

**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**

**EFFECTIVE JULY 1, 2005**

# TEAMSTERS LOCAL UNION NO. 572 RETIREMENT BENEFIT PLAN

EFFECTIVE JULY 1, 2005

## Table of Contents

### ARTICLE 1 DEFINITIONS

1.1	<u>ADMINISTRATOR</u>	2
1.2	<u>AFFILIATED COMPANY(IES)</u>	2
1.3	<u>BENEFICIARY</u>	2
1.4	<u>BOARD OF TRUSTEES</u>	2
1.5	<u>BREAK IN SERVICE</u>	2
1.6	<u>CODE</u>	2
1.7	<u>COMPENSATION</u>	2
1.8	<u>EARLY RETIREMENT DATE</u>	3
1.9	<u>ELIGIBLE EMPLOYEE</u>	3
1.10	<u>EFFECTIVE DATE</u>	3
1.11	<u>EMPLOYEE</u>	3
1.12	<u>EMPLOYER</u>	3
1.13	<u>EMPLOYER CONTRIBUTION ACCOUNT</u>	3
1.14	<u>EMPLOYMENT COMMENCEMENT DATE or</u> <u>REEMPLOYMENT COMMENCEMENT DATE</u>	3
1.15	<u>ERISA</u>	3
1.16	<u>HIGHLY COMPENSATED EMPLOYEE</u>	3
1.17	<u>HOUR OF SERVICE</u>	6
1.18	<u>NON-HIGHLY COMPENSATED EMPLOYEE</u>	7
1.19	<u>NORMAL RETIREMENT AGE</u>	7
1.20	<u>NORMAL RETIREMENT DATE</u>	7
1.21	<u>PARTICIPANT</u>	7
1.22	<u>PLAN</u>	7
1.23	<u>PLAN ACCOUNT</u>	7
1.24	<u>PLAN YEAR</u>	7
1.25	<u>ROLLOVER CONTRIBUTION ACCOUNT</u>	7
1.26	<u>TRUST</u>	7
1.27	<u>TRUST FUND</u>	8
1.28	<u>TRUSTEE</u>	8
1.29	<u>UNION</u>	8
1.30	<u>VALUATION DATE</u>	8
1.31	<u>YEAR OF SERVICE</u>	8

### ARTICLE 2 ELIGIBILITY FOR PARTICIPATION

2.1	<u>INITIAL ELIGIBILITY</u>	10
2.2	<u>SUBSEQUENT ELIGIBILITY</u>	10
2.3	<u>REHIRED PARTICIPANTS</u>	10

ARTICLE 3  
CONTRIBUTIONS

3.1	<u>EMPLOYER CONTRIBUTIONS</u>	11
3.2	<u>LIMITS ON ANNUAL ADDITIONS</u>	11
3.3	<u>DISPOSITION OF EXCESS ANNUAL ADDITIONS</u>	14
3.4	<u>CONTRIBUTIONS TO ROLLOVER CONTRIBUTION ACCOUNT</u>	14
3.5	<u>DEFINITION OF "ROLLOVER CONTRIBUTION"</u>	14
3.6	<u>MILITARY SERVICE BENEFITS</u>	15

ARTICLE 4  
DISTRIBUTIONS

4.1	<u>RETIREMENT</u>	16
4.2	<u>DEATH OF PARTICIPANT</u>	16
4.3	<u>DISABILITY</u>	16
4.4	<u>TERMINATION PRIOR TO RETIREMENT</u>	18
4.5	<u>REHIRED PARTICIPANT</u>	19
4.6	<u>COMMENCEMENT OF BENEFITS</u>	20
4.7	<u>NOTICE REQUIREMENTS</u>	20
4.8	<u>CASH-OUT DISTRIBUTIONS</u>	21
4.9	<u>DIRECT ROLLOVERS</u>	21
4.10	<u>REQUIRED DISTRIBUTIONS</u>	22
4.11	<u>REQUIRED MINIMUM DISTRIBUTIONS</u>	22
4.12	<u>FORMS OF BENEFITS</u>	27
4.13	<u>STANDARD BENEFIT PROVISIONS</u>	27

ARTICLE 5  
ADMINISTRATION

5.1	<u>ADMINISTRATION</u>	31
-----	-----------------------	----

ARTICLE 6  
THE ADMINISTRATOR

6.1	<u>MEMBERS</u>	32
6.2	<u>PROCEDURE</u>	32
6.3	<u>POWERS AND RESPONSIBILITIES</u>	32
6.4	<u>CERTIFICATIONS AND INVESTIGATIONS</u>	33
6.5	<u>CLAIMS PROCEDURE</u>	35
6.6	<u>ADVICE</u>	35
6.7	<u>DELEGATION</u>	35
6.8	<u>LIABILITY: INDEMNIFICATION</u>	35
6.9	<u>INSURANCE</u>	36
6.10	<u>BONDING</u>	36
6.11	<u>COMPENSATION</u>	36

ARTICLE 7  
TRUST AND TRUSTEE

7.1	<u>TRUST FUND</u>	37
7.2	<u>TRUSTEE CONTROL</u>	37
7.3	<u>INVESTMENT OPTIONS</u>	37
7.4	<u>TRUSTEE APPOINTMENT AND RESIGNATION; REMOVAL AND SUCCESSION OF TRUSTEES</u>	37
7.5	<u>PRUDENT PERSON RULE</u>	38
7.6	<u>LIABILITY; EXPENSES; COMPENSATION</u>	38

7.7	<u>MANAGEMENT OF ASSETS</u>	38
7.8	<u>RELIANCE BY TRUSTEE</u>	40
7.9	<u>CHANGES IN ADMINISTRATOR</u>	40
7.10	<u>LEGAL COUNSEL</u>	40
7.11	<u>ACCOUNTING OF FUNDS AND TRANSACTIONS</u>	40
7.12	<u>RELIANCE ON TRUSTEE</u>	41
7.13	<u>LEGAL ACTION</u>	41

## ARTICLE 8 AMENDMENT

8.1	<u>AMENDMENT</u>	42
8.2	<u>PROCEDURE</u>	42

## ARTICLE 9 TERMINATION

9.1	<u>RIGHT TO TERMINATE</u>	43
9.2	<u>EFFECT OF TERMINATION</u>	43
9.3	<u>MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE EMPLOYER</u>	43
9.4	<u>MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE PLAN</u>	43
9.5	<u>TERMINATION PROCEDURE</u>	43

## ARTICLE 10 PROVISIONS TO PREVENT DISCRIMINATION

10.1	<u>NO §401(a) DISCRIMINATION</u>	44
10.2	<u>UNIFORM TREATMENT</u>	44

## ARTICLE 11 TOP HEAVY PROVISIONS

11.1	<u>TOP HEAVY REQUIREMENTS</u>	45
11.2	<u>TOP HEAVY PLAN DEFINITIONS</u>	46

## ARTICLE 12 MISCELLANEOUS

12.1	<u>NO RIGHT TO EMPLOYMENT</u>	49
12.2	<u>HEADINGS</u>	49
12.3	<u>COUNTERPARTS</u>	49
12.4	<u>GOVERNING LAW</u>	49
12.5	<u>RULES AND REGULATIONS</u>	49
12.6	<u>NO ASSIGNMENT OF BENEFITS</u>	49
12.7	<u>EXCLUSIVE BENEFIT</u>	49

**TEAMSTERS LOCAL UNION NO. 572  
RETIREMENT BENEFIT PLAN**

**EFFECTIVE AS OF JULY 1, 2005**

This Teamsters Local Union No. 572 Retirement Benefit Plan (the "Plan") was originally adopted effective as of September 1, 1994. The initial Plan Year for this Plan was the period beginning September 1, 1994 and ending on the last day of August 1995. Effective January 1, 1996, the Plan Year was changed to the Calendar Year (January 1 to December 31, 1996). The period between September 1, 1995 and December 31, 1995 was designated a short Plan Year.

The Plan Year was changed again to the twelve-month period commencing on July 1 and ending on June 30, 2000. The period between January 1 and June 30, 2000 was designated a short Plan Year. The Plan is hereby restated effective as of July 1, 2005, by the Board of Trustees of the Teamsters Retirement Benefit Plan and Trust (the "Plan Sponsor"). This July 2005 Restatement includes "good faith" amendments triggered by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and revisions to the Plan's automatic rollover rules as required by EGTRRA and guidance issued by the United States Department of Labor.

This Plan is designed to afford Eligible employees an opportunity to increase their security at retirement through employer contributions during their periods of active employment while this Plan remains in effect. The Plan Sponsor adopts this Plan restatement, effective as of July 1, 2005, subject to such amendments as may be required by the Internal Revenue Code, as amended from time to time, in order that the Plan may qualify as a tax-qualified money purchase pension plan and conditioned on such qualification.

## ARTICLE 1

### DEFINITIONS

The following terms, when used in this Plan, shall have the meanings set forth below, unless different meanings are clearly required by the context:

1.1 ADMINISTRATOR means the Plan Administrator provided for in Article 6 of this Plan.

1.2 AFFILIATED COMPANY(IES) means any corporation, trade or business during any period in which it is, along with the Employers, a member of a controlled group of corporations, a group of trades or businesses under common control or an affiliated service group, as described in Code §§ 414(b), 414(c), 414(m) and 414(o).

1.3 BENEFICIARY means the person or persons designated by the Participant on his or her designation form as being entitled to receive the Participant's Plan Account upon the Participant's death, or, in some cases, after the death of the Participant's designated Beneficiary. If there is no designated Beneficiary, a Participant's Beneficiary shall be his or her surviving spouse, or if he or she has no surviving spouse, his or her estate.

1.4 BOARD OF TRUSTEES means the group of labor and management representative who sponsor the Plan, and who act as Trustees of the Trust Fund.

1.5 BREAK IN SERVICE shall occur at the end of any Plan Year during which an Employee is not credited with at least five hundred (500) Hours of Service.

1.6 CODE means the Internal Revenue Code of 1986 and the regulations promulgated thereunder, as amended from time to time.

1.7 COMPENSATION means the amount of earnings subject to federal income taxation reflected on the Participant's W-2 Income Statement, paid by the Employer to a Participant during the calendar year ending within each Plan Year (or portion thereof) during which such person is a Participant, plus amounts which are paid out of an Employee's remuneration from the Employer and which are "elective contributions" which are not includible in gross income under Code §§ 125, 402(e)(3), 402(h)(1)(B) or 403(b), deferrals under an eligible deferred compensation plan within the meaning of Code § 457(b) or employer "pick-up" contributions (under governmental plans) within the meaning of Code § 414(h)(2). Notwithstanding any other provision of this Plan, the Compensation of any Participant taken into account under the Plan for any year may not exceed the dollar limit under Code § 401(a)(17). This dollar limitation shall be adjusted automatically at the same time and in the same manner as any cost-of-living adjustment made by the Secretary of Treasury under Code § 415(d) (as modified by Code § 401(a)(17)). The Code § 401(a)(17) dollar limit is one hundred fifty thousand dollars (\$150,000.00) for 1994. Effective for Plan Years prior to January 1, 1997, in determining the Compensation of a Participant for purposes of this dollar limitation, the rules in Code § 414(q)(6)

(applicable to five percent (5%) owners and the ten (10) most highly paid Highly Compensate Employees) shall apply, except in applying such rules, the term “family” shall include only the spouse of the Participant and any lineal descendants of the Participant who have not attained age nineteen (19) before the close of the Plan Year.

The Code § 401(a)(17) dollar limit is two hundred thousand (\$200,000) for the Plan Year beginning after December 31, 2001, and modified thereafter.

1.8 EARLY RETIREMENT DATE means the first day of any month that precedes the Participant’s Normal Retirement Date and that coincides with or follows both (a) the Participant’s attainment of age fifty-five (55), and (b) the Participant’s completion of ten (10) Years of Service for vesting purposes.

1.9 ELIGIBLE EMPLOYEE means any Employee of an Employer for whom the employer is obligated to make contributions under a collective bargaining agreement, or other Employer agreement with the Union, or under the Trust Agreement, and which may include employees who are not members of the collective bargaining unit, if so agreed.

1.10 EFFECTIVE DATE means September 1, 1994.

1.11 EMPLOYEE means any person employed by an employer which is specified on the attached Schedule.

1.12 EMPLOYER means each employer specified on the attached Schedule, and such of its Affiliated Company(ies) as are designated by each employer to be participating employers under this Plan, and any successor or successors thereto. Each such employer shall have a collective bargaining agreement with the Union requiring periodic contributions to the Plan and trust. Each employer so specified shall indicate its acceptance of this Plan by executing an adoption agreement in the form prescribed by the Board of Trustees of the Plan.

1.13 EMPLOYER CONTRIBUTION ACCOUNT means that portion of a Participant’s Plan Account which is attributable to contributions made under Section 3.2.

1.14 EMPLOYMENT COMMENCEMENT DATE or REEMPLOYMENT COMMENCEMENT DATE means the date on which an Employee first performs an Hour of Service or first performs an Hour of Service following a Period of Severance.

1.15 ERISA means the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.16 HIGHLY COMPENSATED EMPLOYEE.

**Effective for Plan Years beginning after December 31, 1996, the term Highly**

Compensated Employee includes active Highly Compensated Employees and former Highly Compensated Employees, as described in Code § 414(q), which currently provides as follows:

An active Highly Compensated Employee includes any Employee who performs service for the Employer during the “determination year” and who (i) was a five percent (5%) owner at any time during the “look-back year” or determination year or (ii) (A) during the look-back year, received compensation (as defined below) from the Employer in excess of eighty thousand dollars (\$80,000) (as adjusted pursuant to § 415(d) of the Code, except that the base period shall be the calendar quarter ending September 30, 1996), and (B) if the Employer so elects for any particular year, was, for the look-back year, in the group consisting of the top twenty percent (20%) of non-excludible employees ranked by compensation (as defined below) for such year.

For this purpose, the determination year shall be the Plan Year. Except as otherwise, elected, as provided below, the look-back year shall be the twelve (12) month period immediately preceding the determination year.

A former Highly Compensated Employee includes any Employee who separated from service (or was deemed to have separated from service) prior to the determination year, performs no service for the Employer during the determination year, and was an active Highly Compensated Employee for either the separation year or any determination year ending on or after the Employee’s fifty-fifth (55<sup>th</sup>) birthday.

The determination of who is a Highly Compensated Employee will be made in accordance with § 414(q) of the Code and the regulations thereunder.

In determining whether an individual is a Highly Compensated Employee, the term “compensation” means compensation as defined in Section 3.2, or any other definition selected by the Plan Administrator which is permitted under Code § 415(c)(3), which is received by the individual from the Employer during the determination year or from the Employer during the look-back year, as applicable including, (i) for Plan Years beginning prior to January 1, 1998, elective or salary reduction contributions to a cafeteria plan under § 125 of the Code, a cash or deferred arrangement under § 401(k) of the Code, a simplified employee pension under § 402(h) of the Code, or a tax-sheltered annuity under § 403(b) of the Code and (ii) for Plan Years beginning after December 31, 1997, those elective salary reduction contributions which are included in the definition of compensation under Code § 415(c)(3).

Notwithstanding the preceding, in determining whether an individual is a Highly Compensated Employee, the Employer may elect to apply the “alternative definition” to determine whether an Employee who separated from service before January 1, 1987 is a former Highly Compensated Employee. The election, once made, cannot be changed without the consent of the Commissioner of the Internal Revenue Service. Under the alternative definition, a former Highly Compensated Employee includes any former Employee who separated from service with the Employer prior to January 1, 1987, and was described in any one or more of the following groups during either the Employee’s separation year (as defined in Treasury Regulations under § 414(q) of the Code) (or the year



preceding such separation year) or any year ending on or after such Employee's fifty-fifth (55<sup>th</sup>) birthday (or the last year ending before such Employee's fifty-fifth (55<sup>th</sup>) birthday: (I) the Employee was a five percent (5%) owner of the Employer at any time during the year; (ii) the Employee received compensation from the Employer in excess of fifty thousand dollars (\$50,000) during the year. The determinations provided for in this alternative definition may be made on the basis of the calendar year, the Plan Year, or any twelve (12) month period selected by the Employer and applied on a reasonable and consistent basis.

**Effective for Plan Years prior to January 1, 1997**, the term Highly Compensated Employee includes active Highly Compensated Employees and former Highly Compensated Employees, as described in Code §414(q), which currently provides as follows:

An active Highly Compensated Employee includes any Employee who performs service for the Employer during the determination year and who, during the "look-back year" (a) received compensation (as defined below) from the Employer in excess of seventy-five thousand dollars (\$75,000) (as adjusted pursuant to §415(d) of the Code); (b) received compensation (as defined below) from the Employer in excess of fifty thousand dollars (\$50,000) (as adjusted pursuant to §415(d) of the Code) and was a member of the top-paid group (top twenty percent (20%) of non-excludible employees ranked by compensation (as defined below)) for such year; or (c) was an officer of the Employer and received compensation (as defined below) during such year that is greater than fifty percent (50%) of the dollar limitation in effect under §415 (b)(1)(A) of the Code. The term Highly Compensated Employee also includes: (i) Employees who are both described in the preceding sentence if the term "determination year" is substituted for the term "look-back year" and the Employee is one (1) of the one hundred (100) Employees who received the most compensation (as defined below) from the Employer during the determination year; and (ii) Employees who are five percent (5%) owners at any time during the look-back-year or determination year.

For purposes of (c) above, no more than fifty (50) employees (or, if less, the greater of three (3) employees or ten percent (10%) of employees) shall be treated as officers. If no officer has satisfied the compensation requirement of (c) above during either a determination year or look-back year, the highest paid officer for such year shall be treated as a Highly Compensated Employee.

For this purpose, the determination year shall be the Plan Year. Except as otherwise elected, as provided below, the look-back year, shall be the twelve (12) month period immediately preceding the determination year.

A former Highly Compensated Employee includes any Employee who separated from service (or was deemed to have separated) prior to the determination year, performs no service for the Employer during the determination year, and was an active Highly Compensated Employee for either the separation year or any determination year ending on or after the Employee's fifty-fifth (55<sup>th</sup>) birthday.

If an Employee is, during a determination year or look-back year, a family member of either a five percent (5%) owner who is an active or former Employee or a Highly Compensated Employee who is one (1) of the ten (10) most highly compensated Employees ranked on the basis of compensation (as defined below) paid by the Employer during such year, then the family member and the five percent (5%) owner or top ten (10) highly compensated employee shall be aggregated. In such case, the family member and five percent (5%) owner or top ten (10) highly compensated employee shall be treated as a single Employee receiving compensation (as defined below) and Plan contributions or benefits equal to the sum of such compensation (as defined below) and contributions or benefits of the family member and five percent (5%) owner or top ten (10) highly compensated employee. For purposes of this section, family member includes the spouse, lineal ascendants and descendants of the Employee or former Employee and the spouses of such lineal ascendants and descendants.

To determination of who is a Highly Compensated Employee, including the determination of the number and identify of Employees in the top-paid group, the top one hundred (100) Employees, the number of Employees treated as officers and the compensation that is considered, will be made in accordance with §414(q) of the Code and the regulations thereunder.

In determining whether an individual is a Highly Compensated Employee, the term “compensation” means compensation using any definition selected by the Plan Administrator which is permitted under Code §415(c)(3), which is received by the individual during the determination year or during the look-back year, including, however, elective or salary reduction contributions to a cafeteria plan under §125 of the Code, a cash or deferred arrangement under §401(k) of the Code, a simplified employee pension under §402(h) of the Code, or a tax-sheltered annuity under §403(b) of the Code.

1.17 HOUR OF SERVICE means each hour for which an Employee is directly or indirectly compensated by the Employer for the performance of duties for the Employer, or for reasons other than the performance of such duties, and each hour for which back pay is either awarded or granted to such Employee by the Employer, regardless of mitigation of damages. In computing and crediting Hours of Service for periods during which the Employee does not perform duties for the Employer, no more than five hundred one (501) Hours of Service shall be credited for any single continuous period of nonperformance of duties for the Employer, and the rules set forth in §§2530.200b-2(b) and (c) of Department of Labor Regulations shall apply, and those rules are incorporated herein by reference. Solely for purposes of determining whether a Break in Service has occurred, an Employee who is absent for maternity or paternity reasons will receive credit for up to five hundred one (501) Hours of Service for the Hours of Service which would otherwise have been credited to the Employee had the Employee not been absent, or if those Hours of Service cannot be determined, eight (8) Hours of Service for each day of absence. The Hours of Service credited for a maternity or a paternity absence shall be credited in the year the absence begins if necessary to prevent a Break in Service for that year or in any other case, in the immediately following year. An absence for maternity or paternity reasons means an absence (1) because of the individual’s pregnancy, (2) because of the birth of the individual’s child, (3) because of the individual’s adoption of a child or (4) for purposes of caring for the individual’s child beginning immediately following the child’s birth or placement with the individual.

1.18 NON-HIGHLY COMPENSATED EMPLOYEE means an Employee who is not a Highly Compensated Employee.

1.19 NORMAL RETIREMENT AGE means the later of a Participant's sixty-fifth (65<sup>th</sup>) birthday or the date on which the Participant has participated in the Plan for five (5) years.

1.20 NORMAL RETIREMENT DATE means the first day of the month coinciding with or next following a Participant's Normal Retirement Age.

1.21 PARTICIPANT means any Employee who participates in the Plan as provided in Article 2 or who makes a contribution to a Rollover Contribution Account. A Participant shall continue to be a Participant as long as he or she has a Plan Account.

Effective the later of the Effective Date or December 12, 1994, in the case of an Employee who is absent from service with the Employer or an Affiliated Company solely by reason of military service under circumstances by which such Employee is afforded reemployment rights under any applicable Federal or State statute or regulation, such Employee shall be deemed not to have terminated employment or have been absent from service with the Employer or an Affiliated Company if such Employee returns to service with the Employer or an Affiliated Company before the expiration of such reemployment rights; provided, however, if such Employee fails to return to service with the Employer or an Affiliated Company before the expiration of such reemployment rights, such Employee shall be deemed to have terminated employment on the first day on which such Employee was first absent from service with the Employer or an Affiliated Company by reason of such military service.

1.22 PLAN means the Teamsters Local Union No. 572 Retirement Benefit Plan as set forth in this document and as amended from time to time.

1.23 PLAN ACCOUNT means the amount held under this Plan for the account of a Participant, and shall equal the sum as to each Participant of the Participant's Employer Contributions Account and Rollover Contribution Account.

1.24 PLAN YEAR means the twelve (12) month period beginning each July 1 and ending on June 30. The initial Plan Year for this Plan was the period beginning September 1, 1994 and ending on the last day of August 1995. Effective January 1, 1996, the Plan Year was changed to the Calendar Year (January 1 to December 31, 1996). The period between September 1, 1995 and December 31, 1995 was designated a short Plan Year. The Plan Year was changed again to the twelve-month period commencing on July 1 and ending on June 30, 2000.

1.25 ROLLOVER CONTRIBUTION ACCOUNT means that portion of a Participant's Plan Account which is attributable to contributions made under Section 3.6.

1.26 TRUST means the trust established under this Plan or under a separate trust agreement which forms a part of this Plan.

1.27 TRUST FUND means the assets of the Trust.

1.28 TRUSTEE means the trustee or trustees of the Trust serving as such from time to time. The Board of Trustees shall be the Trustee, unless the Board of Trustees designates an individual or corporation to act as Trustee or trustee of a sub-trust.

1.29 UNION means Teamsters Local Union No. 572.

1.30 VALUATION DATE means the last day of a Plan Year, and any other date or dates chosen by the Administrator as of which the trust is valued pursuant to Article 7.

1.31 YEAR OF SERVICE means for purposes of vesting, effective January 1, 1999, any Plan Year during which an Employee is credited with five hundred (500) or more Hours of Service. For the short Plan Year commencing on January 1, 2000 and ending on June 30, 2000, a Year Service will be credited if the Employee completes 250 Hours of Service during that period.

Effective prior to January 1, 1999 and commencing with the Effective Date, a Year of Service means any Plan Year during which an Employee is credited with eight hundred (800) or more Hours of Service. For the short Plan Year September 1, 1995 to December 31, 1995, a Year of Service shall be credited if the Employee completes 334 Hours of Service, or alternatively, completes 1000 Hours in the twelve months ending August 31, 1996.

If any Employee incurs a Break in Service, the Employee's Years of Service before the Break in Service will be taken into account if the individual subsequently is reemployed by the Employer, except as indicated below.

In the case of any Participant who incurs five (5) consecutive Breaks in Service, Years of Service completed after such five (5) year period shall not be taken into account for purposes of determining the Participant's vested interest in benefits derived from Employer contributions which accrued before such five (5) year period.

If a Participant has a Break in Service before the Participant acquires a vested interest in the Participant's Plan Account, service before the Break in Service shall not be taken into account if the number of consecutive Breaks in Service equals or exceeds the greater of five (5) or the aggregate number of such Years of Service prior to such Break in Service.

If the Employer is a member of a controlled group of employers within the meaning of Code sections 414(b), (c), (m) or (o), Years of Service shall be determined as if all members of the controlled group were a single employer, excluding, however, employment during periods when the Employer was not a member of the controlled group.

An Employee who is absent from service with the Employer or an Affiliated Company solely by reason of military service under circumstances by which such Employee is afforded

reemployment rights under any applicable Federal or State statute or regulation, such Employee shall be deemed not to have quit or have been absent from service with the Employer or an Affiliated Company if such Employee returns to service with the Employer or an Affiliated Company before the expiration of such reemployment rights; provided, however, in the event such Employee fails to return to service with the Employer or an Affiliated Company before the expiration of such reemployment rights, such Employee shall be deemed to have quit on the first day on which such Employee was first absent from service with the Employer or an Affiliated Company by reason of such military service.

## ARTICLE 2

### **ELIGIBILITY FOR PARTICIPATION**

2.1 **INITIAL ELIGIBILITY.** Each person who is an Eligible Employee on the Effective Date will become a Participant in the Plan on the Effective Date.

2.2 **SUBSEQUENT ELIGIBILITY.** Each Employee who subsequently becomes an Eligible Employee after the Effective Date will become a Participant immediately.

2.3 **REHIRED PARTICIPANTS.** A Participant whose employment with the Employer terminates and who is rehired will be eligible to participate in this Plan on the first day he or she is reemployed by the Employer as an Eligible Employee, as described in this Article.

## ARTICLE 3

### CONTRIBUTIONS

3.1 EMPLOYER CONTRIBUTIONS. A contribution shall be made by the Employer for each Participant eligible for the contribution pursuant to the collective bargaining agreement by which the Participant participates. The contribution for each Participant shall be made annually or more frequently as the Employer may determine and as the collective bargaining agreement may require. The amount contributed shall be as described in each collective bargaining agreement, and as set by the Board of Trustees. The plan will allocate the contribution for a Plan Year to the Accounts of all Participants, including those who have died, retired (on or after Normal Retirement Date), or become disabled (as defined in the Plan) during the Plan Year.

3.2 LIMITS ON ANNUAL ADDITIONS.

(a) Basic Limitations. Notwithstanding any other provision of this Plan, effective for limitation years beginning after December 31, 2001, a Participant's total annual additions that may be contributed or allocated under this Plan for any limitation year will not exceed the lesser of (i) \$40,000, as adjusted for increases in the cost-of-living under Code section 415(d) of the Code, or (ii) 100 percent of the Participant's Compensation, within the meaning of Code § 401(a)(17). The Compensation limit referred to in (ii) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code § 401(a)(17) or Code § 419A(f)(2)) which is otherwise treated as an annual addition.

Effective for limitation years prior to January 1, 2002, a Participant's total annual additions under this Plan for any Plan Year shall not exceed the lesser of (i) thirty thousand dollars (\$30,000), or, if greater, one-fourth (1/4) of the defined benefit dollar limitation set forth in Code §415(b)(1) as in effect for the Plan Year, as adjusted in Treasury Regulation §1.415-2(b)(4)(iii), or (ii) twenty-five percent (25%) of the Participant's Compensation for such Plan Year.

"Annual additions" for this purpose means the sum of (A) contributions under Section 3.2 of this Plan allocable to the Participant's Plan Account, and (B) any forfeitures allocable to the Participant's Plan Account. This limitation shall be pro-rated for any short Plan Year.

For purposes of this Section, "Compensation" refers to the Participant's earned income, wages, salaries, and fees for professional services actually rendered in the course of employment with the Employer (including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not includible in the Participant's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible

by the Participant, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(iv) Other amounts which received special tax benefits, or contributions made by a Participant (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code §403(b) (whether or not the amounts are actually excludible from the gross income of the Participant).

For purposes of applying the limitations of this Section, Compensation for a limitation year is the Compensation actually paid or includible in a gross income during such year.

Notwithstanding the preceding sentence, Compensation for a Participant who is permanently and totally disabled (as defined in Code § 22(e)(3)) is the compensation such Participant would have received for the limitation year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled. Such imputed Compensation for the disabled Participant may be taken into account only if contributions made on behalf of such Participant are nonforfeitable when made. Notwithstanding the preceding, effective January 1, 1998, "Compensation" shall include any elective deferral (as defined in Code § 402(g)(3)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code § 125 or 457. In addition, effective for limitation years beginning after December 31, 2001, Compensation will also include elective amounts that are not includible in the gross income of the Employee by reason of Code § 132(f)(4).

(b) Combined Limitations. After any reduction in any benefit under a defined benefit Plan pursuant to the following paragraph, if a Participant participates in any other defined contribution plan sponsored by the Employer which is qualified under Code §401(a), his or her annual additions under such plan shall be aggregated with his or her annual additions under this Plan, and his or her annual additions under such other plan shall be reduced, if necessary, so that the aggregate of such annual additions does not exceed the limitations set forth in (a) above.

For limitation years commencing before January 1, 2000, if a Participant participates or has participated in any defined benefit pension plan sponsored by the Employer which is qualified under Code §401(a), his or her benefit under the defined benefit pension plan shall be reduced, if necessary, so that the sum of (i) and (ii) below does not exceed 1.0 for any Plan Year:

(i) (A) the projected annual normal retirement benefit (assuming continued employment until such Participant's normal retirement date and constancy of all relevant



factors) of the Participant under the defined benefit pension plans, determined as of the close of the Plan Year, divided by

(B) the lesser of (1) 1.25 times the dollar limitation in effect under Code §415(b)(1)(A) as of the close of such Plan Year or (2) 1.4 times the Participant's average Compensation for his or her "high three years" (where "high three years" refers to the period of three (3) consecutive calendar years yielding the highest such average and during which the Participant was a participant in the defined benefit pension plan), plus

(ii) (A) the sum of the annual additions credited to the Participant under this Plan (and all other defined contribution plans required to be aggregated with this Plan) for the current Plan Year and all prior Plan Years, determined as of the close of the Plan Year, less any amounts permitted to be subtracted from such sum under §235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, divided by

(B) the lesser of (1) 1.25 times the dollar limitation in effect under Code §415(c)(1)(A) (determined without regard to Code §415(c)(6)) for the current Plan Year and for all prior years of the Participant's employment with the Employer (regardless of whether a defined contribution plan was in effect for those years), or (2) thirty-five percent (35%) of the Participant's Compensation for the current Plan Year and for prior years of the Participant's employment with the Employer (regardless of whether a defined contribution plan was in effect for those years).

If the fraction produced under (ii) above would exceed 1.0, even after the reduction in the Participant's benefits under the defined benefit plan(s), which shall be done first, then the contributions for the Participant under this Plan shall be reduced to the extent necessary.

(c) Transition Rule. At the election of the Administrator, with respect to any year ending after December 31, 1982, the amount taken into account under subsection (b)(ii)(B) above with respect to each Participant for all years ending before January 1, 1983 shall be an amount equal to the amount determined under subsection (b)(ii)(B) above for the year ending in 1982 times the transition fraction. For purposes of this paragraph, the term "transition fraction" means a fraction, the numerator of which is the lesser of fifty-one thousand eight hundred seventy-five dollars (\$51,875) or thirty-five percent (35%) of the Participant's Compensation (as defined above) for the year ending in 1981 and the denominator of which is the lesser of forty-one thousand five hundred dollars (\$41,500) or twenty-five percent (25%) of the Participant's Compensation for the year ending in 1981.

(d) Aggregation of Employers. The foregoing maximum contributions which may be made under this Plan shall be further limited by reason of the existence of other qualified retirement plans maintained by another members of a controlled group of corporations, of one of a group of trades or businesses under common control (as described in Code sections 414(b) or (c), as modified by Code §415 (h)), or of an affiliated service group (as described in Code sections 414(n) or (o)) to the extent such limitation is required by Code §415. The Administrator shall advise affected Participants of any additional limitation required by the preceding sentence.

3.3 DISPOSITION OF EXCESS ANNUAL ADDITIONS. If the limitations described in this Section are exceeded with respect to any Participant in any Plan Year, then the contributions allocable to the Participant under this Plan for such Plan Year shall be reduced to the minimum extent required by such limitations. The Administrator, in its sole discretion, shall determine if any reduction in the annual additions to a Participant's Accounts is required by reason of the limitations set forth in this Article or Code §415. No Participant shall be entitled to any annual additions (or earnings thereon) made or allocated to the Participant in excess of such limitations. If it is determined at any time that the Administrator has erred in accepting and crediting contributions by a Participant or in allocating Employer contributions to any Participant's Plan Account for any Plan Year in violation of such limitations, then (a) the amount of any required reduction in the Participant's contributions (including earnings thereon) shall be returned to the Participant, and (b) the amount of any required reduction in the Employer's contributions (including earnings to the extent permitted by applicable law) allocable or allocated to the Participant under this Plan shall be returned to the Employer if such reduction in the Employer's contributions is attributable to a mistake of fact by the Employer or the Administrator at the time the contribution was made. If the reduction in the Employer's contributions is not attributable to such a mistake of fact, the amount of the reduction (including earnings) shall be held in suspense and applied against the Employer's contributions under Section 3.2 which are next due and owing to the Plan.

3.4 CONTRIBUTIONS TO ROLLOVER CONTRIBUTION ACCOUNT. Any Employee (whether or not currently eligible to participate in the Plan) may transfer to the Trust any Rollover Contributions as defined in Section 3.7. An Employee's Rollover Contribution shall be credited to and held in the Participant's Rollover Contribution Account. A Participant's Rollover Contribution Account shall be one hundred percent (100%) vested in the Participant at all times. A Rollover Contribution shall not be taken into account in determining the annual additions to an Employee's Plan Account under Section 3.4.

3.5 DEFINITION OF "ROLLOVER CONTRIBUTION". The term "Rollover Contribution" means an amount contributed to the Plan on or before the sixtieth (60<sup>th</sup>) day after the day the contributing Employee received it, if the amount received by the Employee is a distribution which is eligible for rollover to the Plan under Code §402.

The term "Rollover Contribution" also means assets representing a Participant's nonforfeitable interest in another retirement plan qualified under §401(a) or 403(a) of the Code, or in a conduit individual retirement account or annuity, which assets have been transferred directly from the trustee (or other fiduciary) of such other plan, account or annuity to the Trustees of this Plan; provided, however, that such direct transfer shall not be accepted by the Trustee unless (a) the transfer constitutes an "elective transfer" under §1.411(d)-4 Q&A-3(b) of regulations promulgated by the Secretary of the Treasury, (b) the plan from which the transfer is made provides no protected benefits under §411(d)(6) of the Code which are not already provided under the Plan or (c) the transfer constitutes a direct rollover after December 31, 1992 under §402 of the Code.

The Administrator may reject any Rollover Contribution which is not qualified to be a Rollover Contribution to the Plan under the foregoing or under the Code. The Administrator may make all investigations necessary to determine whether any amount submitted as a Rollover Contribution may be received.

3.6 MILITARY SERVICE BENEFITS. Notwithstanding any provision of this Plan to the contrary, effective the later of the Effective Date or December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with § 414(u) of the Code.

## ARTICLE 4

### DISTRIBUTIONS

#### 4.1 RETIREMENT.

(a) Each Participant who is an Employee on his or her attainment of Normal Retirement Age to the extent not then vested, shall become fully vested and following termination of employment, the Participant shall be entitled to receive the full amount of the Plan Account in any form of benefit available under the Plan and elected by the Participant, subject to the requirements of Section 4.12. Notwithstanding the foregoing, subject to the provisions of Section 4.8, if a Participant's Account at retirement is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Account will be paid only in a cash lump sum.

(b) Distribution to a Participant shall be made, or shall commence, as soon as is practicable after the Participant's retirement, and after arrangements for payment have been made by the Administrator and the Trustee; provided, however, unless the Participant elects otherwise, that distribution shall be made or shall commence not later than sixty (60) days after the end of the Plan Year in which the later of the Participant's Normal Retirement Date or Late Retirement Date occurs.

4.2 DEATH OF PARTICIPANT. If a Participant's employment is terminated because of the death of the Participant, the Participant's entire Plan Account, to the extent not then vested, shall become fully vested in the Participant. Subject to the requirements of Section 4.12, upon death, the Participant's vested Plan Account shall be paid to the Participant's designated beneficiary. If the Participant dies after the payment of his or her Plan Account has commenced in a form other than a lump sum, death benefits shall be paid only if the form of benefit payment elected by the Participant provides for the payment of death benefits. Subject to the requirements of Section 4.12, if the Participant dies before the payment of his or her Plan Account has commenced, death benefits shall be paid in the form of benefit elected by the Participant or beneficiary.

Notwithstanding the foregoing, subject to the provisions of Section 4.8, if a Participant's Account at death is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Account will be paid only in a cash lump sum. Payment of the Participant's Plan Account on death shall be made, or shall commence, as soon as is practicable following the Participant's death and after arrangements for payment have been made by the Administrator and the Trustee.

#### 4.3 DISABILITY

(a) If a Participant's employment with the Employer terminates because of disability, the Participant's entire Plan Account, to the extent not then vested, shall become fully vested in the

Participant and shall be paid to the Participant in any form of benefit available under the Plan and elected by the Participant, subject to the requirements of Section 4.12. Payment shall be made or shall commence as soon as is practicable following the Administrator's approval of the Participant's disability; provided, however, that no payment shall be made or shall commence to a Participant without the Participant's written consent given in a manner required by applicable law until the Participant's Normal Retirement Date unless, as determined under Section 4.8, the Participant's Account balance at the date of payment or commencement is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997). If applicable, payments made as a result of permanent disability shall continue to the Participant's beneficiary if the Participant dies before all installments have been paid. Notwithstanding the foregoing, subject to the provisions of the Section 4.8, if a Participant's Account at the date of his or her permanent disability is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Account will be paid only in a cash lump sum.

(b) A Participant shall be considered disabled if he if she establishes to the satisfaction of the Administrator that the or she is mentally or physically disabled due to accident or illness and has been unable to perform the majority of duties of his or her regular occupation with the Employer for a period of at least one hundred eighty (180) days, and that such disability is permanent. Evidence if disability shall include the certificate of a competent licensed physician selected by the Participant and approved by the Administrator which confirms that the Participant is disabled as defined herein.

#### 4.4 TERMINATION PRIOR TO RETIREMENT.

(a) Amount of Distribution: Forfeitures. If a Participant's employment terminates for any reason other than normal or late retirement, disability or death, his or her Plan Account shall be vested in the Participant as follows.

(i) Contributions to the Participant's Employer Contribution Account shall become vested according to the following schedule:

**Effective on or after January 1, 1999**

YEARS OF SERVICE FOR VESTING PURPOSES	VESTED PERCENTAGE
Less than 1	0%
1 but less than 2	25%
2 but less than 3	50%
3 but less than 4	75%
4 or more	100%

**Effective prior to January 1, 1999**

YEARS OF SERVICE FOR VESTING PURPOSES	VESTED PERCENTAGE
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

(ii) The Participant's Rollover Account shall be one hundred percent (100%)

vested at all times.

The vested portion of the terminated Participant's Plan Account shall be payable as provided in this Section. The unvested portion of such Plan Account shall be forfeited and allocated in the manner described below; provided, however, that a Participant will not receive an allocation of forfeitures for a Plan Year unless the Participant has met the requirements for receipt of an allocation of the Employer Contribution for the Plan Year. The unvested portion of the terminated Participant's Plan Account shall be forfeited on the earlier of (A) the date of a cash-out distribution to the Participant as described in Treasury Regulation §1.411(a)-7(d), or (B) the last day of the Plan Year in which the Participant incurs a Break in Service. Any Participant who, upon termination of employment, has only an Employer Contribution Account and is zero percent (0%) vested in that Account shall be deemed to have received a cash-out distribution upon termination of employment. Forfeitures shall be restored pursuant to Section 4.5. Forfeitures of Employer Contributions may be used first to pay any expenses payable by the Trust for the Plan Year and then shall be allocated as an additional Employer Contribution for the Plan Year.

(b) Form and Timing of Distribution. Subject to the provisions of Section 4.8, if the value of a terminated Participant's Plan Account is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), such value shall be paid to the Participant in a cash lump sum as soon as practicable after the date of the Participant's termination of employment. Effective for distributions made on or after March 28, 2005, regardless of the value of the Participant's Plan Account, a terminated Participant may elect an immediate distribution or may elect to defer the distribution until the Participant's Normal Retirement Date. Effective for distributions on or after March 28, 2005, regardless of the value of the Participant's Plan Account, if the Participant does not elect an earlier distribution, the distribution of the Participant's Plan Account shall commence at the Participant's Normal Retirement Date in the form of a benefit elected by the Participant, subject to the requirements of Section 4.12.

4.5 REHIRED PARTICIPANT. A Participant who is not one hundred percent (100%) vested in his or her Plan Account upon termination of employment and who forfeits the unvested portion of his or her Plan Account as provided in Section 4.4 (a) shall be entitled to a restoration of the forfeited amount only as provided in this Section. If the vested portion of the Plan Account of a terminated Participant is paid to the Participant before the Participant incurs five (5) consecutive Breaks in Service and if the Participant is rehired before he or she incurs five (5) consecutive Breaks in Service and repays the amount distributed before the date which is five (5) years after the date the Participant is rehired., any unvested portion of the Participant's Plan Account which previously was forfeited shall be restored to the Participant's Plan Account. If the vested portion of the Plan Account of a terminated Participant is not paid to the Participant before the Participant incurs five (5) consecutive Breaks in Service and if the Participant is rehired before he or she incurs five (5) consecutive Breaks in Service, any unvested portion of the Participant's Plan Account which previously was forfeited shall be restored to the Participant's Plan Account. Any Participant who is deemed to have received a cash-out distribution because he or she was zero percent (0%) vested upon termination of employment and who

is rehired before incurring five (5) consecutive Breaks in Service shall be deemed to have repaid the deemed distribution upon his or her date of rehire.

**4.6 COMMENCEMENT OF BENEFITS.** A Participant's distribution must be made or must be made or must commence by the first day of April of the calendar year following the later of the calendar year in which the Participant terminates employment or the calendar year in which the Participant attains age seventy and one-half (70 1/2). Notwithstanding the preceding, (i) if the Participant is a five percent (5%) owner of an Employer (as defined in Code § 416(i)) with respect to the Plan Year in which the Participant attains age seventy and one-half (70 1/2), the required distribution commencement date is the first day of April of the calendar year following the calendar year in which the Participant attains age seventy and one-half (70 1/2) and (ii) a Participant other than a five percent (5%) owner (as defined in Code § 416(I)) who attains age seventy and one-half (70 1/2) shall be permitted, but shall not be required, to elect to commence the receipt of distributions by the first day of April of the calendar year following the calendar year in which the Participant attains age seventy and one-half (70 1/2).

#### **4.7 NOTICE REQUIREMENTS.**

**Effective January 1, 1997**, no less than thirty (30) days and no more than ninety (90) days before the date of any distribution to a Participant prior to the Participant's Normal Retirement Date, the Participant must receive (i) a general description of the material features, and an explanation of the relative values, of optional forms of benefit available under the Plan, and (ii) notice of the Participant's right to defer the distribution until the Participant's Normal Retirement Date. The preceding notice requirement under (ii) is not applicable for any distribution after the Participant's Normal Retirement Date, and none of the preceding notice requirements are applicable if the Participant's Plan Account can be cashed out as provided under Section 4.8.

Notwithstanding the preceding, if a distribution is one to which Code §§ 401(a)(11) and 417 do not apply, such distribution may commence less than thirty (30) days after the notice required under § 1.411(a)-11(c) of the Income Tax Regulations is given provided that:

(a) the Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

(b) the Participant, after receiving the notice, affirmatively elects an immediate distribution.

Notwithstanding the preceding, if a distribution is one to which Code §§ 401(a)(11) and 417 apply, a Participant may elect (with any applicable spousal consent) to waive the thirty (30) day requirement described above but no distribution shall commence until a date that is at least seven (7) days after such explanation is provided.



**Effective prior to January 1, 1997**, no less than thirty (30) days and no more than ninety (90) days before the date of any distribution to a Participant prior to the Participant's Normal Retirement Date, the Participant must receive (a) a general description of the material features, and an explanation of the relative values, of optional forms of benefit available under the Plan, and (b) notice of the Participant's right to defer the distribution until the Participant's Normal Retirement Date. The notice requirement under (b) is not applicable for any distribution after the Participant's Normal Retirement Date, and none of the preceding notice requirements are applicable if the Participant's Plan Account can be cashed out as provided under section 4.8.

**4.8 CASH-OUT DISTRIBUTIONS.** Notwithstanding any other provision of the Plan to the contrary, if the present value of a Participant's vested Plan Account to be distributed does not exceed \$5,000 effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 effective for Plan Years beginning before August 5, 1997) such Participant's vested Plan Account will be distributed in a lump sum as soon as practicable after the date on which the Participant (or beneficiary) becomes entitled to the distribution.

Effective for distributions on or after March 28, 2005, the Plan will no longer provide automatic, cash-out distributions of a Participant's vested Plan Account. Distributions made on or after March 28, 2005, will be subject to the Plan's normal and optional forms of benefits discussed in Article 4 and elsewhere in the Plan document.

**4.9 DIRECT ROLLOVERS.** Notwithstanding any other provision of the Plan to the contrary, for distributions from the Plan after December 31, 1992, any Participant or beneficiary who is to receive an Eligible Rollover Distribution may elect the direct trustee-to-trustee rollover of the distribution to an Eligible Retirement Plan. A direct rollover election must be made pursuant to the procedures established by the Plan Administrator and must specify the Eligible Retirement Plan to which the direct rollover is to be made. If the Participant or beneficiary elects a direct rollover as permitted hereunder, the Plan Administrator shall make the rollover as elected. For purposes of this Section, the term Eligible Rollover Distribution has the meaning given such term in Code §401(a)(31)(C) and includes only that portion of a distribution that would be includible in gross income if not rolled over. For purposes of this Section, the term Eligible Retirement Plan has the meaning given such term in Code §401(a)(31)(D) and currently means (i) an individual retirement account described in Code §408(a), (ii) an individual retirement account described in Code §408(b) (other than an endowment contract), (iii) a qualified trust that is a defined contribution plan, the terms of which permit the acceptance of direct rollovers and (iv) an annuity plan described in Code §403(a).

Effective for distributions made after December 31, 2001, for purposes of the direct rollover provision of this Section 4.9, an Eligible Retirement Plan will also mean annuity contract described in Code § 403(b) and an eligible plan under Code § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. This expanded definition of Eligible Retirement Plan will also apply in the case of a distribution to a

surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

4.10 REQUIRED DISTRIBUTIONS. This Section is included in the Plan to comply with Code §401(a)(9) and the Regulations thereunder. To the extent that there is any conflict between the provisions of Code §401(a)(9) and the Regulations thereunder and any other provision in the Plan, the provisions of Code §401(a)(9) and the Regulations thereunder will control. If the Participant's spouse is not the beneficiary with respect to any distribution of benefits, the method of distribution elected must satisfy the incidental death benefit requirements specified in § 401(a)(9)(G) of the Code and Treasury Regulation §1.401(a)(9)-2. For purposes of calculating the minimum required distribution required under Code §401(a)(9) and the Regulations thereunder, the Participant may elect to calculate life expectancies annually. Participants whose distributions from the Plan were required to commence prior to January 1, 1997 because of attainment of age seventy and one-half (70½), but who are not required to receive minimum required distributions under applicable law in effect for tax years beginning after December 31, 1996, may elect to cease receiving distributions until otherwise required under the Plan.

#### 4.11 MINIMUM DISTRIBUTION REQUIREMENTS

##### (a) General Rules.

- (i) Effective Date. The provisions of this Section 4.11 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (ii) Precedence. The requirements of this Section 4.11 will take precedence over any inconsistent provisions of the Plan.
- (iii) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 4.11 will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Internal Revenue Code.
- (iv) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section 4.11, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

##### (b) Time and Manner of Distribution.

- (i) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (A) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, then, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70  $\frac{1}{2}$ , if later.
- (B) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, then, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
- (C) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (D) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begins, this subsection (b)(ii), other than subsection (b)(ii)(A), will apply as if the surviving spouse were the Participant.

For purposes of this subsection (b)(ii) and subsection (d), unless subsection (b)(ii)(D) applies, distributions are considered to begin on the Participants Required Beginning Date. If subsection (b)(ii)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under subsection (b)(ii)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distribution are required to begin to the surviving Spouse under subsection (b)(ii)(A)), the date distributions are considered to begin is the date distributions actually commence.

(iii) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchase from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with subsection (c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations.

- (c) Required Minimum Distributions During Participant's Lifetime.
- (i) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
- (A) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar year; or
- (B) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution Calendar Year.
- (ii) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this subsection ( c ) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.
- (d) Required Minimum Distributions After Participant's Death.
- (i) Death on or After Date Distributions Begin.
- (A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:
- (I) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

- (II) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving Spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving Spouse's age as the Spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving Spouse's death, the remaining Life Expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.
- (III) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(B) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) Death Before Date Distributions Begin.

- (A) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subsection (d)(I).
- (B) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- ( C ) Death of Surviving Spouse Before Distribution to Surviving Spouse Are Required to Begin. If the Participant dies before the date distribution begin, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under subsection (b)(ii)(A), this subsection (d)(ii) will apply as if the surviving Spouse were the Participant.

(e) Definitions.

- (i) Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the "designated beneficiary" under Section 401(a)(9) of the internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.
- (ii) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under subsection (b)(ii). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar year.
- (iii) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.
- (iv) Participant's Account Balance. The Plan Account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date. The Plan Account balance for the valuation calendar year includes any amount rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.
- (v) Required Beginning Date. The date specified in Section 4.6 of the Plan.

#### 4.12 FORMS OF BENEFITS.

(i) Normal Form of Benefit. A Participant's normal form of benefit shall be the form discussed in Section 4.12.

(ii) Equivalent Actuarial Value Options. Subject to the requirements of Section 4.12, in lieu of receiving the normal form of benefit provided in Section 4.11(a) above, a Participant may elect to receive his or her Plan Account payable in accordance with one of the following options, which options are of equivalent actuarial value to the benefit to which the Participant was entitled under Section 4.11(a). The options available to a Participant are:

(i) A life annuity;

(ii) Approximately equal monthly, quarterly, semi-annual or annual installments over a period not to exceed the life expectancy of the Participant or Beneficiary receiving the distribution; and

(iii) A lump sum.

(iii) Election of Options \_\_\_\_\_. An election of an optional benefit form under subsection (b) above must be in writing (on a form provided by the Administrator) filed with the Administrator prior to the commencement of retirement benefit payments. If no election is made, then the normal form of benefit in Section 4.11(a) will be deemed to have been elected by the Participant. Once an election of an optional benefit form has been made and filed with the Administrator or has been deemed to have been made, and unless it is rescinded or changed before the commencement of benefit payments or before the purchase of an annuity that will pay the Participant's benefits, it cannot be rescinded or changed by the Participant.

#### 4.13 STANDARD BENEFIT PROVISIONS.

(a) Effect of Section. This Section shall take precedence over any conflicting provision in this Plan.

(b) Joint and 50% Survivor Spouse Annuity.

(i) Unless a vested Participant who retires under the Plan makes a qualified election (as defined below) of a different form of benefit within the ninety (90) day period ending on the Annuity Starting Date, such a Participant's Plan Account will be paid in the form of a Joint and 50% Survivor Spouse Annuity.

(ii) Notwithstanding the foregoing, if the present value of the Joint and 50% Survivor Spouse Annuity to which a Participant becomes entitled hereunder is \$5,000 or less effective

for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Employer shall, at any time prior to the Annuity Starting Date, direct the Trustee to pay to the Participant or to the Participant's spouse, as applicable, in lieu of the Joint and 50% Survivor Spouse Annuity, the principal sum that amounts to the present value of such benefit as of the date of payment, and, if such payment is made, it will fully discharge the Plan's obligations to the Participant and the Participant's spouse.

(c) Qualified Retirement Survivor Annuity.

(i) If a vested Participant who is married dies after the earliest retirement age (as defined below) but before his or her Annuity Starting Date and if the Participant has not made a qualified election (as defined below), the Participant's surviving spouse will receive the Participant's vested Plan Account in the form of a life annuity or in any other form of benefit available under the Plan and elected by the surviving spouse.

(ii) For purposes of the foregoing, a surviving spouse will begin to receive payments as soon as practicable after the Participant's death unless the surviving spouse elects to begin payments at a later date which is no later than the date that would have been the Participant's Normal Retirement Date. If a Participant covered by subsection (c)(i) above dies after the Participant's Normal Retirement Date, the surviving spouse will begin to receive payments immediately and may not elect to begin payments at a later date.

(iii) Notwithstanding the foregoing, if the vested Plan Account to which a surviving spouse becomes entitled hereunder is \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Employer shall, at any time prior to the Annuity Starting Date, direct the Trustee to pay to the spouse, in lieu of the Qualified Preretirement Survivor Annuity, the principal sum that amounts to the present value of such benefits as of the date of payment, and, if such payment is made, it will fully discharge the Plans' obligations to the spouse.

(d) Definitions.

(i) Annuity Starting Date: The first day of the first period for which an amount is paid as an annuity or in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

(ii) Qualified Election. A Participant's written waiver of the Joint and 50% Survivor Spouse Annuity and election to receive benefits is the Plan's normal form of benefit or in one of the optional forms permitted under the Plan, or the written waiver of the Qualified Preretirement Survivor Annuity and the election of a non-spouse Beneficiary or the election of an optional death benefit form available hereunder. A Participant's spouse must consent in writing to the waiver (including consent to the Beneficiary or Beneficiaries who will receive benefits payable on the death of the Participant), and the spouse's consent must be notarized or witnessed by a Plan representative. The



spouse's consent must acknowledge the effect of the waiver, election and consent and may be limited to consent to the specific form of benefit elected and to the payment of the benefit to the specific Beneficiary designated in the election. A Participant who has elected an alternate form of benefit and/or designation of Beneficiary with spousal consent may not change that alternate form of benefit and/or designation of Beneficiary without his or her spouse's consent, given in the manner specified above, unless the previous spousal consent (A) expressly permitted the Participant to make future designations of benefit forms and/or Beneficiaries without any requirement of further spousal consent and (B) acknowledged and expressly relinquished the right to limit the consent to an election of a specific benefit and a designation of a specific Beneficiary. If a Participant establishes to the satisfaction of the Administrator that he or she is married, that his or her spouse's written consent cannot be located, that the Participant is legally separated or the Participant has been abandoned (within the meaning of local law) and the Participant has a court order to such effect, or that such other circumstances exist as are specified under applicable Internal Revenue Service regulations, a waiver by the Participant alone will be a qualified election (unless a qualified domestic relations order as described in 414(p) of the Code provides otherwise). Any consent necessary under this provision will be valid only with respect to the spouse who signs the consent. If the spouse is legally incompetent to give consent, the spouse's legal guardian, even if the guardian is the Participant, may give consent. A Participant may revoke a previous waiver without the consent of his or her spouse at any time before benefits begin. A spouse may not revoke his or her written consent. A qualified election must be made within the qualified election period as defined below.

(iii) Spouse (Surviving Spouse): For purposes of Section 4.12(b), the spouse or surviving spouse of a Participant provided that the Participant and the Participant's spouse are married to each other on the Annuity Starting Date, and further provided that a former spouse will be treated as a spouse or surviving spouse to the extent provided under a qualified domestic relations order as described in §414(p) of the Code. For purposes of Section 4.12(c), the spouse or surviving spouse of a Participant provided that the Participant and the Participant's spouse were married to each other for at least one (1) year on the date of the Participant's death, and further provided that a former spouse will be treated as a spouse or surviving spouse to the extent provided under a qualified domestic relations order as described in §414(p) of the Code.

(iv) Joint and 50% Survivor Spouse Annuity. A reduced retirement allowance commencing on Normal Retirement Date, or, with the consent of the Participant, commencing on the earliest retirement age, of actuarially equivalent value to the benefit payable under Section 4.11(a), payable during the retired Participant's life, with the provision that, after his or her death, a monthly benefit equal to one half of the monthly benefit payable during the Participant's life shall be continued during the life of and paid to his or her surviving spouse, with payments ceasing with the retired Participant's death if his or her spouse does not survive the retired Participant. A Joint and 50% Survivor Spouse Annuity for a single Participant is a monthly benefit payable to the Participant during his or her life with payments ceasing upon the Participant's death.

(v) Qualified Election Period. Except in the case of the waiver of notice requirements under Section 4.7, for a Joint and 50% Survivor Spouse Annuity, the period which begins

on the date the Participant receives the notice required below and ends on the Annuity Starting Date (such election period shall be no more than ninety (90) days and no less than thirty (30) days). Notwithstanding the preceding, the Plan may provide the written explanation of Joint and 50% Survivor Annuity after the Annuity Starting Date, provided that the qualified election period described herein shall not end before the thirtieth (30<sup>th</sup>) day after the date on which such explanation is provided, subject to the following sentence. A Participant may elect (with any applicable consent) to waive the thirty (30) day requirement described herein (or to waive the thirty (30) day requirement described in the preceding sentence) but no distribution shall commence until a date that is at least seven (7) days after such explanation is provided.

(e) Notice Requirements.

(i) Except in the case of the waiver of notice requirements under Section 4.7, in the case of a Joint and 50% Survivor Spouse Annuity, within ninety (90) days but not less than thirty (30) days prior to the Annuity Starting Date, the Plan Administrator shall provide to each Participant who will receive a Joint and 50% Survivor Spouse Annuity a written explanation of: (A) the terms and conditions of a Joint and 50% Survivor Spouse Annuity; (B) the Participant's right to waive the Joint and 50% Survivor Spouse Annuity form of benefit and the effect of such a waiver; (C) the rights of a Participant's spouse under this Section; and (D) the Participant's right to revoke a previous waiver of the Joint and 50% Survivor Spouse Annuity and the effect of revoking such a waiver. A Participant also must be furnished a general description of the eligibility conditions and sufficient additional information to explain the relative values of the optional forms of benefit available under the Plan (e.g., the extent to which optional forms are subsidized relative to the normal form of benefit or the interest rates used to calculate the optional forms).

(ii) In the case of a Qualified Preretirement Survivor Annuity, the Plan Administrator shall provide to each Participant, within the period beginning on the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending with the close of the Plan Year in which the Participant attains age thirty-four (34), a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements above applicable to notices regarding Joint and 50% Survivor Spouse Annuities. If an individual becomes a Participant after the individual attains age thirty-four (34), the Plan Administrator shall provide the notice no later than the end of the one (1) year period beginning with the first day of the first Plan Year for which the individual is a Participant. If a Participant separates from service before attaining age thirty-five (35), the Plan Administrator shall provide the notice within one (1) year after the date of separation from service.

(iii) In the case of any distribution (other than an automatic cash-out of \$5,000 or less effective for distributions in between Plan Years beginning after August 5, 1997 and distributions before March 28, 2005 (\$3,500 or less effective for Plan Years beginning before August 5, 1997)) which is to commence prior to the Participant's attainment of Normal Retirement Age, the Plan Administrator shall notify the Participant of the Participant's right to defer the commencement of the distribution until the Participant's attainment of Normal Retirement Age.

## ARTICLE 5

### ADMINISTRATION

5.1 ADMINISTRATION. The Administration of this Plan shall be the responsibility of the following named fiduciaries, who are designated as such for purposes of ERISA:

(a) The Trustee with respect to the management, control and investment of the Trust (except to the extent the Trustee is subject to the direction of the Administrator or an investment manager) and the payment of benefits to Participants and their beneficiaries;

(b) The Administrator or other person or persons designated by the Administrator for purposes of determining appeals with respect to denied claims for benefits; and

(c) The Administrator with respect to controlling and managing the administration and operation of the Plan as hereinafter set forth. The Administrator may, through a written instrument, designate other persons to carry out some or all of its fiduciary responsibility.

The authority of each named fiduciary in its designated area of responsibility as aforesaid shall be exclusive, and no named fiduciary shall have either authority to responsibility to exercise any discretion or control other than as specifically delegated to the named fiduciary hereunder. Any person or group of persons or entity may serve in more than one fiduciary capacity with respect to the Plan.

## ARTICLE 6

### THE ADMINISTRATOR

6.1 MEMBERS. The Administrator shall be designated by the Plan Sponsor and may be the Plan Sponsor or a committee of one or more individuals. The Administrator shall serve until death, resignation or removal by the Plan Sponsor. The Administrator may, but need not, be a Participant in the Plan.

6.2 PROCEDURE.

(a) The Administrator may elect from among its membership, by a majority vote for each, a secretary and such other officers as the Administrator may deem expedient. The Administrator shall meet as often as its Chairperson deems necessary to carry out its functions. Any other two (2) members of the Administrator may call a meeting at anytime by giving due notice thereof to the Chairperson and the other Administrator members.

(b) Action by the Administrator on any matter of substance or on any matter that requires the exercise of discretion by the Administrator shall be taken at a meeting of the Administrator by a majority vote or by unanimous written consent without a meeting. Action on purely administrative matters may be taken by any member designated by a majority of the entire Administrator to act upon such administrative matter. However, no member of the Administrator who is a Participant shall vote or act on any question concerning only his or her rights or his or her beneficiaries' rights under the Plan.

6.3 POWERS AND RESPONSIBILITIES. The Administrator shall have the following powers and responsibilities:

(a) Under advice of counsel, who may be counsel to the Employer or counsel of its own selection, construing the Plan, and remedying any ambiguities, inconsistencies or omissions.

(b) Determining all questions relative to the eligibility of employees to be Participants and the benefits of Participants or beneficiaries.

(c) Establishing reasonable rules for the administration of the Plan.

(d) Maintaining appropriate records relating to Participants and their beneficiaries.

(e) Designating to the Trustee the investment vehicles to be established under Section 7.3 and the portion of each Participant's Plan Account to be invested in each such vehicle.

(f) Preparing and filing such reports and returns with respect to the Plan as are required by law.

(g) Allocating income, gains and losses among Plan Accounts.

(h) Performing other duties necessary for the administration of this Plan which appear to the Administrator to be necessary or appropriate in order properly to administer and operate the Plan.

The Administrator shall discharge its duties for the exclusive purpose of providing benefits hereunder and defraying the reasonable expenses of operating the Plan and with the skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

In carrying out its duties herein, the Administrator shall have discretionary authority to exercise all powers and to make all determinations, consistent with the terms of the Plan, in all matters entrusted to it, and its determinations shall be given deference and shall be final and binding on all interested parties.

#### 6.4 CERTIFICATIONS AND INVESTIGATIONS.

(a) Whenever in the administration of the Plan a certification by the Employer is required to be given to the Administrator, or if the Administrator shall deem it necessary that a matter be proved by certification of the Employer prior to taking or omitting any action hereunder, such certification shall be duly made, and the matter shall be deemed proved, by an instrument delivered to the Administrator, signed in the name of the Employer by its duly authorized representative. The Administrator shall be empowered to act, and shall be protected in acting, upon such instrument. Further, the Administrator shall be empowered to act, and shall be protected in acting, upon any notice, resolution, order, offer, telegram, letter or other document believed by the Administrator to be genuine and to have been signed by the proper party or parties.

(b) The Administrator shall not be required to make any investigation to determine the identity or mailing address of any person entitled to benefits under this Plan and shall be entitled to withhold the payment of benefits until the identity and mailing addresses of persons entitled to benefits are certified to it by the Employer or by such person.

6.5 CLAIMS PROCEDURE. Any person claiming a benefit under the Plan (a "Claimant") shall present the claim, in writing, to the Administrator, and the Administrator shall respond in writing. If the claim is denied, the written notice of denial shall state, in a manner calculated to be understood by the Claimant:

(a) The specific reason or reasons for denial with specific references to the Plan provisions on which the denial is based;

(b) A description of any additional material or information necessary for the

Claimant to perfect his or her claim and an explanation of why such material or information is necessary; and

- (c) An explanation of the Plan's claim review procedure.

If a claim for a benefit under the terms of the Plan is denied, in whole or in part, the Plan Administrator will notify the claimant of the decision in writing. The Plan Administrator's written notification will: (1) describe the specific reason or reasons for the denial, (2) reference the specific Plan provision on which the denial is based, and any additional material or information necessary for the claimant to perfect the claim, (3) provide an explanation of why such material or information is necessary, and (4) explain the Plan's appeal procedures including applicable time limits. This written notice will be provided within ninety (90) days after the submission of the claim to the Plan Administrator.

This ninety (90) day period may be extended once up to an additional ninety (90) days if the Plan Administrator determines that: (1) an extension is necessary due to matters beyond the control of the Plan, and (2) notifies the claimant prior to the expiration of the initial ninety (90) day period, of the circumstances requiring the extension of time, and the date by which the Plan expects to render a decision.

Any claimant whose claim is denied in whole or in part, may within sixty (60) days of the date of denial request in writing a review of the denial by the Board of Trustees. The written appeal must be sent to the Plan Administrator's Office, to the attention of the Board of Trustees, and should contain a written explanation of the basis of the appeal. The claimant filing the appeal may submit written comments, documents, records and other information relating to the claim. Upon request, the Plan Administrator will provide free of charge, reasonable access to and copies of all documents, records, and other information considered in evaluating the claim. Failure to file a request for review within this sixty (60) day period shall constitute a waiver of the right to review of the decision and such decision will be final and binding upon all parties thereto.

The Board of Trustees will review and consider all comments, documents, records and other information submitted by the claimant, whether or not such information was submitted or considered in the initial determination and denial of the claim. Such review will generally be held at the next regularly scheduled meeting of the Board of Trustees (which meets at least quarterly) after the submission of the appeal. However, if the appeal is received within thirty (30) days prior to the meeting, the review may be delayed until the next meeting. In addition, if special circumstances require a further extension of time, the review of the appeal may be delayed to the following meeting. The Board of Trustees' will send a written notice of the determination shortly after such decision. The written notice of the Board of Trustees' decision on review will include specific reasons for the decision and references to relevant Plan provisions upon which the decision is based.

Except as provided by law, the decision of the Board of Trustees shall be final and binding on all parties, including the claimant or any person.

If the Board of Trustees denies the appeal, the Participant or Beneficiary has the right to file a civil suit under Section 502(a) of ERISA. No action may be commenced with respect to or arising out of any claim for benefits against the Plan, the Trustees or any of the Trustees' agents more than one hundred and eighty (180) days after a Participant, Beneficiary, or any person claiming benefits under the Plan is given written notice of the denial of the appeal by the Board of Trustees. Unless the Board of Trustees expressly determine otherwise, this period shall not be extended even if the Board of Trustees again considers the matter after the initial denial. This limitation period shall apply to all actions arising out of, or relating to, a claim for benefits including, but not limited to, any legal or equitable action under ERISA to the extent that the claim relates to the provision of benefits or rights under the Plan.

The foregoing provisions apply and include each and every claim for benefits under the Plan and any claims asserted against the Plan, regardless of the basis asserted for the claim, and regardless of when the act or omission upon which the claim is based occurred.

In order to ensure that the foregoing claims procedures are followed, the Plan Administrative Office will monitor compliance with the claims rules by maintaining a written log that lists each claim/appeal received, the date the claim/appeal was received, the nature of each claim/appeal, the date notice of the claim/appeal decision was sent to the claimant and the disposition of the claim/appeal by the Board of Trustees.

6.6 ADVICE. The Administrator may secure specialized advice or assistance as it deems necessary or desirable in connection with the administration and operation of the Plan and shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, any advice or opinion so obtained.

6.7 DELEGATION. The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the Plan, both ministerial and discretionary, as it deems appropriate, to any person, and in the same manner to revoke any such delegation of duties, powers or responsibilities. Any action of such person in the exercise of duties, powers or responsibilities delegated to such person shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. Further, the Administrator may authorize one or more persons to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon such certificate or document executed by such person as representing action by the Administrator until such third persons shall have been notified of the revocation of such authority. Except to the extent required by ERISA, the Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to such person, except to the extent required by ERISA.

6.8 LIABILITY; INDEMNIFICATION. Except to the extent required by ERISA, no member of the Administrator shall incur any liability: (a) by virtue of any contract, agreement, bond or

other instrument made or executed by the member or on the member's behalf as a member of the Administrator, (b) for any act or failure to act, or any mistake or judgment made by the member, with respect to the business of the Plan, unless resulting from the member's gross negligence or willful misconduct, or (c) for the neglect, omission or wrongdoing of any other member of the Administrator or of any person employed or retained by the Administrator. The Employer shall indemnify and hold harmless each member of the Administrator from the effects and consequences of the member's acts, omissions and conduct with respect to the Plan, except to the extent that such effects and consequences shall result from the member's own willful misconduct or gross negligence. The foregoing right to indemnification shall be in addition to such other rights as Administrator may enjoy as a matter of law or by reason of insurance coverage of any kind. Rights granted hereunder shall be in addition to and not in lieu of any rights to indemnification to which the Administrator may be entitled pursuant to the by-laws of the Employer, and, if a Administrator is an Employee, service as a Administrator shall be deemed in partial fulfillment of the member's employment function. In all computations, the Administrator shall be entitled to rely fully upon data furnished by the Employer and upon information furnished it by or on behalf of an Employee or Employees.

6.9 INSURANCE. The Plan may purchase, as an expense of the Plan, liability insurance for the Plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission by a fiduciary. In addition, any fiduciary may purchase, from and for the fiduciary's own account, insurance to protect the fiduciary in the event of a breach of fiduciary duty, and the Employer may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the Plan.

6.10 BONDING. The Administrator shall arrange for such bonding as is required by law. Bonding in excess of the amount required by law shall not be considered required, but shall be permitted, by this Plan. The costs for such bonding shall be paid by the Employer or, if the Employer elects, from the Trust.

6.11 COMPENSATION. The Administrator shall serve without compensation, but all expenses of the Administrator incurred in the performance of duties hereunder shall be proper charges to the Trust and shall be paid therefrom unless the Employer, in its discretion, chooses to pay such expenses.



## ARTICLE 7

### TRUST AND TRUSTEE

7.1 TRUST FUND. The Trust Fund shall consist of all contributions made or transferred to the Trust Fund as provided herein, and the investments and reinvestment thereof and the income thereon which shall be accumulated and added to principal.

7.2 TRUSTEE CONTROL. The Trustee shall hold and invest the funds and assets received by the Trustee under this Plan subject to the terms of this Plan and for the purposes herein set forth. The Trustee shall be responsible only for such funds and assets as shall actually be received by the Trustee as Trustee hereunder.

So long as a Trustee is acting, title to any of the assets of the Trust Fund may be held or registered in the name of a nominee of the Trustee for ease of dealing with the same, provided that the books of the Trust reflect actual ownership. The Trustee shall be liable for the acts of its nominees. The assets so held or registered shall at all times remain in the possession or under the control of the Trustee.

7.3 INVESTMENT OPTIONS. If Plan procedures are implemented that provide for investment direction by Participants, the Trustee shall establish such investment options as the Administrator shall direct, and shall divide the trust among investment options in accordance with the investment directions of Participants which are made as provided in this Plan. Investment options shall be established either by direct investment or through the medium of a bank, a trust fund, an insurance contract or regulated investment company mutual fund, as the Administrator shall direct. Each investment option (a) shall be held and administered as part of the Trust, but (b) shall be separately invested and accounted for.

The assets of the Trust invested in each of the options shall be separately valued at fair market value as of the appropriate Valuation Date.

### 7.4 TRUSTEE APPOINTMENT AND RESIGNATION; REMOVAL AND SUCCESSION OF TRUSTEES.

(a) Appointment of Trustee. The Trustee shall be appointed by the Plan Sponsor or the Board of Trustees may serve as Trustee. If no Trustee is appointed, the Board of Trustees shall serve.

(b) Resignation or Removal of Trustee. The Trustee may resign at any time by filing the Trustee's resignation, in writing, with the Plan Sponsor. The Plan Sponsor shall have the power to remove the Trustee at any time, with or without cause, and to appoint a successor Trustee. Upon resignation or removal, the Trustee shall render an accounting of its administration since the last annual accounting and shall transfer and deliver the assets in hand under this Plan to any remaining or successor Trustee. Any successor Trustee shall have all the same titles, rights, powers, authorities, discretions and immunities as the original Trustee hereunder.

7.5 PRUDENT PERSON RULE. The Trustee shall discharge its duties under this Plan solely in the interest of Participants and their beneficiaries and: (a) for the exclusive purpose of providing benefits to such Participants and beneficiaries and paying reasonable expenses of administering the Plan; (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; (c) by diversifying the investments of the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and (d) in accordance with the provisions of this Plan insofar as they are consistent with the provisions of ERISA.

7.6 LIABILITY; EXPENSES; COMPENSATION. The Trustee shall not be liable for any losses which may be incurred upon the investments of the Trust Fund except to the extent that any losses to the Trust Fund shall have been caused by its bad faith, negligence or willful misconduct or by a breach of its fiduciary duties under ERISA.

7.7 MANAGEMENT OF ASSETS.

(a) Powers of the Trustee or Investment Manager. The Trustee who is managing and administering the Trust Fund or, if applicable, the Investment Manager (as defined in §3(38) of ERISA) which has been appointed by the Plan Sponsor to manage the Plan's assets, shall be and hereby is empowered and authorized, in its sole discretion and subject to current rules and regulations at the time the investment is made and subject to the provisions of the Plan with respect to Participant direction (and voting) of investments:

i) To invest and reinvest contributions and any accretions thereto, whether capital gains or income or both, and the proceeds of any sale, pledge, lease or other disposition of any assets of the Trust Fund in bonds, notes, mortgages, commercial paper, coins, stamps, foreign bonds, antiques, broodmares, gold, art, silver, diamonds, second trusts, option securities, in any other type of personal property and in real property; provided, however, that no individually-directed account may be invested in collectibles as described in Code §408(m). Notwithstanding any other provision of this Plan, any person having investment authority with regard to the Trust Fund is hereby authorized to direct the investment of any part or all of the assets of the trust in any common, collective, or group trust ("Common Trust"), including but not limited to any Common Trust which has been qualified under Code §401(a) and is exempt from taxation under Code §501(a) now or hereafter maintained by a bank or trust company which is a fiduciary with respect to the Plan or trust, as any such Common Trust may have heretofore been or may hereafter be amended, to be held subject to all the provisions thereof and to be commingled with the assets of other trusts participating therein; provided, however, that any investment and retention of an interest therein shall be such as will not adversely affect in any manner the qualified or exempt status of the Plan and trust under Code §401(a) and §501(a). To the extent of the equitable share of the trust in a Common Trust which is qualified under Code §401(a), the Common Trust shall be a part of the Plan and of the trust, and all of the terms and conditions of the instrument creating the Common Trust shall be deemed to be incorporated by reference herein. The power herein conferred is intended to and shall override any provision of this Plan to the contrary (including, but not limited to, any investment limitations contained in or imposed by this Plan).

ii) To vote any and all stock held hereunder and to continue any investment in stocks, bonds, real estate notes or other securities, or real or personal property, which may at any time form

a part of the Trust Fund; provided, however, that the Trustee shall vote stock of the Employer only upon the instructions of the Administrator or the Participants, except as otherwise required under ERISA.

iii) To invest, reinvest and change investments; to sell, mortgage, pledge, lease, assign, transfer and convey any and all of the Trust Fund property for cash or on credit, at public or private sale; to exchange any Trust Fund property for other property; to grant options to purchase or acquire any Trust Fund property; to determine the prices and terms of sales, exchanges or options; and to execute, acknowledge and deliver any and all deeds or other trust instruments of conveyance which may be required to carry the foregoing powers into effect, without obligation on the part of the purchaser, lessee, lender, assignee or transferee, or anyone to whom the property may in any way be conveyed to see to the application of the purchase money loans or property exchanged, transferred, assigned or conveyed.

iv) To allow cash in the Trustee's hands to remain on deposit in the commercial or savings department of any bank or trust company supervised by the United States or a State or agency of either, even if it is a fiduciary or party-in-interest, at any time and from time to time in a reasonable amount; and, as to such amount on deposit, the Trustee shall have liability for such interest as may be paid on such deposit.

v) To exercise with respect to all investments all of the rights, powers and privileges of an owner including, without limiting the foregoing, the power to give proxies and to pay calls, assessments and other sums deemed necessary for the protection of the Trust Fund; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscriptions or conversion rights and to accept and retain as an investment hereunder any securities received through the exercise of any of the foregoing powers. If the Trustee shall pay more than the par value of any security purchased, the Trustee shall not be obligated to establish a sinking fund out of the income of such investments for repaying to the principal the same amount paid above par.

vi) To take any action with respect to conserving or realizing upon the value of any Trust Fund property and with respect to foreclosures, reorganizations, or other changes affecting the Trust Fund property; to collect, pay, contest, compromise, or abandon demands of or against the Trust Fund estate, wherever situated; and to execute contracts, notes, conveyances and other instruments, including instruments containing covenants and warranties binding upon and creating a charge against the Trust Fund estate, and containing provisions excluding personal liability.

vii) To employ agents, including investment counsel, for advice and to manage the investment of the Trust Fund property, to employ attorneys, auditors, depositories and proxies, with or without discretionary powers and all such parties shall have the right to rely upon and execute the written instructions of the Trustee, and shall not be obligated to inquire into the propriety of the acts or directions of the Trustee, other than is required under ERISA.

viii) To compromise any claims existing in favor of or made against the Trust Fund.

ix) To engage in any litigation, either for the collection of monies or for other

properties due the Trust Fund, provided in defense of any claim against the Trust Fund; provided, however, that the Trustee shall not be required to engage in or participate in any litigation unless the Trustee shall have been indemnified to its satisfaction against all expenses and liabilities to which the Trustee may become subject.

x) To invest and reinvest up to one hundred percent (100%) of the Trust Fund in qualifying Employer securities, as defined in §407(d)(1) of ERISA. Such investment must be for the exclusive benefit of employees and must meet the requirements of Code §401(a) and all aspects thereof as to the common law prudence standard (except as to the diversification requirement).

(b) Investment Manager. Notwithstanding the foregoing, the Plan Sponsor reserves the right to appoint an investment adviser registered as such under the Investment Advisers Act of 1940, a bank (as defined in that Act) or an insurance company qualified to perform investment management services under the laws of more than one state to manage the investments of all or any part of the Trust Fund. Upon such appointment, and acknowledgment by the appointee that it is a fiduciary as defined in ERISA, the appointee shall have all rights to manage the investments of that portion of the Trust Fund over which authority has been granted. The Trustee shall be relieved of all further responsibility in respect thereof and shall abide by the instructions of such appointee.

(c) Powers of the Participants. The provisions of this subsection (c) shall govern the voting and tendering of stock, including Employer stock, as long as the resulting voting and tendering (or non tendering) of stock are proper, are in accordance with the terms of the Plan, and are not contrary to the provisions of ERISA. If the voting and tendering (or nontendering) of stock that would result from the application of the provisions of this Article are not proper, are not in accordance with the terms of the Plan or are contrary to the provisions of ERISA, the Trustee shall vote or tender (or not tender) stock in the manner consistent with its duties under ERISA. The Trustee shall vote and tender (or not tender) itself or by proxy, all shares of stock held in trust under the Plan pursuant to the procedures established by the Administrator.

7.8 RELIANCE BY TRUSTEE. The Trustee may rely on any decision of the Administrator purporting to be made pursuant to the terms of this Plan and on any list or notice furnished by the Employer or the Administrator as to any facts, the "occurrence of any events or the existence of any situation, and shall not be bound to inquire as to the basis of any such decision, list or notice, and shall incur no obligation or liability for any action taken or suffered to be taken by them in reliance thereon.

7.9 CHANGES IN ADMINISTRATOR. The Trustee shall not be bound to inquire as to changes in the Administrator and shall be entitled to rely on such information as it may receive from time to time from the Employer with respect to such membership.

7.10 LEGAL COUNSEL. The Trustee may consult with legal counsel (who may or may not be counsel for the Employer) concerning any question which may arise with reference to its duties under this Plan, and the Trustee may rely in good faith upon the opinion of such counsel.

#### 7.11 ACCOUNTING OF FUNDS AND TRANSACTIONS.

(a) The Trustee shall keep true and accurate records of all transactions of the Trust Fund

which records shall be available for inspection on order by authorized representatives of the Employer or by Participants at reasonable times.

Although a separate Account for each Participant under the Plan shall be maintained as herein provided, it shall not be necessary for the Trustee to make or maintain an actual physical division of the assets of the Trust Fund until the time shall arrive for the payment to a Participant or a beneficiary or beneficiaries of a Participant, and, at such time or times, the Trustee need only make an actual division of so much of any Account as may be necessary to satisfy the particular payments to be made.

(b) On the last day of the Plan Year, or more often as directed by the Board of Trustees, the Trustee shall prepare and deliver to the Board of Trustees an accounting of the funds and transactions since the last previous such accounting of the Trust Fund. In the absence of the filing in writing with the Trustee by the Board of Trustees of exceptions or objections to such accounting within one hundred twenty (120) days after the delivery of such accounting to the Board of Trustees, the Board of Trustees shall be deemed to have approved such accounting, and in such a case or upon the written approval by the Employer of such an accounting, the Trustee shall be released, relieved and discharged with respect to all matters and things disclosed in such accounting as though such accounting had been settled by decree of a court of competent jurisdiction.

7.12 RELIANCE ON TRUSTEE. No person contracting or in any way dealing with the Trustee shall be under any obligation to ascertain or inquire: (a) into any powers of the Trustee, (b) whether such powers have been properly exercised, or (c) about the sources or applications of any funds received from or paid to the Trustee. Any person contracting or in any way dealing with the Trustee may rely on the exercise of any power or authority as the conclusive evidence that the Trustee possesses such power or authority.

7.13 LEGAL ACTION. In the case of any suit or proceeding regarding this Plan to which the Trustee is a party, the Trustee shall be reasonably reimbursed for any and all costs, including attorney's fees, and for all necessary expenses which it has incurred or become liable on account thereof or on account of any other phase of its administration of the Trust Fund, and it shall be entitled to reimburse itself for said expenses out of the Trust Fund. In order to protect the Trust Fund against depletion as the result of ill-advised litigation, it is agreed that in the event any Participant, beneficiary or Employee brings any legal action against the Trustee, the result of which shall be adverse to the party bringing such suit, the court costs and attorney's fees to the Trustee in defending such suit shall be charged to such extent as is allowed by a court of competent jurisdiction, and as is possible, directly to the account of said Participant, beneficiary or Employee, and only the excess, if any, of such costs and fees over and above the Participant's separate share of the fund shall be included in the expense in determining the earnings or loss to the Trust Fund.

## ARTICLE 8

### AMENDMENT

8.1 AMENDMENT. Except as herein limited, the Plan Sponsor shall have the right to amend this Plan at any time to any extent that it may deem advisable. In addition, the Plan Sponsor at all times shall have the authority to make any amendment to the Plan required by law. Any amendment of the Plan shall be set forth in an instrument in writing. All Participants, all Employers, the Administrator and the Trustee shall be bound by any amendment to this Plan except that:

(a) No amendment shall increase the duties or liabilities of the Administrator or the Trustee without the consent of such party;

(b) No amendment shall have the effect of vesting in any Employer any interest in or control over any of the assets held by the Trustee pursuant to this Plan; and

(c) No amendment shall have the effect of the elimination of a benefit protected under Code §411(d)(6) with respect to the Plan, unless such elimination is permitted under Treasury regulation §§1.401(a)-4 and 1.411 (d)-4.

(d) No amendment to the Plan's vesting schedule shall deprive any Participant of any vested interest in his or her Accrued Benefit. If the Plan's vesting schedule is amended, any Participant having not less than three (3) Years of Service shall be permitted to elect, in writing, to the Administrator, to have his or her Vested Percentage computed under the Plan without regard to such amendment, provided such Participant's Vested Percentage at some point under the amended schedule may be less than such Participant's Vested Percentage at some point under the prior vesting schedule.

The period during which the vesting schedule election must be made by the Participant shall begin no later than the date the Plan amendment is adopted and end no later than the latest of the following dates:

- i) The date which is sixty (60) days after the day the amendment is adopted;
- ii) The date which is sixty (60) days after the day the amendment becomes effective;
- iii) The date which is sixty (60) days after the day the Participant is issued written notice of the amendment by the Administrator.

8.2 PROCEDURE. An amendment under this Article shall be valid only if it is approved by the Board of Trustees at a duly called meeting at which a quorum thereof is present or by written consent of the members of the Board executed in accordance with applicable State law.

## ARTICLE 9

### TERMINATION

9.1 RIGHT TO TERMINATE. It is expected that this Plan and the payment of contributions hereunder will continue indefinitely, but the continuance of this Plan is not assumed as a contractual obligation. The Plan Sponsor shall have the right at any time to terminate this Plan in its entirety.

9.2 EFFECT OF TERMINATION. Upon a termination of this Plan, upon a partial termination of the Plan as determined under applicable rules and regulations of the Internal Revenue Service or upon a complete discontinuance of contributions to the Plan, the Plan Account of each Participant with respect to whom the Plan is being terminated (including any Participant who has not received a complete distribution of his or her vested Plan Account and has not incurred, as of the date of the termination, at least five (5) Breaks in Service) or with respect to whom contributions are being discontinued shall become fully vested. Upon such termination or partial termination, the Administrator shall instruct the Trustee to transfer to each Participant or retired Participant (or his or her beneficiaries) with respect to whom the Plan is being terminated, by suitable instrument of transfer and delivery thereof, all assets held by the Trustee for such Participant or retired Participant (or his or her beneficiaries). If, however, the Employer or any entity within a controlled group (determined under the Code) with the Employer maintains another defined contribution plan other than an employee stock ownership plan (as defined by Code §4975(e)(7)), the Plan Accounts of all Participants will be determined and transferred to such other defined contribution plan, unless the Participant consents to an immediate distribution from the Plan.

9.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE EMPLOYER. In the event of merger or consolidation of any Employer, or transfer of all or substantially all of its assets to any corporation or other business, provisions may be made by any successor organization for the continuance of this Plan, and said successor shall in such event be substituted in place of the Employer by an appropriate instrument confirming such substitution and adopting this Plan. Notice of such substitution delivered to the Trustee shall be authority to the Trustee to recognize such successor in place of the Employer. The continuation of this Plan shall be by a separate plan and trust, to which the Trustee shall transfer the Plan Accounts of Employees of that Employer.

9.4 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE PLAN. In the event of the merger, consolidation or transfer of the assets of the Plan with any other pension or money purchase pension plan, such action shall be on terms providing that each Participant in this Plan would (if the transferee plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is not less than the benefit the Participant would have been entitled to receive immediately before such action (if the Plan had then terminated).

9.5 TERMINATION PROCEDURE. A discontinuance or termination under this Article shall be valid only if it is approved by the Board of Trustees at a duly called meeting at which a quorum thereof is present or by written consent of the members of the Board executed in accordance with applicable State law.

## ARTICLE 10

### **PROVISIONS TO PREVENT DISCRIMINATION**

10.1 **NO §401(a) DISCRIMINATION.** No contributions made to the Trust Fund by the Employer, nor benefits received from the Trust Fund by the Participants or their beneficiaries, shall be discriminatory within the meaning of Code §401.

10.2 **UNIFORM TREATMENT.** This Plan shall be administered and construed in a uniform and non-discriminatory manner, treating similarly situated Participants alike.



## ARTICLE 11

### TOP HEAVY PROVISIONS

11.1 TOP HEAVY REQUIREMENTS. Notwithstanding anything contained herein to the contrary, if the Plan is a Top Heavy Plan for any Plan Year, then the Plan shall meet the following requirements for such Plan Year:

(a) Minimum Vesting Requirements. Vesting shall be determined in accordance with one of the following schedules as designated by the Administrator by written resolution, except that if the vesting schedule then in effect is more favorable in all respects to Participants than either of the following schedules, the vesting schedule then in effect shall continue to apply:

- i) A Participant will have a fully vested interest in his or her Plan Account upon completion of not more than three (3) Years of Service for vesting purposes; or
- ii) A Participant's vested interest in his or her Plan Account will be determined under a schedule which is not less favorable to the Participant than the following:

YEARS OF SERVICE	VESTED INTEREST
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

If the Administrator fails to designate one of the preceding schedules, Schedule (ii) shall be deemed to have been designated.

If this Plan is found to be a Top Heavy Plan and subsequently ceases to be a Top Heavy Plan, then the vested interest of a Participant with fewer than three (3) Years of Service on the date on which the Plan ceases to be a Top Heavy Plan in benefits accrued with respect to Plan Years after the Plan ceases to be a Top Heavy Plan shall be determined without regard to the preceding schedules; the vested interest of a Participant with more than three (3) Years of Service on that date shall in that event, upon the Participant's election, continue to be determined by the preceding schedules.

Notwithstanding the preceding, if the Plan's normal vesting schedule is more favorable than the Top Heavy schedule above, the Plan's normal vesting schedule shall continue to apply when the Plan is a Top Heavy Plan. In addition, a Participant's vested percentage will not be reduced as the result of the Plan's change from Top Heavy to Non-Top Heavy status or from Non-Top Heavy too Top Heavy status.

(b) Minimum Contribution Requirement. This Plan will provide a minimum contribution allocation for such Plan Year for each Participant who is eligible to participate in the Plan for the Plan Year (regardless of whether he or she has earned a Year of Service during the Plan Year), who is employed by the Employer on the last day of the Plan Year and who is a Non-Key Employee in an amount equal to at least three percent (3%) of such Participant's Compensation (as defined in Section 3.3(a)) for such Plan Year. The three percent (3%) minimum contribution allocation requirement shall be increased to four percent (4 %) for any year in which the Employer also maintains a defined benefit pension plan if such increase is necessary to avoid the application of Code §416(h)(1), relating to special adjustments to Code §415 limits for Top Heavy Plans, and if the adjusted limitations of Code §416(h)(1) would otherwise be exceeded if such minimum contribution allocation were not so increased.

The minimum contribution allocation requirements set forth herein above shall be reduced in the following circumstances:

i) The percentage minimum contribution allocation required hereunder shall in no event exceed the percentage contribution allocation made for the Key Employee for whom such percentage is the highest for the Plan Year, after taking into account contribution allocations and benefits under other qualified plans in this Plan's aggregation group as provided in Code §416(c)(2)(B)(ii); and

ii) No minimum contribution will be required (or the minimum contribution will be reduced, as the case may be) for a Participant under this Plan for any Plan Year if the Participant's Employer maintains another qualified plan under which a minimum benefit or contribution is being funded or made for such year for the Participant in accordance with Code §416(c).

(c) Additional Super Top Heavy Requirement. If the Plan is a Super Top Heavy Plan for any Plan Year, the limitations on annual additions contained in Article 3 shall be adjusted pursuant to Code §416(h).

11.2 TOP HEAVY PLAN DEFINITIONS. For purposes of this Article, the following terms shall have the meanings provided below:

(a) A plan is a "Top Heavy Plan" if, as of the Determination Date, the aggregate of the accounts of Key Employees under a defined contribution plan exceeds sixty percent (60%) of the aggregate of the accounts of all employees under such plan or, in the case of a defined benefit plan, the present value of the cumulative accrued benefits under the plan for Key Employees exceeds sixty percent (60%) of the present value of the cumulative accrued benefits under the plan for all employees, all as adjusted by and determined in accordance with the provisions of Code §416(g). The determination of whether a plan is Top Heavy shall be made after aggregating each Plan of the sponsoring Employer in which at least one Key Employee participates and each other plan of the sponsoring Employer which enables any plan in which at least one Key Employee participates to meet the requirements of Code sections 401(a)(4) or 410, and after aggregating any plan not required to be aggregated by the foregoing if such aggregated group of plans, taking such plan into account, continues to meet the requirements of Code sections 401(a)(4) and 410. A plan is a "Super Top Heavy Plan" if, as of the Determination Date,

the plan would meet the test specified above for being a Top Heavy Plan if ninety percent (90%) were substituted for sixty percent (60%) in each place it appears in this subsection (a).

(b) The "Determination Date" for purposes of determining whether a plan is Top Heavy for a particular plan year is the last day of the preceding plan year (or, in the case of the first plan year of a plan, the last day of the first plan year).

(c) Effective for Plan Years beginning after December 31, 2001, a "Key Employee" is any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was an officer of an Employer having annual compensation greater than \$130,000 (as adjusted under Code § 416(i)(1) for Plan Years beginning after December 31, 2002), a 5-percent owner of an Employer, or a 1-percent owner of an Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Code § 415(c)(3). The determination of who is a Key Employee will be made in accordance with Code § 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

The present values of accrued benefits and the amounts of account balances of an Employee as of the Determination Date will be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under Code § 416(g)(2) during the 1-year period ending on the Determination Date. The preceding sentence will also apply to distributions under a terminated plan which, had it not been terminated would have been aggregated with the Plan under Code § 416(g)(2)(A)(i). In the case of a distribution made for a reason other than separation from service, death, or disability, this provision will be applied by substituting 5-year period for 1-year period. The accrued benefits and accounts of any individual who has not performed services for an Employer during the 1-year period ending on the Determination Date will not be taken into account.

Effective for Plan Years beginning before January 1, 2002, a "Key Employee" is any employee or former employee (including a beneficiary of such employee or former employee) who at any time during the plan year or any of the four (4) preceding plan years is:

i) An officer of the plan sponsor or any corporation required to be aggregated with the plan sponsor under Code sections 414(b), (c), (m) or (o) who has annual compensation (as defined below) from the plan sponsor or any corporation required to be aggregated with the plan sponsor under Code sections 414(b), (c), (m) or (o) of more than fifty percent (50%) of the amount in effect under Code §415(b)(1)(A) for the plan year (but in no event shall the number of officers taken into account as Key Employees exceed the lesser of (A) fifty (50) or, (B) the greater of three (3) or ten percent (10%) of all employees).

ii) One (1) of the ten (10) Employees owning (or considered as owning within the meaning of Code §318) both more than a one-half percent (½%) ownership interest and the largest percentage ownership interests in the Employer, and as annual compensation (as defined below) of more than the amount in effect under Code §415(c)(1)(A). For purposes of this Section, if two (2) Employees have the same interests in the Employer, the Employee having greater annual compensation (as defined below) from the Employer shall be treated as having a larger interest;

iii) A person owning (or considered as owning within the meaning of Code §318) more than five percent (5%) of the outstanding stock of the plan sponsor or stock possessing more than five percent (5 %) of the total combined voting power of all stock of the plan sponsor; or

iv) A person who has an annual compensation (as defined below) from the plan sponsor (or any corporation required to be aggregated with the plan sponsor under Code sections 414(b),(c), (m) or (o)) of more than one hundred fifty thousand dollars (\$150,000) and who would be described in subparagraph (iii) hereof if one percent (1 %) were substituted for five percent (5%).

For purposes of applying Code §318 to the provisions of this subsection (c), subparagraph (C) of Code §318(a)(2) shall be applied by substituting five percent (5%) for fifty percent (50%). In addition, the roles of subsections (b), (c) and (m) of Code §414 shall not apply for purposes of determining ownership of the plan sponsor under this subsection (c).

For purposes of determining whether an Employee is a Key Employee, annual compensation means compensation as defined in Code §415(c)(3), but including amounts contributed by the Employer pursuant to a salary reduction agreement which are excludible from the Employee's gross income under Code sections 125, 402(e)(3), 402(h) or 403(b).

(d) A "Non-Key Employee" is any participant in a plan (including a beneficiary of such participant) who is not a Key Employee.

## ARTICLE 12

### MISCELLANEOUS

12.1 NO RIGHT TO EMPLOYMENT. Participation in this Plan shall not give any person the right to be retained in the employ of the Employer, or any right or interest in this Plan other than as herein provided.

12.2 HEADINGS. The headings and sub-headings in this instrument are inserted for convenience of reference only and are not to be considered in construing the provisions hereof.

12.3 COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by anyone counterpart.

12.4 GOVERNING LAW. This Plan shall be construed, administered and governed in all respects under and by the laws of the State of California, except to the extent California law shall have been pre-empted by ERISA.

12.5 RULES AND REGULATIONS. By becoming a Participant, every Participant shall thereby be deemed to have agreed to abide by the rules and regulations of the Administrator made in accordance with this Plan, and to sign all papers necessary for the compliance therewith.

12.6 NO ASSIGNMENT OF BENEFITS. Except as expressly provided herein, no benefits under the Plan may be assigned or alienated, and the Trustee shall pay all amounts payable hereunder, and shall distribute all assets distributable hereunder, to any person, into the hands of such person and not unto any other person or corporation whatsoever, whether claiming by his or her authority or otherwise; nor may said payments be anticipated. Except as expressly provided herein, the interest of any Participant hereunder may not be assigned or encumbered, nor shall it be subject to attachment or other judicial process. However, deposit to the credit of the account of any person in a bank or trust company designated by such person in writing shall be deemed to be the equivalent of payment into the hands of such person. Notwithstanding the foregoing, amounts held for the benefit of a Participant may be paid in accordance with a "qualified domestic relations order" as defined in Code §414(p) (or a domestic relations order entered before January 1, 1985 which, in the judgment of the Administrator, is entitled to be treated as a qualified domestic relations order), so long as the payment complies with Code §414(p). A domestic relations order shall not fail to be a "qualified domestic relations order" if it provides for the payment of a portion or all of a Participant's Plan Account to an "alternate payee" prior to the Participant's "earliest retirement age" as defined in Code §414(p), and the Plan shall permit such distribution notwithstanding any other provision of the Plan to the contrary.

12.7 EXCLUSIVE BENEFIT. The Trust Fund shall be held by the Trustee for the exclusive purpose of providing benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan. No part of the Trust shall ever inure to the benefit of the Employer, except that:

(a) Any contribution made to the Trust Fund by the Employer which is attributable to a mistake of fact may be returned to the Employer within one year after such contribution was made;

(b) All contributions shall be conditioned on the initial qualification of the Plan under Code §401, and if the Plan does not qualify, then such contributions may be returned to the Employer (or in the case of salary reduction contributions to the appropriate Participants) within one year after the date of denial of qualification of the Plan.

(c) If a return of contributions pursuant to the foregoing is due to a good faith mistake of fact or a good faith mistake in determining the deductibility of the contribution:

i) The amount which may be returned to the Employer is the excess of the amount contributed over the amount would have been contributed had there not occurred a mistake; and

ii) Earnings attributable to such excess contribution may not be withdrawn, but losses attributable thereto must reduce the amount to be returned; and

iii) In no event may a return of contributions be due which would cause the Account of any Participant to be reduced to an amount less than the amount which would have been credited to the Participant's Account if the mistaken amount not been contributed.

**CERTIFICATE OF EXECUTION**

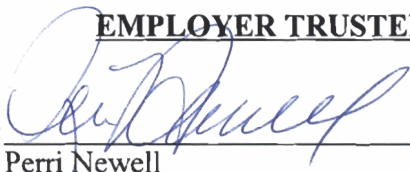
The undersigned Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan hereby certify that the foregoing restated Plan document of the Teamsters Local Union No. 572 Retirement Benefit Plan, effective July 1, 2005, was adopted at a meeting duly held on

March 30, 2006

**UNION TRUSTEES**

  
Richard Middleton

**EMPLOYER TRUSTEES**

  
Perri Newell

\_\_\_\_\_  
Robert Doss

\_\_\_\_\_  
Ronn English

**AMENDMENT NO. 2007-1**  
**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**  
**(EFFECTIVE JULY 1, 2005)**

**The Teamsters Local Union No. 572 Retirement Benefit Plan (Effective July 1, 2005) is amended effective July 1, 2007, as follows:**

Article 4, Sections 4.7 and 4.13(b)(i), (d)(v), & (e)(i) are amended by replacing "ninety (90)" with "one hundred eighty (180)."

**CERTIFICATE OF EXECUTION**

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2007-1 to the Teamsters Local Union No. 572 Retirement Benefit Plan, Effective July 1, 2001, was duly adopted at a meeting of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan held on July 3, 2007.

**UNION TRUSTEES**

  
Richard Middleton

  
Lourdes Garcia

**EMPLOYER TRUSTEES**

  
Perri Newell

  
Bette De Roma



**AMENDMENT NO. 2008-1**  
**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**  
(EFFECTIVE JULY 1, 2005)

**The Teamsters Local Union No. 572 Retirement Benefit Plan is hereby amended effective January 1, 2008 as follows:**

1. Article 4, Section 4.9 is amended by adding the following paragraphs:



Effective for distributions made after December 31, 2007, and in compliance with Section 824 of the Pension Protection Act of 2006, for purposes of the Direct Rollover provision of this Section 4.9, an Eligible Retirement Plan will also mean a Roth Individual Retirement Account ("Roth IRA"). In accordance with Code § 401(a)(31)(A), the Plan permits Participants and beneficiaries to elect a direct rollover of an Eligible Rollover Distribution to a Roth IRA.

Effective for distributions made after December 31, 2007, and in compliance with Section 829 of the Pension Protection Act of 2006, for purposes of the Direct Rollover provision of this Section 4.9, Eligible Rollover Distributions to non-spouse beneficiaries who are designated beneficiaries within the meaning of Code § 401(a)(9)(E) may be directly rolled over. Pursuant to Code § 402(c)(11), such a direct rollover by a non-spouse beneficiary will be treated as an inherited individual retirement account within the meaning of Code § 408(d)(3)(C). Non-spouse beneficiary rollovers may only occur if the rollover is direct; thus, distributions received by beneficiaries may not be rolled over in the manner described herein.


**CERTIFICATE OF EXECUTION**

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2008-1 to the Teamsters Local Union No. 572 Retirement Benefit Plan, Effective July 1, 2005, was duly adopted at a meeting of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan held on August 5, 2008.

**UNION TRUSTEES**

**EMPLOYER TRUSTEES**

  
\_\_\_\_\_

**AMENDMENT NO. 2009-1**  
**TEAMSTERS LOCAL UNION NO. 572 RETIREMENT**  
**BENEFIT PLAN**

**The Teamsters Local Union No. 572 Retirement Benefit Plan is hereby amended effective January 1, 2009 as follows:**

1. Article 4, Section 4.13, paragraph “(d) Definitions.” is revised and re lettered as “(e) Definitions.” and a new paragraph (d) is added as follows:

(d) Joint and 75% Survivor Spouse Annuity.

(i) In lieu of receiving his/her pension in the form of a Joint and 50% Survivor Spouse Annuity, a Participant may elect with the consent of his/her spouse to receive his/her pension in an optional form. An actuarially reduced pension will be payable to the Participant during his/her lifetime. At his/her death, a seventy-five percent (75%) of such reduced pension, as selected by the Participant, will continue to the Participant's surviving spouse during her lifetime. The pension payments shall terminate with the retired Participant's death if his or her spouse does not survive the retired Participant. This election shall be made in writing, on forms furnished by the Trustees, on or before the date pension payments to the Participant commence. Benefits payable under the Joint and 75% Survivor Spouse Annuity shall be actuarially equivalent to benefits that would be paid under the Joint and 50% Survivor Spouse Annuity.

(ii) Notwithstanding the foregoing, if the present value of the Joint and 75% Survivor Spouse Annuity to which a Participant becomes entitled hereunder is \$5,000 or less (\$3,500 or less effective for Plan Years beginning before August 5, 1997), the Employer shall, at any time prior to the Annuity Starting Date, direct the Trustee to pay to the Participant or to the Participant's spouse, as applicable, in lieu of the Joint and 75% Survivor Spouse Annuity, the principal sum that amounts to the present value of such benefit as of the date of payment, and, if such payment is made, it will fully discharge the Plan's obligations to the Participant and the Participant's spouse.

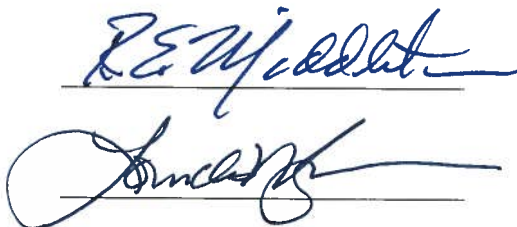
2. Article 4, Section 4.13, paragraph “(e) Notice Requirements.” is re lettered as “(f) Notice Requirements.” and subparagraph (i) is deleted and replaced as follows:

(i) Except in the case of the waiver of notice requirements under Section 4.7, in the case of a Joint and 50% Survivor Spouse Annuity or a Joint and 75% Survivor Spouse Annuity, within ninety (90) days but not less than thirty (30) days prior to the Annuity Starting Date, the Plan Administrator shall provide to each Participant who will receive a Joint and 50% Survivor Spouse Annuity or a Joint and 75% Survivor Spouse Annuity a written explanation of: (A) the terms and conditions of a Joint and 50% Survivor Spouse Annuity or a Joint and 75% Survivor Spouse Annuity; (B) the Participant's right to waive the Joint and 50% Survivor Spouse Annuity or a Joint and 75% Survivor Spouse Annuity form of benefit and the effect of such a waiver; (C) the rights of a Participant's spouse under this Section; and (D) the Participant's right to revoke a previous waiver of the Joint and 50% Survivor Spouse Annuity or a Joint and 75% Survivor Spouse Annuity and the effect of revoking such a waiver. A Participant also must be furnished a general description of the eligibility conditions and sufficient additional information to explain the relative values of the optional forms of benefit available under the Plan (e.g., the extent to which optional forms are subsidized relative to the normal form of benefit or the interest rates used to calculate the optional forms).

### **CERTIFICATE OF EXECUTION**

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2009-1 to the Teamsters Local Union No. 572 Retirement Benefit Plan, Effective January 1, 2009, was duly adopted at a meeting of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan held on November 24, 2009.

#### **UNION TRUSTEES**



Two handwritten signatures in blue ink, each written over a horizontal line. The first signature is more stylized and cursive, while the second is more legible and blocky.

#### **EMPLOYER TRUSTEES**



A single handwritten signature in blue ink, written over a horizontal line. The signature is cursive and appears to be "Gary D. Brown".

**AMENDMENT NO. 2009-2**  
**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**

**The Teamsters Local Union No. 572 Retirement Benefit Plan is hereby amended effective January 1, 2008 as follows:**

1. Article 3, Section 3.2, subsection (a), is revised and restated as follows:

**3.2 LIMITS ON ANNUAL ADDITIONS.**

(a) **Basic Limitation.** Notwithstanding any other provision of this Plan, effective for limitation years beginning after December 31, 2001, a Participant's total annual additions that may be contributed or allocated under this Plan for any limitation year will not exceed the lesser of (i) \$40,000, as adjusted for increases in the cost-of-living under Code section 415(d) of the Code, or (ii) 100 percent of the Participant's Compensation, within the meaning of Code § 401(a)(17). The Compensation limit referred to in (ii) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code § 401(a)(17). The Compensation limit referred to in (ii) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code § 401(a)(17) or Code § 419A(f)(2)) which is otherwise treated as an annual addition. In no event shall the Plan accept contributions in excess of the maximum specified for qualified plans by IRC Section 415 or the regulations promulgated thereunder, which are incorporated herein by reference. The maximum dollar limitation under Section 415(c)(1)(A) is adjusted annually as provided for under Section 415(d). If as a result of a reasonable error in calculating a Participant's Compensation, due to the allocation of forfeitures, or due to such other facts and circumstances as may be found by the Internal Revenue Service to justify the availability of this special rule, the annual additions to the Participant's Plan Account under this Plan and any other defined contribution plan of the Employer exceeds the limitations for a limitation year, then the excess amounts may be corrected only in accordance with the IRS Employee Plans Compliance Resolution System ("EPCRS") as set forth in Revenue Procedure 2008-50 or any superseding guidance including, but not limited to, the preamble to the final regulations under Code Section 415 as published in the Federal Register on April 5, 2007.

Effective for limitation years prior to January 1, 2002, a Participant's total annual additions under this Plan for any Plan Year shall not exceed the lesser of (i) thirty thousand dollars (\$30,000), or, if greater, one-fourth (1/4) of the defined benefit dollar limitation set forth in Code §415(b)(1) as in effect for the Plan Year, as adjusted in Treasury Regulation §1.415-2(b)(4)(iii), or (ii) twenty-five percent (25%) of the Participant's Compensation for such Plan Year.

"Annual additions" for this purpose means the sum of (A) contributions under Section 3.2 of this Plan allocable to the Participant's Plan Account, and (B) any forfeitures allocable to the Participant's Plan Account. This limitation shall be pro-rated for any short Plan Year. Notwithstanding the above, for the Plan Years beginning on and after January 1, 2008, the term "annual additions" shall be defined as provided in Treasury Regulation Section 1.415(c)-1(b).

For purposes of this Section, "Compensation" refers to the Participant's earned income, wages, salaries, and fees for professional services actually rendered in the course of employment with the Employer (including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not includible in the Participant's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Participant, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(iv) Other amounts which received special tax benefits, or contributions made by a Participant (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code ' 403(b) (whether or not the amounts are actually excludible from the gross income of the Participant).

For purposes of applying the limitations of this Section, Compensation for a limitation year is the Compensation actually paid or includible in a gross income during such year.

Notwithstanding the preceding sentence, Compensation for a Participant who is permanently and totally disabled (as defined in Code ' 22(e)(3)) is the compensation such Participant would have received for the limitation year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled. Such imputed Compensation for the disabled Participant may be taken into account only if contributions made on behalf of such Participant are nonforfeitable when made. Notwithstanding the preceding, effective January 1, 1998, ACompensation@ shall include any elective deferral (as defined in Code ' 402(g)(3)) and any amount which is contributed or deferred by the Employer at the

election of the Participant and which is not includible in the gross income of the Participant by reason of Code ' 125 or 457. In addition, effective for limitation years beginning after December 31, 2001, Compensation will also include elective amounts that are not includible in the gross income of the Employee by reason of Code ' 132(f)(4).

Notwithstanding the above, for the Plan Years beginning on and after January 1, 2008, for purposes of applying the limitations of IRC Section 415, Compensation shall include those amounts in Treasury Regulation Section 1.415(c)-2(b), exclusive of amounts listed in Treasury Regulation Section 1.415(c)-2(c). Compensation shall also include amounts paid after termination to the extent permitted under Treasury Regulation Sections 1.415(c)-2(e)(2), 1.415(c)-2(e)(3)(i), 1.415(c)-2(e)(3)(ii) and 1.415(c)-2(e)(3)(iii)(A).

## CERTIFICATE OF EXECUTION

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2009-2 to the Teamsters Local Union No. 572 Retirement Benefit Plan, Effective July 1, 2007, was duly adopted by a telephone poll of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan on December 22, 2009.

## UNION TRUSTEES

RE. Middel  
Smits

## EMPLOYER TRUSTEES

Chavez Delkoma



**AMENDMENT NO. 2009-3**  
**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**

**The Teamsters Local Union No. 572 Retirement Benefit Plan is hereby amended and effective as follows:**

1. Article 3, Section 3.6 is revised and restated as follows:

3.6 MILITARY SERVICE BENEFITS. Notwithstanding any provision of this Plan to the contrary, effective the later of the Effective Date or December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with ' 414(u) of the Code.



(a) Death benefits. In the case of a Participant's death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the Participant shall be treated as if the Participant had resumed employment and then terminated employment on account of death.

(b) Differential wage payments. For years beginning after December 31, 2008, (i) a Participant receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the Employer making the payment, (ii) the differential wage payment shall be treated as Compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

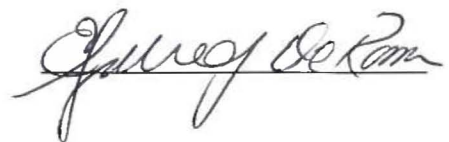
**CERTIFICATE OF EXECUTION**

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2009-3 to the Teamsters Local Union No. 572 Retirement Benefit Plan, was duly adopted by a telephone poll of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan on December 22, 2009.

**UNION TRUSTEES**

**EMPLOYER TRUSTEES**

  
\_\_\_\_\_

**AMENDMENT NO. 2012-1**  
**TEAMSTERS LOCAL UNION NO. 572**  
**RETIREMENT BENEFIT PLAN**

**The Teamsters Local Union No. 572 Retirement Benefit Plan is hereby amended as follows:**

**A. The date of January 1, 2008 in the third and last paragraphs of Article 3, Section 3.2, subsection (a), is deleted and replaced with July 1, 2007 as follows:**

**3.2 LIMITS ON ANNUAL ADDITIONS.**

(a) Basic Limitation. Notwithstanding any other provision of this Plan, effective for limitation years beginning after December 31, 2001, a Participant's total annual additions that may be contributed or allocated under this Plan for any limitation year will not exceed the lesser of (i) \$40,000, as adjusted for increases in the cost-of-living under Code section 415(d) of the Code, or (ii) 100 percent of the Participant's Compensation, within the meaning of Code § 401(a)(17). The Compensation limit referred to in (ii) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code § 401(a)(17). The Compensation limit referred to in (ii) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code § 401(a)(17) or Code § 419A(f)(2)) which is otherwise treated as an annual addition. In no event shall the Plan accept contributions in excess of the maximum specified for qualified plans by IRC Section 415 or the regulations promulgated thereunder, which are incorporated herein by reference. The maximum dollar limitation under Section 415(c)(1)(A) is adjusted annually as provided for under Section 415(d). If as a result of a reasonable error in calculating a Participant's Compensation, due to the allocation of forfeitures, or due to such other facts and circumstances as may be found by the Internal Revenue Service to justify the availability of this special rule, the Annual Additions to the Participant's Plan Account under this Plan and any other defined contribution plan of the Employer exceeds the limitations for a limitation year, then the excess amounts may be corrected only in accordance with the IRS Employee Plans Compliance Resolution System ("EPCRS") as set forth in Revenue Procedure 2008-50 or any superseding guidance including, but not limited to, the preamble to the final regulations under Code Section 415 as published in the Federal Register on April 5, 2007.

Effective for limitation years prior to January 1, 2002, a Participant's total annual additions under this Plan for any Plan Year shall not exceed the lesser of (i) thirty thousand dollars (\$30,000), or, if greater, one-fourth (1/4) of the defined benefit dollar limitation set forth in Code §415(b)(1) as in effect for the Plan Year, as adjusted in Treasury Regulation §1.415-2(b)(4)(iii), or (ii) twenty-five percent (25%) of the Participant's Compensation for such Plan Year.

"Annual additions" for this purpose means the sum of (A) contributions under Section 3.2 of this Plan allocable to the Participant's Plan Account, and (B) any forfeitures allocable to the Participant's Plan Account. This limitation shall be pro-rated



for any short Plan Year. Notwithstanding the above, for the Plan Years beginning on and after July 1, 2007, the term "Annual additions" shall be defined as provided in Treasury Regulation Section 1.415(c)-1(b).

For purposes of this Section, "Compensation" refers to the Participant's earned income, wages, salaries, and fees for professional services actually rendered in the course of employment with the Employer (including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) and excluding the following:

- (i) Employer contributions to a plan of deferred compensation which are not includible in the Participant's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Participant, or any distributions from a plan of deferred compensation;
- (ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) Other amounts which received special tax benefits, or contributions made by a Participant (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code ' 403(b) (whether or not the amounts are actually excludible from the gross income of the Participant).

For purposes of applying the limitations of this Section, Compensation for a limitation year is the Compensation actually paid or includible in a gross income during such year.

Notwithstanding the preceding sentence, Compensation for a Participant who is permanently and totally disabled (as defined in Code ' 22(e)(3)) is the compensation such Participant would have received for the limitation year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled. Such imputed Compensation for the disabled Participant may be taken into account only if contributions made on behalf of such Participant are nonforfeitable when made. Notwithstanding the preceding, effective January 1, 1998, ACompensation@ shall include any elective deferral (as defined in Code ' 402(g)(3)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code ' 125 or 457. In addition, effective for limitation years beginning after December 31, 2001, Compensation will also include elective amounts that are not includible in the gross income of the Employee by reason of Code ' 132(f)(4).

Notwithstanding the above, for the Plan Years beginning on and after July 1, 2007, for purposes of applying the limitations of IRC Section 415, Compensation shall include those amounts in Treasury Regulation Section 1.415(c)-2(b), exclusive of amounts listed in Treasury Regulation Section 1.415(c)-2(c). Compensation shall also include amounts paid after termination to the extent permitted under Treasury Regulation Sections 1.415(c)-2(e)(2), 1.415(c)-2(e)(3)(i), 1.415(c)-2(e)(3)(ii) and 1.415(c)-2(e)(3)(iii)(A).

**B. The phrase "separation from service" in the second paragraph of Article 11, Section 11.2, subsection (c), is deleted and replaced with the phrase "severance from employment" as follows:**


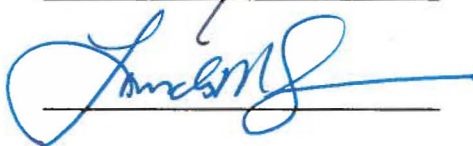
(c) Effective for Plan Years beginning after December 31, 2001, a Key Employee is any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was an officer of an Employer having annual compensation greater than \$130,000 (as adjusted under Code ' 416(i)(1) for Plan Years beginning after December 31, 2002), a 5-percent owner of an Employer, or a 1-percent owner of an Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Code ' 415(c)(3). The determination of who is a Key Employee will be made in accordance with Code ' 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

The present values of accrued benefits and the amounts of account balances of an Employee as of the Determination Date will be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under Code ' 416(g)(2) during the 1-year period ending on the Determination Date. The preceding sentence will also apply to distributions under a terminated plan which, had it not been terminated would have been aggregated with the Plan under Code ' 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision will be applied by substituting 5-year period for 1-year period. The accrued benefits and accounts of any individual who has not performed services for an Employer during the 1-year period ending on the Determination Date will not be taken into account.

#### **CERTIFICATE OF EXECUTION**

The undersigned Trustees of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan do hereby certify that the foregoing Amendment 2012-1 to the Teamsters Local Union No. 572 Retirement Benefit Plan, was duly adopted by a telephone poll of the Board of Trustees of the Teamsters Local Union No. 572 Retirement Benefit Plan on February 8, 2012.

#### **UNION TRUSTEES**

#### **EMPLOYER TRUSTEES**

