate Governance and Nominating Committee (and excluding the nominee in question from all Board of Directors and Committee deliberations), whether to accept such resignation within 90 days of the date of such resignation. Absent a compelling reason for the director to remain on the Board of Directors (as determined

by the Board of Directors), the Board of Directors shall accept the resignation from the director. To the extent that the Board of Directors determines that there is a compelling reason for the director to remain on the Board of Directors and does not accept the resignation, the Board of Directors' explanation of its decision shall be disclosed promptly in a Current Report on Form 8-K filed with the United States Securities and Exchange Commission (the "SEC") or in a press release that is widely disseminated.

(b) Definition of "Compelling Reason": For purposes of this policy, a "compelling reason" shall be determined by the Board of Directors (excluding the nominee in question from all Board of Directors and Committee deliberations) and could include, by way of example and without limitation, situations in which a director nominee was the target of a "vote no" or "withhold" campaign on what the Board of Directors believes to be an illegitimate or inappropriate basis or if the resignation would cause the corporation to be in violation of its constituent documents or regulatory requirements.

(c) Consequences of the Board of Directors' Acceptance or Non-Acceptance of a Director's Resignation: If such incumbent director's resignation is accepted by the Board of Directors, then such director shall immediately cease to be a member of the Board of Directors upon the date of action taken by the Board of Directors to accept such resignation. If such incumbent director's resignation is not accepted by the Board of Directors, such director will continue to serve until the next annual meeting, or until his or her subsequent resignation or removal.

(d) Failure of a Non-Incumbent Director to Win Election: If any nominee for director who is not an incumbent fails in a non-contested election to receive a majority vote for his or her election at any meeting for the purpose of the election of directors at which a quorum is present, such candidate shall not be elected and shall not take office.

(e) Filling Vacancies: If an incumbent director's resignation is accepted by the Board of Directors pursuant to this Bylaw, or if a non-incumbent nominee for director is not elected, the Board of Directors, may, subject to the provisions of Article VI of these Bylaws, fill any resulting vacancy pursuant to the provisions of Article III, Section 4 of these Bylaws, or may decrease the size of the Board of Directors pursuant to the provisions of Article III, Section 2 of these Bylaws.

(f) Nominees to Agree in Writing to Abide by this Bylaw: To be eligible for election as a director of the corporation, each nominee (including incumbent directors and nominees proposed by stockholders in accordance with Article II, Section 14 of these Bylaws) must agree in writing in advance to comply with the requirements of this Section 9 of Article II of these Bylaws.

(g) Majority Vote Defined: For purposes of this Bylaw, a majority of votes cast shall mean that the number of shares voted "for" a director's election exceeds 50% of the total number of votes cast with respect to that director's election. Votes "cast" shall include votes to withhold authority and votes "against" and "no" votes but shall exclude abstentions with respect to a director's election or with respect to the election of directors in general.

(h) Vote Standard in Contested Elections: Notwithstanding anything to the contrary contained in this Article II, Section 9 of these Bylaws, in the event of a contested election, directors shall be elected by the vote of a plurality of the votes cast at any meeting for the election of directors at which a quorum is present. For purposes of this Bylaw, a contested election shall mean any election of directors in which the number of candidates for election as directors exceeds the number of directors to be elected, with the determination thereof being made by the Secretary (i) as of the close of the applicable notice of nomination period set forth in Article II, Section 14 of these Bylaws based on whether one or more notice(s) of nomination were timely filed in accordance with said Bylaws or (ii) if later, reasonably promptly following the determination by any court or other tribunal of competent jurisdiction that one or more notice(s) of nomination were timely filed in accordance with said Bylaws; *provided*, that the determination that an election is a contested election by the Secretary pursuant to clause (i) or (ii) shall be determinative only as to the timeliness of a notice of nomination and not otherwise as to its validity. If, prior to the time the corporation mails its initial proxy statement in connection with such election of directors, one or more notices of nomination are withdrawn (or declared invalid or untimely by any court or other tribunal of competent jurisdiction) such that the number of candidates for election as director no longer exceeds the number of directors to be elected, the election shall not be considered a contested election, but in all other cases, once an election is determined to be a contested election, directors shall be elected by the vote of a plurality of the votes cast.

Section 10. Voting Rights. Except as otherwise provided by the Delaware General Corporation Law or by the Certificate of Incorporation and subject to Article VIII, Section 3 of these Bylaws, every stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of common stock held by such stockholder.

Section 11. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him or her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy specifically provides for a longer period. Each proxy shall be in writing executed by the stockholder giving the proxy or by his duly authorized attorney. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it, or his legal representatives or assigns except in those cases where an irrevocable proxy permitted by statute has been given. Any proxy is suspended when the person executing the proxy is present at a meeting of stockholders and elects to vote, except that when such proxy is coupled with an interest sufficient in law to support an irrevocable power and the fact of the interest appears on the face of the proxy, the agent named in the proxy shall have all voting and other rights referred to in the proxy, notwithstanding the presence of the person executing the proxy. At each meeting of the stockholders, and before any voting commences, all proxies filed at or before the meeting shall be submitted to and examined by the Secretary or a person designated by the Secretary, and no shares may be represented or voted under a proxy that has been found to be invalid or irregular.

Section 12. Action by Written Consent.

(a) General. Any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken and bearing the dates of signature of the stockholders who signed the consent or consents, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in the State of Delaware, or the corporation's principal place(s) of business, or an officer or agent of the corporation having custody of the book or books in which proceedings of meetings of the stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested, *provided*, *however*, that no consent or consents delivered by certified or registered mail shall be deemed delivered until received at the registered office. All consents properly delivered in accordance with this Section shall be deemed to be recorded when so delivered. Any action taken pursuant to such written consent or consents of the stockholders shall have the same force and effect as if taken by the stockholders at a meeting of stockholders.

(b) Inspectors of Written Consent. In the event of the delivery, in the manner provided by Section 12(a) of this Bylaw, to the corporation of the requisite written consent or consents to take corporate action and/or any related revocation or revocations, the corporation shall engage nationally recognized independent inspectors of elections for the purpose of promptly performing a ministerial review of the validity of the consents and revocations. For the purpose of permitting the inspectors to perform such review, no action by written consent without a meeting shall be effective until such date as the independent inspectors certify to the corporation that the consents delivered to the corporation in accordance with Section 12(a) of this Bylaw represent at least the minimum number of votes that would be necessary to take the corporate action. Nothing contained in this paragraph shall in any way be construed to suggest or imply that the Board of Directors or any stockholder shall not be entitled to contest the validity of any consent or revocation thereof, whether before or after such certification by the independent inspectors, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(c) Effectiveness of Action by Written Consent. No written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered to the corporation as required by this section, written consents signed by the holders of a sufficient number of shares to take such corporate action are so recorded.

(d) Notice of Action by Written Consent. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take the action were recorded.

(e) Fixing a Record Date for Action by Written Consent. In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Only stockholders as of the record date are entitled to consent to corporate action in writing without a meeting. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within 10 days after the date on which such a request is received, adopt a resolution fixing the record date (unless a record date has previously been fixed by the Board of Directors pursuant to the first sentence of this Bylaw). If no record date has been fixed by the Board of Directors, pursuant to this Bylaw or otherwise within 10 days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by statute, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place(s) of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by statute, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 13. Stock Records. The Secretary or agent having charge of the stock transfer books shall make, at least 10 days before each meeting or any adjournment thereof, arranged in alphabetical order and showing the address of and the number and class and series, if any, of shares held by each. For a period of 10 days prior to such meeting, such list shall be kept at the principal place(s) of business of the corporation or at the office of the transfer agent or registrar of the corporation and such other places, if any, as required by statute and shall be subject to inspection by any stockholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any stockholder at any time during the meeting.

Section 14. Notice of Stockholder Nominations and Other Business.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the corporation’s stockholders may be made at an annual meeting of stockholders (A) by or at the direction of the Board of Directors, including pursuant to the corporation’s notice of meeting, or (B) by any stockholder of the corporation who (i) was a stockholder of record at the time of giving of notice provided for in this Bylaw and at the time of the annual meeting (including any adjournment or postponement thereof), (ii) is entitled to vote at the meeting and (iii) complies with the notice procedures set forth in this Bylaw as to such business or nomination; this clause (B) shall be the exclusive means for a stockholder to make nominations or submit other business (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the corporation’s notice of meeting) before an annual meeting of stockholders.

(2) Without qualification, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 14(a)(1)(B) of this Bylaw, the stockholder must have given timely notice in writing to the Secretary and such other business must otherwise be a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting except that with regard to the corporation's annual meeting of stockholders to be held during calendar year 2013, to be timely (and notwithstanding anything to the contrary contained in this Section 14(a)(2)), a stockholder's notice of nominations must be delivered to the Secretary at the principal executive offices of the corporation not later than 5:00 p.m. (Eastern time) on the 60th day prior to the first anniversary of the preceding year's annual meeting; *provided*, *however*, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than 100 days prior to the date of such annual meeting, the tenth day following the day on which public announcement of the date of such meeting is first made by the corporation. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

To be in proper form, a stockholder's notice (whether given pursuant to this Section 14(a)(2) or Section 14(b) of this Bylaw) to the Secretary must:

(A) set forth, 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, if any, (ii) (1) the class or series and number of shares of the corporation which are, directly or indirectly, owned beneficially and of record by such stockholder and such beneficial owner, (2) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the corporation or with a value derived in whole or in part from the value of any class or series of shares of the corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the corporation, (3) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the corporation,

(4) any short interest in any security of the corporation (for purposes of this Bylaw a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to dividends on the shares of the corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the corporation, (6) any proportionate interest in shares of the corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (7) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date), and (iii) any other information relating to such stockholder and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(B) if the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the annual meeting, set forth (i) 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, in such business and (ii) a description of all agreements, arrangements and understandings between such stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(C) set forth, as to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors (i) all information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected) and (ii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and

associates, or others acting in concert therewith, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(D) with respect to each nominee for election or reelection to the Board of Directors, include a completed and signed questionnaire, representation and agreement required by Article II, Section 15 of these Bylaws. The corporation may require any proposed nominee to furnish such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director of the corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee.

(3) Notwithstanding anything in the second sentence of Section 14(a)(2) of this Bylaw to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement by the corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least 100 days prior to the first anniversary of the preceding year's annual 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 tenth day following the day on which such public announcement is first made by the corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the corporation's notice of meeting. 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 (1) by or at the direction of the Board of Directors, including pursuant to the corporation's notice of meeting, (2) pursuant to Section 2 of this Bylaw, or (3) by any stockholder of the corporation who (i) is a stockholder of record at the time of giving of notice provided for in this Bylaw and at the time of the special meeting, (ii) is entitled to vote at the meeting (including any adjournment or postponement thereof), and (iii) complies with the notice procedures set forth in this Bylaw as to such nomination. In the event a special meeting of stockholders is called 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 Section 14(a)(2) of this Bylaw with respect to any nomination (including the completed and signed questionnaire, representation and agreement required by Section 15 of this Bylaw) shall be delivered to the Secretary at the principal executive offices of the corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than 100 days prior to the date of such

special meeting, the tenth 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. In no event shall any adjournment or postponement of a special meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

(c) General.

(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 meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Bylaw. Except as otherwise provided by law, the Certificate of Incorporation or this Bylaw, the chairman 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 or proposed, as the case may be, 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 or nomination shall be disregarded.

(2) 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 SEC pursuant to Sections 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) 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; *provided*, *however*, that any references in this Bylaw to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations or proposals as to any other business to be considered pursuant to Section 14(a)(1)(B) or Section 14(b) of this Bylaw. Nothing in this Bylaw shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under law, the Certificate of Incorporation or this Bylaw.

Section 15. Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee for election or reelection as a director of the corporation, a person must complete and deliver (in accordance with the time periods prescribed for delivery of notice under Article II, Section 14 of these Bylaws) to the Secretary at the principal executive offices of the corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be in the form provided by the corporation, and shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person (a) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any

commitment or assurance to, any person or entity as to how such person, if elected as a director of the corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the corporation or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the corporation, with such person's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein and (c) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the corporation.

Section 16. Fixing a Record Date for Other Purposes. In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purposes of any other lawful action, the Board of Directors may fix a record date, which record date, shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. Only stockholders as of the record date are entitled to receive such payments, distributions or other allotments or exercise such rights or take such other lawful action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

ARTICLE III
DIRECTORS

Section 1. General Powers. The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors.

Section 2. Number, Election and Term of Office. Subject to the provisions of Article VI of these Bylaws, the number of directors which shall constitute the Board of Directors shall be established from time to time by a vote of a majority of the entire Board of Directors; *provided, however*, that the number of Directors shall not be reduced so as to shorten the term of any Director at the time in office. The Board of Directors shall be elected at the annual meeting of the stockholders and each director elected shall hold office until the next annual meeting of stockholders or until a successor is duly elected and qualified or until his or her earlier resignation or removal as hereinafter provided.

Section 3. Removal and Resignation. Any director or the entire Board of Directors may be removed at any time, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as otherwise provided by law. Any director may resign at any time upon written notice to the corporation. Such written resignation shall take effect at the time specified therein, and if no time is specified, at the time of its receipt by the Chairman (or, if applicable, the Co-Chairmen) of the Board, Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) or the Secretary. Except as provided in Article II, Section 9(a) of these Bylaws, the acceptance of a resignation shall not be necessary to make it effective.

Section 4. Vacancies. Subject to the provisions of Article VI of these Bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors may only be filled by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. Each director so chosen shall hold office until the next annual meeting of stockholders or until a successor is duly elected and qualified or until his or her earlier resignation or removal as herein provided. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Each director chosen by any class or classes of stock or series thereof shall hold office until the next election of the class for which such directors have been chosen and until their successors shall be elected and qualified.

Section 5. Annual Meetings of Board of Directors. The annual meeting of each newly elected Board of Directors shall be held without other notice than this Bylaw as soon as practicable after the annual meeting of stockholders at such location as is convenient and established by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 6. Other Meetings and Notice. Regular meetings, other than the annual meeting, of the Board of Directors may be held at such location as is convenient and without notice at such time and at such place as shall from time to time be determined by resolution of the Board of Directors. Special meetings of the Board of Directors may be called (i) by the Chairman (or, if applicable, the Co-Chairmen) of the Board or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) on at least 24 hours prior notice to each director, either personally, by telephone, by mail, by telegraph, by telecopy or by e-mail or (ii) upon the request of at least three directors, by the Secretary on at least 72 hours' prior notice. If notice of less than three days is given, it shall be oral, whether by telephone or in person, or sent by special delivery mail, facsimile, telegraph or e-mail. If mailed, the notice shall be given when deposited in the United States mail, postage pre-paid. Nothing herein contained shall preclude the directors from waiving notice as provided in Article IV hereof.

Section 7. Chairman of the Board; Lead Director. Subject to the provisions of Article VI of these Bylaws, the Chairman (or, if applicable, the Co-Chairmen) of the Board shall be appointed by resolution of the Board of Directors and shall preside at all meetings of the Board of Directors and stockholders. Subject to the provisions of Article VI of these Bylaws, if the offices of the Chief Executive Officer and Chairman are not separate or if the Chairman is not considered by the Board of Directors to be an independent director, the independent directors will elect one of their number to serve as Lead Director. The Lead Director (or, if applicable, the Co-Lead Directors), if any, will chair meetings of independent directors, will facilitate communications between other members of the Board of Directors and the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) and the Chairman (or, if applicable, the Co-Chairmen), and will assume other duties which the independent directors as a whole may designate from time to time.

Section 8. Quorum, Required Vote and Adjournment. A majority of the total number of directors shall constitute a quorum for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation or these Bylaws. The vote of a majority of directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless otherwise provided by an applicable provision of law, by these Bylaws, by the Certificate of Incorporation or by a resolution of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 9. Emergency Management Committee. If as a result of a catastrophe or other emergency condition a quorum of any committee of the Board of Directors having power to act in the premises cannot readily be convened and a quorum of the Board of Directors cannot readily be convened, then all the powers and duties of the Board of Directors shall automatically vest and continue, until a quorum of the Board of Directors can be convened, in the Emergency Management Committee, which shall consist of all readily available members of the Board of Directors (provided that during the Specified Post-Merger Period, such committee shall consist of an equal number of readily available Continuing Office Depot Directors and Continuing OfficeMax Directors) and two of whose members shall constitute a quorum. The Emergency Management Committee shall call a meeting of the Board of Directors as soon as circumstances permit for the purpose of filling any vacancies on the Board of Directors and its committees and taking such other action as may be appropriate, subject to the provisions of Article VI of these Bylaws.

Section 10. Other Committees of the Board. Subject to the provisions of Article VI of these Bylaws, the corporation shall have an Audit Committee, consisting of at least three independent directors of the corporation, a Compensation Committee, consisting of at least two independent directors of the corporation who have never been employees or officers of the corporation (except that employment or service as an Interim Office Depot CEO or an Interim OfficeMax CEO, as the case may be, shall not disqualify a director from being independent following the time such director was employed or served as an Interim Office Depot CEO or an Interim OfficeMax CEO, as the case may be), and a Corporate Governance and Nominating Committee, consisting of at least three independent directors. The Board of Directors may, by resolution passed by a majority of the whole Board, designate other committees, and each such other committee shall, subject to the provisions of Article VI of these Bylaws, consist of two or more of the directors of the corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of a committee; *provided*, *however*, that during the Specified Post-Merger Period (as defined in Article VI of these Bylaws), one or more Continuing Office Depot Directors (as defined in Article VI of these Bylaws) shall be designated as alternates for any absent or disqualified members of any committee who are Continuing Office Depot Directors, and one or more Continuing OfficeMax Directors (as defined in Article VI of these Bylaws) shall be designated as alternates for any absent or disqualified members of any committee who are Continuing OfficeMax Directors. Subject to the provisions of Article VI of these Bylaws, such committee or committees (including the members thereof) shall serve at the pleasure of the Board of Directors and have such name or names and have as many members as may be determined from time to time by resolution adopted by the Board of Directors. Any member of

the Board of Directors may participate in the meetings of any such committee, subject to the approval of the chairman of such committee. The Board of Directors shall adopt a charter for each committee it designates (other than special committees), and each committee shall assess the adequacy of such charter annually and recommend any changes to the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Section 11. Limitations on Committee Powers. No committee of the Board of Directors, acting without concurrence of the entire Board, shall have power or authority to:

(a) amend the Certificate of Incorporation or recommend the same to the stockholders;

(b) adopt an agreement of merger or consolidation or recommend the same to the stockholders;

(c) recommend to the stockholders the sale, lease, or exchange of all or substantially all of the corporation's property and assets;

(d) recommend to the stockholders a dissolution of the corporation or a revocation of a dissolution;

(e) amend or repeal these Bylaws;

(f) unless expressly so provided by resolution of the Board of Directors, (i) declare a dividend; or (ii) authorize the issuance of shares of the corporation of any class; and

(g) amend, alter, or repeal any resolution of the Board of Directors which, by its terms, provides that it shall not be amended, altered or repealed by any committee or, as applicable, a certain committee.

Section 12. Committee Rules. Each committee of the Board of Directors may fix its own rules of procedure and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee. Unless otherwise provided in such a resolution, the presence of at least a majority of the members of the committee shall be necessary to constitute a quorum. In the event that a member and that member's alternate, if alternates are designated by the Board of Directors as provided in Section 10 of this Article III, of such committee is or are absent or disqualified, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member; *provided, however*, that during the Specified Post-Merger Period, one or more Continuing Office Depot Directors shall be appointed as alternates for any absent or disqualified members of such committee who are Continuing Office Depot Directors, and one or more Continuing OfficeMax Directors shall be appointed as alternates for any absent or disqualified members of such committee who are Continuing OfficeMax Directors.

Section 13. Use of Communications Equipment in Conducting Meetings. Members of the Board of Directors or any committee thereof may participate in and act at any meeting of the Board of Directors or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting pursuant to this section shall constitute attendance and presence in person at the meeting of the person or persons so participating.

Section 14. Action Without a Meeting by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee.

Section 15. Compensation. The Board of Directors shall have the authority to fix the compensation of directors by written resolution. Nothing herein shall be construed to preclude any director from serving the corporation in any other capacity as an officer, employee, agent or otherwise, and receiving compensation therefor.

Section 16. Books and Records. The Board of Directors shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board of Directors and of the stockholders, appropriate stock books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the corporation.

ARTICLE IV
WAIVER OF NOTICE

Whenever a notice is required to be given by any provision of law, by these Bylaws, or by the Certificate of Incorporation, a written waiver, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to such notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the sole and express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE V
OFFICERS

Section 1. Number and Authority. Subject to the provisions of Article VI of these Bylaws, the Board of Directors of the corporation shall from time to time elect from its membership a Chairman of the Board, who may also be the Chief Executive Officer or any other officer of the corporation. The officers of the corporation shall consist of at least the following: (1) a Chief Executive Officer or, if the Successor CEO Designation (as defined in Article VI of these Bylaws) has not occurred, two Co-Chief Executive Officers until the due appointment of the Successor CEO (as defined in Article VI of these Bylaws) in accordance with the provisions of Article VI of these Bylaws, (2) a Chief Financial Officer, (3) a Secretary and (4) a Treasurer.

The Board of Directors may appoint such other officers and agents, including but not limited to, a President, a Chief Operating Officer, one or more Presidents of Divisions or Business Groups, one or more Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers, as it shall at any time or from time to time deem necessary or advisable. Subject to the provisions of Article VI of these Bylaws, pursuant to Section 10 of this Article V, the Board of Directors may delegate to the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) the right to appoint such Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, Assistant Treasurers and agents, as the Chief Executive Officer (or, if applicable, as the Co-Chief Executive Officers) shall deem appropriate and necessary from to time.

Any number of offices may be held by the same person, except that neither the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) nor any President shall also hold the office of either Treasurer or Secretary. All officers, as between themselves and the corporation, shall have such authority and perform such duties in the management of the business and affairs of the corporation as may be provided in these Bylaws, or, to the extent not so provided, as may be prescribed by the Board of Directors or by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 2. Election and Term of Office. The officers of the corporation (other than those appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw) shall be elected at least once annually by the Board of Directors, and each such officer shall hold office until the next annual meeting of the Board of Directors or until a successor is duly elected and qualified or until his or her earlier resignation or removal as herein provided. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors (or by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw).

Section 3. Removal. All officers and agents shall hold office at the pleasure of the Board of Directors, and any officer or agent elected or appointed by the Board of Directors (or appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw) may, subject to the provisions of Article VI of these Bylaws, be removed at any time by the Board of Directors for cause or without cause at any regular or special meeting, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Officers and agents appointed by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) pursuant to Section 10 of this Bylaw may be removed at any time by the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) for cause or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. Subject to the provisions of Article VI of these Bylaws, any vacancy occurring in any office because of death, resignation, removal, disqualification or otherwise, may be filled by resolution of the Board of Directors.

Section 5. Compensation. Compensation of all officers and agents (other than the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers)) shall be fixed by or in the manner prescribed by the Compensation Committee, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a director of the corporation. The compensation of the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall be fixed by or in the manner prescribed by the Compensation Committee, but such compensation shall be subject to the approval of a majority of the independent directors of the Board of Directors.

Section 6. Chairman of the Board. The Chairman (or, if applicable, the Co-Chairmen) of the Board shall preside at all meetings of the directors, or (a) if the offices of the Chairman of the Board and Lead Director are separate, the Chairman may delegate such duties to the Lead Director or (b) if the offices of the Chief Executive Officer and Chairman of the Board are separate, the Chairman may delegate such duties to the Chief Executive Officer. The Chairman (or, if applicable, the Co-Chairmen) of the Board shall perform such other duties as are required of him by the Board of Directors and shall have no other duties except such as are delegated to him by the Board of Directors. At any time at which there are Co-Chairmen of the Board, any action to be taken by the Co-Chairmen shall be taken jointly by such Co-Chairmen.

Section 7. Chief Executive Officer. Subject to the provisions of Article VI of these Bylaws, the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) of the corporation shall have the general charge of the business and affairs of the corporation and shall oversee the management of the business of the corporation. In the absence of the Chairman (or, if applicable, the Co-Chairmen) of the Board, or if designated to do so by the Board of Directors, the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall preside at all meetings of the stockholders and of the directors and shall exercise the other powers and perform the other duties of the Chairman (or, if applicable, the Co-Chairmen) of the Board or designate the executive officers of the corporation by whom such other powers shall be exercised and other duties performed. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall see to it that all resolutions and orders of the Board of Directors are carried into effect, and the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have full power of delegation in so doing. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have such other powers and perform such other duties as the Board of Directors or these Bylaws may, from time to time, prescribe. The Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) shall have the power to execute any and all instruments and documents on behalf of the corporation and to delegate to any other officer of the corporation the power to execute any and all such instruments and documents. At any time at which there are Co-Chief Executive Officers of the corporation, any action to be taken by the Co-Chief Executive Officers shall be taken jointly by such Co-Chief Executive Officers.

Section 8. Secretary. The Secretary shall attend all meetings of the Board of Directors and its committees and all meetings of the stockholders and shall record all the proceedings of the meetings in a book or books to be kept for that purpose; he or she shall see that all notices required to be given by these Bylaws or by law are duly given in accordance with the provisions of these Bylaws or as required by law; he or she shall be the custodian of the records and of the corporate seal or seals of the corporation; he or she shall have authority to affix the corporate seal or seals to all documents, the execution of which, on behalf of the corporation, under its seal, is duly authorized, and when so affixed it may be attested by his or her signature; and in general, he or she shall perform all duties incident to the office of the Secretary of a corporation, and such other duties as the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) may from time to time prescribe.

Section 9. Treasurer. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the corporation and shall deposit, or cause to be deposited, all moneys and other valuable effects in the name and to the credit of the corporation in such banks, trust companies, or other depositories as shall from time to time be selected by the Board of Directors. He or she shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation; he or she shall render to the Chairman (or, if applicable, the Co-Chairmen) of the Board and to each member of the Board of Directors, whenever requested, an account of the Treasurer's actions and of the financial condition of the corporation. The Treasurer shall perform all of the duties incident to the office of the Treasurer of a corporation, and have such other powers and perform such other duties as the Board of Directors may, from time to time, prescribe. In the event the corporation shall fail to have a Treasurer at any time, then the duties of the Treasurer may be assumed and performed by the Chief Financial Officer and delegated by him to one or more assistant Treasurers.

Section 10. Other Officers, Assistant Officers and Agents. The Board of Directors may also elect or may delegate to the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) the power to appoint such other officers, assistant officers and agents, as it may at any time or from time to time deem advisable, and any officers, assistant officers and agents so elected or appointed shall have such authority and perform such duties as the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers) may from time to time prescribe.

Section 11. Reservation of Authority. All other powers not expressly delegated or provided for herein, or in the Delaware General Corporation Law to any officer, are expressly reserved to the Board of Directors and may be delegated by it to any officer by resolution adopted from time to time by the Board of Directors.

ARTICLE VI
CERTAIN GOVERNANCE MATTERS

Section 1. Definitions.

(a) "Appointment Date" shall have the meaning set forth in Section 3(b) of this Bylaw.

(b) "Cessation Date" shall mean the date of the death, resignation, removal, disqualification or other cessation of service of either of the Co-Chief Executive Officer that is the Office Depot CEO or the Co-Chief Executive Officer that is the OfficeMax CEO.

(c) "Closing" shall mean the consummation of the merger transactions contemplated by the Merger Agreement.

(d) "Continuing Office Depot Directors" shall mean (i) the directors as of the Closing who were designated by the corporation pursuant to Section 1.5(b) of the Merger Agreement (including any such director who may serve as an Interim Office Depot CEO) and (ii) any director who takes office after the Closing who is designated by the Continuing Office Depot Directors Committee pursuant to Section 2(d) of this Bylaw; *provided*, *however*, that each Continuing Office Depot Director shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation, except that employment or service as an Interim Office Depot CEO shall not disqualify a director from being a Continuing Office Depot Director either during or following the time such director was employed or served as an Interim Office Depot CEO.

(e) "Continuing Office Depot Directors Committee" shall mean the committee established by Section 2(d) of this Bylaw.

(f) "Continuing OfficeMax Directors" shall mean (i) the directors as of the Closing who were designated by OfficeMax pursuant to Section 1.5(b) of the Merger Agreement (including any such director who may serve as an Interim OfficeMax CEO) and (ii) any director who takes office after the Closing who is designated by the Continuing OfficeMax Directors Committee pursuant to Section 2(e) of this Bylaw; *provided*, *however*, that each Continuing OfficeMax Director shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation, except that employment or service as an Interim OfficeMax CEO shall not disqualify a director from being a Continuing OfficeMax Director either during or following the time such director was employed or served as an Interim OfficeMax CEO.

(g) "Continuing OfficeMax Directors Committee" shall mean the committee established by Section 2(e) of this Bylaw.

(h) "Interim Office Depot CEO" shall have the meaning set forth in Section 5(a) of this Bylaw.

(i) "Interim OfficeMax CEO" shall have the meaning set forth in Section 5(a) of this Bylaw.

(j) "Merger Agreement" shall mean the Agreement and Plan of Merger, dated as of February 20, 2013, by and among the corporation, Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax, as amended, restated or otherwise modified from time to time.

(k) "Office Depot CEO" shall mean the Chief Executive Officer of the corporation immediately prior to the Closing.

(l) "Office Depot Executive" shall mean the Office Depot CEO or any other current or former executive officer of the corporation.

(m) "OfficeMax" shall mean OfficeMax Incorporated.

(n) "OfficeMax CEO" shall mean the chief executive officer of OfficeMax immediately prior to the Closing.

(o) "OfficeMax Executive" shall mean the OfficeMax CEO or any other current or former executive officer of OfficeMax.

(p) "Remaining Co-CEO Director" shall have the meaning set forth in Section 2(b) of this Bylaw.

(q) "Rotation Date" shall have the meaning set forth in Section 3(b) of this Bylaw.

(r) "Selection Committee" shall mean the committee established by Section 5(b) of this Bylaw.

(s) "Specified Post-Merger Period" shall have the meaning set forth in Section 2(a) of this Bylaw.

(t) "Successor CEO" shall have the meaning set forth in Section 5(b) of this Bylaw.

(u) "Successor CEO Designation" shall have the meaning set forth in Section 5(b) of this Bylaw.

Section 2. Board of Directors; Appointment of Officers.

(a) From and after the Closing until the fourth anniversary of the Closing (the "Specified Post-Merger Period"), the Board of Directors shall be comprised of (i) not less than ten (10) and no more than twelve (12) directors if the Successor CEO Designation has not occurred, (ii) twelve (12) directors in the event the Successor CEO Designation has occurred and the Successor CEO is either an OfficeMax Executive or an Office Depot Executive and (iii) eleven (11) directors in the event the Successor CEO Designation has occurred and the Successor CEO is neither an OfficeMax Executive nor an Office Depot Executive.

(b) Subject to the failure of any Continuing Office Depot Director or any Continuing OfficeMax Director to be reelected to the Board of Directors in accordance with Article II of these Bylaws, during the Specified Post-Merger Period, the Board of Directors shall be composed of (i) five (5) Continuing Office Depot Directors (which shall include any Interim Office Depot CEO who is a Continuing Office Depot Director), (ii) five (5) Continuing OfficeMax Directors (which shall include any Interim OfficeMax CEO who is a Continuing OfficeMax Director), (iii) if the Successor CEO Designation has not occurred, until the Cessation Date, each of the Office Depot CEO and the OfficeMax CEO (and, if applicable following the Cessation Date, an additional director that is, if the Remaining Co-CEO Director is the OfficeMax CEO, designated by the Continuing Office Depot Directors Committee or, if the Remaining Co-CEO Director is the Office Depot CEO, designated by the Continuing OfficeMax Directors Committee, in each case in accordance with the proviso of the immediately following sentence), and (iv) if the Successor CEO Designation has occurred, (A) the Successor CEO and (B) if the Successor CEO is an OfficeMax Executive or an Office Depot Executive, an additional director that is, if the Successor CEO is an OfficeMax Executive, a Continuing Office Depot Director or, if the Successor CEO is an Office Depot Executive, a Continuing OfficeMax

Director. In the event that the Office Depot CEO and the OfficeMax CEO serve as Co-Chief Executive Officers of the corporation, each of the Co-Chief Executive Officers shall resign as director of the corporation effective as of the earlier of (x) the Appointment Date and (y) the Cessation Date; *provided*, *however*, that, in the case of clause (y), in the event that as of the Cessation Date one of the Co-Chief Executive Officers of the corporation has ceased to serve as a director of the corporation and the resignation of the other Co-Chief Executive Officer as director of the corporation is not effective for any reason (such director, the "Remaining Co-CEO Director"), the Continuing Office Depot Directors Committee (if the Remaining Co-CEO Director is the OfficeMax CEO) or the Continuing OfficeMax Directors Committee (if the Remaining Co-CEO Director is the Office Depot CEO) shall designate one (1) additional director to become a Continuing Office Depot Director or Continuing OfficeMax Director, as applicable, to serve until the effectiveness of the resignation of the Remaining Co-CEO Director.

(c) During the Specified Post-Merger Period, all vacancies on the Board of Directors created by death, resignation, removal, disqualification or other cessation of service of a Continuing Office Depot Director shall be filled by a nominee selected by the Continuing Office Depot Directors Committee and all vacancies on the Board of Directors created by such cessation of service of a Continuing OfficeMax Director shall be filled by a nominee selected by the Continuing OfficeMax Directors Committee. During the Specified Post-Merger Period, the Continuing Office Depot Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing Office Depot Director. During the Specified Post-Merger Period, the Continuing OfficeMax Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing OfficeMax Director.

(d) The Board of Directors shall constitute a Continuing Office Depot Directors Committee, which shall be comprised of all the Continuing Office Depot Directors. The Continuing Office Depot Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill the vacancies on the Board of Directors created by the death, resignation, removal, disqualification or other cessation of service of a Continuing Office Depot Director and (ii) nominate directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing Office Depot Director. At the end of the Specified Post-Merger Period, the Continuing Office Depot Directors Committee shall be automatically disbanded.

(e) The Board of Directors shall constitute a Continuing OfficeMax Directors Committee, which shall be comprised of all the Continuing OfficeMax Directors. The Continuing OfficeMax Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill the vacancies on the Board of Directors created by the death, resignation, removal, disqualification or other cessation of service of a Continuing OfficeMax Director and (ii) nominate directors for election at each annual meeting, or at any special meeting at which directors are to be elected, to fill each seat previously held by a Continuing OfficeMax Director. At the end of the Specified Post-Merger Period, the Continuing OfficeMax Directors Committee shall be automatically disbanded.

(f) Each Continuing Office Depot Director and Continuing OfficeMax Director and each director nominated by the Continuing Office Depot Directors Committee or the Continuing OfficeMax Directors Committee shall be "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation; *provided*, *however*, that (i) employment or service as an Interim Office Depot CEO or Interim OfficeMax CEO, as the case may be, shall not disqualify a director from being a Continuing Office Depot Director or Continuing OfficeMax Director, as the case may be, either during or following the time such director was employed or served as an Interim Office Depot CEO or Interim OfficeMax CEO, as the case may be, and (ii) for all purposes of this Article VI, an Office Depot Executive, an OfficeMax Executive and the Successor CEO shall be deemed not to qualify as "independent" (as defined in the rules and regulations governing the requirements of companies listing on the New York Stock Exchange) with respect to the corporation.

Section 3. Chairman and Lead Director. During the Specified Post-Merger Period:

(a) if the Successor CEO Designation has not occurred, a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee and a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee shall serve as Co-Chairmen of the Board of Directors and Co-Lead Directors; and

(b) following such time that the Successor CEO Designation has occurred, (i) if the Successor CEO is an OfficeMax Executive, the Chairman of the Board and Lead Director shall be a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee (and if a Continuing OfficeMax Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing OfficeMax Director shall resign from such positions as of the Appointment Date), (ii) if the Successor CEO is an Office Depot Executive, the Chairman of the Board and Lead Director shall be a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee (and if a Continuing Office Depot Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing Office Depot Director shall resign from such positions as of the Appointment Date), and (iii) if the Successor CEO is neither an OfficeMax Executive nor an Office Depot Executive, the Chairman of the Board and Lead Director (or only the Lead Outside Director, if the Successor CEO is appointed as both Chief Executive Officer and Chairman of the Board pursuant to Article III, Section 2 of these Bylaws) shall be (A) a Continuing Office Depot Director designated by the Continuing Office Depot Directors Committee from and after the date of the appointment of the Successor CEO (the "Appointment Date") (and if a Continuing OfficeMax Director is serving as Co-Chairman of the Board of Directors and Co-Lead Director at such time, such Continuing OfficeMax Director shall resign from such positions as of the Appointment Date) until the date that is nearest to one half of the period from the Appointment Date until the expiration of the Specified Post-Merger Period (such date, the "Rotation Date"), and (B) a Continuing OfficeMax Director designated by the Continuing OfficeMax Directors Committee from and after the Rotation Date until the expiration of the Specified Post-Merger Period.

Section 4. Composition of Committees. During the Specified Post-Merger Period, each committee of the Board of Directors shall be composed of an equal number of Continuing Office Depot Directors and Continuing OfficeMax Directors. With respect to each such committee

(other than, if applicable, the Selection Committee, which shall be subject to Section 5(b) of this Bylaw), (i) the Continuing OfficeMax Directors Committee shall designate the chairperson of the Audit Committee among the members of the Audit Committee, (ii) the Continuing Office Depot Directors Committee shall designate the chairperson of a committee (other than the Audit Committee) among the members of such committee, (iii) following the designation by the Continuing Office Depot Directors Committee pursuant to clause (ii), the Continuing OfficeMax Directors Committee shall designate the chairperson of a committee (other than the committees referred to in clauses (i) and (ii)) among the members of such committee, (iv) following the designation of the Continuing OfficeMax Directors Committee pursuant to clause (iii), the Continuing Office Depot Directors Committee shall designate the chairperson of a committee (other than the committees referred to in clauses (i), (ii) and (iii)) among the members of such committee, and (v) with respect to any additional committee of the Board of Directors, the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee shall alternately designate the chairperson of a committee among the members of such committee (with the Continuing OfficeMax Directors Committee designating first following the Continuing Office Depot Directors Committee's designation pursuant to clause (iv). During the Specified Post-Merger Period, the Audit Committee shall include a Continuing Office Depot Director and a Continuing OfficeMax Director who shall each qualify as an Audit Committee financial expert for purposes of Item 407(d)(5)(ii) of Regulation S-K promulgated under the Exchange Act.

Section 5. Co-Chief Executive Officers; Successor CEO; Selection Committee.

(a) If the Successor CEO Designation has occurred, the Successor CEO shall be appointed to serve as the Chief Executive Officer of the corporation. If the Successor CEO Designation has not occurred, the Office Depot CEO and the OfficeMax CEO shall be appointed to serve as Co-Chief Executive Officers of the corporation until the due appointment of the Successor CEO; *provided*, *however*, that (i) upon the death, resignation, removal, disqualification or other cessation of service of the Co-Chief Executive Officer that is the Office Depot CEO (or any of his or her successors selected and appointed pursuant to this clause (i)), an individual selected by the Continuing Office Depot Directors Committee (including, if so desired, from among the Continuing Office Depot Directors) shall be appointed to serve as Co-Chief Executive Officer of the corporation (such Co-Chief Executive Officer, an "Interim Office Depot CEO") and (ii) upon the death, resignation, removal, disqualification or other cessation of service of the Co-Chief Executive Officer that is the OfficeMax CEO (or any of his or her successors selected and appointed pursuant to this clause (ii)), an individual selected by the Continuing OfficeMax Directors Committee (including, if so desired, from among the Continuing OfficeMax Directors) shall be appointed to serve as Co-Chief Executive Officer of the corporation (such Co-Chief Executive Officer, an "Interim OfficeMax CEO").

(b) If the Successor CEO Designation has not occurred, the Board of Directors shall constitute a Selection Committee comprised of such equal number of Continuing OfficeMax Directors (one of whom shall be a co-chairman of such committee) and Continuing Office Depot Directors (one of whom shall be a co-chairman of such committee) selected prior to the Closing in accordance with Section 1.5(d) of the Merger Agreement. The Selection Committee shall engage an independent search firm to identify and recommend Successor CEO candidates with the terms of the engagement and the search criteria to be established by the Selection Committee;

provided, however, that the Selection Committee shall cause the search firm to consider each of the Office Depot CEO and the OfficeMax CEO as potential candidates. The Selection Committee shall, working through the search firm, seek to recommend to the Board of Directors, by a majority vote of the members of the Selection Committee, an individual to serve as Chief Executive Officer of the corporation (the "Successor CEO") as soon as practicable after the Closing (the "Successor CEO Designation"). As soon as practicable following any Successor CEO Designation, the Board of Directors shall take all actions as may be necessary to appoint the Successor CEO as the sole Chief Executive Officer of the corporation, and the Co-Chief Executive Officers of the corporation shall resign their offices as Co-Chief Executive Officers effective as of the Appointment Date. The appointment of the Successor CEO shall require the vote of a majority of the entire Board of Directors; *provided, however*, that the election of either an Office Depot Executive or an OfficeMax Executive as the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors. Upon the due appointment of the Successor CEO, the Selection Committee shall be automatically disbanded.

(c) In the event of the death, resignation, removal, disqualification or other cessation of service of the Successor CEO prior to the second anniversary of the Appointment Date, the election of either an Office Depot Executive or an OfficeMax Executive as successor to the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors.

(d) During the Specified Post-Merger Period, if the Successor CEO is either an Office Depot Executive or an OfficeMax Executive, the removal of the Successor CEO shall require the affirmative vote of at least two-thirds of all of the independent directors of the Board of Directors.

Section 6. Corporate Headquarters; Operation of Businesses; Brand Names; Reporting Authority.

(a) From and after the Closing, the corporation shall have dual headquarters in Boca Raton, Florida and Naperville, Illinois (which headquarters shall, for purposes of these Bylaws, be deemed to be the "principal executive offices" and "principal places of business" of the corporation) unless and until the Board of Directors shall approve new headquarters.

(b) From and after the Closing, the businesses of the corporation and its subsidiaries as conducted immediately prior to the Closing shall continue to operate under the name "Office Depot," and the businesses of OfficeMax and its subsidiaries as conducted immediately prior to the Closing shall continue to operate under the name "OfficeMax," unless and until the Board of Directors shall approve the name under which the combined businesses of the corporation and its subsidiaries shall operate.

(c) From and after the Closing until the Appointment Date, except as may be otherwise determined by a majority of each of the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee, the Office Depot CEO shall maintain sole chief executive officer authority reporting directly to the Board of Directors for the operation of the businesses of Office Depot and its subsidiaries (other than OfficeMax and its subsidiaries) and the OfficeMax CEO shall maintain sole chief executive officer authority reporting directly to the Board of Directors for the operation of the businesses of OfficeMax and its subsidiaries.

Section 7. Amendments; Interpretation. During the Specified Post-Merger Period, the provisions of this Article VI, Section 10 of Article III and Section 12 of Article III of these Bylaws may be modified, amended or repealed, and any provision of these Bylaws or other resolution inconsistent with this Article VI, Section 10 of Article III or Section 12 of Article III of these Bylaws may be adopted, or any such modification, amendment, repeal or inconsistent provision of these Bylaws or other resolutions recommended for adoption by the stockholders of the corporation, only by an affirmative vote of at least (a) 75 per cent of the entire Board of Directors and (b) a majority of each of the Continuing OfficeMax Directors Committee and the Continuing Office Depot Directors Committee. In the event of any inconsistency between any other provision of these Bylaws and any provision of this Article VI, the provisions of this Article VI shall control.

ARTICLE VII
INDEMNIFICATION OF OFFICERS, DIRECTORS AND OTHERS

Section 1. Coverage. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative ("proceeding"), by reason of the fact that he or she is or was a director, officer of the corporation (which term shall include any predecessor corporation of the corporation) or is or was serving at the request of the corporation as a director, officer, employee, fiduciary or agent of another corporation or of a partnership, joint venture, trust or other enterprise of any type or kind, domestic or foreign, including service with respect to employee benefit plans ("indemnitee"), whether the basis of such proceeding is an alleged action in an official capacity as a director, officer, employee, fiduciary or agent or in any other capacity while serving as a director, officer, employee, fiduciary 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 expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement or other disposition) incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators. The right to indemnification conferred in this Bylaw shall be a contract right that vests at the time of such person's service to or at the request of the corporation and includes the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition, such advances to be paid by the corporation within 20 days after the receipt by the corporation of a statement or statements from the claimant requesting such advance or advances from time to time; *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 Bylaw or otherwise.

Section 2. Claims. To obtain indemnification under this Bylaw, a claimant shall submit to the corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon such written request by a claimant for indemnification, a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (a) if requested by the claimant, by Independent Counsel (as defined below), or (b) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority vote of a quorum consisting of Disinterested Directors (as defined below), or (ii) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iii) if a quorum of Disinterested Directors so directs, by the stockholders of the corporation. In the event the determination of entitlement to indemnification is to be made by Independent Counsel at the request of the claimant, the Independent Counsel shall be selected by the Board of Directors unless there shall have occurred within two years prior to the date of the commencement of the action, suit or proceeding for which indemnification is claimed a "Change of Control" as defined in the 2008 Office Depot Bonus Plan for Executive Management Employees, in which case the Independent Counsel shall be selected by the claimant unless the claimant shall request that such selection be made by the Board of Directors. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such determination.

For purposes of this Bylaw:

"Disinterested Director" means a director of the corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

"Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the corporation or the claimant in an action to determine the claimant's rights under this Bylaw.

Section 3. Enforcement of Claims. If a claim under Section 1 of this Bylaw is not paid in full by the corporation within 60 days after a written claim pursuant to Section 2 of this Bylaw 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 where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standard

of conduct which makes 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 Counsel or 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 Counsel or 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. If a determination shall have been made pursuant to this Section 2 that the claimant is entitled to indemnification, the corporation shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 3. The corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 3 that the procedures and presumptions of this Bylaw are not valid, binding and enforceable and shall stipulate in such proceeding that the corporation is bound by all the provisions of this Bylaw.

Section 4. Enforceability. If any provision or provisions of this Bylaw shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Bylaw (including, without limitation, each portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Bylaw (including, without limitation, each such portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

Section 5. Rights Not Exclusive. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Bylaw (i) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise and (ii) cannot be terminated by the corporation, the Board of Directors or the stockholders of the corporation with respect to a person’s service prior to the date of such termination. No repeal or modification of this Bylaw shall in any way diminish or adversely affect the rights of any current or former director, officer, employee or agent of the corporation hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

Section 6. Employees and Agents. Persons who are not covered by the foregoing provisions of this Article VII and who are or were employees or agents of the corporation may be indemnified and may have their expenses paid to the extent and subject to such terms and conditions as may be authorized at any time or from time to time by the Board of Directors or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers).

Section 7. Insurance. The corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a director, officer, employee, fiduciary or agent of the corporation or who is serving or has served at the request of the corporation as a director,

officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify such person against such liability under this Article VII.

Section 8. Merger or Consolidation. For purposes of this Article VII, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article VII with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

Section 9. Notices. Any notice, request or other communication required or permitted to be given to the corporation under this Article VII shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary and shall be effective only upon receipt by the Secretary.

ARTICLE VIII
CERTIFICATES OF STOCK

Section 1. Form. The shares of capital stock of the corporation shall be represented by certificates; *provided*, that the Board of Directors of the corporation may provide by a resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of capital stock in the corporation represented by certificates shall be entitled to have a certificate for shares of capital stock of the corporation signed by or in the name of the corporation by the Chairman of the Board (or, if applicable, the Co-Chairmen), the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the corporation, certifying the number of shares owned by such holder in the corporation and registered in certificated form. Any or all such signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, any such certificate or certificates shall cease to be such officer, transfer agent or registrar of the corporation whether because of death, resignation or otherwise before such certificate or certificates have been delivered by the corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer, transfer agent or registrar of the corporation. All certificates for shares shall be consecutively numbered or otherwise identified. The name of the person to whom certificated or uncertificated shares are issued, together with the number of shares and date of issue, shall be entered on the books of the corporation. Shares of stock of the corporation shall only be transferred on the books of the corporation by the holder of record thereof or by such holder's

attorney duly authorized in writing and, (i) if such shares are certificated, upon surrender to the corporation of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization and other matters as the corporation may reasonably require, and accompanied by all necessary stock transfer stamps, or (ii) upon proper instructions from the holder of uncertificated shares. In the event of such transfer of certificated shares, it shall be the duty of the corporation to issue a new certificate or evidence of the issuance of uncertificated shares to the person entitled thereto, cancel the old certificate or certificates and record the transaction on its books. Upon receipt of proper transfer instructions from the holder of uncertificated shares, the corporation shall cancel such uncertificated shares and issue new equivalent uncertificated shares or certificated shares to the person entitled thereto and record such transaction upon its books. Except as otherwise provided by law, the Board of Directors may make or adopt such additional rules and regulations, not inconsistent with these Bylaws, as it may deem expedient, concerning the issue, transfer and registration of securities of the corporation. The Board of Directors may appoint or authorize any officer or officers to appoint, one or more transfer agents or registrars or both in connection with the transfer of any class or series of securities of the corporation.

Section 2. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the corporation alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his or her legal representative, to indemnify the corporation or to give the corporation a bond sufficient to indemnify the corporation against any claim that may be made against the corporation on account of the loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 3. Registered Stockholders. Prior to the surrender to the corporation of the certificate or certificates for a share or shares of stock with a request to record the transfer of such share or shares, the corporation may treat the registered owner as the person entitled to receive dividends or other distributions, to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner, and as the person to hold liable for calls and assessments. The corporation shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Dividends and Distributions. The Board of Directors shall have full power and discretion pursuant to law, at any regular or special meeting, subject to the provisions of the Certificate of Incorporation or the terms of any other corporate document or instrument, to determine what, if any, dividends or distributions shall be declared and paid or made upon or with respect to outstanding shares of the capital stock of the corporation. Dividends may be paid in cash, bonds, property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any

funds of the corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or any other purpose and the directors may modify or abolish any such reserve in the manner in which it was created.

Section 2. Checks, Drafts or Orders. All checks, drafts, or other orders for the payment of money by or to the corporation and all notes and other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers or agent, or agents of the corporation, and in such manner, as shall be determined by resolution of the Board of Directors or a duly authorized committee thereof.

Section 3. Contracts. The Board of Directors may authorize any officer or officers or any agent or agents of the corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 4. Loans. Subject to applicable laws limiting or prohibiting the corporation's ability to make such loans, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiary, including any officer or employee who is a director of the corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in this section contained shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

Section 5. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

Section 6. Corporate Seal. The Board of Directors may provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the corporation and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 7. Voting Securities Owned By Corporation. Voting securities in any other entity held by the corporation shall be voted by the Chairman (or, if applicable, the Co-Chairmen) of the Board or the Chief Executive Officer (or, if applicable, the Co-Chief Executive Officers), unless the Board of Directors specifically confers authority to vote with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with or without general power of substitution.

Section 8. General and Special Bank Accounts. The Board of Directors may authorize from time to time the opening and keeping of general and special bank accounts with such banks, trust companies or other depositories as the Board of Directors may designate or as may be

designated by any officer or officers of the corporation to whom such power of designation may be delegated by the Board of Directors from time to time. The Board of Directors may make such special rules and regulations with respect to such bank accounts, not inconsistent with the provisions of these Bylaws, as it may deem expedient.

Section 9. Section Headings. Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 10. Election Out of Section 203. The corporation expressly elects not to be governed by Section 203 of the General Corporation Law of Delaware. The Bylaw amendment adopting this provision shall not be further amended by the Board of Directors of the corporation.

ARTICLE X
AMENDMENTS

Subject to the requirements of Article VI, Section 7, these Bylaws may be amended, altered, or repealed and new Bylaws adopted at any meeting of the Board of Directors by a majority vote; *provided*, that these Bylaws and any other Bylaws amended or adopted by the Board of Directors may be amended, may be reinstated, and new Bylaws may be adopted, by the stockholders of the corporation entitled to vote at the time for the election of directors; *provided*, that notice of the proposed change was given in the corporation's notice of meeting.

Exhibit 99.3

CONTACTS:
Brian Levine
Media Relations
561-438-2895
Brian.Levine@officedepot.com

Julie Treon
Media Relations
630-864-6155
julietreon@officemax.com

Rich Leland
Investor Relations
561-438-3796
Richard.Leland@officedepot.com

Mike Steele
Investor Relations
630-864-6826
michaelsteele@officemax.com

OFFICE DEPOT AND OFFICEMAX COMPLETE MERGER

Neil Austrian and Ravi Saligram to Serve as Co-CEOs

Board of Directors for New Company Named

Updates Synergy Benefits and One-Time Merger Costs

Focus is Now on Executing Integration Plans and Delivering Synergies

Boca Raton, Fla. and Naperville, Ill., November 5, 2013 – Office Depot, Inc. and OfficeMax Incorporated today announced the completion of their merger of equals, creating a stronger, more competitive and more efficient global provider of office products, services and solutions. The combined company will use the name Office Depot, Inc. and will trade on the New York Stock Exchange under the symbol ODP.

Office Depot, Inc. is a single source for everything customers need to make their workplaces more productive, including the latest technology, core office supplies, print and document services, business services, facilities products, furniture, and school essentials.

The new Office Depot, Inc., which would have had combined revenue for the 12 months ended September 28, 2013 of approximately $17 billion, now employs about 66,000 associates worldwide. The company serves consumers and businesses in 59 countries with more than 2,200 retail stores, award-winning e-commerce sites, and a dedicated business-to-business sales organization – all delivered through a global network of wholly owned operations, joint ventures, franchisees, licensees and alliance partners. The company's portfolio of leading brands includes Office Depot, OfficeMax, OfficeMax Grand & Toy, Viking, Ativa, TUL, Foray, and DiVOGA.

Customers can interact with each brand as they always have, including shopping at Office Depot and OfficeMax stores and online at www.officedepot.com and www.officemax.com. Each company will maintain its respective loyalty programs and expects to announce a combined loyalty program sometime in 2014.

Austrian and Saligram to Serve as Co-CEOs

According to the CEO Selection Committee, the uncertainty surrounding the timing and any potential conditions of the Federal Trade Commission approval made it challenging for the search to be finalized in time to coincide with the closing of the merger. The CEO Selection Committee is hopeful of completing the process in the near future, now that unconditional FTC clearance has been obtained.

In the interim, as stated in the merger agreement, Neil Austrian, Chairman and CEO of Office Depot, and Ravi Saligram, President and CEO of OfficeMax, will serve together as co-CEOs, executing the integration plans they and their teams have built to combine the two businesses.

The company will continue to operate in both Boca Raton, Florida and Naperville, Illinois until the new CEO is on board and a decision on a headquarters location is finalized.

Board of Directors Named for New Company

Office Depot, Inc. also announced the members of its new Board of Directors. Aside from Saligram and Austrian, the 12-person board includes five independent directors from each of the Office Depot and OfficeMax Boards. Additional Directors are Warren Bryant, Rakesh Gangwal, Cynthia Jamison, Jim Marino, Michael Massey, Francesca Ruiz de Luzuriaga, Jeff Smith, David Szymanski, Nigel Travis and Joseph Vassalluzzo. Travis and Gangwal will serve as Co-Chairmen/Co-Lead Directors.

The newly appointed Board members bring a wide variety of expertise, qualifications, attributes and skills to the governance of the combined company.

Update to Synergy Benefits and One-Time Merger Costs

The combined company will have significantly improved financial strength and flexibility, with the ability to deliver long-term operating performance improvements through its increased competitiveness.

As a result of the detailed integration planning that has been performed so far, total estimated annual cost synergies by the end of the third year following the close of the merger are now expected to be in the upper half of the previously estimated $400-$600 million range. This excludes any potential synergies from approximately $2 billion of other operating expenses related to retail stores that have not yet been evaluated, as well as any potential working capital savings that may result from vendor or supply chain facility consolidation.

The combined company expects to incur a total of approximately $200 million in one-time operating costs in 2013 related to the merger and up to an additional $400 million in integration costs and approximately $200-$250 million in capital spending over the next three years in order to realize the estimated synergies.

Transaction Information

In accordance with the terms of the merger agreement, OfficeMax shareholders will receive 2.69 shares of Office Depot, Inc. common stock in exchange for each share of OfficeMax common stock. OfficeMax is now a wholly owned subsidiary of Office Depot, Inc. and will no longer be publicly traded. In total, approximately 240 million shares of Office Depot, Inc. common stock were issued to OfficeMax shareholders, representing approximately 45 percent of the 530 million total shares outstanding.

As of September 28, 2013, and before the redemption of the BC Partners' interest, the combined company would have had approximately $1.2 billion in cash. Effective with the merger closing, the company also increased the size of the existing Office Depot, Inc. Amended and Restated Credit Agreement to $1.25 billion. With total liquidity approaching $2.5 billion before the redemption of BC Partners' interest, the newly combined company will have a strong financial foundation for the future.

In conjunction with the closing of the transaction, Office Depot, Inc. also paid $218 million to fully redeem the ODP preferred shares that were held by BC Partners.

About Office Depot, Inc.

Formed by the merger of Office Depot and OfficeMax, Office Depot, Inc. is a leading global provider of products, services, and solutions for every workplace – whether your workplace is an office, home, school, or car.

Office Depot, Inc. is a resource and a catalyst to help customers work better. We are a single source for everything customers need to be more productive, including the latest technology, core office supplies, print and document services, business services, facilities products, furniture, and school essentials.

The company has combined annual sales of approximately $17 billion, employs about 66,000 associates, and serves consumers and businesses in 59 countries with more than 2,200 retail stores, award-winning e-commerce sites and a dedicated business-to-business sales organization – all delivered through a global network of wholly owned operations, joint ventures, franchisees, licensees and alliance partners. The company's portfolio of leading brands includes Office Depot, OfficeMax, OfficeMax Grand & Toy, Viking, Ativa, TUL, Foray, and DiVOGA.

Office Depot, Inc.'s common stock is listed on the New York Stock Exchange under the symbol ODP. Additional press information can be found at: http://news.officedepot.com.

Additional information about the recently completed merger of Office Depot and OfficeMax can be found at http://officedepotmaxmerger.com.

FORWARD-LOOKING STATEMENTS

This communication may contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These statements or disclosures may discuss goals, intentions and expectations as to future trends, plans, events, results of operations or financial condition, or state other information relating to, among other things, the Company, the merger and other transactions contemplated by the merger agreement, based on current beliefs and assumptions made by, and information currently available to, management. Forward-looking

statements generally will be accompanied by words such as “anticipate,” “believe,” “plan,” “could,” “estimate,” “expect,” “forecast,” “guidance,” “intend,” “may,” “possible,” “potential,” “predict,” “project,” “propose” or other similar words, phrases or expressions, or other variations of such words. These forward-looking statements are subject to various risks and uncertainties, many of which are outside of the Company’s control. There can be no assurances that the Company will realize these expectations or that these beliefs will prove correct, and therefore investors and shareholders should not place undue reliance on such statements.

Factors that could cause actual results to differ materially from those in the forward-looking statements include adverse regulatory decisions; the risks that the combined company will not realize the estimated accretive effects of the merger or the estimated cost savings and synergies; the businesses of Office Depot and OfficeMax may not be integrated successfully or such integration may take longer, be more difficult, time-consuming or costly to accomplish than expected; the business disruption following the merger, including adverse effects on employee retention; the combined company’s ability to maintain its long-term credit rating; unanticipated changes in the markets for the combined company’s business segments; unanticipated downturns in business relationships with customers; competitive pressures on the combined company’s sales and pricing; increases in the cost of material, energy and other production costs, or unexpected costs that cannot be recouped in product pricing; the introduction of competing technologies; unexpected technical or marketing difficulties; unexpected claims, charges, litigation or dispute resolutions; new laws and governmental regulations. The foregoing list of factors is not exhaustive. Investors and shareholders should carefully consider the foregoing factors and the other risks and uncertainties described in Office Depot’s and OfficeMax’s Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q filed with the Securities and Exchange Commission. The combined company does not assume any obligation to update or revise any forward-looking statements.