

AMERICAN STATES WATER CO

Form 11-K

July 11, 2008

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549



# FORM 11-K

(Mark One)

**x**

**ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934 [FEE REQUIRED]**

For the fiscal year ended December 31, 2007



OR



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**TRANSITION REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934 [NO FEE REQUIRED]**

For the transition period from                      to



Commission file number: 001-14431



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A. Full title of the plan and the address of the plan, if different from that of the issuer named below:

Golden State Water Company Investment Incentive Program



B. Name of issuer of the securities held pursuant to the plan and the address of its principal executive office:

**American States Water Company**

630 East Foothill Boulevard  
San Dimas, California 91773





**Golden State Water Company**  
**Investment Incentive Program**

**Financial Statements and**

**Supplemental Schedule**

**As of December 31, 2007 and 2006 and  
for the Year Ended December 31, 2007**

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## Golden State Water Company Investment Incentive Program

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Note: All schedules other than that listed above have been omitted since the information is either disclosed elsewhere in the financial statements or not required by 29 CFR 2520.103-10 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, as amended.

**Report of Independent Registered Public Accounting Firm**



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Investment Incentive Program Administrative Committee  
Golden State Water Company Investment Incentive Program  
San Dimas, California

We have audited the accompanying statements of net assets available for Plan benefits of the Golden State Water Company Investment Incentive Program (the Plan) as of December 31, 2007 and 2006, and the related statement of changes in net assets available for Plan benefits for the year ended December 31, 2007. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Plan is not required to have, nor were we engaged to perform, an audit of its internal controls over financial reporting. Our audits include consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for Plan benefits as of December 31, 2007 and 2006, and the changes in net assets available for Plan benefits for the year ended December 31, 2007 in conformity with accounting standards generally accepted in the United States of America.

Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedules of delinquent participant contributions for the year ended December 31, 2007 and assets (held at end of year) as of December 31, 2007 are presented for the purpose of additional analysis and are not a required part of the basic financial statements but is supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. These supplemental schedules are the responsibility of the Plan's management. The supplemental schedules have been subjected to the auditing procedures applied in our audits of the basic financial statements and, in our opinion, are fairly presented in all material respects in relation to the basic financial statements taken as a whole.

/s/ BDO Seidman, LLP  
Costa Mesa, California  
July 9, 2008

**Golden State Water Company  
Investment Incentive Program**

**Statements of Net Assets Available for Plan Benefits**

<i>December 31,</i>	<b>2007</b>	<b>2006</b>
<b>Assets</b>		
Investments, at fair value	<b>\$ 60,424,018</b>	\$ 57,973,338
Contributions receivable	48,966	28,026
<b>Net assets available for plan benefits, at fair value</b>	<b>60,472,984</b>	58,001,364
Adjustment from fair value to contract value for interest in collective trust fund relating to fully benefit-responsive investment contracts	15,302	72,554
<b>Net assets available for plan benefits</b>	<b>\$ 60,488,286</b>	\$ 58,073,918

*See accompanying notes to financial statements.*

## Golden State Water Company Investment Incentive Program

### Statement of Changes in Net Assets Available for Plan Benefits

<i>Year ended December 31,</i>	<b>2007</b>
<b>Additions:</b>	
<b>Contributions:</b>	
Employee	\$ 2,880,646
Employer	1,353,093
<b>Total contributions</b>	<b>4,233,739</b>
<b>Investment income:</b>	
Net depreciation in fair value of investments	(669,965)
Interest and dividends	2,674,208
<b>Total net investment income</b>	<b>2,004,243</b>
<b>Total additions</b>	<b>6,237,982</b>
<b>Deductions:</b>	
Benefits paid to participants	3,777,025
Loans in default	29,497
Administrative and other expenses	17,092
<b>Total deductions</b>	<b>3,823,614</b>
<b>Net increase</b>	<b>2,414,368</b>
<b>Net assets available for plan benefits</b>	
Beginning of year	58,073,918
End of year	\$ 60,488,286

*See accompanying notes to financial statements.*



## Golden State Water Company Investment Incentive Program

### Notes to Financial Statements

#### 1. Plan Description

The following description of the Golden State Water Company Investment Incentive Program (the Plan) provides only general information. Participants should refer to the Plan document for a more complete description of the Plan's provisions.

##### General

The Plan is a defined contribution plan established by Golden State Water Company (the Company) under the provisions of Section 401(a) of the Internal Revenue Code (the IRC) which includes a qualified cash or deferred arrangement as described in Section 401(k) of the IRC, for the benefit of eligible employees of the Company. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Prior to inception of the Plan, the Company maintained the Payroll-Based Tax Credit Employee Stock Ownership Plan (the PAYSOP) for the benefit of participating employees and their beneficiaries. Under the PAYSOP, the Company contributed amounts equal to a tax credit claimed by the Company on its federal income tax return. This credit was calculated as a percentage of qualifying payroll. The Tax Reform Act of 1986 eliminated this credit for tax years after 1986. As a result, the Company terminated the PAYSOP and transferred the net assets into the Plan effective January 1, 1988. The trustee of the Plan maintains a separate account for the net assets which were transferred from the PAYSOP. The net assets relating to the PAYSOP amounted to \$2,803,352 and \$3,134,383 as of December 31, 2007 and 2006, respectively. Such net assets as of December 31, 2006 were considered non-participant directed investments and the full net assets balance is invested in the American States Water Company Stock Fund (See Note 6).

In 1998, the Company formed a holding company, American States Water Company (ASWC). ASWC has no material assets other than the common stock of the Company. At the time of the formation, the Plan's investments in the Company's common stock changed to an investment in the ASWC common stock. Such change did not have a significant impact on the financial statements.

##### Plan Amendments

Effective April 1, 2007 and October 30, 2007, the Plan was amended to include eligible exempt employees of one of ASWC's wholly-owned subsidiaries.

Effective January 1, 2007, the Plan was also amended and changed, among other things, the allocation of the Company's matching contribution to participant accounts. The matching contribution for each participant shall now be made to the same investment funds to which the participant's compensation deferral contribution is made in a given payroll period.

## Golden State Water Company Investment Incentive Program

### Notes to Financial Statements

#### 1. Plan Description (Continued)

##### Plan Administration

The Plan is administered by the Investment Incentive Program Administrative Committee (the Plan Administrator), which is appointed by the Company's Board of Directors. During 2007 and 2006, Wells Fargo Bank (Trustee) provided the record keeping services and served as the Plan's appointed trustee. Effective July 1, 2008, the Plan's trustee was replaced with New York Life Trust Company.

##### Eligibility

Any employee who has completed a period of service of 30 consecutive days is eligible to participate in the Plan. Participation begins on the first day of the payroll period coincident with or next following the attainment of 30 consecutive days of service.

##### Contributions

Subject to statutory limits, eligible employees can contribute an amount between 1% and 20% of compensation, as defined in the Plan document. In 2007, the maximum allowable pre-tax deferral increased to \$15,500, with additional catch-up deferrals of up to \$5,000. In addition, the Company provides matching contributions of 100 percent of the first three percent and 50 percent of the next three percent contributed by a participant.

Prior to January 1, 2007, employer matching contributions were invested in the ASWC Common Stock Fund which totaled \$1,242,049 for the year ended December 31, 2006. Once employer matching contributions had been allocated to a participant's account, the participant could then redirect the investment of such matching contributions into any of the investment funds, subject to compliance with applicable laws and any Company insider trading policies. The ASWC Common Stock Fund has been deemed an employee stock ownership plan within the meaning of Section 4975(e)(7) of the Code and ERISA Section 407(d)(6) that is intended to invest primarily in Company Stock. All cash dividends on Company Stock allocated to participants' accounts invested in the Company Stock Fund were reinvested in Company Stock, except for dividends allocated to any participant who elected that such dividends shall be distributed to the participant in cash. Such election had been made in a manner prescribed by the Committee.

As previously mentioned, effective January 1, 2007, the matching contribution for each participant is now made to the same investment funds to which the participant's compensation deferral contribution is made in a given payroll period. The Plan no longer has non-participant directed investments.

## Golden State Water Company Investment Incentive Program

### Notes to Financial Statements

#### 1. Plan Description (Continued)

##### Vesting

Participants are fully vested in their contributions and the employer contributions made to their account, plus actual earnings thereon.

##### Distribution of Benefits

Participants' benefits under the Plan become distributable upon termination of service, as defined in the Plan document. Participants electing to have their distribution deferred will receive benefits equal to the amounts credited to their account as of the end of the next calendar quarter. The value of benefits distributable to a participant not electing deferral is based upon amounts credited to the participants account under the Plan as of the end of the preceding calendar quarter, except as described below.

A participant shall be entitled to request an in-service withdrawal of the lesser of the balance of his account or the total unwithdrawn deferral contributions after the participant has attained age 59-1/2. Such a distribution shall be permitted only once every two years while the participant remains an employee of the Company. In addition, subject to the approval of the Plan Administrator, withdrawals from a participant's account may be permitted before age 59-1/2 to meet a financial hardship, as defined in the Plan document.

A participant who has attained age 55 and completed at least ten years of participation in the Plan (including any years of participation in the PAYSOP) may elect a distribution of a portion of his PAYSOP account attributable to shares of Company Stock after December 31, 1986, as provided in Section 401(a)(28)(B) of the IRC.

##### Participant Accounts

Each participant's account is credited or debited with the participant's contributions and related employer matching contributions, as well as the participant's share of the Plan's earnings or losses. Certain administrative expenses (i.e. loan processing fee) directly relating to a participant's account are specifically deducted from the specific participant's account. The benefit to which a participant is entitled is the benefit that can be provided from the participant's account balance.

## Golden State Water Company Investment Incentive Program

### Notes to Financial Statements

#### 1. Plan Description (Continued)

##### Participant Loans

Participants may borrow from their account a minimum of \$1,000 up to a maximum amount equal to the lesser of \$50,000 or 50 percent of his or her account balance. Loan transactions are treated as a transfer between the investment fund and the Participant Loan Fund. Principal and interest are repayable ratably through payroll deductions over 36 months for loans less than \$5,000 and within 59 months for all other loans. The loans bear interest at the Prime Rate plus one percent. The interest rates as of December 31, 2007 range from 5% to 10.50%. A loan is considered to be in default at the end of the quarter in which any scheduled payment is more than thirty days late. Under the current terms and conditions of the Plan, there are no special provisions for loans made to purchase a principal residence.

Management determines the collectibility of participant loans on a periodic basis. This determination is made based on the terms of the Plan document and the related Plan policies and procedures. Those participant loans that are deemed to be uncollectible are written-off and included as loans in default in the financial statements and the Form 5500 for financial reporting purposes in the year the determination is made. As of December 31, 2007, there is a total of \$79,298 in participant loans deemed to be uncollectible of which \$29,497 were deemed uncollectible in 2007.

#### 2. Summary of Significant Accounting Policies

##### Basis of Accounting

##### Peerless' View on the Tax Plan

Peerless believes that it is very important that the Board take action in order to preserve the Company's Tax Benefits. What we do not understand is why the Board had not adopted the Tax Plan over the past 5 years. Therefore, we are highly suspect of the timing and therefore the motives of the Board when they only adopt such a plan in the middle of this proxy contest. It clearly seems that one of the Company's motives in approving the Tax Plan is to adopt it as an anti-takeover defense in order to protect the current Board.

Based upon the above, Peerless is not making any recommendation relating to the approval of the Tax Benefit Preservation Plan. If you return your signed GOLD proxy card without marking voting selections on this Proposal, no vote will be cast with respect to this Proposal 5.

##### Vote Required

Approval of the Tax Plan requires the affirmative vote of the majority in voting power of all outstanding shares of Common Stock that are present in person or by proxy at the 2011 Meeting and entitled to vote on the proposal to approve the Tax Plan. With respect to this Proposal 5, abstentions are considered shares "present and entitled to vote" at the meeting and therefore will have the same effect as voting against the Tax Plan. "Broker non-votes" will not be

treated as shares which are “present and entitled to vote” on the Tax Plan and, as such, will have no effect on the outcome of Proposal 5.

## PROPOSAL 6

### PROPOSAL TO ELIMINATE THE CLASSIFICATION OF THE MODUSLINK BOARD

Peerless intends to make the following proposal at the Annual Meeting:

To recommend that the Company’s Board of Directors amend the Company’s Certificate of Incorporation (“COI”) and Restated By-Laws, as Amended March 2, 2011, to eliminate the Classified Board of Directors;

Commentators and corporate governance experts disagree on the propriety and utility of classified Board of Directors. We believe that a classified board has served to entrench the ModusLink Board and has reduced the accountability of directors to stockholders because classified boards limit the ability of stockholders to evaluate and elect all directors on an annual basis.

Peerless believes that declassifying the ModusLink Board will increase the Board’s accountability to all stockholders and minimize the impact of entrenched directors and management. Peerless believes that directors who are up for re-election only every three years are less likely to be attentive to stockholder concerns and are thus more likely to "rubber stamp" management decisions. In addition, the current classified board structure serves as an unwarranted de facto anti-takeover defense. A classified board ensures that no stockholder or group of stockholders, regardless of ownership interest (even owning more than 80% of the outstanding Common Stock) can elect a majority on the Board in the near term. This will deter interested parties from seeking to invest in or acquire shares in the Company.

Unfortunately, the ModusLink Board of Directors has decided to oppose our proposal to declassify the Board, which would provide for the annual election of all directors.

This proposal is non-binding on the Company. However, if approved, stockholders would send a clear signal to the Board that the stockholders demand that the classified board be eliminated. In order to remove the classified board, the Board would need to amend the Company's COI and By-Laws. The COI would then need to be submitted to a vote of the Company's stockholders. Upon such amendment, the directors would be elected for one year terms.

**YOU ARE URGED TO VOTE "FOR" THE PROPOSAL TO RECOMMEND TO THE BOARD TO ELIMINATE THE CLASSIFIED BOARD.**

### VOTING AND PROXY PROCEDURES

Only stockholders of record on the Record Date will be entitled to notice of and to vote at the Annual Meeting. Each share of Common Stock is entitled to one vote. Stockholders who sell shares before the Record Date (or acquire them without voting rights after the Record Date) may not vote such shares. Stockholders of record on the Record Date will retain their voting rights in connection with the Annual Meeting even if they sell such shares after the Record Date. Based on publicly available information, Peerless believes that the only class of outstanding ModusLink securities entitled to vote at the Annual Meeting is shares of Common Stock.

Shares represented by properly executed GOLD proxy cards will be voted at the Annual Meeting as marked and, in the absence of specific instructions, will be voted FOR the election of Timothy Brog and Jeffrey Wald, the Peerless Nominees to the Board, FOR the Proposal to eliminate the classified Board of Directors, AGAINST the compensation paid to the Company's executive officers and FOR ONE YEAR on the frequency of holding advisory votes on executive compensation, and in the discretion of the persons named as proxies on all other matters as may properly come before the Annual Meeting.

### VOTES REQUIRED FOR APPROVAL

Vote required for the election of directors. The election of the director nominees requires the favorable vote of a plurality of all votes cast by the holders of the shares of Common Stock at a meeting at which a quorum is present.

Broker non-votes occur when holders of record, such as banks and brokers holding shares on behalf of beneficial owners, do not receive voting instructions from the beneficial holders at least ten days before the Annual Meeting. If a broker does not receive voting instructions from the beneficial owner, it may vote the shares of the beneficial owner on routine matters, but not non-routine matters. Proposals 1, 2, 3, 5 and 6 are non-routine matters.

Abstentions and broker non-votes will be counted as present for purposes of determining a quorum at the meeting. However, abstentions and broker-non votes will have no effect with respect to Proposal 1. With respect to Proposals 2, 3, 4 and 6, abstentions and any "broker non-votes" will not be included in the vote totals and, as such, will have no effect on the outcome of these proposals. With respect to Proposal 5, abstentions are considered shares "present and entitled to vote" at the meeting and therefore will have the same effect as voting against the proposal. "Broker non-votes" will not be treated as shares which are "present and entitled to vote" on Proposal 5 and, as such, will have no effect on the outcome of Proposal 5.

A stockholder may cast votes for the Peerless Nominees by so marking the ballot at the Annual Meeting or by specific voting instructions sent with a signed proxy to Peerless in care of D.F. King & Co., at the address set forth on the back

cover of this Proxy Statement.

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## DISCRETIONARY VOTING

Shares held in “street name” and held of record by banks, brokers or nominees may not be voted by such banks, brokers or nominees unless the beneficial owners of such shares of Common Stock provide them with instructions on how to vote.

## REVOCATION OF PROXIES

A proxy may be revoked at any time before a vote is taken or the authority granted is otherwise exercised. Revocation may be accomplished by the execution of a later dated GOLD proxy, or a later casted Internet or telephone vote, with regard to the same shares or by giving notice in writing or in open meeting. The delivery of a subsequently dated GOLD proxy which is properly completed will constitute a revocation of any earlier proxy. The revocation may be delivered to Peerless in care of D.F. King & Co. at the address set forth on the back cover of this Proxy Statement. Although a revocation is effective if delivered to ModusLink, Peerless requests that either the original or photostatic copies of all revocations be mailed to Peerless in care of D.F. King & Co. at the address set forth on the back cover of this Proxy Statement, so that Peerless will be aware of all revocations and can more accurately determine if and when proxies have been received from the holders of record on the Record Date and the number of outstanding shares of Common Stock represented thereby. Additionally, D.F. King & Co. may use this information to contact stockholders who have revoked their proxies in order to solicit later dated GOLD proxies for the election of the Peerless Nominees.

IF YOU WISH TO VOTE “FOR” THE ELECTION OF THE PEERLESS NOMINEES TO THE BOARD, “AGAINST” THE COMPENSATION PAID TO THE COMPANY’S EXECUTIVE OFFICERS, FOR “ONE YEAR” ON THE FREQUENCY OF HOLDING ADVISORY VOTES ON EXECUTIVE COMPENSATION AND “FOR” THE PROPOSAL TO ELIMINATE THE CLASSIFIED BOARD OF DIRECTORS, DATE AND RETURN PROMPTLY THE ENCLOSED GOLD PROXY CARD IN THE POSTAGE-PAID ENVELOPE PROVIDED.

## SOLICITATION OF PROXIES

The solicitation of proxies pursuant to this Proxy Statement is being made by Peerless. Proxies may be solicited by mail, facsimile, telephone, telegraph, Internet, in person and by advertisements.

Peerless has entered into an agreement with D.F. King & Co. for solicitation and advisory services in connection with this solicitation, for which D.F. King & Co. will receive a fee not to exceed \$50,000, together with reimbursement for its reasonable out-of-pocket expenses, and will be indemnified against certain liabilities and expenses, including certain liabilities under the federal securities laws. D.F. King & Co. will solicit proxies from individuals, brokers, banks, bank nominees and other institutional holders. Peerless has entered into an agreement with Hedge Fund Solutions, LLC for solicitation and advisory services in connection with this solicitation, for which Hedge Fund Solutions, LLC will receive a monthly fee of approximately \$7,500 and a success fee not to exceed \$50,000, together with reimbursement for its reasonable out-of-pocket expenses, and will be indemnified against certain liabilities and expenses, including certain liabilities under the federal securities laws. D.F. King & Co. and Hedge Fund Solutions, LLC will solicit proxies from individuals, brokers, banks, bank nominees and other institutional holders. Peerless has requested banks, brokerage houses and other custodians, nominees and fiduciaries to forward all solicitation materials to the beneficial owners of the shares of Common Stock they hold of record. Peerless will reimburse these record holders for their reasonable out-of-pocket expenses in so doing. It is anticipated that D.F. King & Co. and Hedge Fund Solutions, LLC will employ approximately 10 and 3 persons, respectively, to solicit ModusLink’s stockholders for the Annual Meeting.

The entire expense of soliciting proxies is being borne by Peerless. In the event that the Peerless Nominees are elected to the Board or if any of the Peerless Proposals are approved by stockholders, we will seek reimbursement of



our expenses from ModusLink and will not submit such reimbursement to a vote of stockholders. Costs of this solicitation of proxies are currently estimated to be approximately \$300,000. Peerless estimates that through the date hereof its expenses in connection with this solicitation are approximately \$100,000.

#### ADDITIONAL PARTICIPANT INFORMATION

##### Peerless' Business Description

Founded in 1982, Peerless historically licensed imaging and networking technologies to the digital document markets. Effective April 30, 2008, Peerless sold its imaging and networking technologies and certain other assets to Kyocera-Mita Corporation. Peerless retains certain rights to continue licensing these technologies to customers in the digital document markets. Peerless is seeking to maximize the value of its licensing business and is exploring various alternatives to enhance stockholder value, potentially through establishing a new venture or acquiring an existing business, as well as through other investment opportunities.

#### Additional Information

The principal business address of Peerless is 300 Atlantic Street, Suite 301, Stamford, CT 06901. The principal business address of the Peerless Nominees are:

Timothy Brog, 300 Atlantic Street, Suite 301, Stamford, CT 06901

Jeffrey Wald, 20 West 20th Street, New York, NY 10011

As of the date hereof, Peerless owns 1,059,528 shares of Common Stock, representing approximately 2.4% of the outstanding shares. Peerless is the record owner of 100 shares of Common Stock and the beneficial owner of 1,059,428 shares of Common Stock.

For information regarding purchases and sales of securities of ModusLink during the past two years by Peerless and the Peerless Nominees see Schedule I.

Peerless reserves the right to retain one or more financial advisors and proxy solicitors, who may be considered participants in a solicitation under Regulation 14A of the Exchange Act.

Peerless may from time-to-time determine to acquire additional securities of ModusLink, dispose of any or all securities of ModusLink, or seek to acquire a controlling interest in ModusLink through a merger, acquisition, tender offer, or other similar transaction, each to the extent deemed advisable by Peerless in light of its general investment policies, market conditions, subsequent developments affecting ModusLink and the general business and future prospects of ModusLink.

Except as set forth in this Proxy Statement (including the Schedules hereto), (i) during the past 10 years, no participant in this solicitation has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors); (ii) no participant in this solicitation directly or indirectly beneficially owns any securities of ModusLink; (iii) no participant in this solicitation owns any securities of ModusLink which are owned of record but not beneficially; (iv) no participant in this solicitation has purchased or sold any securities of ModusLink during the past two years; (v) no part of the purchase price or market value of the securities of ModusLink owned by any participant in this solicitation is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities; (vi) no participant in this solicitation is, or within the past year was, a party to any contract, arrangements or understandings with any person with respect to any securities of ModusLink, including, but not limited to, joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profit, division of losses or profits, or the giving or withholding of proxies; (vii) no associate of any participant in this solicitation owns beneficially, directly or indirectly, any securities of ModusLink; (viii) no participant in this solicitation owns beneficially, directly or indirectly, any securities of any parent or subsidiary of ModusLink; (ix) no participant in this solicitation or any of his/its associates was a party to any transaction, or series of similar transactions, since the beginning of ModusLink's last fiscal year, or is a party to any currently proposed transaction, or series of similar transactions, to which ModusLink or any of its subsidiaries was or is to be a party, in which the amount involved exceeds \$120,000; (x) no participant in this solicitation or any of his/its associates has any arrangement or understanding with any person with respect to any future employment by ModusLink or its affiliates, or with respect to any future transactions to which ModusLink or any of its affiliates will or may be a party; and (xi) no person, including the participants in this solicitation, who is a party to an arrangement or understanding pursuant to which the Peerless Nominees are proposed to be elected has a substantial interest, direct or indirect, by security holdings or otherwise in any matter to be acted on at the Annual Meeting.

SECURITY OWNERSHIP OF CERTAIN  
BENEFICIAL OWNERS, DIRECTORS AND MANAGEMENT

This section is based upon ModusLink's proxy statement filed with the Securities and Exchange Commission ("SEC") on October 24, 2011.

The following table sets forth certain information, as of October 15, 2011, with respect to the beneficial ownership of shares of Common Stock by: (i) 5% stockholders; (ii) the members of the Board of the Company, including the Company's Chairman, President and Chief Executive Officer; (iii) the Company's Chief Financial Officer; (iv) the Company's three other most highly compensated executive officers who were serving as executive officers on July 31, 2011 (collectively with the Chief Executive Officer and the Chief Financial Officer, the "named executive officers"); and (v) all current executive officers and members of the Board of the Company, as a group.

Name of Beneficial Owner	Amount and Nature of Beneficial Ownership(1)	
	Number of Shares	Percent of Class (2)
<b>5% Stockholders</b>		
Steel Partners, Ltd.(3)	4,367,275	9.9%
BlackRock, Inc.(4)	3,263,693	7.4%
Dimensional Fund Advisors LP(5)	2,855,838	6.5%
Schneider Capital Management Corporation(6)	2,448,321	5.6%
<b>Directors and Nominees</b>		
Virginia G. Breen(7)	33,194	*
Jeffrey J. Fenton(8)	33,116	*
Thomas H. Johnson(9)	46,194	*
Francis J. Jules(10)	49,344	*
Joseph C. Lawler(11)	711,368	1.6%
Edward E. Lucente(12)	59,194	*
Michael J. Mardy(13)	58,394	*
Joseph M. O'Donnell(14)	18,716	*
<b>Named Executive Officers (other than CEO)</b>		
Steven G. Crane(15)	239,236	*
Peter L. Gray(16)	114,009	*
William R. McLennan(17)	282,533	*
David J. Riley(18)	130,414	*
All current executive officers and directors, as a group (12 persons) (19)	1,783,788	4.0%

(1) For purposes of this table, beneficial ownership is determined by rules promulgated by the Securities and Exchange Commission (the "SEC"), and the information is not necessarily indicative of beneficial ownership for any other purpose. Under these rules, beneficial ownership includes any shares over which the individual has sole or shared voting power, investment power and also any shares which the individual has the right to acquire within 60 days after October 15, 2011 through the exercise of any stock option or other right ("Presently Exercisable Options"). The inclusion herein of such shares, however, does not constitute an admission that the named stockholder is a direct or indirect beneficial owner of such shares. The Company believes that each person or entity named in the table has sole voting power and investment power (or shares such power with his or her spouse) with respect to all shares of Common Stock listed as owned by such person or entity unless noted otherwise. Unless otherwise indicated, the address of each person listed in the table is c/o ModusLink Global Solutions, Inc., 1601 Trapelo Road, Suite 170, Waltham, MA 02451.

(2) Number of shares deemed outstanding includes 43,820,641 shares of Common Stock as of October 15, 2011, plus any shares subject to Presently Exercisable Options held by the person in question.



- (3) Based on information provided in a Schedule 13D filed by Handy & Harman, Ltd. (“HNH”), BNS Holdings, Inc. (“BNS”), Steel Partners, Ltd. (“SPL”), Steel Partners Holdings L.P. (“Steel Holdings”), SPH Group LLC (“SPHG”), SPH Group Holdings LLC (“SPHG Holdings”), Steel Partners LLC (“Partners LLC”), and Warren G. Lichtenstein with the SEC on October 14, 2011. The principal business address of HNH is 1133 Westchester Avenue, Suite N222, White Plains, New York 10604. The principal business address of BNS is 49 Stanton Avenue, Riverside, Rhode Island 02915. The principal business address of the entities and persons other than HNH and BNS is 590 Madison Avenue, 32nd Floor, New York, New York 10022.
- SPL owns 60,000 shares of Common Stock. Mr. Lichtenstein is the Chief Executive Officer and sole director of SPL. Accordingly, by virtue of Mr. Lichtenstein's relationship with SPL, Mr. Lichtenstein may be deemed to beneficially own the shares of Common Stock owned directly by SPL. Mr. Lichtenstein disclaims beneficial ownership of the shares of Common Stock owned directly by SPL except to the extent of his pecuniary interest therein. SPL and Mr. Lichtenstein have shared dispositive and voting power with respect to the 60,000 shares owned by SPL.
- BNS owns 540,015 shares of Common Stock. SPHG Holdings owns approximately 85% of the outstanding shares of common stock of BNS. Steel Holdings owns 99% of the membership interests of SPHG. SPHG is the sole member of SPHG Holdings. Partners LLC is the manager of Steel Holdings and has been delegated the sole power to vote and dispose of the securities held by SPHG Holdings. Mr. Lichtenstein is the manager of Partners LLC. Accordingly, by virtue of SPHG Holdings' ownership of BNS and the relationships discussed above, each of SPHG Holdings, Steel Holdings, SPHG, Partners LLC and Mr. Lichtenstein may be deemed to beneficially own the shares of Common Stock owned directly by BNS. Each of SPHG Holdings, SPHG, Steel Holdings, Partners LLC and Mr. Lichtenstein disclaims beneficial ownership of the shares of Common Stock owned directly by BNS except to the extent of his or its pecuniary interest therein. BNS, SPHG Holdings, SPHG, Steel Holdings, Partners LLC and Mr. Lichtenstein have shared dispositive and voting power with respect to the 540,015 shares owned by BNS.
- HNH owns 3,757,260 shares of Common Stock. SPHG Holdings owns approximately 55% of the outstanding shares of common stock of HNH. Steel Holdings owns 99% of the membership interests of SPHG. SPHG is the sole member of SPHG Holdings. Partners LLC is the manager of Steel Holdings and has been delegated the sole power to vote and dispose of the securities held by SPHG Holdings. Mr. Lichtenstein is the manager of Partners LLC. Accordingly, each of SPHG Holdings, Steel Holdings, SPHG, Partners LLC and Mr. Lichtenstein could be deemed to beneficially own the shares of Common Stock owned directly by HNH. Each of SPHG Holdings, Steel Holdings, SPHG, Partners LLC and Mr. Lichtenstein disclaims beneficial ownership of the shares of Common Stock owned directly by HNH. HNH has sole dispositive and voting power with respect to the 3,757,260 shares owned by HNH.
- (4) Based solely on information provided in a Schedule 13G filed by BlackRock, Inc. (“BlackRock”) with the SEC on February 7, 2011, BlackRock has sole dispositive power and sole voting power with respect to such shares. BlackRock's address is 40 East 52nd Street, New York, NY 10022.
- (5) Based solely on information provided in a Schedule 13G filed by Dimensional Fund Advisors LP (“Dimensional”) with the SEC on February 11, 2011, Dimensional has shared dispositive power with respect to such shares and sole voting power with respect to 2,742,226 shares. Dimensional is an investment advisor registered under Section 203 of the Investment Advisors Act of 1940, furnishing investment advice to four investment companies registered under the Investment Company Act of 1940, and serves as investment manager to certain other commingled group trusts and separate accounts. These investment companies, trusts and accounts are collectively referred to as the “Funds.” As a result of its role as investment advisor or investment manager to the Funds, Dimensional may be deemed to be the beneficial owner of the 2,855,838 shares of Common Stock held by the Funds. However, Dimensional does not have the right to receive any dividends from, or

the proceeds from the sale of, the securities held by the Funds and Dimensional disclaims beneficial ownership of such securities. Dimensional's address is Palisades West, Building One, 6300 Bee Cave Road, Austin, TX 78746.

- (6) Based solely on information provided in a Schedule 13G filed by Schneider Capital Management Corporation ("Schneider") with the SEC on February 14, 2011, Schneider has sole dispositive power with respect to such shares and sole voting power with respect to 1,437,724 shares. Schneider's address is 460 E. Swedesford Rd., Suite 2000, Wayne, PA 19087.
- (7) Includes 19,200 shares which may be acquired by Ms. Breen pursuant to Presently Exercisable Options.
- (8) Includes 7,222 shares which may be acquired by Mr. Fenton pursuant to Presently Exercisable Options.
- (9) Includes 27,200 shares which may be acquired by Mr. Johnson pursuant to Presently Exercisable Options.
- (10) Includes 34,400 shares which may be acquired by Mr. Jules pursuant to Presently Exercisable Options.
- (11) Includes 285,482 shares which may be acquired by Mr. Lawler pursuant to Presently Exercisable Options.
- (12) Includes 27,200 shares which may be acquired by Mr. Lucente pursuant to Presently Exercisable Options. Includes 15,000 shares held by a limited partnership controlled by Mr. Lucente and his wife; Mr. Lucente and his wife have shared dispositive and voting power with respect to such shares.
- (13) Includes 34,400 shares which may be acquired by Mr. Mardy pursuant to Presently Exercisable Options.
- (14) Includes 7,222 shares which may be acquired by Mr. O'Donnell pursuant to Presently Exercisable Options.
- (15) Includes 131,248 shares which may be acquired by Mr. Crane pursuant to Presently Exercisable Options.
- (16) Includes 61,039 shares which may be acquired by Mr. Gray pursuant to Presently Exercisable Options.
- (17) Includes 174,332 shares which may be acquired by Mr. McLennan pursuant to Presently Exercisable Options.
- (18) Includes 69,081 shares which may be acquired by Mr. Riley pursuant to Presently Exercisable Options.
- (19) Includes 878,026 shares which may be acquired pursuant to Presently Exercisable Options.

OTHER MATTERS AND ADDITIONAL INFORMATION

Peerless is unaware of any other matters to be considered at the Annual Meeting. However, should other matters, which Peerless is not aware of a reasonable time before this solicitation, be brought before the Annual Meeting, the persons named as proxies on the enclosed GOLD proxy card will vote on such matters in their discretion.

CERTAIN OTHER INFORMATION

Peerless has omitted from this Proxy Statement certain disclosures required by applicable law that will be included in the Company's Proxy Statement and 2011 Annual Report on Form 10-K being sent by the Company in connection with the Annual Meeting. These disclosures include, among other things, information concerning the compensation of the Company's executive officers, and the procedures for submitting proposals for inclusion in the Company's proxy statement at the next annual meeting. Stockholders should refer to the Company's proxy statement in order to review this disclosure. Peerless does not make any representation as to the accuracy or completeness of the information contained in the Company's proxy statement.

This Proxy Statement and any other proxy soliciting materials relating to the solicitation of proxies by the Participants that are filed by Peerless with the SEC are available without charge at the SEC's website at <http://www.sec.gov>. In addition, the proxy materials are available without charge at <http://www.dfking.com/moduslink>.

Dated November 15, 2011

With kind regards,

Your Fellow Stockholder

PEERLESS SYSTEMS CORPORATION

Timothy Brog  
Chairman and Chief Executive Officer

## SCHEDULE I

TRANSACTIONS IN SECURITIES OF MODUSLINK  
DURING THE PAST TWO YEARS

Except as otherwise specified, all transactions were effected in the open market.

## Transactions in the Company's securities by Peerless:

Date of Transaction	Nature of Transaction	Number of Securities	Date of Transaction	Nature of Transaction	Number of Securities
8/12/2011	Purchase	3,100	9/21/2011	Purchase	53,956
8/15/2011	Purchase	21,512	9/22/2011	Purchase	25,318
8/16/2011	Purchase	23,465	9/23/2011	Purchase	31,115
8/17/2011	Purchase	10,000	9/26/2011	Purchase	1,000
8/18/2011	Purchase	100,060	9/28/2011	Purchase	166,784
8/19/2011	Purchase	81,347	10/4/2011	Purchase	14,117
8/22/2011	Purchase	26,416	10/14/2011	Sale	30,030
8/23/2011	Purchase	8,825	10/18/2011	Sale	75,970
8/24/2011	Purchase	111,355	10/19/2011	Sale	132
8/25/2011	Purchase	45,701		Sale	17,762
			10/24/2011		
8/26/2011	Purchase	250,000	10/25/2011	Sale	3,967
8/29/2011	Sale	18,704	10/26/2011	Sale	898
8/30/2011	Sale	2,977	10/27/2011	Sale	45,951
9/2/2011	Purchase	47,365	10/28/2011	Sale	769
9/6/2011	Purchase	3,626	10/31/2011	Sale	33,290
9/9/2011	Purchase	68,670	11/1/2011	Purchase	59,059
9/12/2011	Purchase	31,539	11/2/2011	Purchase	5,000
9/14/2011	Sale	3,000	11/7/2011	Purchase	11,300
9/19/2011	Purchase	48,428	11/9/2011	Purchase	10,000
9/20/2011	Purchase	30,792	11/10/2011	Purchase	3,128

## Transactions in the Company's securities by the Nominees:

None



IMPORTANT

Please review this document and the enclosed materials carefully. YOUR VOTE IS VERY IMPORTANT, no matter how many or how few shares you own.

1. If your shares are registered in your own name, please sign, date and mail the enclosed GOLD proxy card to D.F. King & Co., Inc. ("D.F. King"), in the postage-paid envelope provided today.
2. If you have previously signed and returned a White proxy card to ModusLink, you have every right to change your vote. Only your latest dated card will count. You may revoke any White proxy card already sent to ModusLink by signing, dating and mailing the enclosed GOLD proxy card in the postage-paid envelope provided. Any proxy may be revoked at any time prior to the 2011 Annual Meeting by delivering a written notice of revocation or a later dated proxy for the 2011 Annual Meeting to D.F. King, or by voting in person at the 2011 Annual Meeting.
3. If your shares are held in the name of a brokerage firm, bank nominee or other institution, only it can sign a GOLD proxy card with respect to your shares and only after receiving your specific instructions. Accordingly, please sign, date and mail the enclosed GOLD proxy card in the postage-paid envelope provided, and to ensure that your shares are voted, you should also contact the person responsible for your account and give instructions for a GOLD proxy card to be issued representing your shares.
4. After signing the enclosed GOLD proxy card, do not sign or return the White proxy card, even as a sign of protest. Only your latest dated proxy card will be counted.

If you have any questions or need assistance in voting your GOLD proxy, please call our proxy solicitor:

D.F. King & Co., Inc.  
48 Wall Street  
New York, NY 10005

Call Toll-Free: (800) [            ]  
Banks and Brokerage Firms Call Collect: (212) 269-5550

PRELIMINARY DRAFT

SUBJECT TO COMPLETION

MODUSLINK GLOBAL SOLUTIONS INC.

2011 ANNUAL MEETING OF STOCKHOLDERS

THIS PROXY IS SOLICITED ON BEHALF OF PEERLESS

P R O X Y

The undersigned appoints Timothy Brog, Jeffrey Wald and Andrew Kule, and each of them, attorneys and agents with full power of substitution to vote all shares of common stock of ModusLink Global Solutions, Inc. (“ModusLink” or the “Company”), which the undersigned would be entitled to vote if personally present at the 2011 Annual Meeting of Stockholders of the Company scheduled to be held at 1601 Trapelo Road, Suite 170, Waltham, Massachusetts 02451, on January 20, 2012 at 9:00 a.m. local time, and including at any adjournments or postponements thereof and at any meeting called in lieu thereof (the “Annual Meeting”).

The undersigned hereby revokes any other proxy or proxies heretofore given to vote or act with respect to the shares of common stock of the Company held by the undersigned, and hereby ratifies and confirms all action the herein named attorneys and proxies, their substitutes, or any of them may lawfully take by virtue hereof. If properly executed, this Proxy will be voted as directed on the reverse and in the discretion of the herein named attorneys and proxies or their substitutes with respect to any other matters as may properly come before the Annual Meeting that are unknown to Peerless a reasonable time before this solicitation.

IF NO DIRECTION IS INDICATED WITH RESPECT TO THE PROPOSALS ON THE REVERSE, THIS PROXY WILL BE VOTED “FOR” PROPOSALS 1 AND 6, “AGAINST” PROPOSAL 2 AND “ONE YEAR” FOR PROPOSAL 3. IF NO DIRECTION IS INDICATED WITH RESPECT TO PROPOSALS 4 AND 5, THIS PROXY WILL NOT BE VOTED ON SUCH PROPOSALS.

This Proxy will be valid until the sooner of one year from the date indicated on the reverse side and the completion of the Annual Meeting.

**IMPORTANT: PLEASE SIGN, DATE AND MAIL THIS PROXY CARD PROMPTLY!**

CONTINUED AND TO BE SIGNED ON REVERSE SIDE

[X]Please mark vote as in this example

PEERLESS STRONGLY RECOMMENDS THAT STOCKHOLDERS VOTE “FOR” THE NOMINEES LISTED BELOW IN PROPOSAL 1 AND “FOR” PROPOSAL 6, “AGAINST” PROPOSAL 2 AND “ONE YEAR” FOR PROPOSAL 3. PEERLESS IS NOT MAKING ANY RECOMMENDATION RELATING TO PROPOSAL 4 AND 5.

Proposal 1 – Peerless’ Proposal to Elect Timothy Brog and Jeffrey Wald as Directors of the Company.

Nominees:	FOR all nominees	WITHHOLD authority from all nominees	*EXCEPTIONS
01 - Timothy Brog	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
02 - Jeffery Wald			

(INSTRUCTIONS: To withhold authority to vote for an individual nominee, mark the "Exceptions" box and write nominee's name in the space provided below.)

\*Exception: \_\_\_\_\_

Proposal 2 – To approve, on an advisory basis, the compensation of ModusLink’s named executive officers.  
 FOR     AGAINST     ABSTAIN

Proposal 3 – To approve, on an advisory basis, the frequency of future executive compensation advisory votes.  
 1 YEAR                       2 YEARS                       3 YEARS                       ABSTAIN

Proposal 4 – To ratify the appointment of KPMG LLP as the Company’s independent registered public accounting firm for the current fiscal year.  
 FOR     AGAINST     ABSTAIN

Proposal 5 – To approve the Tax Benefit Preservation Plan adopted by the ModusLink Board of Directors (the “Board”) on October 17, 2011.  
 FOR     AGAINST     ABSTAIN

Proposal 6 –To recommend that the Company’s Board of Directors Amend the Company’s Certificate of Incorporation and Restated By-Laws, as Amended March 2, 2011, to Eliminate the Classified Board of Directors. .  
 FOR     AGAINST     ABSTAIN

Proposal 7 – To transact such other business that may properly come before the 2011 Meeting or any adjournments or postponements thereof.

DATED: \_\_\_\_\_

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature, if held jointly)

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(Title)

WHEN SHARES ARE HELD JOINTLY, JOINT OWNERS SHOULD EACH SIGN. EXECUTORS, ADMINISTRATORS, TRUSTEES, ETC., SHOULD INDICATE THE CAPACITY IN WHICH SIGNING. PLEASE SIGN EXACTLY AS NAME APPEARS ON THIS PROXY.

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