

# SECURITIES AND EXCHANGE COMMISSION

## FORM S-8/A

Initial registration statement for securities to be offered to employees pursuant to employee benefit plans [amend]

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### FILER

#### **HARLEY DAVIDSON INC**

CIK: **793952** | IRS No.: **391382325** | State of Incorpor.: **WI** | Fiscal Year End: **1231**  
Type: **S-8/A** | Act: **33** | File No.: **033-35311** | Film No.: **94504274**  
SIC: **3751** Motorcycles, bicycles & parts

Business Address  
3700 W JUNEAU AVE  
MILWAUKEE WI 53208  
4143424680

As filed with the Securities and Exchange Commission on February 2, 1994

Registration No. 33-35311

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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POST-EFFECTIVE AMENDMENT NO. 1 TO  
FORM S-8

REGISTRATION STATEMENT  
Under  
THE SECURITIES ACT OF 1933

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HARLEY-DAVIDSON, INC.  
(Exact name of registrant as specified in its charter)

Wisconsin  
(State or other jurisdiction  
of incorporation or organization)

39-1382325  
(I.R.S. Employer  
Identification No.)

3700 West Juneau Avenue  
Milwaukee, Wisconsin  
(Address of principal executive offices)

53208  
(Zip Code)

Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees;  
[f/k/a Harley-Davidson, Inc. Thrift Incentive Plan  
for Salaried Employees]

Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee  
and Tomahawk Hourly Bargaining Unit Employees;  
[f/k/a Harley-Davidson, Inc. Thrift Incentive Plan for  
Milwaukee and Tomahawk Hourly Bargaining Unit Employees]  
and  
Holiday Rambler Corporation Employees' Retirement Plan  
(Full title of the plans)

Timothy K. Hoelter, Esq.  
Harley-Davidson, Inc.  
3700 West Juneau Avenue  
Milwaukee, Wisconsin 53208  
(414) 342-4680

(Name, address and telephone number, including area code,  
of agent for service)

Copy to:  
Patrick G. Quick, Esq.  
Foley & Lardner  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202-5367  
(414) 271-2400

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The document or documents containing the information specified in Part I are not required to be filed with the Securities and Exchange Commission (the "Commission") as part of this Form S-8 Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the Commission by Harley-Davidson, Inc. (the "Company") and the Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees, the Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees and the Holiday Rambler Corporation Employees' Retirement Plan (collectively, the "Plans") are hereby incorporated herein by reference:

(a) The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1992 and the Annual Report on Form 11-K for the fiscal year ended December 31, 1992 for each of the Plans.

(b) All reports filed by the Company pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), since December 31, 1992, including the Quarterly Reports on Form 10-Q for the fiscal quarters ended March 28, 1993, June 27, 1993 and September 26, 1993.

(c) The description of the Company's common stock contained in Item 4 of the Registration of Securities of Certain Successor Issuers on Form 8-B, dated June 21, 1991 (the "Form 8-B"), File No. 1-10793, including any amendments or reports filed for the purpose of updating such description.

(d) The description of the Company's Preferred Stock Purchase Rights contained in Item 1 of the Preferred Stock Purchase Rights Registration Statement on Form 8-A, Registration No. 1-9183, dated August 31, 1990, as supplemented by the Amendment to the Rights Agreement, attached as Exhibit 4.8 to the Form 8-B, including any amendments or reports filed for the purpose of updating such description.

All documents filed by the Company and the Plans pursuant to sections 13(a), 13(c), 14, and 15(d) of the Exchange Act after the date of filing of this Post-Effective Amendment No. 1 to the Registration Statement and prior to such time as the Company files a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein, or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein, modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable

Item 6. Indemnification of Directors and Officers.

The Plans provide that, to the maximum extent allowed by law and to the extent not otherwise indemnified, the Company shall indemnify the Administrator, and any other current or former officer, director or employee of the Company, against any and all claims, losses, damages, and expenses (including counsel fees) incurred by such persons and any liability, including any amounts paid by them in settlement (provided such settlement is approved by the Company), arising from such person's action or failure to act.

Article V of the Company's By-Laws requires that the Company shall, to the fullest extent permitted or required by Sections 180.0850 to 180.0859, inclusive, of the Wisconsin Business Corporation Law, including any amendments thereto (but in the case of any such amendment, only to the extent such amendment permits or requires the corporation to provide broader indemnification rights than prior to such amendment), indemnify

its Directors and Officers against any and all liabilities, and advance any and all reasonable expenses, incurred thereby in any proceedings to which any such Director or Officer is a party because he or she is or was a Director or Officer of the Company. The Company shall also indemnify an employee who is not a Director or Officer, to the extent that the employee has been successful on the merits or otherwise in defense of a proceeding, for all expenses incurred in the proceeding if the employee was a party because he or she is or was an employee of the Company. The rights to indemnification granted under the By-Laws shall not be deemed exclusive of any other rights to indemnification against liabilities or the advancement of expenses to which a Director, Officer or employee may be entitled under any written agreement, Board resolution, vote of shareholders, the Wisconsin Business Corporation Law or otherwise. The Company may, but shall not be required to, supplement the foregoing rights to indemnification against liabilities and advance of expenses by the purchase of insurance on behalf of any one or more of such Directors, Officers or employees, whether or not the corporation would be obligated to indemnify or advance expenses to such Director, Officer or employee under this paragraph.

The Company maintains a liability insurance policy for its directors and officers which extends to, among other things, liability arising under the Securities Act of 1933, as amended.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

- 4.1(a) Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees
- 4.1(b) Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees
- 4.1(c) Holiday Rambler Corporation Employees' Retirement Plan
- 4.2 Restated Articles of Incorporation of the Company (incorporated herein by reference to Exhibit 3.1 to the Company's Registration Statement on Form 8-B dated June 24, 1991 (File No. 1-10793 (the "Form 8-B"))
- 4.3 By-Laws of the Company (incorporated herein by reference to Exhibit 3.2 to the Form 8-B)
- 4.4 Form of Certificate of Designation relating to Series A Junior Participating Preferred Stock (incorporated herein by reference to Exhibit 3.3 to the Form 8-B)
- 4.5 Form of Rights Agreement between the Company and First Wisconsin

Trust Company, as Rights Agent (incorporated herein by reference to Exhibit 4.6 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1990 (File No. 1-9183))

- 4.6 First Amendment to Rights Agreement, dated as of June 21, 1991 by and between First Wisconsin Trust Company, as Trustee, Harley-Davidson, Inc. (a Delaware corporation and predecessor) and H-DI Corp. (a Wisconsin corporation and successor) (incorporated herein by reference to Exhibit 4.8 to the Form 8-B)
- 5.1 Opinion of Simpson Thacher & Bartlett (a partnership which includes professional corporations)
- 5.2 The undersigned registrant hereby undertakes that the registrant will submit or has submitted the plans and any amendments thereto to the Internal Revenue Service ("IRS") in a timely manner and has made or will make all changes required by the IRS in order to qualify the plans.
- 23.1 Consent of Simpson Thacher & Bartlett (a partnership which includes professional corporations) (contained in Exhibit 5.1)
- 23.2 Consent of Ernst & Young, Independent Auditors
- 24 Power of Attorney relating to subsequent amendments (included on the signature page to this Post-Effective Amendment No. 1 to the Registration Statement)

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.
- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for

purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

#### SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Amendment to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Milwaukee, State of Wisconsin, on this 1st day of February, 1994.

HARLEY-DAVIDSON, INC.

By RICHARD F. TEERLINK  
Richard F. Teerlink  
President and Chief Executive Officer

Each person whose signature appears below constitutes and appoints Richard F. Teerlink, James L. Ziemer, James M. Brostowitz and Timothy K. Hoelter, and each of them, his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all further amendments to this Registration Statement, and to file the same, with all

exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or either of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Amendment to the Registration Statement has been signed by the following persons in the capacities indicated on February 1, 1994.

Name	Title
RICHARD F. TEERLINK Richard F. Teerlink	President, Chief Executive Officer (Principal Executive Officer) and Director
JAMES L. ZIEMER James L. Ziemer	Vice President and Chief Financial Officer (Principal Financial Officer)
JAMES M. BROSTOWITZ James M. Brostowitz	Vice President, Controller and Treasurer (Principal Accounting Officer)
VAUGHN L. BEALS, JR. Vaughn L. Beals, Jr.	Chairman and Director
BARRY K. ALLEN Barry K. Allen	Director
WILLIAM F. ANDREWS William F. Andrews	Director
<hr/> Frederick L. Brengel	Director
RICHARD G. LEFAUVE Richard G. LeFauve	Director
<hr/> James A. Norling	Director
DONALD A. JAMES Donald A. James	Director



WILLIAM B. POTTER  
William B. Potter

Director

RICHARD HERMON-TAYLOR  
Richard Hermon-Taylor

Director

Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plans) have duly caused this Amendment to the Registration Statement to be signed on their behalf by the undersigned, thereunto duly authorized, in the City of Milwaukee, State of Wisconsin, on February 1, 1994.

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS  
PLAN FOR SALARIED EMPLOYEES

By JAMES L. ZIEMER  
James L. Ziemer  
Plan Administrative Committee Member

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS  
PLAN FOR MILWAUKEE AND TOMAHAWK  
HOURLY BARGAINING UNIT EMPLOYEES

By JAMES L. ZIEMER  
James L. Ziemer  
Plan Administrative Committee Member

HOLIDAY RAMBLER CORPORATION  
EMPLOYEES' RETIREMENT PLAN  
By: HOLIDAY RAMBLER CORPORATION  
(Plan Administrator)

By MARTIN R. SNOEY  
Martin R. Snoey  
President

EXHIBIT INDEX

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	SEQUENTIAL PAGE NUMBER
4.1(a)	Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees	
4.1(b)	Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees	
4.1(c)	Holiday Rambler Corporation Employees' Retirement Plan	
4.2	Restated Articles of Incorporation of the Company (incorporated herein by reference to Exhibit 3.1 to the Company's Registration Statement on Form 8-B dated June 24, 1991 (File No. 1-10793 (the "Form 8-B"))	
4.3	By-Laws of the Company (incorporated herein by reference to Exhibit 3.2 to the Form 8-B)	
4.4	Form of Certificate of Designation relating to Series A Junior Participating Preferred Stock (incorporated herein by reference to Exhibit 3.3 to the Form 8-B)	
4.5	Form of Rights Agreement between the Company and First Wisconsin Trust Company, as Rights Agent (incorporated herein by reference to Exhibit 4.6 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1990 (File No. 1-9183))	
4.6	First Amendment to Rights Agreement, dated as of June 21, 1991 by and between First Wisconsin Trust Company, as Trustee, Harley-Davidson, Inc. (a Delaware corporation and predecessor) and H-DI Corp. (a Wisconsin corporation and successor) (incorporated herein by reference to Exhibit 4.8 to the Form 8-B)	
5.1	Opinion of Simpson Thacher & Bartlett (a partnership which includes professional corporations)*	
23.1	Consent of Simpson Thacher & Bartlett (a partnership which includes professional corporations) (contained	

in Exhibit 5.1)\*

- 23.2 Consent of Ernst & Young, Independent Auditors
- 24 Power of Attorney relating to subsequent amendments  
(included on the signature page to this Post-Effective  
Amendment No. 1 to the Registration Statement)

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\* Previously filed.

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS PLAN  
FOR SALARIED EMPLOYEES

(As Amended and Restated Effective as of January 1, 1993)

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS PLAN  
FOR SALARIED EMPLOYEES

(As Amended and Restated Effective as of January 1, 1993)

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ARTICLE I. PREAMBLE

Section 1.1 The Plan. The Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees is intended to encourage savings and to provide benefits to salaried employees of Harley-Davidson, Inc. upon their retirement or earlier termination of employment and to their spouses or other beneficiaries upon death.

The Plan, as set forth herein, was amended and restated effective as of January 1, 1988 to conform to the requirements of the Tax Reform Act of 1986, again restated as of January 1, 1990, to include Company Stock as an investment option and to make further technical changes to conform to the Tax Reform Act of 1986 and subsequent laws and regulations, and again restated effective January 1, 1993, to add to the Plan a Company matching feature. As part of the 1993 restatement the name of the Plan was changed from the Harley-Davidson, Inc. Thrift Incentive Plan to the Harley-Davidson, Inc. Retirement Savings Plan. The Plan is a profit sharing plan with cash-or-deferred features authorized by Code Section 401(k).

Except as otherwise specifically provided, any amendment to the Plan shall apply only to periods on and after, and employees whose employment is terminated on and after, the effective date. Rights with respect to periods before such date shall be determined under the terms of the Plan (or any predecessor thereof) as in effect from time to time prior to the effective date of the amendment.

Notwithstanding the foregoing, Sections 3.8, 5.1 and 5.3 through 5.8 and Article XV shall be deemed to be amended effective January 1, 1987, and Sections 7.5, 7.8, 8.4, and 13.1 shall be deemed to be amended effective as of January 1, 1989. Notwithstanding the foregoing, Sections 9.1 through 9.7 shall be effective October 18, 1989, and, as of such date, shall supersede Article IX of the Plan, as previously in effect.

## ARTICLE II. DEFINITIONS

Section 2.1 Definitions. Whenever used in the Plan, the following words and phrases shall have the respective meanings stated below unless a different meaning is plainly required by the context, and when the defined meaning is intended, the term is capitalized.

(a) "Accounting Date" means the last day of each month, or such other date or dates as the Administrator may designate from time to time as an Accounting Date.

(b) "Act" means the Employee Retirement Income Security Act of 1974, as now in effect or hereafter amended.

(c) "Administrator" means a committee comprised of the Vice President Human Resources, the Chief Financial Officer, the Treasurer, and the Company's General Counsel or any successor Administrator appointed by the Board.

(d) "Affiliate" means (1) a corporation which is a member of the same controlled group of corporations (within the meaning of Code section 414(b)) as the Company, (2) an incorporated or unincorporated trade or business which is under common control with the Company (as determined under Code section 414(c)), or (3) an organization which, together with the Company, is an affiliated service group (as determined under Code section 414(m)), and any other corporation that the Company shall designate as an Affiliate.

(e) "Beneficiary" means the person or persons designated by a Member pursuant to Section 7.7.

(f) "Board" means the Board of Directors of the Company.

(g) "Code" means the Internal Revenue Code of 1986, as amended.

(h) "Company" means Harley-Davidson, Inc. and any organization that is a successor thereto that adopts and continues the Plan.

(i) "Company Stock" means the common stock of Harley-Davidson, Inc., par value \$1.00 per share.

(j) "Company Stock Fund" means an Investment Fund which is invested in Company Stock, which pending such investment, may be invested in short-term securities.

(k) "Compensation" means the total salary, wages, and other amounts (cash and noncash) paid by the Employers to an Employee, prior to reductions under Code Sections 402(e)(3) or 125, for personal services



rendered to Employers in the course of employment to the extent the amounts are includable in taxable income including, but not limited to, overtime, bonuses, commissions, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treasury Regulation Section 1.62-2(c)), but excluding all Employer matching contributions hereunder, amounts realized from the exercise of nonqualified stock options or when restricted property or stock held by the Participant is no longer subject to a substantial risk of forfeiture, amounts realized from the disposition of stock acquired under an incentive stock option, and other amounts which receive special tax benefits. The maximum annual compensation taken into account hereunder for purposes of calculating any Participant's accrued benefit (including the right to any optional benefit) and for all other purposes under the Plan shall be \$200,000 (or such other amount permitted pursuant to Code Section 401(a)(17)). For purposes of calculating this maximum for any 5 percent owner or highly compensated employee who is in the group of ten employees paid the greatest compensation during the year, pursuant to Code Section 414(q)(6), the compensation of a spouse or a lineal descendant under age nineteen before the end of the Plan Year shall be treated as if paid to the employee.

(l) "Effective Date" means June 16, 1981, the date as of which the Company originally adopted the Plan.

(m) "Employee" means any person employed by an Employer on a salaried basis other than persons classified as temporary employees.

(n) "Employer" means the Company and each Affiliate which has adopted the Plan pursuant to Article XIV.

(o) "Entry Date" means January 1 and July 1 or such other dates (not less frequent than semiannual) as the Administrator may designate from time to time as Entry Dates.

(p) "Insurer" means the insurance company or companies which issues the Policies provided under this Plan upon application by the Trustee.

(q) "Investment Fund" means such fund or funds of the Trust Fund established from time to time by the Administrator including the Company Stock Fund.

(r) "Investment Manager" means any person or entity --

(i) who renders advice respecting or has been empowered to manage, acquire, or dispose of any assets of the Plan; and

(ii) who (A) is registered as an investment adviser under the Investment Advisers Act of 1940, or (B) is a bank, as defined in such act, or (C) is an

insurance company qualified to perform services described in (1) above under the laws of more than one State; and

(iii) who has acknowledged in writing that he is a fiduciary with respect to the Plan.

(s) "Participant" means an Employee who becomes entitled to participate in the Plan.

(t) "Plan" means the "Harley-Davidson, Inc. Retirement Savings Plan for Salaried Employees" as provided herein and as subsequently amended from time to time. Prior to January 1, 1993, the name of the Plan was the Harley-Davidson, Inc. Thrift Incentive Plan for Salaried Employees.

(u) "Plan Year" means the calendar year.

(v) "Policy" means a universal life insurance policy or policies. Such Policy shall be issued by the Insurer, at the election of the Participant, on the life of the Participant and/or the life of the Participant's spouse, and may include a term insurance rider on the lives of dependent children.

(w) "Previous Plan" means the AMF Thrift Plan, as in effect on June 15, 1981.

(x) "Trust Agreement" means the Harley-Davidson, Inc. Thrift Incentive Trust for Salaried Employees dated June 15, 1981, and reexecuted as of October 1, 1989, between the Company and the Trustee, as it may be amended from time to time. Effective January 1, 1994, the name of such Trust Agreement shall be the Harley-Davidson, Inc. Retirement Savings Trust for Salaried Employees.

(y) "Trustee" means Marshall & Ilsley Trust Company or any successor appointed pursuant to the Trust Agreement.

(z) "Trust Fund" means all the assets which are held by the Trustee for the purposes of this Plan.

Section 2.2 Gender and Number. Wherever applicable, the masculine pronoun as used herein shall be deemed to include the feminine pronoun, and the singular shall be deemed to include the plural.

### ARTICLE III. ELIGIBILITY TO PARTICIPATE AND CREDITING OF SERVICE

Section 3.1 Regular, Full-Time Employees. An individual who is classified by his Employer as a regular and full-time Employee shall be eligible to participate and make Before-Tax Contributions to the Plan as of the Entry Date next following his date of employment, provided he then is an Employee.

Section 3.2 Permanent Part-Time Employees. An individual who is classified by his Employer as a permanent part-time Employee shall be eligible to participate and make Before-Tax Contributions to the Plan as of the Entry Date next following his completion of one Year of Eligibility Service.

Section 3.3 Reemployment. An Employee whose employment was terminated or who was transferred to hourly status and who previously was a Participant or was eligible to participate shall become a Participant on the date of his reemployment as an Employee. The Administrator is authorized to make and receive plan to plan transfers between the Plan and other defined contribution plans maintained by the Company or Affiliates with respect to transferred Employees.

Section 3.4 Year of Eligibility Service. A permanent part-time Employee shall be credited with a Year of Eligibility Service on (i) the last day of the 12 consecutive month period beginning on his first date of employment (or reemployment, in the event that he was not eligible to participate during his prior period of employment but the 12 month period beginning on his first date of employment and the first full calendar year of his employment have expired), provided that he is credited with at least 1,000 Hours of Service during such 12 consecutive month period, or on (ii) the last day of any calendar year (beginning with the calendar year that commences following his first date of employment or reemployment) during which he is credited with at least 1,000 Hours of Service.

Section 3.5 Year of Vesting Service. (a) An Employee shall be credited with a Year of Vesting Service equal to one (1) year for each Plan Year during which the Employee completes at least 1,000 Hours of Service.

(b) An Employee whose employment with the Employer and any Affiliate terminates and who fails to accumulate more than 500 Hours of Service during any Plan Year incurs a Break in Service.

(c) If a Break in Service occurs and an Employee thereafter accrues additional Hours of Service, the Employee's pre-Break in Service Years of Vesting Service shall be aggregated with his post-Break in Service Years of Vesting Service for determining the Participant's vested percentage in Employer matching contributions credited after such Break in Service.

Section 3.6 Hours of Service. (a) Compensated Hours: An

Hour of Service shall be credited for each hour for which an Employee is directly or indirectly compensated by an Employer or any Affiliate for duties or for reasons other than the performance of duties, including, but not limited to, hours for which back pay (irrespective of mitigation of damages) has been agreed to or awarded by the Employer or Affiliate.

(b) Noncompensated Hours: An Hour of Service also shall be credited for each hour for which an Employee is not directly or indirectly compensated, based on the number of hours performed by the Employee during his regular work week as long as such hour occurs during a period prior to the Employee's termination of employment with an Employer or Affiliate.

(c) Military Service: Periods of military service shall be counted toward a Year of Eligibility Service to the extent required to be credited by law, provided that after the termination of such military service, the Employee returns to reemployment within the period that his rights to reemployment are protected by law.

(d) "Employee" Status Not Required: Hours of Service shall be credited pursuant to the provisions of this Section 3.6 regardless of whether an individual is paid on a salaried basis during the applicable period.

(e) Regulations: Any issue as to the number of Hours of Service to be credited or the period to which such Hours of Service shall be credited shall be resolved by the Administrator in accordance with the foregoing provisions and Department of Labor regulations Section 2530.200b-2 and the applicable provisions of the Code, using in the case of exempt Employees for whom records of hours worked are not maintained an equivalency method based on 45 Hours of Service for each week for which such Employee would be required to be credited with at least one Hour of Service based on the foregoing rules.

Section 3.7 Enrollment. An Employee who has met the eligibility requirements of Section 3.1, 3.2 or 3.3 may become a Participant in the Plan as of the Entry Date that he initially is eligible by completing an application form prescribed by the Administrator and filing such application with the Administrator at such time and in such manner as the Administrator shall determine. In making such application, he shall signify his acceptance of the terms and conditions of the Plan, and shall be bound thereby. Each application will authorize the Employer to reduce his Compensation by the amount of such Before-Tax Contributions as may be specified by him in the form, and will also specify the Investment Fund(s) in which such contributions are to be invested. A Participant who elects to have Before-Tax Contributions invested in a Policy must also satisfy any requirements imposed by the Insurer as a condition to the issuance of such Policy. If an Employee does not elect to become a Participant and have Before-Tax Contributions made to the Plan as of the date that he initially is eligible to do so, he shall be required to wait until a succeeding Entry Date before he again is eligible.

Section 3.8 Leased Employees. A person who is a "leased employee" within the meaning of Code Section 414(n) and (o) shall not be eligible to participate in the Plan, but in the event such a person was participating or subsequently becomes an Employee eligible to participate herein, credit shall be given for the person's service as a leased employee toward completion of the Plan's eligibility and vesting requirements, including any service for an Affiliate, if applicable.

Section 3.9 Service with Predecessor Employer. Except to the extent required under regulations issued by the Secretary of the Treasury, in the event any corporation (or unincorporated trade or business) becomes an Affiliate, an Employee's Years of Eligibility Service and Vesting Service hereunder shall not include periods of employment prior to the date such corporation (or unincorporated trade or business) became an Affiliate.

#### ARTICLE IV. BEFORE-TAX CONTRIBUTIONS, EMPLOYER MATCHING CONTRIBUTIONS, AND ROLLOVER CONTRIBUTIONS

Section 4.1 Before-Tax Contributions In General. Each Participant, so long as he remains a Participant, may elect (in accordance with Administrator rules) to reduce his Compensation by an amount equal to any whole percentage of the Compensation paid to him each payday, up to a maximum determined from time to time by the Administrator but not in excess of 20 percent. Upon notice, the Administrator shall be permitted to change the foregoing percentage levels. The amount by which a Participant's Compensation is reduced shall be contributed by his Employer on his behalf to the Plan as his Before-Tax Contribution.

Section 4.2 Adjustment of Amount of Before-Tax Contributions. Adjustments in the amount of any Participant's Before-Tax Contributions may be made by a Participant at such times as permitted by Administrator rules, by filing with the Administrator a notice of such change (in accordance with Administrator rules) prior to the date as of which he desires such adjustment to be effective.

Section 4.3 Election to Discontinue Before-Tax Contributions. A Participant may elect to have his Before-Tax Contributions completely discontinued by filing with the Administrator a notice of such discontinuance (in accordance with Administrator rules). Such discontinuance shall be effective on the first administratively convenient payday after such notice is received by the Administrator.

Section 4.4 Automatic Discontinuance of Before-Tax Contributions. Effective May 1, 1990, a Participant who ceases to be an Employee shall have his Before-Tax Contributions completely discontinued, effective as of the last day worked. Prior to such date, the date of such

discontinuance shall be the date of cessation of Employee status.

Section 4.5 Resumption of Before-Tax Contributions. Any Participant whose Before-Tax Contributions have been discontinued may elect to have such contributions resumed if, at the time he is eligible to again contribute, he files with the Administrator a notice (in accordance with Administrator rules) prescribed for such purpose. A Participant who has elected to have his contributions discontinued pursuant to Section 4.3 shall again be eligible to contribute as of such date permitted in accordance with Administrator rules next following the effective date of discontinuance. A Participant whose contributions were discontinued pursuant to Section 4.4 shall be eligible to again contribute as of the date he again returns to work.

Section 4.6 Payment of Before-Tax Contributions. Before-Tax Contributions shall be paid over by the Employer to the Trustee and allocated and credited to the Participant's account in the Trust Fund as soon as possible after the date they would have been otherwise received as Compensation. All amounts elected by the Participant to be contributed to the Plan pursuant to this Article, as well as all amounts held in the Plan that are attributable to contributions to the Previous Plan, shall at all times be fully vested and nonforfeitable.

Section 4.7 Rollover Contributions. Effective January 1, 1992, any Employee may from time to time contribute to the Trust Fund a rollover contribution in cash. An Employee making a rollover contribution shall certify in writing the amount of the proposed rollover contribution and supply documentation acceptable to the Administrator confirming the amount and the status of the rollover contribution. A rollover contribution shall be credited to the Employee's account in the Trust Fund as soon as possible after it is received by the Trustee and shall be invested as provided in Article V. All amounts held in the Plan that are attributable to rollover contributions shall at all times be fully vested and nonforfeitable.

Section 4.8 Employer Matching Contributions. Effective January 1, 1993, each Employer shall contribute an amount equal to the matching contribution for the Plan Year for the Participants who are its Employees. The Employer matching contribution applies only to the first 6% of Compensation contributed by a Participant as Before-Tax Contributions for a Plan Year. The matching contribution for a Plan Year is based on the financial performance for such year of the Company's Motorcycle Division, measured in terms of EBIT ("Earnings Before Interest and Taxes"), as determined by the Company in its sole discretion. Under guidelines in effect on and after January 1, 1993, until changed prospectively by the Company with notice to Employees, the amount of the Employer matching contribution shall be determined in accordance with the following table:

If Motorcycle Division

EBIT % Is:

Match Is:

11%	\$0.25 per dollar saved
12%	\$0.35 per dollar saved
14% or Higher	\$0.50 per dollar saved

Employer matching contributions are made only when EBIT for the Motorcycle Division is 11% or higher. The matching contribution is prorated for EBIT percentages between the numbers in the table. The Participants who are entitled to receive Employer matching contributions for a Plan Year are those Participants who are employed on the last day of the Plan Year, including Employees who are placed on temporary lay off during the Plan Year, or who died or retired (in accordance with provisions of the Company's Retirement Annuity Plan for Salaried Employees) during the year.

Section 4.9 Deductibility of Contributions. Employer contributions hereunder are conditioned upon their deductibility under Code Section 404. Notwithstanding any provision herein to the contrary, to the extent a deduction is disallowed, contributions may be returned to the Employer within one year after such disallowance.

#### ARTICLE V. LIMITATIONS ON BEFORE-TAX CONTRIBUTIONS AND EMPLOYER MATCHING CONTRIBUTIONS

Section 5.1 \$7,000 Limitation. In no event may the Before-Tax Contributions made on behalf of any Participant exceed \$7,000 in any Plan Year. The Administrator, in his discretion, may establish rules necessary for such limitation to be met with respect to any Participant including, but not limited to, rules that require a reduction or refund in contributions in order to meet the limitation and rules applicable to satisfy the appropriate limitations should a Participant participate within the same calendar year in this Plan and another qualified plan intended to meet the requirements of Section 401(k) of the Internal Revenue Code. Notwithstanding the foregoing, Before-Tax Contributions in excess of \$7,000 may be made for Plan Year 1987, subject to the cost-of-living adjustment provisions of Code Section 402(g).

Section 5.2 Maximum Deferral Percentage. Notwithstanding any provision of the Plan to the contrary, the Plan is subject to the limitations of Code Section 401(k) which are incorporated herein by this reference. Accordingly, in no event may the Before-Tax Contributions made on behalf of all eligible Participants who are highly compensated individuals with respect to any Plan Year result in a deferral percentage for such group of eligible Participants which exceeds the greater of (a) or (b) below, where:

- (a) is an amount equal to 125% of the deferral percentage for all eligible Participants other than eligible



Participants who are highly compensated individuals;  
and

- (b) is an amount equal to the sum of the deferral percentage for all eligible Participants other than highly compensated individuals and 2%, provided that such amount does not exceed 200% of the deferral percentage for all eligible Participants other than highly compensated individuals;

subject to such other applicable limits as may be prescribed by the Secretary of the Treasury to prevent the multiple use of this limitation. In order to ensure the favorable tax treatment of Before-Tax Contributions hereunder pursuant to Code Section 401(k) or to ensure compliance with Code Section 402(g) or 415, the Administrator in its discretion may prospectively decrease the rate of Before-Tax Contributions of any Participant at any time and, to the extent permitted by applicable regulations, may direct the Trustee to refund Before-Tax Contributions to any Participant. Any excess contributions, determined (i) after application of the family aggregation rules, any recharacterization of deferrals as after-tax contributions if applicable and use of qualified nonelective contributions and/or qualified matching contributions as helpful in the actual deferral percentage test, and (ii) by leveling the highest deferral ratios until the test is satisfied, and excess deferrals shall be distributed including applicable income determined pursuant to applicable regulations, including gap period income after 1988, together with any applicable matching contribution. Such distributions shall be made during the plan year following the year the excess contributions were made, and the amount shall be determined based on the respective portions attributable to each highly compensated employee based on compensation.

Section 5.3 Maximum Contribution Percentage. Notwithstanding any provisions of the Plan to the contrary, the Plan is subject to the limitations of Code Section 401(m) which are incorporated herein by this reference. Accordingly, in no event may the average contribution percentage of Employer matching contributions made on behalf of all eligible Participants who are highly compensated individuals with respect to any Plan Year result in an average contribution percentage for such group of eligible Participants which exceeds the greater of (a) or (b) below, where:

- (a) is an amount equal to 125% of the average contribution percentage for all eligible Participants other than eligible Participants who are highly compensated individuals; and
- (b) is an amount equal to the sum of the average contribution percentage for all eligible Participants other than highly compensated individuals and 2%, provided that such amount does not exceed 200% of the average contribution percentage for all eligible



Participants other than highly compensated individuals;

subject to such other applicable limits as may be prescribed by the Secretary of the Treasury to prevent the multiple use of this limitation. In order to ensure compliance with Code Section 401(m), any excess aggregate contributions, determined (i) after application of the family aggregation rules, any recharacterization of deferrals as after-tax contributions if applicable and use of qualified nonelective contributions and/or qualified matching contributions as helpful in the actual deferral percentage test, and (ii) by leveling the highest contribution ratios until the test is satisfied, shall be distributed if vested or forfeited if forfeitable, including applicable income determined pursuant to applicable regulations, including gap period income after 1988, together with any applicable matching contribution. Such distributions shall be made during the plan year following the year the excess aggregate contributions were made, and the amount shall be determined based on the respective portions attributable to each highly compensated employee based on compensation.

Section 5.4 Definitions. For purposes of this Article V, the following terms shall have the following meanings:

(a) "Eligible Participant" shall mean an Employee who is eligible to participate in the Plan pursuant to Article III, whether or not he actually elects to participate in the Plan.

(b) "Highly compensated individual" shall mean an individual who:

- (i) is a 5% owner of the Company or an Affiliate;
- (ii) receives compensation from the Company or one or more Affiliates in excess of \$75,000 (as adjusted pursuant to Code Section 415(d)) for a year;
- (iii) receives compensation from the Company or one or more Affiliates in excess of \$50,000 (as adjusted pursuant to Code Section 415(d)) for a year and is in the top 20%, when ranked on the basis of compensation, of the employees of the Company and all Affiliates (disregarding employees who normally work less than 17 1/2 hours per week or 6 months per year, employees covered by a collective bargaining agreement, and nonresident aliens who receive no earned income from sources within the United States); or

(iv) is an officer of the Company or an Affiliate and receives compensation from the Company or an Affiliate greater than 50% of the amount in effect under Code Section 415(b)(1)(A) of the Internal Revenue Code; provided, however, that no more than 50 individuals shall be taken into account under this paragraph (iv).

The determination under (i), (ii), (iii) or (iv) of whether an individual is a highly compensated individual shall be made with respect to the current and the preceding Plan Year; provided, however, that an individual who did not satisfy (ii), (iii) or (iv) during the preceding Plan Year shall only be considered highly compensated if during the current Plan Year he is among the 100 most highly compensated individuals employed by the Company and all Affiliates.

For purposes of determining who is a highly compensated individual and for purposes of the maximum deferral percentage described in Section 5.2 hereof, a family member of a 5% owner or one of the highest 10 paid individuals employed by the Company and all Affiliates shall not be considered a separate individual and, further, any compensation paid to him or contribution made on his behalf shall be attributed to the highly compensated individual described above.

"Compensation" for purposes of determining who is a highly compensated individual under this Subsection (b) has the meaning set forth in Section 2.1(k) hereof but not subject to the cap on compensation under Code Section 401(a)(17). The \$75,000 and \$50,000 limits described in paragraphs (ii) and (iii) shall be adjusted in accordance with, and at such time prescribed in, rules issued by the Secretary of the Treasury.

(c) "Deferral Percentage" with respect to any specified group of eligible Participants for a year shall mean the average of the ratios (calculated separately for each eligible Participant in the group) of:

- (i) The amount of Before-Tax Contributions allocated to the account of each eligible Participant for such year, to
- (ii) The eligible Participant's compensation for such year.

(d) "Average Contribution Percentage" with respect to any specified group of eligible Participants for a year shall mean the average of the ratios (calculated separately for each eligible Participant in the group) of:

- (i) the amount of Employer matching contributions allocated to the account of each eligible Participant for such year, to
- (ii) the eligible Participant's compensation for such year.

(e) "Compensation," for purposes of paragraph (c)(ii) and (d)(ii) has the meaning set forth in Section 2.1(k) hereunder but, as determined by the Administrator, prior to or after reduction on account of a Participant's Before-Tax Contributions to this Plan or any other contributions not treated as taxable income by reason of Section 125 or 402(e)(3) of the Code.

Section 5.5 Prospective Reduction of Before-Tax Contributions. In the event that it is determined by the Administrator at any time that the maximum deferral percentage prescribed in Section 5.2 or the Code Section 415 limitations prescribed in Section 5.8 could be exceeded, then the amount of Before-Tax Contributions allowed to be made on behalf of some or all of the eligible Participants shall be reduced in such manner prescribed by the Administrator. Once a reduction has been made hereunder, it shall remain in effect for the remainder of the year, unless the Administrator determines that it is no longer necessary in order for the maximum deferral percentage or Code Section 415 limitations to be met.

Section 5.6 Reduction After Before-Tax Contributions Have Been Made. In the event that, notwithstanding Section 5.5 hereof, it is determined by the Administrator that the maximum deferral percentage limitations have been exceeded with respect to any Plan Year, then the Before-Tax Contributions that have been made on behalf of the eligible Participants who are highly compensated individuals shall be reduced, and the excess (together with the income allocable thereto) shall be distributed to the affected highly compensated individuals or, to the extent permitted under rules prescribed by the Secretary of Treasury and determined by the Administrator, recharacterized as after-tax contributions. The highly compensated individuals with respect to whom the reduction and distributions hereunder shall be made and the amount of such reductions shall be determined by reducing the maximum allowable percentage of Before-Tax Contributions under Article IV to such percentage which, when applied to all eligible Participants who are highly compensated individuals, results in the maximum deferral percentage not being exceeded.

Section 5.7 Adjustment in Limitations. Sections 5.2 through 5.6 are intended to conform with Sections 401(k) and 401(m) of the Code.

In the event that the Administrator determines that, in accordance with the Code and rules prescribed by the Secretary of the Treasury, the limitations of Section 401(k) and Section 401(m) may be applied in a manner different from that prescribed in Sections 5.2 through 5.6, the Administrator, in his discretion, may make appropriate adjustments.

Section 5.8 Code Section 415 Limitations. The limitations on benefits and contributions prescribed by Section 415 of the Code are incorporated by reference. The limitation year is the calendar year. The applicable definition of compensation for Code Section 415 purposes shall be as set forth in Section 2.1(k) hereof but not subject to the cap on compensation under Code Section 401(a)(17). In the event that the limitations of Section 415(e) of the Code would be exceeded but for this Section 5.8, benefits under any applicable qualified defined benefit plan shall be reduced or frozen prior to any reduction in contributions to this Plan.

ARTICLE VI. PARTICIPANT'S ACCOUNT;  
INVESTMENT OF CONTRIBUTIONS; COMPANY STOCK FUND RULES

Section 6.1 General. A separate account shall be maintained for each Participant that reflects his interest in the Plan. In accordance with rules prescribed by the Administrator, there shall be subaccounting within each Participant's account to properly reflect the following types of contributions to the Plan or to the Previous Plan and the earnings or losses thereon:

- (a) Before-Tax Contributions;
- (b) After-tax contributions to the Previous Plan (including any amounts transferred to the Previous Plan from the Retirement Annuity Plan for Salaried and Commission-Paid Employees of AMF Incorporated) and any Before-Tax Contributions hereto that are recharacterized as after-tax contributions;
- (c) Matching contributions, other than discretionary matching contributions, made by the Participant's Employer to the Previous Plan;
- (d) Discretionary matching contributions made by the Participant's Employer to the Previous Plan; and
- (e) Matching contributions made by the Participant's Employer to this Plan on and after January 1, 1993, referred to as Employer matching contributions.

Notwithstanding the foregoing, in the discretion of the Administrator, two

or more of the above-described subaccounts may be combined.

Section 6.2 Investment of Before-Tax Contributions in a Policy. In accordance with an election form provided by and filed with the Administrator, a Participant may elect that a portion of his Before-Tax Contributions to the Plan shall be invested in a Policy, subject to the following:

(a) The percentage of a Participant's Before-Tax Contributions that may be invested in a Policy shall be determined by the Administrator; provided, however, that the Before-Tax Contributions invested in a Policy, when added to Before-Tax Contributions previously invested in a Policy, shall be less than 50% of the total Before-Tax Contributions made to the Plan on behalf of the Participant during his aggregate periods of participation hereunder and provided, further, that the Before-Tax Contributions considered to be attributable to the purchase of term insurance, when added to Before-Tax Contributions previously considered to be attributable to the purchase of term insurance, shall be less than 25% of the total Before-Tax Contributions made to the Plan on behalf of the Participant during his aggregate periods of participation hereunder.

(b) The Administrator shall direct the Trustee to purchase a Policy upon receiving an election form in accordance with Subsection (a). An eligible Participant and, to the extent applicable, his spouse and dependent children, shall be covered under any Policy only upon issuance and delivery to the Trustee of such Policy.

(c) Each Policy and application therefor shall designate the Trustee as the owner of the Policy, and so long as the Trustee remains the owner, all benefits, rights, and privileges under each Policy which are available while the Participant is living shall be vested in the Trustee. Under any Policy, supplemental rider, or other instrument issued in settlement thereof, benefits shall be paid to the Trustee and not directly to the Participant on whose life the policy was issued or to his Beneficiary. If the deceased insured was the Participant, payment shall be made pursuant to Section 7.6. If the deceased insured was the spouse or child of the Participant, the Trustee shall retain an amount equal to the cash surrender value of the Policy on the date of the insured's death as part of the Participant's account to be invested in accordance with Section 6.5, and the remaining proceeds shall be paid to the Participant as soon as practicable after receipt from the Insurer.

(d) The Trustee shall be under no obligation to pay any premium under any Policy unless the Administrator instructs the Trustee to do so, in accordance with a Participant's election. Notwithstanding the foregoing, the Trustee may, if directed by the Administrator, borrow against the cash surrender value of a Policy in order to pay premiums due, but only if the Participant's current Before-Tax Contributions allocated to investment in a Policy are insufficient to pay such premiums. Before-Tax Contributions shall first be used to pay premiums on any outstanding Policy and only thereafter may be used to increase coverage under the

Policy.

(e) If, at any time, the sum of the Before-Tax contributions invested in a Policy pursuant to Subsection (a) hereof and the cash surrender value that may be loaned pursuant to Subsection (d) hereof is insufficient to pay the premiums due on a Policy, the Policy shall thereupon be cancelled. In accordance with rules prescribed by the Administrator, a Participant may elect to cancel a Policy. Upon the cancellation of a Policy, any amount held in a Participant's account with respect thereto shall be reinvested in one or more of the Investment Funds in accordance with rules prescribed by the Administrator.

Section 6.3 Investment of Before-Tax Contributions in Investment Funds. Effective as of the date that he becomes a Participant, and in accordance with rules prescribed by the Administrator, a Participant shall elect that his Before-Tax Contributions shall be invested in one or more of the Investment Funds within the Trust Fund. The amount that may be invested in any one Investment Fund shall be equal to a percentage (in minimum increments specified by the Administrator from time to time) of the Participant's Before-Tax Contributions after first subtracting the amount of the Participant's Before-Tax Contributions allocated to the purchase of a Policy pursuant to Section 6.2. In accordance with rules prescribed by the Administrator, a Participant may periodically elect to change the Investment Funds in which his Before-Tax Contributions are invested.

Section 6.4 Investment of Employer Matching Contributions in Company Stock Fund. Employer matching contributions are deposited to the Company Stock Fund and must remain there at all times until a Participant reaches age 55 or, if earlier, terminates employment with the Employer and any Affiliate. When a Participant reaches age 55 and is eligible to transfer amounts attributable to Employer matching contributions out of the Company Stock Fund, such transfers shall be made in accordance with the rules governing investment directions authorized under Section 6.5.

Section 6.5 Transfers Among Investment Funds. In accordance with rules prescribed by the Administrator, a Participant may elect that all or a portion of his interest in any one Investment Fund shall be transferred to another Investment Fund or Funds. In addition, and to the extent permitted by the Administrator, a Participant may elect that all or a portion of the cash surrender value attributable to a Policy purchased with the Participant's Before-Tax Contributions may be transferred to one or more of the Investment Funds. Notwithstanding the foregoing, if it determines that any election with respect to a contribution into or reallocation of funds into or out of the Company Stock Fund might violate applicable securities laws, create a liability for Participants thereunder or is for any other reason known to the Administrator contrary to the best interests of Participants (including Participants subject to Section 16 of the Securities Exchange Act of 1934, as amended), the Administrator may, in its sole discretion, suspend or limit the right of any Participants to make or change investment elections under this Section.

Section 6.6 Allocation of Earnings and Losses. The fair market value of the assets of each Investment Fund shall be determined as of each Accounting Date. As of each such Accounting Date, a Participant's interest in each Investment Fund shall be adjusted to reflect the earnings, losses, appreciation and depreciation of such Fund since the immediately preceding Accounting Date, based on the proportion that the Participant's interest in such Investment Fund as of the date following such immediately preceding Accounting Date bears to all Participants' interests in such Fund as of such day. Participants' interests as of such day shall be adjusted to include 50% of any loan interest and principal deposited to their accounts in the Investment Fund during any allocation period of one month or longer. The accounting for a Participant's interest in the Company Stock Fund shall be done on an allocated share basis such that (except with respect to dividends on previously allocated shares, which dividends are credited directly to the Participant's account to which such shares are allocated) shares of Company Stock acquired by the Company Stock Fund since the last preceding Accounting Date shall be allocated among the subaccounts of Participants in proportion to the then current value of each subaccount which is not then attributable to allocated stock and dividends thereon, and the individual subaccounts of Participants shall be adjusted accordingly. Dividends received with respect to shares of Company Stock other than previously allocated shares, and income, expenses, gains and losses on assets other than Company Stock held in the Company Stock Fund shall be credited or charged to the subaccounts of Participants as of each Accounting Date pro rata on the basis of that portion of each Participant's subaccount which is not invested in allocated stock. The foregoing shall be subject to any special rules that may be applicable pursuant to the terms of any guaranteed income contracts held in an Investment Fund.

Section 6.7 Valuation Conclusive. All determinations made by the Trustee and Administrator with respect to fair market value and the amount of earnings, losses, appreciation and depreciation of any Investment Fund (as well as any determinations with respect to a Policy held on behalf of a Participant) shall be made in accordance with generally accepted accounting principles, and all such determinations shall be conclusive and binding upon Participants, Beneficiaries, and any other person claiming to have an interest under the Plan.

Section 6.8 Voting and Tender Rights as to Company Stock. Shares of Company Stock held by the Company Stock Fund are allocated to Participants' subaccounts in that Investment Fund as of each Accounting Date. Such shares are referred to as allocated shares. In connection with each meeting of stockholders of the Company each Participant shall be given the opportunity to provide the Trustee with instructions regarding the voting of the Participant's allocated shares credited to the Participant's subaccount in the Company Stock Fund. The Trustee shall vote such shares in accordance with such instructions. All shares of Company Stock owned by the Plan but not allocated to the account of a Participant shall be voted by the Trustee so as to reflect, to the extent



the Trustee determines it to be possible to do so, the voting directions of the Participants who provided instructions. All allocated shares of Company Stock in respect of which voting instructions shall not have been received from Participants within the time specified by the Trustee shall not be voted. In connection with a tender offer for, or a request or invitation for tenders of Company Stock made to the Trustee (the "offer"), the Trustee shall furnish to each Participant a notice of such event together with a copy of the offer, and a form by which the Participant may direct the Trustee whether or not to tender the Company Stock allocated to the Participant's account in the Plan pursuant to the offer. The Trustee shall tender or not tender such shares in accordance with such instructions. All shares of Company Stock owned by the Plan but not allocated to the account of a Participant shall be tendered in the same proportion as the number of allocated shares as to which the Trustee received timely directions to tender bears to the number of allocated shares as to which the Trustee shall have received timely directions either to tender or not tender, counting a non-response by a Participant for this purpose as a decision not to tender. All allocated shares of Company Stock in respect of which tender instructions shall not have been received from Participants within the time specified by the Trustee shall not be tendered.

Reasonable means shall be employed to provide secrecy and confidentiality respecting each Participant's voting and tender instructions. The Trustee, in consultation with the Administrator, shall establish (and modify and amend) reasonable procedures for implementing the foregoing provisions concerning voting rights and tender instructions.

The Trustee shall have no responsibility to investigate or evaluate any offer and shall be entitled to respond to any offer solely on the basis of this Section 6.8 and the procedures herein. Any shares of Company Stock which shall be tendered by the Trustee but which for any reason are not purchased pursuant to the offer shall be restored to the Trust.

#### ARTICLE VII. DISTRIBUTION UPON TERMINATION OF EMPLOYMENT OR DISABILITY

Section 7.1 Retirement or Disability Benefits. If a Participant's employment is terminated on or after reaching age 65 for a reason other than death or if he furnishes proof, satisfactory to the Administrator, of his entitlement to Social Security disability benefits, he shall be entitled to a distribution of the Participant's allocated Company Stock, if any, and the remaining balance of his account in cash, payable in a single sum distribution, or if elected by the Participant, a distribution of the value of his account payable entirely in cash.

Section 7.2 Vested Benefits for Other Terminations of



Employment. A Participant is fully vested in all amounts held in the Plan for the Participant except amounts attributable to Employer matching contributions, which are subject to the following vesting schedule:

Complete Years of Vesting Service at Date of Termination	Percentage of Employer Matching Contributions Vested
Less than 5	0%
5 or more	100%

If a Participant's employment is terminated for any reason other than death or retirement at or after age 65, and the Participant is not otherwise eligible for Social Security disability benefits, the Participant shall be entitled to a distribution of the vested amount of the Participant's allocated Company Stock, if any, and the remaining vested amount of his account in cash, payable in a single sum distribution, or if elected by the Participant, a distribution of such vested amount payable entirely in cash. The nonvested amount, if any, of the Participant's Employer matching contributions shall be held in a suspense account until it is either forfeited or reinstated upon reemployment as provided in Section 7.3 hereof. As of the end of the Plan Year in which any such forfeiture occurs, the forfeited amount shall be applied to reduce the obligations of the Employers to make matching contributions under the Plan for such Plan Year and subsequent years until fully applied. For purposes of the foregoing vesting schedule, all of a Participant's Years of Vesting Service shall be taken into account. Notwithstanding any provision to the contrary, a Participant's vested percentage shall be 100% upon attainment of age 65. No amendment to the Plan changing the Plan's vesting schedule shall reduce the vested balance provided by such schedule determined for each Participant as of the day preceding the adoption or the effective date of such amendment, whichever is later. If an amendment to the Plan changes the Plan's vesting schedule, each Participant having not less than 3 Years of Vesting Service shall be entitled to have his vested balance for his future service under the Plan computed without regard to such amendment. Any such election will not be effective unless made after the amendment is adopted but prior to 60 days after the later of (i) the date the amendment was adopted, (ii) the effective date of the amendment, or (iii) the date the employee was given written notice of the amendment. Such election shall be made in writing by filing with the Administrator, within such period, such form as the Administrator may prescribe for this purpose. For purposes of this Section, a Participant shall be considered to have completed 3 Years of Vesting Service if he has completed 3 such years prior to the expiration of the election period described above.

Section 7.3 Forfeitures. The nonvested balance of a Participant's Employer matching contributions shall be declared a forfeiture when the Participant incurs 6 consecutive Breaks in Service or, if earlier, when the Participant's Employer matching contributions have been cashed out of the Plan. A Participant whose vested balance of Employer matching contributions has been distributed or who has no vested

interest in his Employer matching contributions shall be deemed cashed out from the Plan. If a Participant is rehired before 6 or more consecutive Breaks in Service have occurred after termination of employment, the Participant's prior nonvested balance will be restored to his account dollar for dollar out of forfeitures or, if not sufficient, Employer contributions.

Section 7.4 Policy. In the event that a Policy has been issued with respect to a Participant entitled to distribution as described in Section 7.1 or Section 7.2, the Participant may elect, in accordance with rules prescribed by the Administrator, to have the Policy cancelled, with the cash surrender value as of the date of cancellation of the Policy paid to him in a single sum in cash, or to have the Policy transferred directly to him.

Section 7.5 Time of Payment; Valuation. Payment of the amounts described in Sections 7.1 and 7.2 normally shall be made to a Participant as soon as practicable following his termination of employment or proof of disability, with the value of his account determined as of the Accounting Date that corresponds with or next follows the date the Participant makes application for payment (subject to any special valuation procedures applicable to Policies). Notwithstanding the foregoing, if the value of a Participant's vested account has ever exceeded \$3,500 and he has not attained age 70-1/2, the Participant may defer the receipt of payment. In such a case, payment shall be deferred for payment (except in the event of the Participant's intervening death) until the date on which the Participant attains age 70-1/2; provided, however, that a Participant may elect earlier distribution at any time after reaching age 65 by filing a distribution application with the Administrator. Such deferred payment will be based on the value of his account on the Accounting Date that corresponds with or next follows the date on which he attains age 70-1/2 or, if earlier, applies for a distribution at or after age 65. In accordance with rules prescribed by the Administrator, however, the Participant may elect to have any Policy held on his behalf transferred to him on any earlier date during the deferral period. The provisions of the Plan are intended to comply with Code Section 401(a)(9) which prescribes certain rules regarding minimum distributions and requires that death benefits be incidental to retirement benefits. All distributions under the Plan shall be made in conformance with Section 401(a)(9) and the regulations thereunder which are incorporated herein by reference. The provisions of the Plan governing distributions are intended to apply in lieu of any default provisions prescribed in regulations; provided, however, that Code Section 401(a)(9) and the regulations thereunder override any Plan provisions inconsistent with such Code Section and regulations.

Section 7.6 Distribution Because of Death. Upon the death of a Participant prior to termination of employment, a Participant shall be deemed to be fully vested in his Employer matching contributions. No increase in vesting occurs when a Participant's death occurs after termination of employment. Upon the death of a Participant prior to

receipt of all amounts to which he is entitled, there shall be distributed to his Beneficiary any remaining portion of his account, determined as of the Accounting Date coincident with or next following the date on which the Administrator receives written notification of the Participant's death and all supporting documentation that the Administrator may require. Distribution shall be made to the Beneficiary in the form of the Participant's allocated Company Stock, if any, and the remaining balance of his account in cash, or if elected by the Beneficiary, a distribution of the value of the Participant's account payable entirely in cash, distributed in a single lump sum amount as soon as practicable following death, and in all events, within five (5) years following the date of the Participant's death. If a Policy has been purchased on behalf of a Participant, the Beneficiary shall receive the death benefit under the Policy in the form of a lump sum. The consent of the Beneficiary to such distribution is not required and the Beneficiary may not elect to defer such distribution beyond the date established for this purpose by the Administrator.

Section 7.7 Beneficiary Designation. Each Participant may designate, upon such forms as shall be provided for that purpose by the Administrator, a Beneficiary or Beneficiaries to receive his interest in the Plan in the event of his death, but the designation of a Beneficiary shall not be effective for any purpose unless and until it has been filed by the Participant with the Administrator. Notwithstanding the foregoing, a Participant who is married shall automatically be deemed to have designated the spouse to whom he is married on the date of his death as his Beneficiary, unless such spouse consents in writing to the designation of some other Beneficiary, which writing acknowledges the effect of such election and is witnessed by the Administrator, a person designated by the Administrator for this purpose, or a notary public.

Subject to the above, a Participant may, from time to time, on a form provided by and filed with the Administrator, change the Beneficiary in the manner heretofore stated, without the consent of the Beneficiary. The Company, the Administrator, and any Trustee may rely upon the designation last filed in accordance with the terms of this Section. In the event that a Participant shall not designate a Beneficiary in the manner heretofore stated, or if for any reason such designation shall be legally ineffective, or if such Beneficiary shall predecease the Participant or die simultaneously with him, then, for the purposes of this Plan, distribution shall be made to the first surviving class of the following beneficiaries:

- (a) The Participant's spouse;
- (b) The Participant's children;
- (c) The Participant's parents;
- (d) The Participant's brothers and sisters;

(e) The Participant's estate.

Section 7.8 Deadline for Distributions. A Participant's account shall be distributed, unless the Participant has elected otherwise, not later than 60 days after the last day of the Plan Year in which the latest of the following events occurs: (a) his attainment of his 65th birthday, (b) the tenth anniversary of the date he began participation in the Plan, or (c) his termination of employment. Any distribution which cannot be reasonably ascertained and made by such required date shall be made as soon as administratively possible thereafter, retroactive to such required date. Notwithstanding the foregoing, effective April 1, 1990, benefits shall be paid or commence no later than the April 1 after the end of the calendar year in which the Participant attains age 70-1/2, even if the Participant is still employed, unless the Participant attained age 70-1/2 before January 1, 1988 and was not a five percent owner (as defined in Code Section 416) during any Plan Year after the Plan Year ending with or within the calendar year in which such Participant attained age 65-1/2.

Section 7.9 No Continued Investment in Trust. Following the applicable Accounting Date as of which the amount distributable to a Participant or his Beneficiary is determined, the Participant's account shall no longer share in the earnings and losses of the Trust Fund.

Section 7.10 Direct Transfer of Eligible Rollover Distributions. Effective January 1, 1993, notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. A distributee includes an employee or former employee. In addition, the

employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

## ARTICLE VIII. IN-SERVICE WITHDRAWALS

Section 8.1 Withdrawal of Contributions. Withdrawals prior to a termination of employment or proof of disability may be made by a Participant in accordance with, and subject to the provisions of, this Article VIII and rules prescribed by the Administrator.

Section 8.2 Withdrawals from After-Tax Contributions. A Participant may elect to withdraw all or any part of the portion of his account that is attributable to after-tax contributions to the Previous Plan. A Participant shall incur no suspension of his contributions under the Plan as a result of a withdrawal under this Section 8.2

Section 8.3 Withdrawals from Employer Matching Contributions. A Participant who has withdrawn the maximum amount of funds permissible under Section 8.2 may elect to withdraw all or any part of the portion of his account that is attributable to Employer matching contributions to the Previous Plan; provided, however, that the portion, if any, attributable to Employer discretionary matching contributions to the Previous Plan may not be withdrawn; provided, further, that the portion attributable to Employer matching contributions made pursuant to Section 4.8 hereof may not be withdrawn.

Section 8.4 Withdrawals from Before-Tax Contributions. A Participant may elect to withdraw all or any part of the portion of his account that is attributable to Before-Tax Contributions under the following circumstances:

(a) Withdrawals After the Attainment of Age 59-1/2. A Participant who has attained age 59-1/2 may withdraw all or any part of the portion of his account that is attributable to his Before-Tax Contributions. A Participant shall incur no suspension of his contributions under the Plan as a result of a withdrawal under this Section 8.4(a).

(b) Hardship Withdrawals of Before-Tax Contributions. A Participant who has withdrawn the maximum amount of funds permissible under Sections 8.2 and 8.3 may elect, by giving written notice to the Administrator and upon demonstrating financial hardship as described herein, to withdraw all or any part of the portion of his account that is attributable to his Before-Tax Contributions. "Financial hardship" shall be determined by the Administrator in accordance with uniform standards

adopted by the Administrator, which standards shall be consistently applied. For purposes of this Subsection -- "financial hardship" means:

- (i) unreimbursed medical expenses described in Code Section 213(d) previously incurred by the Participant, the Participant's spouse or any dependents of the Participant (as defined in Code Section 152) or necessary for such persons to obtain medical care;
- (ii) purchase (excluding mortgage payments) of a principal residence for the Participant;
- (iii) payment of tuition for the next 12 months of post-secondary education for the Participant or the Participant's spouse, children or dependents; or
- (iv) the need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence.

(c) The hardship withdrawal shall be limited to the amount of the immediate and heavy financial need and shall be made only after the Participant takes all permitted loans and distributions hereunder and pursuant to any other plan maintained by the Employers.

(d) Any Participant who makes a withdrawal under this Section, shall have his Before-Tax Contributions and any other elective contributions or employee contributions under this Plan or any other plan maintained by the Employer (both qualified and nonqualified) automatically suspended for a period of twelve (12) months following such withdrawal. The amount which such a Participant may contribute as Before-Tax Contributions for the calendar year following such withdrawal shall not exceed the amount described in Section 402(g) for such year, reduced by the amount of such Participant's actual Before-Tax Contributions for the calendar year in which the withdrawal occurred.

Section 8.5 Payment of Withdrawals; Valuation. The amount withdrawn by a Participant hereunder shall be paid to him as soon as practicable following the date that his request is filed with the Administrator. The amount available for withdrawal shall not exceed the value of that portion(s) of the Participant's account from which the withdrawal is to be made as of the most recently closed Accounting Date that occurs before the date of his request for a withdrawal. For this purpose, the most recently closed Accounting Date is the most recent Accounting Date for which the Plan recordkeeper has issued its written allocation report.



## ARTICLE IX. LOANS

Section 9.1 In General. The Administrator shall be responsible for the administration of this loan program. This Section applies only to "Borrowers," defined as any Employee (or person who is a party in interest within the meaning of ERISA Section 3(14)) who has an account balance in this Plan attributable (i) to his own participation herein or (ii) to the participation of a deceased Participant of whom such person is a Beneficiary. The limitations in Section 9.2 below shall apply in the aggregate to all of a Borrower's account balances in the Plan. Loans are not permitted from a Participant's Employer matching contributions account and such amounts shall not be considered in determining a Participant's eligibility for a loan.

Section 9.2 Minimum and Maximum Amounts. Upon filing a proper written application with the Administrator, a Borrower eligible under Section 9.1 above may borrow against his account balance. A Borrower may request a loan only if his vested Plan account balance is at least \$2,000, and the minimum loan amount shall be \$1,000. The maximum loan amount, including the total of all loans to any eligible Borrower and interest accrued on outstanding loans at the time of the granting of a new loan, shall not exceed one-half the value of his interest in his account as of the Accounting Date immediately preceding such written application or, if less, \$50,000 reduced by the excess of the highest outstanding balance of all loans in the preceding 1-year period over the outstanding loan balance on the date of the current loan.

Section 9.3 Interest Rate. All loans shall bear interest commensurate with the rate which would be charged by commercial lenders for similar loans in accordance with Department of Labor Regulation Section 2550.408b-1 as determined by the Administrator. The duration of the loan shall be such period as may be agreed upon by the Borrower and the Administrator, but in no event shall the term exceed five (5) years in duration except if the loan is for the purchase of a dwelling unit that, within a reasonable time, is to be used as the primary residence of the Borrower, the maximum loan term shall be ten (10) years. All loans shall be due and payable in accordance with the terms of the loan, an event of default described in Section 9.6, or if earlier, when a taxable distribution is made (i) in the case of a Borrower who is an Employee, after termination of employment or (ii) in the case of a Borrower other than an Employee, after the death of the Borrower. The amount otherwise payable to the Borrower or his spouse or other Beneficiary shall be offset by any unpaid principal and interest on the loan.

Section 9.4 Repayment Terms. Each loan shall require regular amortization of principal and interest on at least a quarterly basis. The terms and conditions of each loan shall be incorporated in a promissory note executed by the Borrower. Every Borrower shall receive a clear statement of the charges involved in each loan transaction, which shall include the dollar amount and annual interest rate of the finance charge.

Section 9.5 Source of Loans; Investment of Repaid Amounts. Amounts loaned to a Borrower pursuant to this Article IX shall not share in fund earnings under Section 6.6, but shall be investments for the benefit of the Borrower's account to be treated as a segregated loan account. When application for a loan is made, the Administrator shall determine whether the segregated loan account shall be established from funds attributable to Before-Tax Contributions or other types of contributions, other than Employer matching contributions, held on behalf of the Borrower in the Plan. Loans shall be made pro rata from the Investment Funds in which the Borrower's Accounts are then invested. Loan repayments of principal and interest shall be invested in accordance with the Participant's investment election under Section 6.3 at the time each repayment is made or, if the Participant is not making Before-Tax Contributions, at the time repayment is made, in accordance with his investment election under Section 6.5.

Section 9.6 Default. A loan shall be secured by a Borrower's account to the maximum extent permitted by law. If a Borrower defaults in the making of any payments on a loan when due and such default continues for 60 days thereafter, or in the event of the Borrower's bankruptcy, impending bankruptcy, insolvency or impending insolvency, the loan shall be deemed to be in default, and the entire unpaid balance with accrued interest shall become due and payable. The Administrator may pursue collection of the debt by any means generally available to a creditor where a promissory note is in default, or, if the entire amount due is not paid within 30 days following the default, the Administrator may apply the balance in the Borrower's account in satisfaction of the entire unpaid principal and accrued interest and treat such amount as having been received by the Borrower as a distribution under the Plan.

Section 9.7 Administrative Rules. The Administrator may impose such other rules, requirements or restrictions relating to loans under this Article IX as it shall determine to be necessary or appropriate, including, without limitation, restrictions on the ability of the Borrower to withdraw amounts pledged as security for the loan. Notwithstanding any other provision to the contrary, special costs and fees associated with a Borrower's loan may be charged directly to the Borrower or to the Borrower's account.

## ARTICLE X. FINANCING

Section 10.1 Trust Fund. The Company has executed a Trust Agreement with a Trustee selected by the Board to establish the Trust Fund to provide benefits under the Plan. The Trust Agreement is designated as, and shall constitute, a part of this Plan and all rights that may accrue to any person under this Plan shall be subject to all the terms and provisions of the Trust Agreement. The Company may, from time to time,



modify the Trust Agreement to accomplish the purposes of the Plan, and the Board (unless this function is delegated to the Administrator) may remove the Trustee and appoint a successor Trustee or Trustees.

Section 10.2 Trustee's Authority. The Trustee shall have exclusive authority and discretion to manage and control the Trust Fund, except in the event that an Investment Manager is employed or appointed by the Administrator to manage any portion thereof, and no other Plan fiduciary shall have any responsibility for, nor shall it be liable for, the investment of the Trust Fund or the loss to or diminution in value of the Trust Fund resulting from any action taken, directed or omitted by the Trustee.

Section 10.3 Investment Funds. In its discretion, the Administrator shall establish one or more Investment Funds within the Trust Fund. Each such Investment Fund shall be invested and administered by the Trustee as a unit, except to the extent that any portion thereof is managed by an Investment Manager employed or appointed by the Administrator.

Section 10.4 Investment Manager. The Administrator may employ or appoint an Investment Manager or Managers in accordance with the following provisions:

(a) An Investment Manager may be employed or appointed by the Administrator to manage all or any portion of an Investment Fund. An Investment Manager shall acknowledge in writing its appointment as a Plan fiduciary and shall serve until a proper resignation is received by the Administrator or until it is removed or replaced by the Administrator.

(b) Upon its acknowledgment that it is a fiduciary, an Investment Manager shall have the responsibility for the investment of the portion of the Trust Fund or any Investment Fund which it is appointed to manage. Neither the Administrator, the Trustee, or any other Plan fiduciary shall have any responsibility for, or incur any liability for, the investment of such portion or for any loss to or diminution in value of such portion resulting from any action taken, directed or omitted by the Investment Manager.

(c) The Administrator shall require an Investment Manager to furnish such periodic and other reports to the Administrator and the Trustee as the Administrator deems to be in the best interests of the Trust Fund. Neither the Administrator, the Trustee, nor any other Plan fiduciary shall be under any duty to question, but shall be entitled to rely upon, any certificate, report, opinion, direction or lack of direction provided by the Investment Manager and shall be fully protected in respect of any action taken or suffered by them in reliance thereon.

Section 10.5 Nonreversion. The Employers shall not have any right, title, or interest in or to the contributions made to the Trust Fund under the Plan, and no part of the Trust Fund shall revert to any

Employer. Notwithstanding the foregoing, if a contribution is made as a result of a mistake of fact, then such contribution may be returned to the Company within one year after the payment of the contribution, and if any part or all of a contribution is disallowed as a deduction under Section 404 of the Code, then to the extent a contribution is disallowed as a deduction it may be returned to the Company within one year after the disallowance.

Section 10.6 Payment of Expenses. In addition to the contributions hereunder, the Employers shall pay the administrative expenses of the Plan, including legal and accounting fees, and fees and expenses of the Trustee. Investment Manager fees are paid out of the Trust Fund. Notwithstanding the foregoing, fees and expenses of the Plan which are not paid by the Employers for any reason shall be paid out of the Trust Fund.

Section 10.7 Participant's Investment Control. Notwithstanding any other provision of the Plan or Trust Agreement, to the extent that a Participant exercises control over the investment of his account, within the meaning of Section 404(c) of the Act, the Participant, and no other person, shall be responsible for and liable for such investment. Each Participant (and his Beneficiary) assumes all risk connected with any decrease in the market value of any assets held under the Plan. Neither the Administrator nor the Employer nor any other Plan fiduciary in any way guarantees the Trust Fund from loss or depreciation, or the payment of any amount that may be or become due to any person from the Trust Fund. The Trust Fund shall be the sole source of distributions to be made under this Plan.

## ARTICLE XI. ADMINISTRATION

Section 11.1 Administrator. The Administrator shall be responsible for, and have the authority to undertake, all actions necessary or advisable for the proper administration and interpretation of the Plan (except to the extent a responsibility is expressly reserved to some other person), including, but not limited to, the following:

- (a) File all documents required under the Act;
- (b) Provide all Employees, contingent annuitants, beneficiaries and other interested parties with all documentation, reports or other information required by the Act;
- (c) Appoint such individuals, committees, corporations or other entities as may be necessary or advisable to administer and operate the Plan and to carry out any responsibilities vested in him;
- (d) Act as agent of the Employers for service of process and

commence any legal action pertaining to the Plan or the determination of rights thereunder;

(e) Establish or amend a claims and appeals procedure as described in Section 11.4 below;

(f) Determine individual benefits;

(g) Direct the Trustee to effect the proper administration of the Plan;

(h) Interpret the Plan in the Administrator's discretion, with such interpretation thereof in good faith to be final and conclusive unless arbitrary and capricious;

(i) Authorize the payment of benefits; and

(j) Establish and communicate to the Trustee and Investment Managers, as appropriate, investment guidelines.

Section 11.2 Compensation and Expenses. The Administrator shall serve without compensation for services as such if he is an employee of the Company or an Affiliate. He may receive reimbursement by the Employers or Trust Fund of expenses properly and actually incurred.

Section 11.3 Application for Benefits. Each person eligible for a benefit under the Plan shall apply for such benefit by signing an application form to be furnished by the Administrator and/or the Insurer. Each such person shall also furnish the Administrator and/or the Insurer with such documents, evidence, data, or information in support of such application as it considers necessary or desirable.

Section 11.4 Claims and Appeals Procedure. Each Employee, terminated Employee, and Beneficiary shall have the right to appeal any decision concerning his benefits under the Plan by submitting a written request to the Administrator indicating the reasons that he feels that the decision is in error. He may request a hearing in person to present his appeal and, in the sole discretion of the Administrator, such a hearing shall be granted. The Administrator shall review the appeal and, within 90 days after receipt of the claim or such later time as may be required under the circumstances, notify the claimant affected of his decision in writing. The notice shall be written in a manner calculated to be understood by the claimant, setting forth the specific reasons for such denial, specific reference to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and an explanation of the Plan's claim review procedure.

The Administrator shall also advise the claimant that he or his duly-authorized representative may request a review by the Administrator

of the decision to deny the claim by filing with the Administrator, within 60 days after such notice has been received by the claimant, a written request for such review. The claimant may review pertinent documents, and submit issues and comments in writing within the same 60 day period. If such request is so filed, such review shall be made by the Administrator within 60 days after receipt of such request or such later time as may be required by the circumstances, and the claimant shall be given written notice of the decision resulting from such review, which shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based. The Administrator shall have discretionary authority to determine eligibility for benefits and to construe the terms of the Plan; any such determination or construction shall be final and binding on all parties unless arbitrary and capricious.

Section 11.5 No Enlargement of Employee Rights. Nothing contained in the Plan shall be deemed to give any employee the right to be retained in the service of his Employer or to interfere with the right of his Employer or to discharge or retire any employee at any time.

Section 11.6 Payments on Behalf of Incompetent Participants or Beneficiaries. In the event the Administrator shall find that any Participant or Beneficiary to whom a benefit is payable under the terms of this Plan is unable to care for his affairs because of accident or illness, is otherwise mentally or physically incompetent, or unable to give a valid receipt, the Administrator may cause the payments becoming due to such Participant or Beneficiary to be paid to another person for his benefit; under such circumstances, there shall be no responsibility on the part of the Employer, the Trustee, or the Administrator to follow the application of such payment. Any such payment shall be deemed made for the account of the Participant or Beneficiary and shall operate as a complete discharge of all liability therefor under this Plan by the Trustee, the Administrator, and the Employer.

Section 11.7 Indemnity for Liability. To the maximum extent allowed by law and to the extent not otherwise indemnified, the Company shall indemnify the Administrator, and any other current or former officer, director, or employee of the Company, against any and all claims, losses, damages, and expenses (including counsel fees) incurred by such persons and any liability, including any amounts paid in settlement with the Company's approval, arising from such person's action or failure to act with regard to Plan management or administration.

Section 11.8 Withholding for Taxes. Any distribution or withdrawal from the Trust Fund may be subject to withholding for taxes as required by law.

Section 11.9 Insurer. The Insurer shall be discharged from all liability for any amount paid to the Trustee or paid in accordance with the direction of the Administrator, and shall not be obliged to see to the distribution or further application of any money it so pays. The

Insurer shall keep such records, make such identification of contracts, funds, and accounts within funds, and supply such information as may be necessary for the proper administration of the Plan under which it is carrying insurance benefits.

## ARTICLE XII. GENERAL PROVISIONS

Section 12.1 Unclaimed Payments. If a Participant or his Beneficiary fails to apprise the Administrator of changes in the address of the Participant or his Beneficiary, and the Administrator is unable to communicate with the Participant or his Beneficiary at the address last recorded by the Administrator within two years after any benefit becomes due and payable from the Plan to any Participant or Beneficiary, the Administrator may mail a notice by registered mail to the last known address of such person outlining the following action to be taken unless such person makes written reply to the Administrator within 60 days from the mailing of such notice: The Administrator may direct that such benefit and all further benefits with respect to such person shall be discontinued and all liability for the payment thereof shall terminate; provided, however, that in the event of the subsequent reappearance of the Participant or Beneficiary prior to termination of the Plan, the benefits which were due and payable and which such person missed shall be paid in the form of a lump sum.

Section 12.2 Nondiscriminatory Action. Any discretionary acts to be taken under the provisions of this Plan by the Company, an Employer, or by the Administrator with respect to eligibility of Employees, contributions, or benefits shall be uniform in their nature and applicable to all those persons similarly situated.

Section 12.3 Receipt and Release. Subject to the provisions of the Act and to the extent permitted by the Act, any payments or distribution to any Participant, his Beneficiary, or his legal representative in accordance with this Plan shall be in full satisfaction of all claims against the Trust Fund, the Trustee, Administrator, and the Employer; the Trustee, the Employer, the Administrator, or any combination of them may require a Participant, his Beneficiary, or his legal representative to execute a receipt and release of all claims under this Plan upon a payment or distribution; and the form of any such receipt and release shall be determined by the Trustee, the Company, the Administrator, or any combination of them.

Section 12.4 Nonalienation of Benefits. No benefit under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, levy, or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber, levy upon, or charge the same shall be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts,

liabilities, engagements, or torts of the person entitled to such benefit. Notwithstanding the foregoing, the Administrator is expressly authorized to comply with the terms of a qualified domestic relations order and, to the extent provided in the order, to distribute all or any portion of a Participant's account to an alternate payee designated in the order at such time provided in the order, regardless of any prohibitions on distributions generally applicable to Participants and Beneficiaries at such time.

Section 12.5 Compensation Data from Employer. Each Employer shall furnish to the Administrator, on request, information showing the Compensation of its employees who are Participants and any other information necessary for proper administration of this Plan.

Section 12.6 Effect of Mistake. In the event of any mistake or misstatement with respect to the age, eligibility, service, Compensation, or participation of a Participant or Beneficiary, or the amount of distribution made or to be made to a Participant or Beneficiary, the Administrator shall, to the extent it deems appropriate, cause to be allocated, withheld, accelerated, or otherwise adjusted, such amounts as will in its judgment accord to such Participant or Beneficiary the credits to the Participant's account or the distributions to which he is entitled under the Plan.

Section 12.7 Notice of Address. Each person entitled to benefits from the Trust Fund must file with the Employer or Administrator, in writing, his post office address and each change of post office address. Any communication, statement, or notice addressed to such a person at his latest reported post office address will be binding upon him for all purposes of the Plan and neither the Administrator nor the Employer, or Trustee, or Insurer shall be obliged to search for or ascertain his whereabouts.

Section 12.8 Severability. In the event any provision of the Plan shall be held invalid or illegal for any reason, any illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and enforced as if said illegal or invalid provision has never been inserted, and the Company shall have the privilege and opportunity to correct and remedy such questions of illegality or invalidity by amendment as provided in the Plan.

Section 12.9 Notices and Communications. All applications, notices, designations, changes in designations, elections, and other communications shall be in writing and on forms prescribed by the Administrator, and shall be mailed or delivered to such office as may be designated by the Administrator, and shall be deemed to have been given when received by the Administrator at such designated offices. Each notice, report, statement, or other communication directed to a Participant or Beneficiary shall be in writing and may be delivered in person or mailed, in which latter event it shall be deemed to have been delivered upon receipt by the Participant or Beneficiary.

Section 12.10 Waiver of Notice. Any notice required hereunder may be waived by the person entitled thereto.

Section 12.11 Applicable Law. To the extent not preempted by the Act, the Plan and all rights hereunder shall be governed, construed and administered in accordance with the laws of the State of Wisconsin. All contributions made hereunder shall be deemed to have been made in Wisconsin.

Section 12.12 Policy Restrictions. Every action sought to be taken by the Employer, the Administrator, the Trustee, a Participant or other insured, or a Beneficiary with respect to any Policy held under this Trust, shall be subject to the terms of the Policy and to the rules, procedures, and practices of the Insurer at such time, provided that the provisions of this Plan and the Trust Agreement shall not be deemed to be modified or altered by any such Policy.

#### ARTICLE XIII. AMENDMENT AND TERMINATION

Section 13.1 Company's Right to Amend and Terminate. The Company reserves the right at any time and from time to time by action of its Board to modify, amend or terminate, in whole or in part, any or all of the provisions of this Plan, subject to the Code and the Act. Except to the extent necessary to comply with applicable laws and regulations, no such amendment shall operate to deprive any Participant or Beneficiary of his nonforfeitable beneficial interest as it is constituted at the time of amendment or eliminate an optional form of distribution for a previously accrued benefit. No amendment hereof shall increase the duties or liabilities of the Trustee without its written consent.

Section 13.2 Termination of the Plan. Upon termination of the Plan in whole or in part, or upon complete discontinuance of contributions to the Plan, Participants' accounts shall remain 100% vested and nonforfeitable. Distribution shall be made to Participants at such time, and in such manner, as is determined by the Administrator.

Section 13.3 Merger, Consolidation, or Transfer. In the case of any merger or consolidation of the Plan with, or in the case of any transfer of assets or liabilities of the Plan to or from, any other plan, each Participant in the Plan would (if the Plan then is terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).



#### ARTICLE XIV. PARTICIPATION IN THE PLAN BY ADDITIONAL EMPLOYERS

Section 14.1 Participation in the Plan. Any Affiliate which desires to become an Employer hereunder may elect to become a party to the Plan by adopting the Plan for the benefit of any specified group of its Employees, effective as of the date specified in such adoption--

(a) by filing with the Company a certified copy of a resolution of the board of directors of the adopting Employer to that effect and such other instruments as the Company may require; and

(b) by the Company's execution of a written consent evidencing the Company's consent to said adoption.

Section 14.2 Plan and Trust Agreement Control. Effective as of the date on which any Affiliate becomes a party to the Plan, and so long as the Plan shall remain in effect as to such Employer, such Employer and its Employees shall be bound by the terms and conditions of the Plan and Trust Agreement.

#### ARTICLE XV. TOP-HEAVY PROVISIONS

Section 15.1 Top-Heavy Restrictions. (a) Notwithstanding any provision to the contrary herein, in accordance with Code Section 416, if the Plan is a top-heavy plan for any Plan Year, then the provisions of this Section shall be applicable. The Plan is "top-heavy" for a Plan Year if as of its "determination date" (i.e. the last day of the preceding Plan Year or the last day of the Plan's first Plan Year, whichever is applicable), the total present value of the accrued benefits of key employees (as defined in Code Section 416(i)(1) and applicable regulations) exceeds sixty percent (60%) of the total present value of the accrued benefits of all employees under the plan (excluding those of former key employees and employees who have not performed any services during the preceding five (5) year period) (as such amounts are computed pursuant to Section 416(g) and applicable regulations using a five percent (5%) interest assumption and a 1971 GAM mortality assumption) unless such plan can be aggregated with other plans maintained by the applicable controlled group in either a permissive or required aggregation group and such group as a whole is not top-heavy. Any nonproportional subsidies for early retirement and benefit options are counted assuming commencement at the age at which they are most valuable. In addition, a plan is top-heavy if it is part of a required aggregation group which is top-heavy. Any plan of a controlled group may be included in a permissive aggregation group as long as together they satisfy the Code 401(a)(4) and 410 discrimination requirements. Plans of a controlled group which must be included in a required aggregation group include any plan in which a key employee participates or participated at any time during the determination period (regardless of whether the plan has terminated) and any plan which



enables such a plan to meet the Section 401(a)(4) or 410 discrimination requirements. The present values of aggregated plans are determined separately as of each plan's determination date and the results aggregated for the determination dates which fall in the same calendar year. A "controlled group" for purposes of this Section includes any group employers aggregated pursuant to Code Sections 414(b), (c) or (m). The calculation of the present value shall be done as of a valuation date which for a defined contribution plan is the determination date and for a defined benefit plan is the date as of which funding calculations are generally made within the twelve month period ending on the determination date. Solely for the purpose of determining if the Plan, or any other plan included in a required aggregation group of which this Plan is a part, is top-heavy (within the meaning of Section 416(g) of the Code) the accrued benefit of an Employee other than a key employee (within the meaning of Section 416(i)(1) of the Code) shall be determined under (i) the method, if any, that uniformly applies for accrual purposes under all plans maintained by the Affiliates, or (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Section 411(b)(1)(C) of the Code.

(b) If a defined contribution plan is top-heavy in a Plan Year, non-key employee participants who have not separated from service at the end of such Plan Year will receive allocations of employer contributions and forfeitures at least equal to the lesser of three percent (3%) of compensation (as defined in Code Section 415) for such year or the percentage of compensation allocated on behalf of the key employee for whom such percentage was the highest for such year (including any salary reduction contributions). If a defined benefit plan is top-heavy in a Plan Year and no defined contribution plan is maintained, the employer-derived accrued benefit on a life only basis commencing at the normal retirement age of each non-key employee shall be at least equal to a percentage of the highest average compensation for five consecutive years, excluding any years after such Plan permanently ceases to be top-heavy, such percentage being the lesser of (i) twenty percent (20%) or (ii) two percent (2%) times the years of service after December 31, 1983 in which a Plan Year ends in which the Plan is top-heavy. If the controlled group maintains both a defined contribution plan and a defined benefit plan which cover the same non-key employee, such employee will be entitled to the defined benefit plan minimum and not to the defined contribution plan minimum.

(c) If the controlled group maintains a defined benefit plan and a defined contribution plan which both cover one or more of the same key employees, and if such plans are top-heavy, then the limitation stated in a separate provision of this Plan with respect to the Code Section 415(e) maximum benefit limitations shall be amended so that a 1.0 adjustment on the dollar limitation applies rather than a 1.25 adjustment. This provision shall not apply if the Plan is not "super top-heavy" and if the minimum benefit requirements of this Section are met when two percent (2%) is changed to three percent (3%) and twenty percent (20%) is changed

to an amount not greater than thirty percent (30%) which equals twenty percent (20%) plus one percent (1%) for each year such plan is top-heavy. A plan is "super top-heavy" if the ratio referred to in subsection (a) above results in a percentage in excess of ninety percent (90%) rather than a percentage in excess of sixty percent (60%).

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS PLAN  
FOR MILWAUKEE AND TOMAHAWK HOURLY  
BARGAINING UNIT EMPLOYEES  
(As Amended and Restated Effective as of January 1, 1993)

HARLEY-DAVIDSON, INC. RETIREMENT SAVINGS PLAN  
FOR MILWAUKEE AND TOMAHAWK HOURLY  
BARGAINING UNIT EMPLOYEES  
(As Amended and Restated Effective as of January 1, 1993)

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ARTICLE I. PREAMBLE

Section 1.1 The Plan. The Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees is intended to encourage savings and to provide benefits to salaried

employees of Harley-Davidson, Inc. upon their retirement or earlier termination of employment and to their spouses or other beneficiaries upon death.

The Plan, as set forth herein, was amended and restated effective as of January 1, 1990 to conform to the requirements of the Tax Reform Act of 1986 and to include Company Stock as an investment option. The Plan was again restated effective January 1, 1993, to update the Plan for final regulations under the Tax Reform Act of 1986 and subsequent legislative changes. As part of the 1993 restatement the name of the Plan was changed from the Harley-Davidson, Inc. Thrift Incentive Plan to the Harley-Davidson, Inc. Retirement Savings Plan. The Plan is a profit sharing plan with cash-or-deferred features authorized by Code Section 401(k).

Except as otherwise specifically provided, any amendment to the Plan shall apply only to periods on and after, and employees whose employment is terminated on and after, the effective date. Rights with respect to periods before such date shall be determined under the terms of the Plan (or any predecessor thereof) as in effect from time to time prior to the effective date of the amendment.

Notwithstanding the foregoing, this amended and restated Plan contains the provisions necessary to conform retroactively the Plan to the requirements of the Tax Reform Act of 1986 and subsequent legislation and regulatory developments. Accordingly, the following provisions shall be deemed to be effective January 1, 1987: Leased employees in Article III, limitations on contributions in Article V, benefit limitations and distribution rules in Article VII, in-service withdrawal rules in Article VIII, loan rules in Article IX as in effect prior to October 18, 1989, and other miscellaneous technical modifications located in Articles II and XI of the Plan. Article IX, as included herein, was amended and restated in its entirety effective October 18, 1989.

## ARTICLE II. DEFINITIONS

Section 2.1 Definitions. Whenever used in the Plan, the following words and phrases shall have the respective meanings stated below unless a different meaning is plainly required by the context, and when the defined meaning is intended, the term is capitalized.

(a) "Accounting Date" means the last day of each month, or such other date or dates as the Administrator may designate from time to time as an Accounting Date.

(b) "Act" means the Employee Retirement Income Security Act of 1974, as now in effect or hereafter amended.

(c) "Administrator" means a committee comprised of the Vice President Human Resources, the Chief Financial Officer, the Treasurer, and

the Company's General Counsel or any successor Administrator appointed by the Board.

(d) "Affiliate" means (1) a corporation which is a member of the same controlled group of corporations (within the meaning of Code section 414(b)) as the Company, (2) an incorporated or unincorporated trade or business which is under common control with the Company (as determined under Code section 414(c)), or (3) an organization which, together with the Company, is an affiliated service group (as determined under Code section 414(m)), and any other corporation that the Company shall designate as an Affiliate.

(e) "Beneficiary" means the person or persons designated by a Member pursuant to Section 7.5.

(f) "Board" means the Board of Directors of the Company.

(g) "Code" means the Internal Revenue Code of 1986, as amended.

(h) "Company" means Harley-Davidson, Inc. and any organization that is a successor thereto that adopts and continues the Plan.

(i) "Company Stock" means the common stock of Harley-Davidson, Inc., par value \$1.00 per share.

(j) "Company Stock Fund" means an Investment Fund which is invested in Company Stock, which pending such investment, may be invested in short-term securities.

(k) "Compensation" means the total salary, wages, and other amounts (cash and noncash) paid by the Employers to an Employee, prior to reductions under Code Sections 402(e)(3) or 125, for personal services rendered to Employers in the course of employment to the extent the amounts are includable in taxable income including, but not limited to, overtime, bonuses, commissions, living or other allowances, shift differential pay, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treasury Regulation Section 1.62-2(c)), but excluding any amounts which receive special tax benefits. The maximum annual compensation taken into account hereunder for purposes of calculating any Participant's accrued benefit (including the right to any optional benefit) and for all other purposes under the Plan shall be \$200,000 (or such other amount permitted pursuant to Code Section 401(a)(17)). For purposes of calculating this maximum for any 5 percent owner or highly compensated employee who is in the group of ten employees paid the greatest compensation during the year, pursuant to Code Section 414(q)(6), the compensation of a spouse or a lineal descendant under age nineteen before the end of the Plan Year shall be treated as if paid to the employee.

(l) "Effective Date" means January 1, 1986, the date as of which the Company originally adopted the Plan.

(m) "Employee" means any person employed by an Employer on an hourly basis who is in a collective bargaining unit represented by Local Numbers 209 or 460 of the International Union, Allied Industrial Workers of America, AFL-CIO or Tool and Die Makers Lodge Number 78 of the International Association of Machinists and Aerospace Workers, AFL-CIO, or any successor thereto.

(n) "Employer" means the Company and each Affiliate which has adopted the Plan pursuant to Article XIV.

(o) "Entry Date" means January 1 and July 1 or such other dates (not less frequent than semiannual) as the Administrator may designate from time to time as Entry Dates.

(p) "Insurer" means the insurance company or companies which issues the Policies provided under this Plan upon application by the Trustee.

(q) "Investment Fund" means such fund or funds of the Trust Fund established from time to time by the Administrator including the Company Stock Fund.

(r) "Investment Manager" means any person or entity --

(i) who renders advice respecting or has been empowered to manage, acquire, or dispose of any assets of the Plan; and

(ii) who (A) is registered as an investment adviser under the Investment Advisers Act of 1940, or (B) is a bank, as defined in such act, or (C) is an insurance company qualified to perform services described in (1) above under the laws of more than one State; and

(iii) who has acknowledged in writing that he is a fiduciary with respect to the Plan.

(s) "Participant" means an Employee who becomes entitled to participate in the Plan.

(t) "Plan" means the "Harley-Davidson, Inc. Retirement Savings Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees" as provided herein and as subsequently amended from time to time. Prior to January 1, 1993, the name of the Plan was the Harley-Davidson, Inc. Thrift Incentive Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees.

(u) "Plan Year" means the calendar year.



(v) "Policy" means a universal life insurance policy or policies. Such Policy shall be issued by the Insurer, at the election of the Participant, on the life of the Participant and/or the life of the Participant's spouse, and may include a term insurance rider on the lives of dependent children.

(w) "Trust Agreement" means the Harley-Davidson, Inc. Thrift Incentive Trust for Milwaukee and Tomahawk Hourly Bargaining Unit Employees dated October 1, 1989, between the Company and the Trustee, as it may be amended from time to time. Prior to October 1, 1989, the Plan was funded using the Harley-Davidson Thrift Incentive Trust dated June 15, 1981, as amended. Effective January 1, 1994, the name of such Trust Agreement shall be the Harley-Davidson, Inc. Retirement Savings Trust for Milwaukee and Tomahawk Hourly Bargaining Unit Employees.

(x) "Trustee" means Marshall & Ilsley Trust Company or any successor appointed pursuant to the Trust Agreement.

(y) "Trust Fund" means all the assets which are held by the Trustee for the purposes of this Plan.

Section 2.2 Gender and Number. Wherever applicable, the masculine pronoun as used herein shall be deemed to include the feminine pronoun, and the singular shall be deemed to include the plural.

### ARTICLE III. ELIGIBILITY TO PARTICIPATE AND CREDITING OF SERVICE

Section 3.1 Regular, Full-Time Employees. An individual who is classified by his Employer as an Employee shall be eligible to participate and make Before-Tax Contributions to the Plan as of the Entry Date next following his date of employment, provided he then is an Employee. A layoff, not in excess of 18 months, shall not be deemed to interrupt an individual's employment for this purpose; provided, however, that the individual shall not be eligible to participate until the Entry Date next following reemployment after recall from layoff.

Section 3.2 Reemployment. An Employee whose employment was terminated or who was transferred to salaried status and who previously was a Participant or was eligible to participate shall become a Participant on the date of his reemployment as an Employee. The Administrator is authorized to make and receive plan to plan transfers between the Plan and other defined contribution plans maintained by the Company or Affiliates with respect to transferred Employees.

Section 3.3 Enrollment. An Employee who has met the eligibility requirements of Section 3.1 may become a Participant in the Plan as of the Entry Date that he initially is eligible by completing an application form prescribed by the Administrator and filing such

application with the Administrator at such time and in such manner as the Administrator shall determine. In making such application, he shall signify his acceptance of the terms and conditions of the Plan, and shall be bound thereby. Each application will authorize the Employer to reduce his Compensation by the amount of such Before-Tax Contributions as may be specified by him in the form, and will also specify the Investment Fund(s) in which such contributions are to be invested. A Participant who elects to have Before-Tax Contributions invested in a Policy must also satisfy any requirements imposed by the Insurer as a condition to the issuance of such Policy. If an Employee does not elect to become a Participant and have Before-Tax Contributions made to the Plan as of the date that he initially is eligible to do so, he shall be required to wait until a succeeding Entry Date before he again is eligible.

Section 3.4 Leased Employees. A person who is a "leased employee" within the meaning of Code Section 414(n) and (o) shall not be eligible to participate in the Plan, but in the event such a person was participating or subsequently becomes an Employee eligible to participate herein, credit shall be given for the person's service as a leased employee toward completion of the Plan's eligibility and vesting requirements, including any service for an Affiliate, if applicable.

#### ARTICLE IV. BEFORE-TAX CONTRIBUTIONS AND ROLLOVER CONTRIBUTIONS

Section 4.1 Before-Tax Contributions In General. Each Participant, so long as he remains a Participant, may elect (in accordance with Administrator rules) to reduce his Compensation by an amount equal to any whole percentage of the Compensation paid to him each payday, up to a maximum determined from time to time by the Administrator but not in excess of 20 percent. Upon notice, the Administrator shall be permitted to change the foregoing percentage levels. The amount by which a Participant's Compensation is reduced shall be contributed by his Employer on his behalf to the Plan as his Before-Tax Contribution.

Section 4.2 Adjustment of Amount of Before-Tax Contributions. Adjustments in the amount of any Participant's Before-Tax Contributions may be made by a Participant at such times as permitted by Administrator rules, by filing with the Administrator a notice of such change (in accordance with Administrator rules) prior to the date as of which he desires such adjustment to be effective.

Section 4.3 Election to Discontinue Before-Tax Contributions. A Participant may elect to have his Before-Tax Contributions completely discontinued by filing with the Administrator a notice of such discontinuance (in accordance with Administrator rules). Such discontinuance shall be effective on the first administratively convenient payday after such notice is received by the Administrator.

Section 4.4 Automatic Discontinuance of Before-Tax Contributions. Effective May 1, 1990, a Participant who ceases to be an Employee shall have his Before-Tax Contributions completely discontinued,

effective as of the last day worked. Prior to such date, the date of such discontinuance shall be the date of cessation of Employee status.

Section 4.5 Resumption of Before-Tax Contributions. Any Participant whose Before-Tax Contributions have been discontinued may elect to have such contributions resumed if, at the time he is eligible to again contribute, he files with the Administrator a notice (in accordance with Administrator rules) prescribed for such purpose. A Participant who has elected to have his contributions discontinued pursuant to Section 4.3 shall again be eligible to contribute as of such date permitted in accordance with Administrator rules next following the effective date of discontinuance. A Participant whose contributions were discontinued pursuant to Section 4.4 shall be eligible to again contribute as of the date he again returns to work.

Section 4.6 Payment of Before-Tax Contributions. Before-Tax Contributions shall be paid over by the Employer to the Trustee and allocated and credited to the Participant's account in the Trust Fund as soon as possible after the date they would have been otherwise received as Compensation. All amounts elected by the Participant to be contributed to the Plan pursuant to this Article, as well as all amounts held in the Plan that are attributable to contributions to the Previous Plan, shall at all times be fully vested and nonforfeitable.

Section 4.7 Rollover Contributions. Effective January 1, 1992, any Employee may from time to time contribute to the Trust Fund a rollover contribution in cash. An Employee making a rollover contribution shall certify in writing the amount of the proposed rollover contribution and supply documentation acceptable to the Administrator confirming the amount and the status of the rollover contribution. A rollover contribution shall be credited to the Employee's account in the Trust Fund as soon as possible after it is received by the Trustee and shall be invested as provided in Article V. All amounts held in the Plan that are attributable to rollover contributions shall at all times be fully vested and nonforfeitable.

Section 4.8 Deductibility of Contributions. Employer contributions hereunder are conditioned upon their deductibility under Code Section 404. Notwithstanding any provision herein to the contrary, to the extent a deduction is disallowed, contributions may be returned to the Employer within one year after such disallowance.

#### ARTICLE V. LIMITATIONS ON BEFORE-TAX CONTRIBUTIONS

Section 5.1 \$7,000 Limitation. In no event may the Before-Tax Contributions made on behalf of any Participant exceed \$7,000 in any Plan Year. The Administrator, in his discretion, may establish rules necessary for such limitation to be met with respect to any Participant including, but not limited to, rules that require a reduction or refund in contributions in order to meet the limitation and rules applicable to

satisfy the appropriate limitations should a Participant participate within the same calendar year in this Plan and another qualified plan intended to meet the requirements of Section 401(k) of the Internal Revenue Code. Notwithstanding the foregoing, Before-Tax Contributions in excess of \$7,000 may be made for Plan Year 1987, subject to the cost-of-living adjustment provisions of Code Section 402(g).

Section 5.2 Maximum Deferral Percentage. Notwithstanding any provision of the Plan to the contrary, the Plan is subject to the limitations of Code Section 401(k) which are incorporated herein by this reference. Accordingly, in no event may the Before-Tax Contributions made on behalf of all eligible Participants who are highly compensated individuals with respect to any Plan Year result in a deferral percentage for such group of eligible Participants which exceeds the greater of (a) or (b) below, where:

- (a) is an amount equal to 125% of the deferral percentage for all eligible Participants other than eligible Participants who are highly compensated individuals; and
- (b) is an amount equal to the sum of the deferral percentage for all eligible Participants other than highly compensated individuals and 2%, provided that such amount does not exceed 200% of the deferral percentage for all eligible Participants other than highly compensated individuals;

subject to such other applicable limits as may be prescribed by the Secretary of the Treasury to prevent the multiple use of this limitation. In order to ensure the favorable tax treatment of Before-Tax Contributions hereunder pursuant to Code Section 401(k) or to ensure compliance with Code Section 402(g) or 415, the Administrator in its discretion may prospectively decrease the rate of Before-Tax Contributions of any Participant at any time and, to the extent permitted by applicable regulations, may direct the Trustee to refund Before-Tax Contributions to any Participant. Any excess contributions, determined (i) after application of the family aggregation rules, any recharacterization of deferrals as after-tax contributions if applicable and use of qualified nonelective contributions and/or qualified matching contributions as helpful in the actual deferral percentage test, and (ii) by leveling the highest deferral ratios until the test is satisfied, and excess deferrals shall be distributed including applicable income determined pursuant to applicable regulations, including gap period income after 1988, together with any applicable matching contribution. Such distributions shall be made during the plan year following the year the excess contributions were made, and the amount shall be determined based on the respective portions attributable to each highly compensated employee based on compensation.

Section 5.3 Definitions. For purposes of this Article V, the following terms shall have the following meanings:

(a) "Eligible Participant" shall mean an Employee who is eligible to participate in the Plan pursuant to Article III, whether or not he actually elects to participate in the Plan.

(b) "Highly compensated individual" shall mean an individual who:

- (i) is a 5% owner of the Company or an Affiliate;
- (ii) receives compensation from the Company or one or more Affiliates in excess of \$75,000 (as adjusted pursuant to Code Section 415(d)) for a year;
- (iii) receives compensation from the Company or one or more Affiliates in excess of \$50,000 (as adjusted pursuant to Code Section 415(d)) for a year and is in the top 20%, when ranked on the basis of compensation, of the employees of the Company and all Affiliates (disregarding employees who normally work less than 17 1/2 hours per week or 6 months per year, employees covered by a collective bargaining agreement, and nonresident aliens who receive no earned income from sources within the United States); or
- (iv) is an officer of the Company or an Affiliate and receives compensation from the Company or an Affiliate greater than 50% of the amount in effect under Code Section 415(b)(1)(A) of the Internal Revenue Code; provided, however, that no more than 50 individuals shall be taken into account under this paragraph (iv).

The determination under (i), (ii), (iii) or (iv) of whether an individual is a highly compensated individual shall be made with respect to the current and the preceding Plan Year; provided, however, that an individual who did not satisfy (ii), (iii) or (iv) during the preceding Plan Year shall only be considered highly compensated if during the current Plan Year he is among the 100 most highly compensated individuals employed by the Company and all Affiliates.

For purposes of determining who is a highly compensated individual and for purposes of the maximum deferral percentage described in Section

5.2 hereof, a family member of a 5% owner or one of the highest 10 paid individuals employed by the Company and all Affiliates shall not be considered a separate individual and, further, any compensation paid to him or contribution made on his behalf shall be attributed to the highly compensated individual described above.

"Compensation" for purposes of determining who is a highly compensated individual under this Subsection (b) has the meaning set forth in Section 2.1(k) hereof but not subject to the cap on compensation under Code Section 401(a)(17). The \$75,000 and \$50,000 limits described in paragraphs (ii) and (iii) shall be adjusted in accordance with, and at such time prescribed in, rules issued by the Secretary of the Treasury.

(c) "Deferral Percentage" with respect to any specified group of eligible Participants for a year shall mean the average of the ratios (calculated separately for each eligible Participant in the group) of:

- (i) The amount of Before-Tax Contributions allocated to the account of each eligible Participant for such year, to
- (ii) The eligible Participant's compensation for such year.

(d) "Compensation," for purposes of paragraph (c)(ii) has the meaning set forth in Section 2.1(k) hereunder but, as determined by the Administrator, prior to or after reduction on account of a Participant's Before-Tax Contributions to this Plan or any other contributions not treated as taxable income by reason of Section 125 or 402(e)(3) of the Code.

Section 5.4 Prospective Reduction of Before-Tax Contributions. In the event that it is determined by the Administrator at any time that the maximum deferral percentage prescribed in Section 5.2 or the Code Section 415 limitations prescribed in Section 5.7 could be exceeded, then the amount of Before-Tax Contributions allowed to be made on behalf of some or all of the eligible Participants shall be reduced in such manner prescribed by the Administrator. Once a reduction has been made hereunder, it shall remain in effect for the remainder of the year, unless the Administrator determines that it is no longer necessary in order for the maximum deferral percentage or Code Section 415 limitations to be met.

Section 5.5 Reduction After Before-Tax Contributions Have Been Made. In the event that, notwithstanding Section 5.4 hereof, it is determined by the Administrator that the maximum deferral percentage

limitations have been exceeded with respect to any Plan Year, then the Before-Tax Contributions that have been made on behalf of the eligible Participants who are highly compensated individuals shall be reduced, and the excess (together with the income allocable thereto) shall be distributed to the affected highly compensated individuals or, to the extent permitted under rules prescribed by the Secretary of Treasury and determined by the Administrator, recharacterized as after-tax contributions. The highly compensated individuals with respect to whom the reduction and distributions hereunder shall be made and the amount of such reductions shall be determined by reducing the maximum allowable percentage of Before-Tax Contributions under Article IV to such percentage which, when applied to all eligible Participants who are highly compensated individuals, results in the maximum deferral percentage not being exceeded.

Section 5.6 Adjustment in Limitations. Sections 5.2 through 5.5 are intended to conform with Sections 401(k) of the Code. In the event that the Administrator determines that, in accordance with the Code and rules prescribed by the Secretary of the Treasury, the limitations of Section 401(k) may be applied in a manner different from that prescribed in Sections 5.2 through 5.5, the Administrator, in his discretion, may make appropriate adjustments.

Section 5.7 Code Section 415 Limitations. The limitations on benefits and contributions prescribed by Section 415 of the Code are incorporated by reference. The limitation year is the calendar year. The applicable definition of compensation for Code Section 415 purposes shall be as set forth in Section 2.1(k) hereof but not subject to the cap on compensation under Code Section 401(a)(17). In the event that the limitations of Section 415(e) of the Code would be exceeded but for this Section 5.7, benefits under any applicable qualified defined benefit plan shall be reduced or frozen prior to any reduction in contributions to this Plan.

ARTICLE VI. PARTICIPANT'S ACCOUNT;  
INVESTMENT OF CONTRIBUTIONS; COMPANY STOCK FUND RULES

Section 6.1 General. A separate account shall be maintained for each Participant that reflects his interest in the Plan.

Section 6.2 Investment of Before-Tax Contributions in a Policy. In accordance with an election form provided by and filed with the Administrator, a Participant may elect that a portion of his Before-Tax Contributions to the Plan shall be invested in a Policy, subject to the following:

(a) The percentage of a Participant's Before-Tax Contributions that may be invested in a Policy shall be determined by the Administrator; provided, however, that the Before-Tax Contributions invested in a Policy,



when added to Before-Tax Contributions previously invested in a Policy, shall be less than 50% of the total Before-Tax Contributions made to the Plan on behalf of the Participant during his aggregate periods of participation hereunder and provided, further, that the Before-Tax Contributions considered to be attributable to the purchase of term insurance, when added to Before-Tax Contributions previously considered to be attributable to the purchase of term insurance, shall be less than 25% of the total Before-Tax Contributions made to the Plan on behalf of the Participant during his aggregate periods of participation hereunder.

(b) The Administrator shall direct the Trustee to purchase a Policy upon receiving an election form in accordance with Subsection (a). An eligible Participant and, to the extent applicable, his spouse and dependent children, shall be covered under any Policy only upon issuance and delivery to the Trustee of such Policy.

(c) Each Policy and application therefor shall designate the Trustee as the owner of the Policy, and so long as the Trustee remains the owner, all benefits, rights, and privileges under each Policy which are available while the Participant is living shall be vested in the Trustee. Under any Policy, supplemental rider, or other instrument issued in settlement thereof, benefits shall be paid to the Trustee and not directly to the Participant on whose life the policy was issued or to his Beneficiary. If the deceased insured was the Participant, payment shall be made pursuant to Section 7.4. If the deceased insured was the spouse or child of the Participant, the Trustee shall retain an amount equal to the cash surrender value of the Policy on the date of the insured's death as part of the Participant's account to be invested in accordance with Section 6.4, and the remaining proceeds shall be paid to the Participant as soon as practicable after receipt from the Insurer.

(d) The Trustee shall be under no obligation to pay any premium under any Policy unless the Administrator instructs the Trustee to do so, in accordance with a Participant's election. Notwithstanding the foregoing, the Trustee may, if directed by the Administrator, borrow against the cash surrender value of a Policy in order to pay premiums due, but only if the Participant's current Before-Tax Contributions allocated to investment in a Policy are insufficient to pay such premiums. Before-Tax Contributions shall first be used to pay premiums on any outstanding Policy and only thereafter may be used to increase coverage under the Policy.

(e) If, at any time, the sum of the Before-Tax contributions invested in a Policy pursuant to Subsection (a) hereof and the cash surrender value that may be loaned pursuant to Subsection (d) hereof is insufficient to pay the premiums due on a Policy, the Policy shall thereupon be cancelled. In accordance with rules prescribed by the Administrator, a Participant may elect to cancel a Policy. Upon the cancellation of a Policy, any amount held in a Participant's account with respect thereto shall be reinvested in one or more of the Investment Funds in accordance with rules prescribed by the Administrator.



Section 6.3 Investment of Before-Tax Contributions in Investment Funds. Effective as of the date that he becomes a Participant, and in accordance with rules prescribed by the Administrator, a Participant shall elect that his Before-Tax Contributions shall be invested in one or more of the Investment Funds within the Trust Fund. The amount that may be invested in any one Investment Fund shall be equal to a percentage (in minimum increments specified by the Administrator from time to time) of the Participant's Before-Tax Contributions after first subtracting the amount of the Participant's Before-Tax Contributions allocated to the purchase of a Policy pursuant to Section 6.2. In accordance with rules prescribed by the Administrator, a Participant may periodically elect to change the Investment Funds in which his Before-Tax Contributions are invested.

Section 6.4 Transfers Among Investment Funds. In accordance with rules prescribed by the Administrator, a Participant may elect that all or a portion of his interest in any one Investment Fund shall be transferred to another Investment Fund or Funds. In addition, and to the extent permitted by the Administrator, a Participant may elect that all or a portion of the cash surrender value attributable to a Policy purchased with the Participant's Before-Tax Contributions may be transferred to one or more of the Investment Funds. Notwithstanding the foregoing, if it determines that any election with respect to a contribution into or reallocation of funds into or out of the Company Stock Fund might violate applicable securities laws, create a liability for Participants thereunder or is for any other reason known to the Administrator contrary to the best interests of Participants (including Participants subject to Section 16 of the Securities Exchange Act of 1934, as amended), the Administrator may, in its sole discretion, suspend or limit the right of any Participants to make or change investment elections under this Section.

Section 6.5 Allocation of Earnings and Losses. The fair market value of the assets of each Investment Fund shall be determined as of each Accounting Date. As of each such Accounting Date, a Participant's interest in each Investment Fund shall be adjusted to reflect the earnings, losses, appreciation and depreciation of such Fund since the immediately preceding Accounting Date, based on the proportion that the Participant's interest in such Investment Fund as of the date following such immediately preceding Accounting Date bears to all Participants' interests in such Fund as of such day. Participants' interests as of such day shall be adjusted to include 50% of any loan interest and principal deposited to their accounts in the Investment Fund during any allocation period of one month or longer. The accounting for a Participant's interest in the Company Stock Fund shall be done on an allocated share basis such that (except with respect to dividends on previously allocated shares, which dividends are credited directly to the Participant's account to which such shares are allocated) shares of Company Stock acquired by the Company Stock Fund since the last preceding Accounting Date shall be allocated among the subaccounts of Participants in proportion to the then current value of each subaccount which is not then attributable to

allocated stock and dividends thereon, and the individual subaccounts of Participants shall be adjusted accordingly. Dividends received with respect to shares of Company Stock other than previously allocated shares, and income, expenses, gains and losses on assets other than Company Stock held in the Company Stock Fund shall be credited or charged to the subaccounts of Participants as of each Accounting Date pro rata on the basis of that portion of each Participant's subaccount which is not invested in allocated stock. The foregoing shall be subject to any special rules that may be applicable pursuant to the terms of any guaranteed income contracts held in an Investment Fund.

Section 6.6 Valuation Conclusive. All determinations made by the Trustee and Administrator with respect to fair market value and the amount of earnings, losses, appreciation and depreciation of any Investment Fund (as well as any determinations with respect to a Policy held on behalf of a Participant) shall be made in accordance with generally accepted accounting principles, and all such determinations shall be conclusive and binding upon Participants, Beneficiaries, and any other person claiming to have an interest under the Plan.

Section 6.7 Voting and Tender Rights as to Company Stock. Shares of Company Stock held by the Company Stock Fund are allocated to Participants' subaccounts in that Investment Fund as of each Accounting Date. Such shares are referred to as allocated shares. In connection with each meeting of stockholders of the Company each Participant shall be given the opportunity to provide the Trustee with instructions regarding the voting of the Participant's allocated shares credited to the Participant's subaccount in the Company Stock Fund. The Trustee shall vote such shares in accordance with such instructions. All shares of Company Stock owned by the Plan but not allocated to the account of a Participant shall be voted by the Trustee so as to reflect, to the extent the Trustee determines it to be possible to do so, the voting directions of the Participants who provided instructions. All allocated shares of Company Stock in respect of which voting instructions shall not have been received from Participants within the time specified by the Trustee shall not be voted. In connection with a tender offer for, or a request or invitation for tenders of Company Stock made to the Trustee (the "offer"), the Trustee shall furnish to each Participant a notice of such event together with a copy of the offer, and a form by which the Participant may direct the Trustee whether or not to tender the Company Stock allocated to the Participant's account in the Plan pursuant to the offer. The Trustee shall tender or not tender such shares in accordance with such instructions. All shares of Company Stock owned by the Plan but not allocated to the account of a Participant shall be tendered in the same proportion as the number of allocated shares as to which the Trustee received timely directions to tender bears to the number of allocated shares as to which the Trustee shall have received timely directions either to tender or not tender, counting a non-response by a Participant for this purpose as a decision not to tender. All allocated shares of Company Stock in respect of which tender instructions shall not have been received from Participants within the time specified by the Trustee shall

not be tendered.

Reasonable means shall be employed to provide secrecy and confidentiality respecting each Participant's voting and tender instructions. The Trustee, in consultation with the Administrator, shall establish (and modify and amend) reasonable procedures for implementing the foregoing provisions concerning voting rights and tender instructions.

The Trustee shall have no responsibility to investigate or evaluate any offer and shall be entitled to respond to any offer solely on the basis of this Section 6.7 and the procedures herein. Any shares of Company Stock which shall be tendered by the Trustee but which for any reason are not purchased pursuant to the offer shall be restored to the Trust.

#### ARTICLE VII. DISTRIBUTION UPON TERMINATION OF EMPLOYMENT OR DISABILITY

Section 7.1 Retirement or Disability Benefits. If a Participant's employment is terminated for a reason other than death or if he furnishes proof, satisfactory to the Administrator, of his entitlement to Social Security disability benefits, he shall be entitled to a distribution of the Participant's allocated Company Stock, if any, and the remaining balance of his account in cash, payable in a single sum distribution, or if elected by the Participant, a distribution of the value of his account payable entirely in cash.

Section 7.2 Policy. In the event that a Policy has been issued with respect to a Participant entitled to distribution as described in Section 7.1, the Participant may elect, in accordance with rules prescribed by the Administrator, to have the Policy cancelled, with the cash surrender value as of the date of cancellation of the Policy paid to him in a single sum in cash, or to have the Policy transferred directly to him.

Section 7.3 Time of Payment; Valuation. Payment of the amounts described in Sections 7.1 and 7.2 normally shall be made to a Participant as soon as practicable following his termination of employment or proof of disability, with the value of his account determined as of the Accounting Date that corresponds with or next follows the date the Participant makes application for payment (subject to any special valuation procedures applicable to Policies). Notwithstanding the foregoing, if the value of a Participant's vested account has ever exceeded \$3,500 and he has not attained age 65, the Participant may defer the receipt of payment. In such a case, payment shall be deferred for payment (except in the event of the Participant's intervening death) until the date on which the Participant attains age 65; provided, however, that in accordance with rules prescribed by the Administrator, however, the Participant may elect to have any Policy held on his behalf transferred to

him on any earlier date during the deferral period. The provisions of the Plan are intended to comply with Code Section 401(a)(9) which prescribes certain rules regarding minimum distributions and requires that death benefits be incidental to retirement benefits. All distributions under the Plan shall be made in conformance with Section 401(a)(9) and the regulations thereunder which are incorporated herein by reference. The provisions of the Plan governing distributions are intended to apply in lieu of any default provisions prescribed in regulations; provided, however, that Code Section 401(a)(9) and the regulations thereunder override any Plan provisions inconsistent with such Code Section and regulations.

Section 7.4 Distribution Because of Death. Upon the death of a Participant prior to receipt of all amounts to which he is entitled, there shall be distributed to his Beneficiary any remaining portion of his account, determined as of the Accounting Date coincident with or next following the date on which the Administrator receives written notification of the Participant's death and all supporting documentation that the Administrator may require. Distribution shall be made to the Beneficiary in the form of the Participant's allocated Company Stock, if any, and the remaining balance of his account in cash, or if elected by the Beneficiary, a distribution of the value of the Participant's account payable entirely in cash, distributed in a single lump sum amount as soon as practicable following death, and in all events, within five (5) years following the date of the Participant's death. If a Policy has been purchased on behalf of a Participant, the Beneficiary shall receive the death benefit under the Policy in the form of a lump sum. The consent of the Beneficiary to such distribution is not required and the Beneficiary may not elect to defer such distribution beyond the date established for this purpose by the Administrator.

Section 7.5 Beneficiary Designation. Each Participant may designate, upon such forms as shall be provided for that purpose by the Administrator, a Beneficiary or Beneficiaries to receive his interest in the Plan in the event of his death, but the designation of a Beneficiary shall not be effective for any purpose unless and until it has been filed by the Participant with the Administrator. Notwithstanding the foregoing, a Participant who is married shall automatically be deemed to have designated the spouse to whom he is married on the date of his death as his Beneficiary, unless such spouse consents in writing to the designation of some other Beneficiary, which writing acknowledges the effect of such election and is witnessed by the Administrator, a person designated by the Administrator for this purpose, or a notary public.

Subject to the above, a Participant may, from time to time, on a form provided by and filed with the Administrator, change the Beneficiary in the manner heretofore stated, without the consent of the Beneficiary. The Company, the Administrator, and any Trustee may rely upon the designation last filed in accordance with the terms of this Section. In the event that a Participant shall not designate a Beneficiary in the manner heretofore stated, or if for any reason such designation shall be

legally ineffective, or if such Beneficiary shall predecease the Participant or die simultaneously with him, then, for the purposes of this Plan, distribution shall be made to the first surviving class of the following beneficiaries:

- (a) The Participant's spouse;
- (b) The Participant's children;
- (c) The Participant's parents;
- (d) The Participant's brothers and sisters;
- (e) The Participant's estate.

Section 7.6 Deadline for Distributions. A Participant's account shall be distributed not later than 60 days after the last day of the Plan Year in which the latest of the following events occurs: (a) his attainment of his 65th birthday, (b) the tenth anniversary of the date he began participation in the Plan, or (c) his termination of employment. Any distribution which cannot be reasonably ascertained and made by such required date shall be made as soon as administratively possible thereafter, retroactive to such required date. Notwithstanding the foregoing, effective April 1, 1990, benefits shall be paid or commence no later than the April 1 after the end of the calendar year in which the Participant attains age 70-1/2, even if the Participant is still employed, unless the Participant attained age 70-1/2 before January 1, 1988 and was not a five percent owner (as defined in Code Section 416) during any Plan Year after the Plan Year ending with or within the calendar year in which such Participant attained age 65-1/2.

Section 7.7 No Continued Investment in Trust. Following the applicable Accounting Date as of which the amount distributable to a Participant or his Beneficiary is determined, the Participant's account shall no longer share in the earnings and losses of the Trust Fund.

Section 7.8 Direct Transfer of Eligible Rollover Distributions. Effective January 1, 1993, notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is

required under Section 401(a) (9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

#### ARTICLE VIII. IN-SERVICE WITHDRAWALS

Section 8.1 Withdrawals from Before-Tax Contributions. A Participant may elect to withdraw all or any part of the portion of his account that is attributable to Before-Tax Contributions under the following circumstances:

(a) Withdrawals After the Attainment of Age 59-1/2. A Participant who has attained age 59-1/2 may withdraw all or any part of the portion of his account that is attributable to his Before-Tax Contributions. A Participant shall incur no suspension of his contributions under the Plan as a result of a withdrawal under this Section 8.1(a).

(b) Hardship Withdrawals of Before-Tax Contributions. A Participant may elect, by giving written notice to the Administrator and upon demonstrating financial hardship as described herein, to withdraw all or any part of the portion of his account that is attributable to his Before-Tax Contributions. "Financial hardship" shall be determined by the Administrator in accordance with uniform standards adopted by the Administrator, which standards shall be consistently applied. For purposes of this Subsection -- "financial hardship" means:

- (i) unreimbursed medical expenses described in Code Section 213(d) previously incurred by the Participant, the Participant's spouse or any dependents of the Participant (as defined in Code Section 152) or necessary for such persons to obtain medical care;
- (ii) purchase (excluding mortgage payments) of a principal residence for the Participant;



(iii) payment of tuition for the next 12 months of post-secondary education for the Participant or the Participant's spouse, children or dependents; or

(iv) the need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence.

(c) The hardship withdrawal shall be limited to the amount of the immediate and heavy financial need and shall be made only after the Participant takes all permitted loans and distributions hereunder and pursuant to any other plan maintained by the Employers.

(d) Any Participant who makes a withdrawal under this Section, shall have his Before-Tax Contributions and any other elective contributions or employee contributions under this Plan or any other plan maintained by the Employer (both qualified and nonqualified) automatically suspended for a period of twelve (12) months following such withdrawal. The amount which such a Participant may contribute as Before-Tax Contributions for the calendar year following such withdrawal shall not exceed the amount described in Section 402(g) for such year, reduced by the amount of such Participant's actual Before-Tax Contributions for the calendar year in which the withdrawal occurred.

Section 8.2 Payment of Withdrawals; Valuation. The amount withdrawn by a Participant hereunder shall be paid to him as soon as practicable following the date that his request is filed with the Administrator. The amount available for withdrawal shall not exceed the value of that portion(s) of the Participant's account from which the withdrawal is to be made as of the most recently closed Accounting Date that occurs before the date of his request for a withdrawal. For this purpose, the most recently closed Accounting Date is the most recent Accounting Date for which the Plan recordkeeper has issued its written allocation report.

#### ARTICLE IX. LOANS

Section 9.1 In General. The Administrator shall be responsible for the administration of this loan program. This Section applies only to "Borrowers," defined as any Employee (or person who is a party in interest within the meaning of ERISA Section 3(14)) who has an account balance in this Plan attributable (i) to his own participation herein or (ii) to the participation of a deceased Participant of whom such person is a Beneficiary. The limitations in Section 9.2 below shall apply in the aggregate to all of a Borrower's account balances in the Plan.

Section 9.2 Minimum and Maximum Amounts. Upon filing a proper written application with the Administrator, a Borrower eligible under Section 9.1 above may borrow against his account balance. A Borrower may request a loan only if his vested Plan account balance is at least \$2,000, and the minimum loan amount shall be \$1,000. The maximum loan amount, including the total of all loans to any eligible Borrower and interest accrued on outstanding loans at the time of the granting of a new loan, shall not exceed one-half the value of his interest in his account as of the Accounting Date immediately preceding such written application or, if less, \$50,000 reduced by the excess of the highest outstanding balance of all loans in the preceding 1-year period over the outstanding loan balance on the date of the current loan.

Section 9.3 Interest Rate. All loans shall bear interest commensurate with the rate which would be charged by commercial lenders for similar loans in accordance with Department of Labor Regulation Section 2550.408b-1 as determined by the Administrator. The duration of the loan shall be such period as may be agreed upon by the Borrower and the Administrator, but in no event shall the term exceed five (5) years in duration except if the loan is for the purchase of a dwelling unit that, within a reasonable time, is to be used as the primary residence of the Borrower, the maximum loan term shall be ten (10) years. All loans shall be due and payable in accordance with the terms of the loan, an event of default described in Section 9.6, or if earlier, when a taxable distribution is made (i) in the case of a Borrower who is an Employee, after termination of employment or (ii) in the case of a Borrower other than an Employee, after the death of the Borrower. The amount otherwise payable to the Borrower or his spouse or other Beneficiary shall be offset by any unpaid principal and interest on the loan.

Section 9.4 Repayment Terms. Each loan shall require regular amortization of principal and interest on at least a quarterly basis. The terms and conditions of each loan shall be incorporated in a promissory note executed by the Borrower. Every Borrower shall receive a clear statement of the charges involved in each loan transaction, which shall include the dollar amount and annual interest rate of the finance charge.

Section 9.5 Source of Loans; Investment of Repaid Amounts. Amounts loaned to a Borrower pursuant to this Article IX shall not share in fund earnings under Section 6.5, but shall be investments for the benefit of the Borrower's account to be treated as a segregated loan account. Loans shall be made pro rata from the Investment Funds in which the Borrower's Accounts are then invested. Loan repayments of principal and interest shall be invested in accordance with the Participant's investment election under Section 6.3 at the time each repayment is made or, if the Participant is not making Before-Tax Contributions, at the time repayment is made, in accordance with his investment election under Section 6.4.

Section 9.6 Default. A loan shall be secured by a Borrower's account to the maximum extent permitted by law. If a Borrower defaults in



the making of any payments on a loan when due and such default continues for 60 days thereafter, or in the event of the Borrower's bankruptcy, impending bankruptcy, insolvency or impending insolvency, the loan shall be deemed to be in default, and the entire unpaid balance with accrued interest shall become due and payable. The Administrator may pursue collection of the debt by any means generally available to a creditor where a promissory note is in default, or, if the entire amount due is not paid within 30 days following the default, the Administrator may apply the balance in the Borrower's account in satisfaction of the entire unpaid principal and accrued interest and treat such amount as having been received by the Borrower as a distribution under the Plan.

Section 9.7 Administrative Rules. The Administrator may impose such other rules, requirements or restrictions relating to loans under this Article IX as it shall determine to be necessary or appropriate, including, without limitation, restrictions on the ability of the Borrower to withdraw amounts pledged as security for the loan. Notwithstanding any other provision to the contrary, special costs and fees associated with a Borrower's loan may be charged directly to the Borrower or to the Borrower's account.

## ARTICLE X. FINANCING

Section 10.1 Trust Fund. The Company has executed a Trust Agreement with a Trustee selected by the Board to establish the Trust Fund to provide benefits under the Plan. The Trust Agreement is designated as, and shall constitute, a part of this Plan and all rights that may accrue to any person under this Plan shall be subject to all the terms and provisions of the Trust Agreement. The Company may, from time to time, modify the Trust Agreement to accomplish the purposes of the Plan, and the Board (unless this function is delegated to the Administrator) may remove the Trustee and appoint a successor Trustee or Trustees.

Section 10.2 Trustee's Authority. The Trustee shall have exclusive authority and discretion to manage and control the Trust Fund, except in the event that an Investment Manager is employed or appointed by the Administrator to manage any portion thereof, and no other Plan fiduciary shall have any responsibility for, nor shall it be liable for, the investment of the Trust Fund or the loss to or diminution in value of the Trust Fund resulting from any action taken, directed or omitted by the Trustee.

Section 10.3 Investment Funds. In its discretion, the Administrator shall establish one or more Investment Funds within the Trust Fund. Each such Investment Fund shall be invested and administered by the Trustee as a unit, except to the extent that any portion thereof is managed by an Investment Manager employed or appointed by the Administrator.

Section 10.4 Investment Manager. The Administrator may employ or appoint an Investment Manager or Managers in accordance with the following provisions:

(a) An Investment Manager may be employed or appointed by the Administrator to manage all or any portion of an Investment Fund. An Investment Manager shall acknowledge in writing its appointment as a Plan fiduciary and shall serve until a proper resignation is received by the Administrator or until it is removed or replaced by the Administrator.

(b) Upon its acknowledgment that it is a fiduciary, an Investment Manager shall have the responsibility for the investment of the portion of the Trust Fund or any Investment Fund which it is appointed to manage. Neither the Administrator, the Trustee, or any other Plan fiduciary shall have any responsibility for, or incur any liability for, the investment of such portion or for any loss to or diminution in value of such portion resulting from any action taken, directed or omitted by the Investment Manager.

(c) The Administrator shall require an Investment Manager to furnish such periodic and other reports to the Administrator and the Trustee as the Administrator deems to be in the best interests of the Trust Fund. Neither the Administrator, the Trustee, nor any other Plan fiduciary shall be under any duty to question, but shall be entitled to rely upon, any certificate, report, opinion, direction or lack of direction provided by the Investment Manager and shall be fully protected in respect of any action taken or suffered by them in reliance thereon.

Section 10.5 Nonreversion. The Employers shall not have any right, title, or interest in or to the contributions made to the Trust Fund under the Plan, and no part of the Trust Fund shall revert to any Employer. Notwithstanding the foregoing, if a contribution is made as a result of a mistake of fact, then such contribution may be returned to the Company within one year after the payment of the contribution, and if any part or all of a contribution is disallowed as a deduction under Section 404 of the Code, then to the extent a contribution is disallowed as a deduction it may be returned to the Company within one year after the disallowance.

Section 10.6 Payment of Expenses. In addition to the contributions hereunder, the Employers shall pay the administrative expenses of the Plan, including legal and accounting fees, and fees and expenses of the Trustee. Investment Manager fees are paid out of the Trust Fund. Notwithstanding the foregoing, fees and expenses of the Plan which are not paid by the Employers for any reason shall be paid out of the Trust Fund.

Section 10.7 Participant's Investment Control. Notwithstanding any other provision of the Plan or Trust Agreement, to the extent that a Participant exercises control over the investment of his account, within the meaning of Section 404(c) of the Act, the Participant,

and no other person, shall be responsible for and liable for such investment. Each Participant (and his Beneficiary) assumes all risk connected with any decrease in the market value of any assets held under the Plan. Neither the Administrator nor the Employer nor any other Plan fiduciary in any way guarantees the Trust Fund from loss or depreciation, or the payment of any amount that may be or become due to any person from the Trust Fund. The Trust Fund shall be the sole source of distributions to be made under this Plan.

## ARTICLE XI. ADMINISTRATION

Section 11.1 Administrator. The Administrator shall be responsible for, and have the authority to undertake, all actions necessary or advisable for the proper administration and interpretation of the Plan (except to the extent a responsibility is expressly reserved to some other person), including, but not limited to, the following:

- (a) File all documents required under the Act;
- (b) Provide all Employees, contingent annuitants, beneficiaries and other interested parties with all documentation, reports or other information required by the Act;
- (c) Appoint such individuals, committees, corporations or other entities as may be necessary or advisable to administer and operate the Plan and to carry out any responsibilities vested in him;
- (d) Act as agent of the Employers for service of process and commence any legal action pertaining to the Plan or the determination of rights thereunder;
- (e) Establish or amend a claims and appeals procedure as described in Section 11.4 below;
- (f) Determine individual benefits;
- (g) Direct the Trustee to effect the proper administration of the Plan;
- (h) Interpret the Plan in the Administrator's discretion, with such interpretation thereof in good faith to be final and conclusive unless arbitrary and capricious;
- (i) Authorize the payment of benefits; and
- (j) Establish and communicate to the Trustee and Investment Managers, as appropriate, investment guidelines.

Section 11.2 Compensation and Expenses. The Administrator

shall serve without compensation for services as such if he is an employee of the Company or an Affiliate. He may receive reimbursement by the Employers or Trust Fund of expenses properly and actually incurred.

Section 11.3 Application for Benefits. Each person eligible for a benefit under the Plan shall apply for such benefit by signing an application form to be furnished by the Administrator and/or the Insurer. Each such person shall also furnish the Administrator and/or the Insurer with such documents, evidence, data, or information in support of such application as it considers necessary or desirable.

Section 11.4 Claims and Appeals Procedure. Each Employee, terminated Employee, and Beneficiary shall have the right to appeal any decision concerning his benefits under the Plan by submitting a written request to the Administrator indicating the reasons that he feels that the decision is in error. He may request a hearing in person to present his appeal and, in the sole discretion of the Administrator, such a hearing shall be granted. The Administrator shall review the appeal and, within 90 days after receipt of the claim or such later time as may be required under the circumstances, notify the claimant affected of his decision in writing. The notice shall be written in a manner calculated to be understood by the claimant, setting forth the specific reasons for such denial, specific reference to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and an explanation of the Plan's claim review procedure.

The Administrator shall also advise the claimant that he or his duly-authorized representative may request a review by the Administrator of the decision to deny the claim by filing with the Administrator, within 60 days after such notice has been received by the claimant, a written request for such review. The claimant may review pertinent documents, and submit issues and comments in writing within the same 60 day period. If such request is so filed, such review shall be made by the Administrator within 60 days after receipt of such request or such later time as may be required by the circumstances, and the claimant shall be given written notice of the decision resulting from such review, which shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based. The Administrator shall have discretionary authority to determine eligibility for benefits and to construe the terms of the Plan; any such determination or construction shall be final and binding on all parties unless arbitrary and capricious.

Section 11.5 No Enlargement of Employee Rights. Nothing contained in the Plan shall be deemed to give any employee the right to be retained in the service of his Employer or to interfere with the right of his Employer or to discharge or retire any employee at any time.

Section 11.6 Payments on Behalf of Incompetent Participants or

Beneficiaries. In the event the Administrator shall find that any Participant or Beneficiary to whom a benefit is payable under the terms of this Plan is unable to care for his affairs because of accident or illness, is otherwise mentally or physically incompetent, or unable to give a valid receipt, the Administrator may cause the payments becoming due to such Participant or Beneficiary to be paid to another person for his benefit; under such circumstances, there shall be no responsibility on the part of the Employer, the Trustee, or the Administrator to follow the application of such payment. Any such payment shall be deemed made for the account of the Participant or Beneficiary and shall operate as a complete discharge of all liability therefor under this Plan by the Trustee, the Administrator, and the Employer.

Section 11.7 Indemnity for Liability. To the maximum extent allowed by law and to the extent not otherwise indemnified, the Company shall indemnify the Administrator, and any other current or former officer, director, or employee of the Company, against any and all claims, losses, damages, and expenses (including counsel fees) incurred by such persons and any liability, including any amounts paid in settlement with the Company's approval, arising from such person's action or failure to act with regard to Plan management or administration.

Section 11.8 Withholding for Taxes. Any distribution or withdrawal from the Trust Fund may be subject to withholding for taxes as required by law.

Section 11.9 Insurer. The Insurer shall be discharged from all liability for any amount paid to the Trustee or paid in accordance with the direction of the Administrator, and shall not be obliged to see to the distribution or further application of any money it so pays. The Insurer shall keep such records, make such identification of contracts, funds, and accounts within funds, and supply such information as may be necessary for the proper administration of the Plan under which it is carrying insurance benefits.

## ARTICLE XII. GENERAL PROVISIONS

Section 12.1 Unclaimed Payments. If a Participant or his Beneficiary fails to apprise the Administrator of changes in the address of the Participant or his Beneficiary, and the Administrator is unable to communicate with the Participant or his Beneficiary at the address last recorded by the Administrator within two years after any benefit becomes due and payable from the Plan to any Participant or Beneficiary, the Administrator may mail a notice by registered mail to the last known address of such person outlining the following action to be taken unless such person makes written reply to the Administrator within 60 days from the mailing of such notice: The Administrator may direct that such benefit and all further benefits with respect to such person shall be discontinued and all liability for the payment thereof shall terminate;

provided, however, that in the event of the subsequent reappearance of the Participant or Beneficiary prior to termination of the Plan, the benefits which were due and payable and which such person missed shall be paid in the form of a lump sum.

Section 12.2 Nondiscriminatory Action. Any discretionary acts to be taken under the provisions of this Plan by the Company, an Employer, or by the Administrator with respect to eligibility of Employees, contributions, or benefits shall be uniform in their nature and applicable to all those persons similarly situated.

Section 12.3 Receipt and Release. Subject to the provisions of the Act and to the extent permitted by the Act, any payments or distribution to any Participant, his Beneficiary, or his legal representative in accordance with this Plan shall be in full satisfaction of all claims against the Trust Fund, the Trustee, Administrator, and the Employer; the Trustee, the Employer, the Administrator, or any combination of them may require a Participant, his Beneficiary, or his legal representative to execute a receipt and release of all claims under this Plan upon a payment or distribution; and the form of any such receipt and release shall be determined by the Trustee, the Company, the Administrator, or any combination of them.

Section 12.4 Nonalienation of Benefits. No benefit under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, levy, or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber, levy upon, or charge the same shall be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements, or torts of the person entitled to such benefit. Notwithstanding the foregoing, the Administrator is expressly authorized to comply with the terms of a qualified domestic relations order and, to the extent provided in the order, to distribute all or any portion of a Participant's account to an alternate payee designated in the order at such time provided in the order, regardless of any prohibitions on distributions generally applicable to Participants and Beneficiaries at such time.

Section 12.5 Compensation Data from Employer. Each Employer shall furnish to the Administrator, on request, information showing the Compensation of its employees who are Participants and any other information necessary for proper administration of this Plan.

Section 12.6 Effect of Mistake. In the event of any mistake or misstatement with respect to the age, eligibility, service, Compensation, or participation of a Participant or Beneficiary, or the amount of distribution made or to be made to a Participant or Beneficiary, the Administrator shall, to the extent it deems appropriate, cause to be allocated, withheld, accelerated, or otherwise adjusted, such amounts as will in its judgment accord to such Participant or Beneficiary the credits to the Participant's account or the distributions to which he is entitled

under the Plan.

Section 12.7 Notice of Address. Each person entitled to benefits from the Trust Fund must file with the Employer or Administrator, in writing, his post office address and each change of post office address. Any communication, statement, or notice addressed to such a person at his latest reported post office address will be binding upon him for all purposes of the Plan and neither the Administrator nor the Employer, or Trustee, or Insurer shall be obliged to search for or ascertain his whereabouts.

Section 12.8 Severability. In the event any provision of the Plan shall be held invalid or illegal for any reason, any illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and enforced as if said illegal or invalid provision has never been inserted, and the Company shall have the privilege and opportunity to correct and remedy such questions of illegality or invalidity by amendment as provided in the Plan.

Section 12.9 Notices and Communications. All applications, notices, designations, changes in designations, elections, and other communications shall be in writing and on forms prescribed by the Administrator, and shall be mailed or delivered to such office as may be designated by the Administrator, and shall be deemed to have been given when received by the Administrator at such designated offices. Each notice, report, statement, or other communication directed to a Participant or Beneficiary shall be in writing and may be delivered in person or mailed, in which latter event it shall be deemed to have been delivered upon receipt by the Participant or Beneficiary.

Section 12.10 Waiver of Notice. Any notice required hereunder may be waived by the person entitled thereto.

Section 12.11 Applicable Law. To the extent not preempted by the Act, the Plan and all rights hereunder shall be governed, construed and administered in accordance with the laws of the State of Wisconsin. All contributions made hereunder shall be deemed to have been made in Wisconsin.

Section 12.12 Policy Restrictions. Every action sought to be taken by the Employer, the Administrator, the Trustee, a Participant or other insured, or a Beneficiary with respect to any Policy held under this Trust, shall be subject to the terms of the Policy and to the rules, procedures, and practices of the Insurer at such time, provided that the provisions of this Plan and the Trust Agreement shall not be deemed to be modified or altered by any such Policy.

#### ARTICLE XIII. AMENDMENT AND TERMINATION



Section 13.1 Company's Right to Amend and Terminate. The Company reserves the right at any time and from time to time by action of its Board to modify, amend or terminate, in whole or in part, any or all of the provisions of this Plan, subject to the Code and the Act. Except to the extent necessary to comply with applicable laws and regulations, no such amendment shall operate to deprive any Participant or Beneficiary of his nonforfeitable beneficial interest as it is constituted at the time of amendment or eliminate an optional form of distribution for a previously accrued benefit. No amendment hereof shall increase the duties or liabilities of the Trustee without its written consent.

Section 13.2 Termination of the Plan. Upon termination of the Plan in whole or in part, or upon complete discontinuance of contributions to the Plan, Participants' accounts shall remain 100% vested and nonforfeitable. Distribution shall be made to Participants at such time, and in such manner, as is determined by the Administrator.

Section 13.3 Merger, Consolidation, or Transfer. In the case of any merger or consolidation of the Plan with, or in the case of any transfer of assets or liabilities of the Plan to or from, any other plan, each Participant in the Plan would (if the Plan then is terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).

#### ARTICLE XIV. PARTICIPATION IN THE PLAN BY ADDITIONAL EMPLOYERS

Section 14.1 Participation in the Plan. Any Affiliate which desires to become an Employer hereunder may elect to become a party to the Plan by adopting the Plan for the benefit of any specified group of its Employees, effective as of the date specified in such adoption--

(a) by filing with the Company a certified copy of a resolution of the board of directors of the adopting Employer to that effect and such other instruments as the Company may require; and

(b) by the Company's execution of a written consent evidencing the Company's consent to said adoption.

Section 14.2 Plan and Trust Agreement Control. Effective as of the date on which any Affiliate becomes a party to the Plan, and so long as the Plan shall remain in effect as to such Employer, such Employer and its Employees shall be bound by the terms and conditions of the Plan and Trust Agreement.

HOLIDAY RAMBLER CORPORATION  
EMPLOYEES' RETIREMENT PLAN

AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 1989

RECITALS

- A. Effective as of January 1, 1984, Holiday Rambler Corporation (the "Employer") established a profit sharing plan known as the Holiday Rambler Corporation Employees' Retirement Plan to provide financial benefits to the Employer's eligible employees upon retirement and to their dependents and beneficiaries in the event of death or disability.
- B. The following instrument is intended to amend and restate the Plan.
- C. Society National Bank, Indiana, Elkhart, Indiana (the "Trustee") is the Trustee of the Plan.
- D. The Plan, as amended and restated, is designed to meet the requirements of the relevant provisions of federal law governing defined contribution retirement plans including, but not limited to, the Internal Revenue Code of 1986 (Code) and the Employee Retirement Security Act of 1974 (ERISA).
- E. The provisions of this Plan shall apply only to an Employee whose employment is terminated on or after January 1, 1989, which is the date that this amended Plan becomes operative.

TERMS AND CONDITIONS

ARTICLE I

Eligibility Requirements

1.01 Required Age and Service.

- (a) Plan Years Prior To January 1, 1990. For Plan Years beginning prior to January 1, 1990, an Employee, unless such Employee irrevocably elects in writing not to become a Participant pursuant to Section 1.04, shall become a Participant as of the January 1st following the date on which the Employee first completes the following eligibility requirements if the Employee is still employed on such entry date:

- (1) Attainment of age 18; and
- (2) Completion of 250 Hours of Service within any three

(3) consecutive month period within the same Plan Year

(b) Plan Years After December 31, 1989 But Prior To January 1, 1992. For Plan Years beginning after December 31, 1989, an Employee, unless such Employee irrevocably elects in writing not to become a Participant pursuant to Section 1.04, shall become a Participant as of the January 1 or July 1 following the date on which the Employee first completes the following eligibility requirements if the Employee is still employed on such entry date:

- (1) Attainment of age 18; and
- (2) Completion of one (1) Year of Service.

(c) Plan Years After December 31, 1991. For Plan Years beginning after December 31, 1991, an Employee, unless such Employee irrevocably elects in writing not to become a Participant pursuant to Section 1.04, shall become a Participant as of the January 1 or July 1 following the date on which the Employee first completes the following eligibility requirements:

- (1) Attainment of age 18; and
- (2) Completion of 500 Hours of Service within a six (6) consecutive month period of employment with the Employer.

1.02 Plan Information. The Plan Administrator shall make available to all Participants relevant information concerning their rights under this Plan.

1.03 Participant Cooperation. Each Participant agrees to:

- (a) look solely to the assets of the Plan for the payment of any benefits to which such Participant is entitled unless otherwise provided by law; and
- (b) execute and complete such applications or other forms required by the Trustee.

1.04 Election Not to Participate. An Employee may make an irrevocable election not to participate in the Plan upon the Employee's commencement of employment or upon the Employee's first becoming eligible to participate in the Plan. The Employee's election not to participate shall be in writing and shall specify whether the election is full or partial. A partial election is an election to have a specified percentage or amount of compensation contributed by the Employer to the Plan during the duration of the Employee's employment. Nothing

in this Section 1.04 shall be interpreted to preclude alteration in a Participant's Elective Deferrals pursuant to Section 2.02.

1.05 Rehired Participant. A former Participant whose employment with the Employer was terminated for any reason and who is rehired by the Employer shall re-enter the Plan as a Participant as of the first day of any calendar quarter following the date on which he is rehired unless he elects in writing not to become a Participant pursuant to the provisions of Section 1.04.

1.06 Transfers.

(a) Eligible to Ineligible Status. If a Participant is transferred from a class of Employees eligible to participate in the Plan to a class of Employees ineligible to so participate, such transferred Participant shall be suspended from participation in the Plan. Suspension shall mean that such Participant does not share in the allocation of any Employer Contributions or forfeitures for the portion of the Plan Year or Plan Years that the Participant is a member of an ineligible class of Employees. A suspended Participant shall, however, continue to receive credit for Years of Vesting Service for service with the Employer as a member of an ineligible class of Employees. A suspended Participant's Account shall continue to be adjusted for changes in market value pursuant to Section 2.06. Distribution of the Participant's Account shall be made upon the Participant's termination of employment with the Employer. If the suspended Participant is ever transferred back to a class of Employees eligible to participate in the Plan, the Participant shall immediately recommence full participation in the Plan upon the date of such transfer.

(b) Ineligible to Eligible Status. If an Employee of the Employer is transferred from a class of Employees not eligible to participate in this Plan to a class of Employees eligible to participate in this Plan, such Employee's period of employment with the Employer shall be counted for vesting and eligibility purposes. After such an Employee becomes a Participant, such Employee's rights to an allocation of Employer Contributions and forfeitures will be determined under the provisions of Section 2.03 and will be based only on Compensation earned while in an eligible class of Employees.

## ARTICLE II

### Contributions and Adjustments to Accounts

2.01 Kinds of Contributions. The Plan permits the following five (5) kinds of contributions:

- (a) Elective Deferral Contributions as explained in Section 2.02(a);
- (b) Qualified Matching Contributions as explained in Section 2.02(e);
- (c) Qualified Nonelective Contributions as explained in Section 2.02(e);
- (d) Nondiscretionary Employer Matching Contributions as explained in Section 2.03(a); and
- (e) Discretionary Employer Matching Contribution as explained in Section 2.03(b).

The Trustee shall establish Accounts for each Participant. Each Participant's Account shall reflect and account for the five (5) different kinds of contributions which may be made under the Plan. The maintenance of Accounts is only for accounting purposes and segregation of the assets of the Plan to such Accounts shall not be required.

2.02 Elective Deferrals.

- (a) Amount. Each Plan Year a Participant may choose to enter into a written salary reduction agreement with the Employer. This agreement will apply to all payroll periods within the Plan Year. The terms of the salary reduction agreement shall provide that the Participant agrees to accept a reduction in a salary from the Employer equal to any whole percentage of his Compensation for the Plan Year not less than one percent (1%) nor more than sixteen percent (16%) of such Compensation. In addition, no Participant shall be permitted to have any Elective Deferrals made under the Plan during any calendar year in excess of the dollar limitation contained in Code Section 402(g) in effect at the beginning of such calendar year. The Employer shall contribute the Participant's Elective Deferrals to the Plan for each Plan Year. A Participant shall at all times have a 100 percent Vested Interest in his Elective Deferrals, Qualified Nonelective Contributions, and Qualified Matching Contributions and any earnings on them.
- (b) Deadline for Election. Each Participant who decides to enter into a salary reduction arrangement must sign and file with the Plan Administrator a written salary reduction agreement on forms provided by the Plan Administrator. The

written agreement must be filed at least 14 days prior to the change date for which it is to become effective. A Participant may alter the percentage of his Elective Deferrals on the change dates of January 1, April 1, July 1, or October 1. Except as provided in Section 2.02(c), the salary reduction agreement may not otherwise be changed without the written consent of the Plan Administrator.

- (c) Discontinuance of Elective Deferrals. A Participant may elect at any time to discontinue his salary reduction agreement for a Plan Year by filing a written notice of discontinuance with the Plan Administrator on forms provided by the Plan Administrator. The discontinuance shall be effective for the first payroll period occurring on or after the date that the election is received by the Plan Administrator. A Participant who has discontinued his salary reduction agreement for a Plan Year shall not be permitted to enter into a new salary reduction agreement until a change date specified in Section 2.02(b).

Effective January 1, 1994, a Participant whose employment is terminated with the Employer shall be considered to have automatically elected to discontinue his salary reduction agreement as of the date that the termination becomes effective. Compensation paid by the Employer to such Participant after such effective date of termination shall not be subject to any salary reduction.

- (d) ADP Tests. The Plan Administrator or the Employer may amend or revoke a salary reduction agreement with any Participant at any time if either the Plan Administrator or the Employer determines that such revocation or amendment is necessary to prevent a Participant's annual addition from exceeding permissible limits or to meet at least one of the following discrimination tests of Section 401(k) of the Code:

- (1) 1.25 Test. The Actual Deferral Percentage ("ADP") for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ADP for Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 1.25; or
- (2) 200% Test. The ADP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ADP for Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 2, provided that the ADP for Participants who are Highly Compensated Employees does not exceed the ADP for Participants who are Nonhighly Compensated Employees by more than two (2) percentage points.

(3) Special Rules:

- (i) The ADP for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Elective Deferrals (and Qualified Nonelective Contributions or Qualified Matching Contribution, or both, if treated as Elective Deferrals for purposes of the ADP test) allocated to his accounts under two or more arrangements described in Code Section 401(k), that are maintained by the Employer, shall be determined as if such Elective Deferrals (and, if applicable, such Qualified Nonelective Contributions or Qualifying Matching Contributions, or both) were made under a single arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different Plan Years, all cash or deferred arrangements ending with or within the same calendar year shall be treated as a single arrangement. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under the regulations under Code Section 401(k).
- (ii) If this Plan satisfies the requirements of Code Sections 401(k), 401(a), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this section shall be applied by determining the ADP of Employees as if all such plans were a single plan. For Plan Years beginning after December 31, 1989, plans may be aggregated in order to satisfy Code Section 401(k) only if they have the same Plan Year.
- (iii) For purposes of determining the ADP of a Participant who is a 5-percent owner or one of the ten most highly paid Highly Compensated Employees, the Elective Deferrals (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both, if treated as Elective Deferrals for purposes of the ADP test) and Compensation of such Participant shall include the Elective Deferrals (and, if applicable, Qualified Nonelective Contributions and Qualified Matching Contributions, or both) and Compensation for the Plan Year of Family Members. Family



Members with respect to such Highly Compensated Employee shall be disregarded as separate employees in determining the ADP both for Participants who are Nonhighly Compensated Employees and for Participants who are Highly Compensated Employees.

- (iv) For purposes of determining the ADP test, Elective Deferrals, Qualified Nonelective Contributions and Qualified Matching Contributions must be made before the last day of the twelve-month period immediately following the Plan Year to which contributions relate.
  - (v) The Employer shall maintain records sufficient to demonstrate satisfaction of the ADP test and the amount of Qualified Nonelective Contributions or Qualified Matching Contributions, or both, used in such test.
  - (vi) The determination and treatment of the ADP amounts of any Participant shall satisfy such other requirements as prescribed by the Secretary of the Treasury.
- (e) Qualified Nonelective and Qualified Matching Contributions. The Employer may elect to make Qualified Nonelective Contributions or Qualified Matching Contributions, or both, to the extent necessary to meet the ADP test or the ACP Test, or both, pursuant to regulations under the Code. Subject to such other requirements as may be prescribed by the Secretary of the Treasury, the amount of such contributions taken into account as Elective Deferrals shall be only those amounts necessary to meet the ADP tests set forth in Section 2.02(d).
- (f) Excess Elective Deferrals. A Participant may assign to the Plan any Excess Elective Deferrals made during the Participant's taxable year by notifying the Plan Administrator on or before the March 1st following the close of such taxable year of the amount of the Excess Elective Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferrals made to this Plan and any other plans of the Employer. Excess Elective Deferrals, plus any income and minus any loss allocable thereto shall be distributed no later than April 15 to any Participant to whose Account Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year.

Excess Elective Deferrals shall be adjusted for any income or loss up to the date of distribution. The income or loss allocable to the Excess Elective Deferrals is the sum of:

- (1) income or loss allocable to the Participant's Elective Deferral account for the taxable year multiplied by a fraction. The numerator of the fraction is such Participant's Excess Elective Deferrals for the year and the denominator is the Participant's account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year; and
  - (2) ten percent (10%) of the amount determined under (1) multiplied by the number of whole calendar months between the end of the Participant's taxable year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.
- (g) Excess Contributions. Excess Contributions, plus any income and minus any loss allocable to them shall be distributed no later than the last day of each Plan Year to Participants to whose accounts such Excess Contributions were allocated for the preceding Plan Year. If such excess amounts are not distributed within 2-1/2 months after the last day of the Plan Year in which such excess amounts arose, a ten percent (10%) excise tax will be imposed on the Employer maintaining the Plan with respect to such amounts. Such distributions shall be made to Highly Compensated Employees on the basis of the respective portions of the Excess Contributions attributable to each of such Employees. Excess Contributions of Participants who are subject to the Family Member aggregation rules of Code Section 414(q) (6) shall be allocated among the Family Members in proportion to the Elective Deferrals (and amounts treated as Elective Deferrals) of each Family Member that is combined to determine the combined ADP. The following shall also apply:
- (1) Annual Addition. Excess Contributions (including the amounts recharacterized) shall be treated as annual additions under the Plan.
  - (2) Determination of Income or Loss. Excess contributions shall be adjusted for any income or loss up to the date of distribution. The income or loss allocable to Excess Contributions is the sum of: (i) income or loss allocable to the Participant's Elective Deferral account (and, if applicable, the Qualified Nonelective Contribution account or the Qualified

Matching Contributions account or both) for the Plan Year multiplied by a fraction. The numerator of such fraction is such Participant's Excess Contributions for the year and the denominator is the Participant's account balance attributable to Elective Deferrals (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both, if any of such contributions are included in the ADP test) without regard to any income or loss occurring during such Plan Year; and (ii) ten percent (10%) of the amount determined under (i) multiplied by the number of whole calendar months between the end the Plan Year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.

- (3) Accounting for Excess Contributions. Excess Contributions shall be distributed from the Participant's Elective Deferral account and Qualified Matching Contribution account (if applicable) in proportion to the Participant's Elective Deferrals and Qualified Matching Contributions (to the extent used in the ADP test) for the Plan Year. Excess Contributions shall be distributed from the Participant's Qualified Nonelective Contribution account only to the extent that such Excess Contributions exceed the balance in the Participant's Elective Deferral account and Qualified Matching Contribution account.

(h) Excess Aggregate Contributions:

- (1) General. Notwithstanding any other provisions of this Plan, Excess Aggregate Contributions, plus any income and minus any loss allocable thereto, shall be forfeited, if forfeitable, or if not forfeitable, distributed no later than the last day of each Plan Year to Participants to whose accounts such Excess Aggregate Contributions were allocated for the preceding Plan Year. Excess Aggregate Contributions of Participants who are subject to the Family Member aggregation rules of Section 414(q)(6) of the Code shall be allocated among the Family Members in proportion to the Matching Contributions (or amounts treated as Matching Contributions) of each Family Member that is combined to determine the combined ACP. If such Excess Aggregate Contributions are distributed more than 2-1/2 months after the last day of the Plan Year in which such excess amounts arose, a ten percent (10%) excise tax will be imposed on the Employer maintaining the plan with respect to those amounts.

Excess Aggregate Contributions shall be treated as annual additions under the Plan.

- (2) Determination of Income or Loss. Excess Aggregate Contributions shall be adjusted for any income or loss up to the date of distribution. The income or loss allocable to Excess Aggregate Contributions is the sum of: (i) income or loss allocable to the Participant's Matching Contribution account (if any, and if all amounts therein are not used in the ADP test) and, if applicable, Qualified Nonelective Contribution account and Elective Deferral account for the Plan Year multiplied by a fraction. The numerator of such fraction is such Participant's Excess Aggregate Contributions for the year and the denominator is the Participant's Account balance(s) attributable to Contribution Percentage Amounts without regard to any income or loss occurring during such Plan Year; and (ii) ten percent (10%) of the amount determined under (i) multiplied by the number of whole calendar months between the end of the Plan Year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.
  - (3) Forfeitures of Excess Aggregate Contributions. Forfeitures of Excess Aggregate Contributions shall be reallocated to the accounts of Nonhighly Compensated Employees pursuant to the provisions of Section 2.05.
  - (4) Accounting for Excess Aggregate Contributions. Excess Aggregate Contributions shall be forfeited, if forfeitable or distributed on a pro rata basis from Participant's Matching Contribution account, and Qualified Matching Contribution account (and, if applicable, the Participant's Qualified Nonelective Contribution account or Elective Deferral account, or both).
- (i) Permissible Distributions. The Participant's Account consisting of Elective Deferrals, Qualified Matching Contributions, and Qualified Nonelective Employer Contributions and earnings on such amounts may be distributed after the Participant's attainment of age 59-1/2, death, becoming Disabled or separation from service. The Participant's Account shall be distributed in accordance with Articles III, IV and V. Such amounts may also be distributed upon the occurrence of any of the following events:
- (1) Plan Termination. Termination of the Plan by the Employer without the establishment of another defined

contribution plan, other than an employee stock ownership plan (as defined in Section 4975(e) or Section 409 of the Code) or a simplified employee pension plan as defined in Code Section 408(k).

- (2) **Disposition of Assets.** The disposition by the Employer to an unrelated corporation of substantially all of the assets (within the meaning of Code Section 409(d)(2)) used in a trade or business of the Employer if such corporation continues to maintain this Plan after the disposition, but only with respect to employees who continue employment with the corporation acquiring such assets.
- (3) **Disposition of Subsidiary.** The disposition by the Employer to an unrelated entity of such corporation's interest in a subsidiary (within the meaning of Section 409(d)(3) of the Code) if such corporation continues to maintain this Plan, but only with respect to employees who continue employment with such subsidiary.
- (4) **Hardship.** The hardship of the Participant as described in Section 3.05.

All distributions that may be made pursuant to one or more of the foregoing distributable events are subject to the spousal and participant consent requirements (if applicable) contained in Sections 411(a)(11) and 417 of the Code. In addition, distributions after March 31, 1988, that are triggered by paragraphs (1), (2), or (3) above must be made in a lump sum.

## 2.03 Employer Contributions.

For each Plan Year the Employer shall make the Employer Contributions described in Section 2.03(a) and may make the Employer Contributions described in Section 2.03(b):

### (a) Matching Employer Contribution.

- (1) **General.** For each Plan Year during which the Employer does not have negative retained earnings, the Employer shall make a Matching Employer Contribution on or before the time for filing the Employer's tax return for such Plan Year. The amount of any such Matching Employer Contribution shall be equal to one hundred percent (100%) of the first three percent (3%) of Compensation deferred by Qualifying Participants who made Elective Deferrals under the salary reduction agreements described in Section 2.02 for the Plan

Year. The amount shall be calculated before contributions to the Plan and prior to deductions for taxes on income. Calculation shall be done in accordance with generally accepted accounting principles. Any Matching Employer Contributions must meet the nondiscrimination requirements of Code Section 401(a)(4) and the Average Contribution Percentage (ACP) test of Code Section 401(m).

The ACP for Participants who are Highly Compensated Employees for each Plan Year and the ACP for Participants who are Non-Highly Compensated Employees for the same Plan Year must satisfy one of the following tests:

- (i) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Non-highly Compensated Employees for the same Plan Year multiplied by 1.25; or
  - (ii) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Non-highly Compensated Employees for the same Plan Year multiplied by two (2), provided that the ACP for Participants who are Highly Compensated Employees does not exceed the ACP for Participants who are Non-highly compensated Employees by more than two (2) percentage points.
- (2) Special Rules. The following special rules shall apply:
- (i) If the sum of the ADP and ACP of those Highly Compensated Employees subject to either or both tests under this Plan exceeds the Aggregate Limit, then the ACP of those Highly Compensated Employees will be reduced (beginning with such Highly Compensated Employee whose ACP is the highest) so that the limit is not exceeded. The amount by which each Highly Compensated Employee's Contribution Percentage Amounts is reduced shall be treated as an Excess Aggregate Contribution. The ADP and ACP of the Highly Compensated Employees are determined after any corrections required to meet the ADP and ACP tests. Multiple use does not occur if both the ADP and ACP of the Highly Compensated Employees does not exceed 1.25 multiplied by the ADP and

ACP of the Non-highly Compensated Employees.

- (ii) For purposes of this section, the Contribution Percentage for any Participant who is a Highly Compensated Employee who is eligible to have Contribution Percentage Amounts allocated to his account under two or more plans described in Section 401(a) of the Code, or arrangements described in Section 401(k) of the Code that are maintained by the Employer, shall be determined as if the total of such Contribution Percentage Amounts was made under each plan. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different plan years, all cash or deferred arrangements ending with or within the same calendar year shall be treated as a single arrangement. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under regulations under Code Section 401(k).
  
- (iii) If this Plan satisfies the requirements of Sections 401(m), 401(a)(4) or 410(b) of the Code only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this section shall be applied by determining the Contribution Percentage of Employees as if all such plans were a single plan. For plan years beginning after December 31, 1989, plans may be aggregated in order to satisfy Section 401(m) of the Code only if they have the same Plan Year.
  
- (iv) For purposes of determining the Contribution percentage of a Participant who is a five-percent owner or one of the ten most highly-paid Highly Compensated Employees, the Contribution Percentage Amounts and Compensation of such Participant shall include the Contribution Percentage Amounts and Compensation for the Plan Year of Family Members. Family Members, with respect to Highly Compensated Employees, shall be disregarded as separate employees in determining the Contribution Percentage both for Participants who are Non-highly Compensated Employees and for Participants who are Highly Compensated Employees.
  
- (v) For purposes of determining the Contribution



Percentage test, Matching Contributions and Qualified Nonelective Contributions will be considered made for a Plan Year if made no later than the end of a twelve-month period beginning on the day after the close of the Plan Year.

- (vi) The Employer shall maintain records sufficient to demonstrate satisfaction of the ACP test and the amount of Qualified Nonelective Contributions or Qualified matching Contributions, or both, used in such test.
  - (vii) The determination and treatment of the Contribution Percentage of any Participant shall satisfy such other requirements as may be prescribed by the Secretary of the Treasury.
- (b) Discretionary Matching Contributions.
- (1) In addition to the Matching Employer Contribution for a Plan Year set forth in Section 2.02(a), for each Plan Year in which the Employer has a Net Profit, the Employer, in its sole discretion, may make a discretionary Matching Contribution by increasing the percentage of its Matching Employer Contribution on the first three percent (3%) of Compensation deferred by Qualifying Participants who made Elective Deferrals under the salary reduction agreements described in Section 2.02 for the Plan Year.
  - (2) For each Plan Year in which the Employer has negative retained earnings, the Employer may, in its sole discretion, make a Matching Employer Contribution to Qualifying Participants who made Elective Deferrals under the salary reduction agreements described in Section 2.02 for the Plan Year in such amounts as the Employer shall determine.
- (c) Special Allocation Rules.
- (1) For allocation purposes, a Qualifying Participant is a Participant who:
    - (i) is an Employee of the Employer on the last day of the Plan Year,
    - (ii) has died during the Plan Year,
    - (iii) became Disabled during the Plan Year,
    - (iv) terminated employment with the Employer during

the Plan Year after attainment of Normal Retirement Age, or

- (v) terminated employment with the Employer during the Plan Year due to the sale by the Employer to an entity that is not an Affiliated Employer of a subsidiary or unincorporated division whose employees were Participants in the Plan prior to such sale.
- (2) The provisions of this paragraph shall be effective for a Plan Year if, but for the application of this paragraph, the Plan would fail to satisfy the coverage rules of either Code Section 401(a)(26) or Code Section 410(b) for the Plan Year. In such event, the requirements that a Participant must be an be employed by the Employer on the last day of the Plan Year in order to receive an allocation shall be disregarded by allocating Employer Contributions to Participants who would otherwise be excluded on the following basis:
- (i) First, an allocation of the Employer Contributions shall be made to the Accounts of certain Participants who were not Highly Compensated Employees and who were employed by the Employer on the last day of the Plan Year. The allocation shall be made to such Participants one at a time in order, according to the number of Hours of Service credited to such Participants during the Plan Year, beginning with the Participant credited with the largest number of Hours of Service for the Plan Year. The allocation shall continue until the coverage rules are satisfied or until all such Participants have received an allocation, whichever occurs first.
  - (ii) If the Plan fails to satisfy the coverage rules for a Plan Year after the application of the preceding subparagraph, then an allocation of the Employer Contributions shall be made to the Accounts of certain Participants who were Employees during the Plan Year but who were not employed by the Employer on the last day of the Plan Year. The allocation shall be made one at a time in the same order and manner described in the preceding subparagraph.
- (3) A Participant whose employment is terminated with the Employer shall be considered to have automatically elected to discontinue his salary reduction agreement

as of the date that the termination becomes effective. Compensation paid by the Employer to such Participant after such effective date of termination shall not be subject to any salary reduction.

(d) Maximum Amount of Employer Contributions. For purposes of determining the maximum amount which may be contributed for a Plan Year, both the Elective Deferrals permitted by Section 2.02(a) and the Employer Contributions permitted by Section 2.02 and this Section 2.03 shall be considered together. In no event, however, shall the Employer contribute more than the maximum amount for such Plan Year which may be contributed on a deductible basis for federal income tax purposes including any deductible amounts which may be carried forward or backward under the applicable provisions of the Code. Contributions for each Plan Year shall be paid not later than the latest permissible date for the making of such contributions on a deductible basis for such Plan Year for federal income and excess profits tax purposes as may be prescribed from time to time by the applicable provisions of the Code. Except as otherwise specified, the Employer shall make all contributions to the Plan without regard to current or accumulated earnings and profits for the taxable year or years ending with or within such Plan Year. Notwithstanding the foregoing, the Plan shall continue to be designed to qualify as a profit sharing plan for purposes of Code Sections 401(a), 402, 412 and 417. The Employer's determination of its contributions shall be binding on all Participants, the Trustee and the Administrator. The Trustee shall have no right or duty to inquire into the amount of the Employer Contributions or the method used in determining the amount of such contribution but shall be accountable only for the funds actually received by it.

2.04 Employee Contributions. No voluntary contributions by Participants shall be permitted other than Elective Deferrals.

2.05 Forfeitures. Any forfeitures allocable for a Plan Year shall first be used to satisfy the amount of any Employer Matching Contributions for such Plan Year or for future Plan Years.

2.06 Adjustment of Accounts.

(a) General. As of the end of each Plan Year, or more frequently as determined by the Plan Administrator, the Trustee shall adjust the net credit balances in the Accounts of Participants in the Trust, upward or downwards pro rata, so that the aggregate of such net credit balances will equal the net worth of the trust fund as of the

valuation date, using fair market values as determined by the Trustee and reported to the Plan Administrator, after such net worth has been reduced by any expenses, withdrawals, distributions and transfers chargeable to the Trust which have been incurred but not yet paid. All determinations made by the Trustee with respect to fair market values and net worth shall be made in accordance with generally accepted principles of trust accounting and such determinations when so made by the Trustee and any determinations by the Plan Administrator based on them shall be conclusive and binding upon all persons having an interest under the Plan. If fair market value is not available for certain assets, the Trustee shall use fair appraised value or such other valuation which, in the opinion of the Trustee, best reflects the value of such Plan assets.

(b) Special Valuations.

- (1) If any of the assets of the Plan are invested with an insurance company or other investment manager, such investment manager shall render an accounting with respect to such Plan assets. Such accounting shall be delivered to the Trustee and the Plan Administrator as soon as feasible after the valuation date or dates established by the Plan Administrator. The accounting shall include complete information about all amounts for which such investment manager is responsible.
- (2) If the Plan Participants are directing the investment of all or a portion of their Accounts, the Trustee shall allocate earnings and losses for the directed portion of each Participant's Account based on those investments selected by each Plan Participant.

2.07 Limitations on Annual Addition to Account. The following rules shall apply concerning the maximum amount which may be allocated to a Participant under the Plan:

- (a) For purposes of the plan, "Annual Addition" shall mean the sum of the following amounts allocated to a Participant's Account for the Limitation Year:
  - (1) Employer contributions,
  - (2) Employee contributions,
  - (3) Forfeitures, and
  - (4) Amounts allocated, after March 31, 1984, to an individual medical account, as defined in Section

415(1)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer and amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits, allocated to the separate account of a key employee, as defined in Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.

- (b) The maximum Annual Addition that may be contributed or allocated to a Participant's account under the Plan for any Limitation Year shall not exceed the lesser of:
  - (1) the Defined Contribution Dollar Limitation, or
  - (2) 25 percent of the Participant's compensation, within the meaning of Section 415(c)(3) of the Code for the Limitation Year.
- (c) The compensation limitation referred to in Section 2.07(b)(ii) shall not apply to any contribution for medical benefits (within the meaning of Code Section 401(h) or Section 419A(f)(2)) after separation from service which is otherwise treated as an Annual Addition under Section 415(1)(1) or Section 419A(d)(2) of the Code.
- (d) For purposes of Section 2.07(b), "Defined Contribution Dollar Limitation" shall mean \$30,000 or, if greater, one-fourth (1/4) of the defined benefit dollar limitation set forth in Code Section 415(b)(1) as in effect for the Limitation Year.
- (e) If, due to reasonable error in estimating a Participant's annual compensation, or due to the allocation of forfeitures or under such other limited facts and circumstances which the Commissioner of Internal Revenue finds justify the availability of relief, any annual addition in excess of the limitations set forth in this Section 2.07 will be disposed of as follows:
  - (1) Any Elective Deferrals made by the Participant will be returned to the Participant as permitted by Treas. Reg. Section 1.415-6(b)(6)(iv).
  - (2) If after the application of paragraph (1) an excess amount still exists and the Participant is covered by the Plan at the end of the Limitation Year, the excess amount in the Participant's Account will be used to reduce Employer Contributions (including any

allocation of forfeitures) for such Participant in the next Limitation Year, and each succeeding Limitation Year if necessary.

- (3) If after the application of paragraph (2) an excess amount still exists and the Participant is not covered by the Plan at the end of the Limitation Year, the excess amount will be held unallocated in a suspense account. The suspense account will be applied to reduce future Employer Contributions for all remaining Participants in the next Limitation Year, and each succeeding Limitation Year if necessary.
- (4) If a suspense account is in existence at any time during a Limitation Year pursuant to this Section, it will not participate in the allocation of the Plan's investment gains and losses. If a suspense account is in existence at any time during a particular Limitation Year, all amounts in the suspense account must be allocated and reallocated to Participants' Accounts before any Employer Contributions may be made to the Plan for the Limitation Year. Excess amounts may not be distributed to Participants or former Participants.

### ARTICLE III

#### Retirement, Disability and Hardship Benefits

3.01 Retirement and Disability Distributions. A Participant shall be entitled to distribution of his Account upon the occurrence of any one of the following events:

- (a) Retirement from the service of the Employer after attainment of Normal Retirement Age.
- (b) Retirement from the service of the Employer as a result of becoming Disabled.

The amount of the Account to be distributed to the Participant shall be determined as of the day of the Plan Year immediately preceding the date the distribution is scheduled to take place. The amount of the distribution shall not be entitled to any share of the earnings of the Plan or interest from the period between such valuation date and the date of distribution. However, the amount of the distribution shall include any Elective Deferrals made by the Participant between the valuation date and the date of distribution. A Participant's right to his Account shall be nonforfeitable within the meaning of Code Section 411(a)(1) upon either attaining Normal Retirement Age while in the service of the Employer or becoming Disabled while

in the service of the Employer.

3.02 Form of Benefit Payment. The Account shall be paid to the Participant in one of the following forms as the Participant shall select:

- (a) A single sum, or
- (b) Equal monthly, quarterly, semi-annual, or annual installments from the Plan.
- (c) Direct transfer of the Participant's Account by the Trustee to the trustee of another retirement plan which is qualified to receive such a transfer under the relevant provisions of the Code or a Direct Rollover pursuant to the provisions of Article VI.

If the Participant's Account has investments acquired by the Plan pursuant to the Participant's exercise of a power of self-direction, the distribution to the Participant of his vested Account shall include all such investments or the net proceeds of such investments.

3.03 Commencement of Benefits. Unless the Participant otherwise elects by submitting to the Plan Administrator a written statement, signed by the Participant which describes the benefit and a later date on which the payment of such benefits shall commence, payment of benefits shall begin no later than the one hundred twentieth (120th) day after the close of the Plan Year in which the Participant becomes entitled to distribution of benefits under Section 3.01. There are four exceptions to this rule:

- (a) If the Plan Administrator has been unable to locate the Participant after making reasonable efforts to do so, to the extent not prohibited by the Code or ERISA and valid regulations thereunder, the beginning of such distribution may be delayed until 60 days after such Participant has been located. Such distribution will be retroactive to 60 days after the end of the Plan Year in which retirement or disability occurs. No interest or allocation of earnings shall be due to a Participant for the period commencing on the valuation date described in Section 3.01 and ending on the date the distribution is made.
- (b) If a Participant has not been located within seven (7) years from the date that such Participant's benefits under this Plan first become payable, the Participant's Account shall be deemed abandoned and shall be used to reduce future Employer Contributions to the Plan. If at any time a Participant whose Account was deemed abandoned and so



used is located, the Employer shall restore the amount of such Account to the Trustee for distribution to the Participant. The Participant shall not be entitled to any interest or allocation of earnings on such amount from the date of abandonment to the date of distribution.

- (c) The Participant may elect to receive a distribution of the Participant's Account at any time after the Participant's termination of employment with the Employer. If the value of a Participant's vested Account balance derived from Employer and Employee Contributions either exceeds \$3,500.00 as of the day of the Plan Year on which the Participant's service terminated or at the time of any prior distribution exceeded \$3,500.00, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. An Account Balance is immediately distributable if any part of the Account Balance could be distributed to the Participant before the Participant attains or would have attained the later of Normal Retirement Age or age 62. The consent of the Participant shall be obtained in writing within the 90-day period ending on the annuity starting date. The annuity starting date is the first day of the first period for which an amount is paid as an annuity or in any other form. The Plan Administrator shall notify the Participant (or surviving spouse) of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code Section 417(a)(3), and shall be provided no less than thirty (30) days and no more than ninety (90) days prior to the annuity starting date.
- (d) No Participant will be permitted to defer the commencement of benefits beyond the April 1st in the calendar year immediately following the calendar year in which the Participant attains age seventy and one-half (70-1/2).

3.04 Hardship Withdrawal. Distributions of Elective Deferrals made by the Participant (and any earnings credited to a Participant's Account as of the end of the last Plan Year ending before July 1, 1989) may be made on account of financial hardship if the distribution is necessary in light of the immediate and heavy financial needs of the Participant. Such a distribution shall not exceed the amount required to meet the immediate financial need created by the hardship and may not be made to the extent that other financial resources of the Participant are reasonably available.

- (a) A distribution will be deemed to be made on account of an immediate and heavy financial need of the Participant only if the distribution is on account of:
- (1) Expenses incurred or necessary for medical care, described by Code Section 213(d), of the Participant, the Participant's spouse, or any dependents of the Participant (as defined in Code Section 152);
  - (2) The need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence;
  - (3) Payment of tuition for the next semester or quarter of post-secondary education for the Participant, the Participant's spouse, children, or dependents; or
  - (4) Purchase (excluding mortgage payments) of a principal residence for the Participant.
- (b) A distribution will be treated as necessary to satisfy an immediate and heavy financial need of the Participant if all of the following requirements are satisfied:
- (1) The distribution is not in excess of the amount of the immediate and financial need of the Participant (including amounts necessary to pay any federal, state or local income tax or penalties reasonably anticipated to result from the distribution);
  - (2) The Employee has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all plans maintained by the Employer;
  - (3) The Participant's Elective Deferral contributions will be suspended for twelve (12) months after receipt of the hardship distribution and may resume as of the first day of the calendar quarter (January 1, April 1, July 1 or October 1) immediately following the expiration of such twelve (12) month suspension period;
  - (4) The Participant may not make Elective Deferrals for the Participant's taxable year immediately following the taxable year of the hardship distribution in excess of the applicable limit under Code Section 402(g) for such next taxable year less the amount of such Participant's Elective Deferrals for the taxable year of the hardship distribution; and

- (5) The Participant shall not be eligible to receive a Matching Employer Contribution for the Plan Year during which the Participant receives a hardship distribution.
- (c) The determination of existence of financial hardship, and the amount required to be distributed to meet the need created by the hardship, shall be made by a person or persons designated by the Plan Administrator.
- (d) All determinations regarding financial hardship shall be made in accordance with written procedures that are established by the Plan Administrator and applied in a uniform and nondiscriminatory manner. Such written procedures shall specify the requirements for requesting and receiving distributions on account of hardship, including what forms must be submitted and to whom.
- (e) Processing of applications and distributions of amounts under this Section, on account of a bona fide financial hardship, must be made as soon as administratively feasible.

#### ARTICLE IV

##### Death Benefits

4.01 Amount of Death Benefit. The Beneficiary of a Participant who dies prior to receiving benefits under the Plan shall be entitled to receive death benefits as provided in this Article IV. A Beneficiary shall be 100% vested in a deceased Participant's Account if the Participant dies while in the service of the Employer, or if a retired or disabled Participant dies after termination of employment but before the commencement of any retirement or disability benefits under this Plan. A Beneficiary of a Section 5.01 terminated Participant who dies after termination of employment (but prior to payment of benefits) shall be vested in the Account of such Participant in the same percentage that such deceased Participant was vested pursuant to the provisions of Section 5.01 of the Plan.

4.02 Payment of Death Benefit. The amount of the Account payable to a Beneficiary under this Article IV shall be determined as of the day of the Plan Year immediately preceding the date the distribution is scheduled to take place. The amount of the distribution shall not be entitled to any share of the earnings of the Plan or interest from the period between such valuation date and the date of distribution. However, the amount of the distribution shall include any Elective Deferrals made by the Participant between the valuation date and the date

of distribution. The time for payment of benefits to the Beneficiary of a deceased Participant shall be governed by the provisions of Article VI. The form of such benefit shall be a lump sum distribution unless the Beneficiary is the Participant's surviving spouse. If the Beneficiary is the Participant's surviving spouse, such Beneficiary may elect either of the options set forth in Section 3.02. If the Participant's Account has investments acquired by the Plan pursuant to the Participant's exercise of a power of self-direction, the distribution to the Beneficiary of the Participant's vested Account shall include all such investments or the net proceeds of such investments.

4.03 Beneficiary Designations. The Participant's vested Account will automatically be paid to the Participant's surviving spouse. However, if there is no surviving spouse or if the surviving spouse has already consented to another Beneficiary in a writing witnessed by a plan representative or notary public, then the Participant's vested Account will be paid to the Participant's designated Beneficiary. The term "surviving spouse" includes the former spouse of a Participant to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code. Subject to the spousal consent provisions of this Section 4.03, each Participant shall have the right to designate and change his Beneficiary or contingent Beneficiary. Such right shall be exercised by the Participant in writing on forms provided by the Plan Administrator. If there is no surviving spouse and the Participant has not made an effective Beneficiary designation, then the Participant's surviving children, both natural and adopted, shall be deemed to be equal beneficiaries. If there are no surviving children, the estate of the Participant shall be the Beneficiary.

## ARTICLE V

### Termination Benefits

5.01 Vesting Schedule.

- (a) Participation Prior To January 1, 1990. This provision shall apply to a Participant who became a Participant in the Plan prior to January 1, 1990. Except as provided in Section 5.04, each such Participant shall have at all times a 100% vested interest in such Participant's Account.
- (b) Participation after December 31, 1989. This provision shall apply to a Participant who becomes a Participant in the Plan after December 31, 1989. Each such Participant unless he dies, becomes Disabled or terminates employment after Normal Retirement Age shall have a Vested Interest in

his Account derived from Employer Contributions pursuant to Section 2.03 in accordance with the following schedule:

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

5.02 Determination of Vested Benefit. The amount of the Participant's vested Account shall be determined as of the last day of the Plan Year in which the Participant's termination of employment takes place unless the Trustee has selected a more recent valuation date pursuant to Section 2.06. The amount of the distribution shall not be entitled to any share of the earnings of the Plan or interest from the period between such valuation date and the date of distribution. However, the amount of the distribution shall include any Elective Deferrals made by the Participant between the valuation date and the date of distribution. The value of both the vested and nonvested portions of the Account of such a terminated Participant shall be continue to be maintained and adjusted pursuant to Section 2.06 until the vested portion of such Account is paid to the Participant under the provisions of Section 5.03, and until the nonvested portion of the Account is redistributed pursuant to the forfeiture provisions of this Section 5.02 and Section 2.05. If a Participant is not reemployed by the end of the fifth Plan Year immediately following the Plan Year in which termination of employment took place and no distribution of his vested Account balance has taken place, the nonvested portion of such Participant's Account shall be closed and the forfeiture shall be used as of the end of such Plan Year as provided in Section 2.05. However, if a distribution of the Participant's vested Account takes place, the value of the nonvested portion of the Participant's Account shall be forfeited as of the last day of the Plan Year in which such distribution occurs. For purposes of this Section, if the value of the Participant's vested Account balance is zero, the Participant will be deemed to have received a distribution of such vested Account balance. If:

- (a) a Section 5.01 terminated Participant is re-employed by the Employer at any time prior to the end of the fifth Plan Year following the Plan Year in which the distribution of the Participant's vested Account occurs; and
- (b) such Section 5.01 terminated Participant received a distribution of a portion of his Account which was less than the value of said Account derived from Employer Contributions; and
- (c) such Participant repays the full amount that was received before the end of the fifth (5th) Plan Year following the Plan Year in which the distribution of the Participant's vested Account occurred,

then the amount of such Participant's Account shall be restored to the amount on the date of distribution and such Participant shall be vested therein in accordance with the vesting schedule previously set forth in Section 5.01. If a Participant is deemed to receive a distribution pursuant to this Section (both vested and nonvested portions), and the Participant resumes employment covered under this Plan before the end of the fifth (5th) consecutive Plan Year in which the Participant's termination of employment took place, the amount of such Participant's Employer derived Account balance will be restored to the amount on the date of such deemed distribution upon the reemployment of such Participant.

The Participant's repayment period will commence after each termination of employment until the Participant has no service with the Employer for five (5) consecutive Plan Years. The repayment period of a Participant who is entitled to Hours of Service credit due to maternity or paternity leave will commence after each termination of employment until the Participant has no service with the Employer for six (6) consecutive Plan Years.

### 5.03 Payment of Vested Interest.

- (a) General Rule. Subject to the consent requirements of Section 5.03(c), a Participant's vested Account shall be paid to the Participant no later than one hundred twenty (120) days after the end of the Plan Year in which the Participant's termination of employment takes place. If the Plan Administrator has been unable to locate the Participant after making reasonable efforts to do so, to the extent not prohibited by the Code or ERISA and valid regulations thereunder, the beginning of such distribution may be delayed until 60 days after such Participant has been located. If a Participant does not consent to a distribution, the Participant shall have a right to elect to receive a distribution in any subsequent Plan Year

within one hundred twenty (120) days after the end of such Plan Year. The Participant may elect to receive such distribution in any of the ways specified in Section 3.02.

The amount of the Account to be distributed to the Participant shall be determined as of the day of the Plan Year immediately preceding the date the distribution is scheduled to take place. The amount of the distribution shall not be entitled to any share of the earnings of the Plan or interest from the period between such valuation date and the date of distribution.

- (b) Cash-Out of Small Accounts. If a Participant terminates service, and the value of the Participant's vested Account derived from Employer and Employee Contributions is not greater than \$3,500 as of the day of the Plan Year on which the Participant's service terminated, the Participant will receive a distribution of the value of the entire vested portion of such Account in a lump sum and the nonvested portion will be treated as a forfeiture. Such distribution will be made no later than one hundred twenty (120) days after the end of the Plan Year in which the Participant's termination of service took place. The amount of the Account to be distributed to the Participant shall be determined as of the day of the Plan Year immediately preceding the date the distribution is scheduled to take place. The amount of the distribution shall not be entitled to any share of the earnings of the Plan or interest from the period between the valuation date and the date of distribution.
- (c) Consent For Certain Distributions. If the value of a Participant's vested Account balance derived from Employer and Employee Contributions either exceeds \$3,500.00 as of the day of the Plan Year on which the Participant's service terminated or at the time of any prior distribution exceeded \$3,500.00, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. An Account Balance is immediately distributable if any part of the Account Balance could be distributed to the Participant before the Participant attains or would have attained the later of Normal Retirement Age or age 62. The consent of the Participant shall be obtained in writing within the 90-day period ending on the annuity starting date. The annuity starting date is the first day of the first period for which an amount is paid as an annuity or in any other form. The Plan Administrator shall notify the Participant (or surviving spouse) of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include



a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code Section 417(a)(3), and shall be provided no less than thirty (30) days and no more than ninety (90) days prior to the annuity starting date.

- (d) Exceptions to Consent Requirements. Notwithstanding the provisions of Section 5.03(c), the consent of the Participant shall not be required to the extent that a distribution is a cash-out described in Section 5.03(b) or is required to satisfy Section 401(a)(9) or Section 415 of the Code. In addition, upon termination of this Plan if the Plan does not offer an annuity option (purchased from a commercial provider), the Participant's Account Balance may, without the Participant's consent, be distributed to the Participant or transferred to another defined contribution plan (other than an employee stock ownership plan as defined in Section 4975(e)(7) of the Code) within the same controlled group.
- (e) Exclusion for Certain Employee Contributions. For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first Plan Year beginning after December 31, 1988, the Participant's vested Account balance shall not include amounts attributable to accumulated deductible Employee Contributions within the meaning of Code Section of the Code.
- (f) Participant-Directed Investments. If the Participant's Account has investments acquired by the Plan pursuant to the Participant's exercise of a power of self-direction, the distribution to the Participant of his vested Account shall include all such investments or the net proceeds of such investments.

## ARTICLE VI Distribution Requirements

### 6.01 General Rules.

- (a) The requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Article apply to calendar years beginning after December 31, 1984.
- (b) All distributions required under this Article shall be determined and made in accordance with the proposed

regulations under Code Section 401(a)(9), including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the proposed regulations.

- 6.02 Required Beginning Date. The entire interest of a participant must be distributed or begin to be distributed no later than the Participant's required beginning date.
- 6.03 Limits On Distribution Periods. As of the first distribution calendar year, distributions, if not made in a single sum, may only be made over one of the following periods
- (a) the life of the Participant,
  - (b) the life of a Participant and a designated Beneficiary,
  - (c) a period certain not extending beyond the life expectancy of the Participant, or
  - (d) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.

No other forms of distribution such as an annuity shall be permitted.

- 6.04 Determination of Annual Distribution Amount. If the Participant's interest is to be distributed in other than a single sum, the following minimum distribution rules shall apply on or after the required beginning date:
- (a) If a Participant's vested Account balance is to be distributed over (1) a period not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or (2) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first distribution calendar year, must at least equal the quotient obtained by dividing the Participant's benefit by the applicable life expectancy.
  - (b) The amount to be distributed each year, beginning with distributions for the first distribution calendar year shall not be less than the quotient obtained by dividing the Participant's benefit by the lesser of (1) the applicable life expectancy or (2) if the Participant's spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of

Section 1.401(a)(9)-2 of the Proposed Regulations. Distributions after the death of the Participant shall be distributed using the applicable life expectancy in Section 6.04(a) as the relevant divisor without regard to Proposed Regulation Section 1.401(a)(9)-2.

- (c) The minimum distribution required for the Participant's first distribution calendar year must be made on or before the Participant's required beginning date. The minimum distribution for other calendar years, including the minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, must be made on or before December 31 of the distribution calendar year.

#### 6.04 Death Distribution Provisions.

- (a) **Distribution Beginning Before Death.** If the Participant dies after distribution of his interest has begun, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.
- (b) **Distribution Beginning After Death.** If the Participant dies before distribution of his interest begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death except to the extent that an election is made to receive distributions in accordance with (1) or (2) below:
  - (1) If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of the designated beneficiary commencing on or before December 31 of the calendar year immediately following the calendar year in which the Participant died; or
  - (2) If the designated Beneficiary is the Participant's Surviving Spouse, the date distributions are required to begin shall not be earlier than the later of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died and (2) December 31 of the calendar year in which the Participant would have attained age 70-1/2.

If the Participant has not made an election pursuant to this Section 6.04 by the time of his death, the Participant's designated beneficiary must elect the method of distribution no later than the earlier of (1) December

31 of the calendar year in which distributions would be required to begin under this Section, or (2) December 31 of the calendar year which contains the fifth (5th) anniversary of the date of death of the Participant. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.

- (c) For purposes of Section 6.04(b) above, if the Surviving Spouse dies after the Participant, but before payments to such spouse begin, the provisions of Section 6.04(b) shall be applied as if the Surviving Spouse were the Participant.
- (d) For purposes of this Section 6.04, distribution of a Participant's interest is considered to begin on the Participant's required beginning date (or, if Section 6.04(c) above is applicable, the date distribution is required to begin to the Surviving Spouse pursuant to Section 6.04(b) above).

#### 6.05 Definitions.

- (a) **Applicable Life Expectancy.** The life expectancy (or joint life and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. If Life expectancy is being recalculated, the applicable life expectancy shall be the life expectancy as so recalculated. The applicable calendar year shall be the first distribution calendar year, and if life expectancy is being recalculated such succeeding calendar year.
- (b) **Designated Beneficiary.** The individual who is designated as the beneficiary under the Plan in accordance with Code Section 401(a)(9) and the proposed regulations under such Code Section.
- (c) **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 pursuant to Section 6.04 above.

- (d) Life Expectancy. Life expectancy and joint and last survivor expectancy are computed by use of the expected return multiples in Tables V and VI of Section 1.72-9 of the income tax regulations.

Unless otherwise elected by the Participant (or Spouse, in the case of distributions described in Section 6.04(b) above) by the time distributions are required to begin, life expectancies shall be recalculated annually. Such election shall be irrevocable as to the Participant (or Spouse) and shall apply to all subsequent years. The life expectancy of a nonspouse beneficiary may not be recalculated.

- (e) Participant's Benefit.

- (1) The 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 or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date.
- (2) For purposes of paragraph (1) above, if any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been made in the immediately preceding distribution calendar year.

- (f) Required Beginning Date. The required beginning date of a Participant is the first day of April of the calendar year following the calendar year in which the Participant attains age 70-1/2.

#### 6.06 Transitional Rule.

- (a) Notwithstanding the other requirements of this Article, distribution on behalf of any Employee, including a 5-percent owner, may be made in accordance with all of the following requirements (regardless of when such distribution commences):
- (1) The distribution by the Plan is one which would not

have disqualified such Plan under Section 401(a)(9) of the Internal Revenue Code as in effect prior to amendment by the Deficit Reduction Act of 1984.

- (2) The distribution is in accordance with a method of distribution designated by the Employee whose interest in the Plan is being distributed or, if the Employee is deceased, by a beneficiary of such Employee.
  - (3) Such designation was in writing, was signed by the Employee or the beneficiary, and was made before January 1, 1984.
  - (4) The Employee had accrued a benefit under the Plan as of December 31, 1983.
  - (5) The method of distribution designated by the Employee or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Employee's death, the beneficiaries of the Employee listed in order of priority.
- (b) A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Employee.
- (c) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Employee or the beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in Sections 6.06(a)(1) and 6.06(a)(5).
- (d) If a designation is revoked any subsequent distribution must satisfy the requirements of Section 401(a)(9) of the Code and the proposed regulations under such Code Section. If a designation is revoked subsequent to the date distributions are required to begin, the trust must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Section 401(a)(9) of the Code and the proposed regulations under such Code Section, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such

distributions must meet the minimum distribution incidental benefit requirements in Section 1.401(a)(9)-2 of the proposed regulations. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life). In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Q&A J-2 and Q&A J-3 of the Proposed Regulations under Code Section 401(a)(9) shall apply.

6.07 Direct Rollover.

- (a) General Rule. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This provision shall be effective for Plan Years commencing after December 31, 1992.
- (b) Special Definitions. For purposes of this Section 6.07, the following definitions shall apply:
  - (1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
  - (2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement



annuity described in Section 409(b) of the Code, an annuity plan described in Section 403(a) of Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

6.08 Waiver of 30 Day Notice Requirement. If a distribution is one to which sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than thirty (30) days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given provided that:

(a) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 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 a distribution.

## ARTICLE VII

### Plan Administration

7.01 Allocation of Fiduciary Powers. Each of the Fiduciaries shall have only those specific powers and responsibilities that are specifically given to them under the Plan. The Employer shall have the exclusive responsibility for making the contributions provided for herein, the exclusive power to appoint and remove the Trustee and the Plan Administrator, and the exclusive power to amend or terminate this Plan, and the Employer shall have no other power or responsibilities. The Trustee shall have the exclusive authority, discretion and responsibility to manage and control the assets of the Plan, and the Trustee shall have no

other responsibilities other than those provided in this Plan. The Plan Administrator shall have the exclusive authority and responsibility to control and manage the operation and administration of this Plan in accordance with the terms and conditions described in this Plan, and to exercise all fiduciary functions provided in the Plan or necessary to the operation of the Plan except such functions as are assigned to other Fiduciaries pursuant to this Plan. Each Fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. Furthermore, each Fiduciary may rely upon any such direction, information or action of another Fiduciary as being proper under this Plan, and is not required to inquire into the propriety of any such direction, information or other action. It is intended under this Plan that each Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under this Plan and shall not be responsible for any act or failure to act of another Fiduciary except in circumstances where ERISA imposes liability for the breach of a co-Fiduciary. No Fiduciary guarantees the trust fund in any manner against investment loss or depreciation in asset value except in circumstances where ERISA imposes liability for such loss or depreciation.

7.02 Plan Administrator. The Plan shall be administered by the Plan Administrator who shall be appointed by and serve at the pleasure of the Board of Directors of the Employer. All usual and reasonable expenses of the Plan Administrator may be paid in whole or in part by the Employer, and any expenses not paid by the Employer shall be paid by the Trustee out of the principal or income of the trust fund. However, if such expenses result from claims made against a Participant's Account, then such expenses shall be charged to and paid out of such account. Claims against a Participant's Account shall include, but not be limited to, domestic relations orders (whether or not qualified domestic relations orders under Code Section 414(p)) and spousal distribution rights under the Retirement Equity Act of 1984 (REA).

7.03 Claim Procedure. A Participant or Beneficiary may claim any benefits due under the Plan by mailing to the last known address of the Plan Administrator a written application outlining to the best of the claimant's knowledge or ability, the nature, amount and form of such benefit. The Plan Administrator shall make all determinations as to the right of any person to a benefit under the Plan. In accordance with regulations of the Secretary of Labor issued under Section 503 of ERISA, the Plan Administrator establishes the following claims procedure:

(a) The Plan Administrator shall review each claim by a

Participant for benefits under the Plan.

- (b) If a claim is wholly or partially denied, notice of the denial meeting the requirements of Section 7.03(c) shall be furnished to the claimant within a reasonable time after the claim has been filed.
- (c) The Plan Administrator shall provide to any claimant who is denied a claim for benefits a written notice setting forth in a manner calculated to be understood by the claimant the following:
  - (1) the specific reason or reasons for the denial;
  - (2) specific reference to pertinent plan provisions on which the denial is based;
  - (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation why the material or information is necessary;
  - (4) an explanation of the plan's claim review procedure, as set forth in Sections 7.03(d) and 7.03(e) of this Agreement.
- (d) The purpose of the review procedure set forth in this Section 7.03(d) and in Section 7.03(e) is to provide a procedure by which a claimant under the Plan may have a reasonable opportunity to appeal a denial of a claim in order to obtain a full and fair review. To accomplish that purpose, the claimant or his duly authorized representative:
  - (1) may request a review upon written application to the Board of Directors of the Employer;
  - (2) may review pertinent Plan documents or agreements; and
  - (3) may submit issues and comments in writing.

A claimant (or his duly authorized representative) shall request a review by filing a written application for review at any time within sixty (60) days after receipt by the claimant of written notice of the denial of his claim.

- (e) A decision on review of a denial of a claim shall be made in the following manner:
  - (1) the decision on review shall be made by the Board of Directors of the Employer which may in its discretion

hold a hearing on the denied claim. The Board of Directors will make its decision promptly unless special circumstances (such as the need to hold a hearing) require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after receipt of the request for review; and

- (2) a decision on review shall be in writing and shall include specific reasons for the decisions written in a manner calculated to be understood by the claimant and specific references to the Plan provisions on which the decision is based.

7.04 Reporting and Disclosure. The Plan Administrator shall exercise such authority and responsibility as it deems necessary in order to comply with the reporting and disclosure requirements of ERISA and any valid governmental regulations issued under such Act relating to the preparation and filing of all reports and registrations required to be filed by the Plan with any governmental agency; compliance with all disclosure requirements imposed by state or federal laws; maintenance of all records of the Plan other than those required to be maintained by other Fiduciaries; and the preparation and delivery of all reports, information and notifications required to be given to Participants or Beneficiaries in accordance with state or federal laws.

7.05 Plan Administrator's Duties and Powers. The Plan Administrator shall have such duties and powers as may be necessary to discharge its duties, including, but not by way of limitation, the following:

- (a) To construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits under the Plan;
- (b) To prescribe procedures to be followed by Participants or Beneficiaries filing applications for benefits;
- (c) To prepare and distribute, in such manner as the Plan Administrator determines to be appropriate, information explaining the Plan;
- (d) To receive from the Employer and from Participants such information as shall be necessary for the proper administration of the Plan;
- (e) To furnish the Employer, upon request, such annual reports with respect to the administration of the Plan as are

reasonable and appropriate.

- (f) To receive, review and keep on file (as it deems convenient or proper) reports of the financial condition, and of the receipts and disbursements, of the trust fund from the Trustee;
- (g) To appoint or employ individuals to assist in the administration of the Plan and any other agents it deems advisable, including legal and actuarial counsel.

The Plan Administrator shall have no power to add to, subtract from or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or to fail to apply any requirements of eligibility for a benefit under the Plan.

- 7.06 Administrative Rules. The Plan Administrator may adopt such rules as it deems necessary, desirable, or appropriate. All rules and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. Upon making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant or Beneficiary, the Employer, the legal counsel of the Employer, or the Trustee.
- 7.07 Directions to Trustee. The Plan Administrator shall issue directions to the Trustee concerning all benefits which are to be paid from the trust fund pursuant to the provisions of the Plan.
- 7.08 Benefit Applications. The Plan Administrator may require a Participant to complete and file an application for a benefit, to complete all other forms furnished by the Plan Administrator, and to furnish all pertinent information requested by the Plan Administrator.

## ARTICLE VIII

### The Trustee

- 8.01 Resignation and Removal. The Trustee may resign by a written instrument addressed to the Employer. The Employer may remove the Trustee by a written instrument addressed to the Trustee. Appointments to vacancies shall be made by the Employer and any successor Trustee shall evidence its acceptance of such appointment by written instrument addressed to the Employer. Within sixty (60) days after receipt of the written acceptance of such appointment by the successor Trustee, the Trustee shall assign, transfer and pay over to such successor Trustee, the

funds and properties then constituting the trust fund together with the proper accounting for such items. If such accounting is not objected to within 60 days after the receipt by the Employer or the successor Trustee, the Trustee shall be deemed to be discharged of all duties under the Plan except to the extent otherwise provided by law.

If the Trustee is a corporation at any time it shall be merged, or consolidated with, or shall sell or transfer substantially all of its assets and business to another corporation, whether state or federal, or shall be reorganized or reincorporated in any manner, then the resulting or acquiring corporation shall be substituted for such corporate Trustee without the execution of any instrument and without any action upon the part of the Employer, any Participant or Beneficiary, or any other person having or claiming to have an interest in the trust fund or under the plan.

8.02 Information to be Furnished to Trustee. The Employer and the Plan Administrator shall furnish to the Trustee such information as required or desirable for the purpose of enabling the Trustee to carry out the provisions of the Plan and the Trustee may rely upon such information as being correct.

8.03 Accounting. The Trustee shall keep accurate and detailed accounts of investments, receipts, disbursements and other transactions under this Plan and all such accounts and other records relating to it shall be open to inspection and audit at all reasonable times by any person designated by the Employer or the Plan Administrator. Within sixty (60) days following the close of the Plan Year and within sixty (60) days after the removal or resignation of the Trustee and the acceptance of appointment by a Successor Trustee as provided in Section 8.01, the Trustee shall file with the Employer a written account setting forth all investments, receipts, disbursements and other transactions effected by it during such Plan Year or during the period from the close of the last Plan Year to the date of such removal or resignation. To the extent permitted by law, but subject to any express provision of applicable law as may be in effect from time to time to the contrary, no person other than the Employer may require an accounting or bring any action against the Trustee with respect to the trust fund or its actions as Trustee.

8.04 Trustee's Right to Judicial Settlement. Notwithstanding any other provision of this Article, the Trustee shall have the right to have a judicial settlement of its accounts. In any proceeding for a judicial settlement of the Trustee's accounts, or for instructions in connection with the trust fund, the only necessary parties in addition to the Trustee shall be the Employer and the Plan Administrator. If the Trustee so elects,

it may bring in any other person or persons as a party or parties defendant.

- 8.05 Trustee's Expenses. To the extent not paid by the Employer, expenses incurred by the Trustee in the performance of its duties under the Plan, including reasonable compensation for agents and for the services of counsel rendered to the Trustee and related expenses and all other proper charges and disbursements of the Trustee including all taxes that may be levied or assessed under existing or future laws shall be paid by the Trustee out of the Plan. Such expenses shall constitute a charge upon the Plan. However, if the Trustee's expenses result from claims made against a Participant's Account, then such expenses shall be charged to and paid out of such account. Claims against a Participant's Account shall include, but not be limited to, domestic relations orders (whether or not qualified domestic relations orders under Code Section 414(p)) and spousal distribution rights under the Retirement Equity Act of 1984 (REA).
- 8.06 Payment of Benefits to Incompetent. If any benefit under the Plan is payable to a minor or other legally incompetent person, the Trustee shall not require the appointment of a guardian, but shall be authorized to pay the same to any person having custody of such minor or incompetent person, to pay to such minor or incompetent person without the intervention of the guardian, or to pay the same to a legal guardian of such minor or incompetent person if one has already been appointed.
- 8.07 Trustee's Investment Powers. Subject to the fiduciary responsibility provisions of ERISA, the Trustee shall have the following powers in connection with the investment of the trust fund:
- (a) To invest or reinvest all or any part of the trust funds in any real or personal property as the Trustee may deem advisable, including but not limited to:
    - (1) any securities normally traded by and obtainable through a stockbroker or "over the counter" dealer or on a recognized exchange;
    - (2) any shares of an investment company registered under the Investment Company Act of 1940, as amended; and
    - (3) any securities issued or guaranteed by the United States of America or any of its instrumentalities or States or of any county, city, town, village, school district, or other political subdivision of any of said States;



- (b) To sell or exchange any part of the assets of the Plan.
- (c) To vote in person or by proxy the securities and investment company shares which it holds as Trustee and to delegate such power.
- (d) To consent to or participate in dissolutions, reorganizations, consolidations, mergers, sales, transfers or other changes in securities and investment company shares which it holds as Trustee, and, in such connection, to delegate its powers, and to pay all assessments, subscriptions and other charges.
- (e) To retain in cash and keep unproductive of income such amount as the Trustee may deem advisable in the Trustee's discretion and the Trustee shall not be required to pay interest on such cash balances or on cash in the Trustee's hands pending investment.
- (f) To sell, exchange, convey or transfer any property at any time held by the Trustee upon such terms as the Trustee may deem advisable and no person dealing with the Trustee shall be bound to see the application of the purchase money or to inquire into the propriety of any such transaction.
- (g) To enter into, compromise, compound and settle any debt or obligation due to or from the Trustee and to reduce the rate of interest on, to extend or otherwise modify, or to foreclose upon default or otherwise enforce any such obligation.
- (h) To cause any bonds, stocks or other securities held by the Trustee to be registered in or transferred into the Trustee's name as Trustee or the name of its nominee or nominees, or to hold them unregistered or in form permitting transferability by delivery, but at all times with full responsibility for such securities as Trustee.
- (i) To borrow money upon such terms and conditions as may be deemed advisable to carry out the purposes of the trust and to pledge securities or other property in repayment of any such loan; provided, however, that loans or advances may be made by the Trustee under the Plan by way of overdrafts or otherwise on a temporary basis on which no interest is payable.
- (j) To manage, administer, operate, repair, improve and mortgage or lease for any number of years, regardless of any restrictions on leases made by trustees or to otherwise deal with any real property or interest in real property

including, but not limited to, the following:

- (1) renew or extend or participate in the renewal or extension of any mortgage;
  - (2) agree to the reduction in the interest on any mortgage or other modification or change in terms of any mortgage or guarantee of any mortgage in any manner and upon such terms as may be deemed advisable; and
  - (3) waive any defaults whether in performance of any covenant or condition of any mortgage or in the performance of any guarantee or to enforce any such default in such manner as may be deemed advisable, including the exercise and enforcement of any and all rights of foreclosure.
- (k) To invest all or part of the trust fund in interest-bearing deposits with the Trustee, or with a bank or similar financial institution related to the Trustee if such bank or other institution is a fiduciary with respect to the Plan as defined in ERISA, including but not limited to investments in time deposits, savings deposits, certificates of deposit or time accounts which bear a reasonable interest rate.
- (l) To employ suitable agents, accountants and counsel and to pay their reasonable expenses and compensation.
- (m) To transfer, at any time and from time to time, such part or all of the trust fund as the Trustee deems advisable to the trustee of any trust which has been qualified under Section 401(a) and is exempt under Section 501 (a) of the Code, and which is maintained by it as a medium for the collective investment of funds of pension, profit sharing or other employee benefit trusts, and to withdraw any part or all of the trust fund so transferred. If such a transfer is made, the provisions of any such trust shall be deemed a part of this Agreement to the extent that they shall not be inconsistent with the provisions of this Agreement.
- (n) To make, execute and deliver as Trustee any and all deeds, leases, mortgages, advances, contracts, waivers, releases or other instruments in writing necessary or proper in the employment of any of the foregoing powers.
- (o) To exercise, generally, any of the powers which an individual owner might exercise in connection with property either real, personal or mixed held by the trust fund, and to do all other acts that the Trustee may deem necessary or

proper to carry out any of the powers set forth in this Article or otherwise in the best interests of the trust fund.

- (p) To settle, compromise or abandon all claims and demands in favor of or against the trust fund.
- (q) To appoint and/or employ business entities and/or individuals to act as investment advisers and/or managers on behalf of this Plan in order to manage any portion or all of the assets of this Plan. However, the appointment of such an investment adviser and/or manager: (1) shall be subject to the approval of the Employer, and (2) will render any such investment adviser and/or manager who is appointed a fiduciary under this Plan to the extent of such adviser's and/or manager's investment duties and responsibilities to the Plan, and (3) in no event shall cause the assets of this Plan to be taken out of Trust or cause the Trustee to be eliminated.
- (r) To approve, devise and/or implement a system or policy to permit Participants and/or Beneficiaries of this Plan an election, which election shall be granted to all Participants and/or Beneficiaries in a nondiscriminatory manner, to exercise investment control over a portion or all or their Accounts. If a Participant or Beneficiary does not choose to exercise such investment control, the Trustee shall continue to invest the Account of such Participant or Beneficiary. If the Participant or the Beneficiary directs the Trustee to invest some or all of that portion of the Participant's or Beneficiary's Account in an investment which is prohibited by the terms of the Plan, the direction of the Participant or the Beneficiary shall be deemed to control and the Trustee shall have no liability for violating the terms of the Plan by following the Participant's or the Beneficiary's investment instructions. If a Participant or a Beneficiary exercises investment control over the assets in such person's Account, no Fiduciary shall be subject to liability for any loss or any breach of the fiduciary responsibility standards of ERISA.

The following shall also apply:

- (1) All investment directions shall be made in the way required by the Trustee and shall contain such information as the Trustee shall require. In the discretion of the Trustee, any such form which is incomplete or unclear will be ineffective and may be treated by the Trustee as if no such investment direction had been given. Within a reasonable period

of time from its receipt of an investment direction, the Trustee shall either accept the direction as sufficient or reject the direction as insufficient. The Trustee shall provide written confirmation of its decision and shall explain to the Participant why any rejected investment direction was insufficient. No Fiduciary shall incur any liability for any failure to act upon an investment direction so long as the investment direction was implemented within a reasonable period after the Trustee's determination of its sufficiency.

- (2) The Trustee may refuse to implement any investment direction that would cause the Plan or any Fiduciary to engage in a transaction prohibited under ERISA unless an exemption is obtained. The Trustee may also refuse to implement any investment direction that would generate unrelated business income or unrelated debt-financed income taxable to the Plan under the Code. The Trustee shall refuse to implement any investment direction which would violate the provisions of Section 8.08 concerning securities laws restrictions.
- (s) To accept a rollover contribution to be credited to an Employee's Account (which portion of such Account shall always be 100% vested) to the extent that such rollover contribution is permitted under then existing Code provisions.
- (t) To accept a transfer of funds from the trustee of a plan which is tax qualified under the relevant provisions of the Code to be credited to an Employee's Account (which portion of such Account shall always be 100% vested).
- (u) To follow the directions of any investment committee appointed by the Employer so long as such directions do not require any action to be taken which would be prohibited by the fiduciary responsibility provisions of ERISA or would be contrary to the specific provisions of the Plan. The Employer shall, in its sole discretion, establish and appoint the members of such investment committee and furnish appropriate notification to the Trustee. If the Employer does not establish an investment committee, the Trustee shall continue to exercise the Trustee's investment responsibilities and powers as provided in this Article.
- (v) To invest up to one hundred percent (100%) of the fair market value of the Plan in qualifying Employer securities consisting of stock of the Employer or of any affiliate of the Employer within the meaning of ERISA Section 407(d)(7).

Such investment shall only be made, however, upon the direction of individual Participants pursuant to the provisions of Section 8.07(q) and Section 8.08 and at a price determined by the Trustee in accordance with the fiduciary requirements of ERISA. Shares of stock acquired by the Trustee pursuant to such direction shall be allocated to each Participant's Account as soon as possible after acquisition. Such shares are referred to as allocated shares. The following provisions shall apply to the voting of allocated shares:

- (1) In connection with each meeting of stockholders of the Employer or any affiliate each Participant shall be given the opportunity to provide the Trustee with instructions regarding the voting of the Participant's allocated shares credited to the Participant's Account. The Trustee shall vote such shares in accordance with such instructions. All stock of the Employer or any affiliate owned by the Plan but not yet allocated to the Account of a Participant shall be voted by the Trustee so as to reflect, to the extent the Trustee determines it to be possible to do so, the voting directions of the Participants who provided instructions. All allocated shares in respect of which voting instructions shall not have been received from Participants within the time specified by the Trustee shall not be voted.
- (2) In connection with a tender offer or a request or invitation for tenders of, allocated stock made to the Trustee (the "offer"), the Trustee shall furnish to each Participant a notice of such event together with a copy of the offer, and a form by which the Participant may direct the Trustee whether or not to tender the stock allocated in the Participant's Account in the Plan pursuant to the offer.

The Trustee shall tender or not tender such shares in accordance with such instructions. All shares of stock of the Employer or any affiliate owned by the Plan but not yet allocated to the Account of a Participant shall be tendered in the same proportion as the number of allocated shares as to which the Trustee received timely directions to tender bears to the number of allocated shares as to which the Trustee shall have received timely directions either to tender or not tender, counting a non-response by a Participant for this purpose as a decision not to tender. All allocated shares for which tender instructions were not received from Participants within the time specified by the Trustee shall not be

tendered.

- (3) Reasonable means shall be employed to provide secrecy and confidentiality respecting each Participant's voting and tender instructions. The Trustee, in consultation with the Plan Administrator, shall establish (and modify and amend) reasonable procedures for implementing the foregoing provisions concerning voting rights and tender instructions.
- (4) The Trustee shall have no responsibility to investigate or evaluate any offer and shall be entitled to respond to any offer solely on the basis of this Section 8.07(v) and the procedures described in such Section. Any shares of stock of the Employer or any affiliate which shall be tendered by the Trustee but which for any reason are not purchased pursuant to the offer shall be restored to the Trust.

8.08 Securities Law Restrictions. If the Plan Administrator determines that any election with respect to a contribution into or reallocation of funds into or out of qualifying employer securities might violate applicable securities laws or create a liability for Participants under such laws or is for any other reason known to the Plan Administrator contrary to the best interests of Participants (including Participants subject to Section 16 of the Securities Exchange Act of 1934, as amended), the Plan Administrator may, in its sole discretion, suspend or limit the right of any Participants to make or change investment elections.

8.09 Form of Plan Contributions. The Trustee shall receive any Employer Contributions paid to the Trustee in cash or in the form of such other property as the Trustee may from time to time deem acceptable and which shall have been delivered to the Trustee. Elective Deferrals shall only be paid in cash. The Employer shall make contributions in such manner and at such times as shall be appropriate. The Trustee shall not be responsible for the calculation or collection of any Employer Contributions or Elective Deferrals under or required by the Plan, but shall be responsible only for property received by it pursuant to this Plan.

8.10 Payments Made at Direction of Plan Administrator. The Trustee shall, on the written directions of the Plan Administrator, make payments out of the trust fund to such persons, in such amounts and for such purposes as may be specified in the written directions of the Plan Administrator. To the extent permitted by law, the Trustee shall be under no liability for any payment made pursuant to the direction of the Plan Administrator. Any written direction of the Plan Administrator shall constitute a

certification that the distribution or payment so directed is one which the Plan Administrator is authorized to direct.

## ARTICLE IX

### Fiduciary Responsibility

- 9.01 Fiduciary Standards. Each Fiduciary shall discharge his duties under the Plan solely in the interest of the Participants and their Beneficiaries and (1) for the exclusive purpose of providing benefits for such Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan; (2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man 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; and (3) in accordance with the Plan insofar as the Plan is consistent with the provisions of ERISA. The Trustee shall diversify 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. The requirements set forth above shall not be deemed to be violated merely because the Trustee invests the trust funds partly or wholly in (1) shares of a mutual fund, or (2) shares of a pooled investment fund maintained by a bank.
- 9.02 Situs of Plan Assets. Except as authorized by regulations prescribed by the Secretary of Labor, the Trustee shall not maintain the indicia of ownership of any Plan assets outside the jurisdiction of the District Courts of the United States.

## ARTICLE X

### Exclusive Benefit Requirements

- 10.01 Trustee's Receipt of Funds. All Contributions to the Plan shall be transmitted directly or indirectly to the Trustee. All Contributions so received by the Trustee shall constitute trust funds and shall be held and managed and administered by the Trustee pursuant to the terms of the Plan.
- 10.02 Plan Assets for Exclusive Benefit of Participants. The assets of this Plan shall never inure to the benefit of the Employer and shall be held for the exclusive purposes of providing benefits to Participants in the Plan and their Beneficiaries and defraying reasonable expenses of administering the Plan.
- 10.03 Return of Employer Contributions. Section 10.02 to the contrary notwithstanding, Employer Contributions to the Plan may be returned only in the following circumstances:



- (a) In the case of a Contribution which is made by an Employer by a mistake of fact, such Contribution may be returned to the Employer within one year after the payment of the Contribution.
- (b) If a Contribution is conditioned on the initial qualification of the Plan under the relevant provisions of the Code or the qualification of the Plan as the result of an amendment then, to the extent that the deduction is disallowed, such Contribution may be returned to the Employer within one year after the date of denial of qualification of the Plan.
- (c) If a Contribution is conditioned upon the deductibility of the Contribution under Section 404 of the Code, then, to the extent the deduction is disallowed, such Contribution may be returned to the Employer within one year after the disallowance of the deduction.

## ARTICLE XI

### Plan Termination and Amendments

- 11.01 Termination or Partial Termination. While it is the intention of the Employer that the Plan shall be permanent, the Employer reserves the right to terminate it. Such termination shall become effective upon receipt by the Trustee of a written instrument of termination signed by the Employer. Upon termination of the Plan or upon a partial termination of the Plan within the meaning of Section 411(d)(3) of the Code, or upon a complete discontinuance of Contributions under the Plan, the rights of all affected Employees to their Accrued Benefits shall become nonforfeitable. The Trustee may retain benefits under the Plan until a Participant dies, retires, or otherwise terminates employment, or shall distribute such benefits to the Participants as soon as practicable.
- 11.02 Limitations on Amendments by Employer. This Plan may be amended by the Employer in writing at any time, provided, however, that such amendment:
- (a) shall not increase the duties of the Trustee without its written consent.
  - (b) shall not affect directly or indirectly the vesting schedule under the Plan unless each Participant having not less than 3 Years of Vesting Service is permitted to elect to have his nonforfeitable percentage in his Account computed under the Plan without regard to such amendment. The election period shall commence on the date the

amendment is adopted and end no earlier than the latest of the following dates:

- (1) The date which is sixty (60) days after the day the amendment is adopted,
- (2) The date which is sixty (60) days after the day the amendment becomes effective, or
- (3) The date which is sixty (60) days after the Participant is issued written notice of the amendment by the Employer or the Plan Administrator.

Notwithstanding the foregoing, a Participant whose nonforfeitable percentage under the Plan, as amended, at any time cannot be less than such percentage determined without regard to such amendment shall not be entitled to any election under this subparagraph (b).

- (c) shall not revise the funding method under the Plan unless such revised funding method has been approved by the Internal Revenue Service.
- (d) shall not revise the Plan Year unless such Plan Year revision is approved by the Internal Revenue Service.
- (e) shall not decrease a Participant's Account or eliminate an optional form of distribution for amendments signed after July 30, 1984.

11.03 Amendments Required for Qualification. Any provision of this Plan may be amended in any respect, without regard to the limitations set forth in Section 11.02 above, if the amendment is required for initial or continued qualification of the Plan under Section 401(a) of the Code. Such amendment may be made retroactive if permitted by the Internal Revenue Service under the authority contained in Section 401(b) of the Code.

11.04 Participant's Consent to Amendment. Except as otherwise provided in this Article, neither the consent of a Participant nor that of any Beneficiary is required for any amendment to the Plan consistent with the provisions of Sections 11.02 and 11.03.

## ARTICLE XII

### Other Required Provisions

12.01 Plan Merger or Consolidation. In the case of any merger or consolidation with, or transfer of assets or liabilities from this Plan to any other plan, each Participant in this Plan shall be entitled to receive (in the event of termination of this Plan

or its successor immediately after such merger, consolidation or transfer) a benefit which is not less than the benefit he would have been entitled to receive had this Plan terminated immediately prior to such merger, consolidation or transfer.

12.02 Nonalienation of Benefits; Qualified Domestic Relations Orders. No benefit or interest available under the Plan will be subject to assignment or alienation either voluntarily or involuntarily. Effective for Plan Years beginning after December 31, 1984, the preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order unless such order is determined to be a qualified domestic relations order as defined in Section 414(p) of the Code, or any domestic relations order entered before January 1, 1985. If the Plan receives a qualified domestic relations order, the Plan Administrator may require the Trustee to distribute to the alternate payee the portion of the Participant's Account which is subject to such qualified domestic relations order before the Participant's attainment of his earliest retirement age as defined in Code Section 414(p) or such Participant's separation from the service of the Employer. Such distribution shall be made in the form of a cash lump sum distribution to the alternate payee if the present value of the benefit to be paid does not exceed \$3,500.00. If the present value of the benefit to be paid exceeds \$3,500.00, the alternate payee must consent in writing to such earlier distribution in the form of a cash lump sum distribution.

12.03 Form of Benefit Payments. Whenever benefits become payable under the Plan, the same may be paid directly by the Trustee in cash or in kind to a Participant or his Beneficiary.

### ARTICLE XIII

#### Loans to Participants

13.01 Trustee's Authority. The Trustee is authorized and directed to establish a program for the Plan to make loans to Plan Participants in accordance with Section 408(b)(1) of ERISA. Such program shall be in writing and shall contain the terms and conditions set forth in this Article XIII as well as such other terms and conditions the Trustee shall specify in a separate document or documents.

13.02 Amount of Loan.

(a) The Trustee may, if the Plan Administrator approves, lend to such Participant who is a party in interest within the meaning of ERISA Section 3(14) an amount of money not to exceed the lesser of:

- (i) 50% of the value of the vested Account or
- (ii) \$50,000.00.

(b) For the purposes of the foregoing limits, the Plan Administrator shall take into account the outstanding balance of all other loans made to the Participant from the Plan and all other loans made to the Participant from Plans of Employers which are deemed to be related under the provisions of Code Section 414. All loans shall be subject to the approval of the Plan Administrator who shall thoroughly investigate each application for a loan. For purposes of this Article, a loan shall be deemed to include assignments or agreements to assign or pledges or agreements to pledge any portion of the Participant's Account.

### 13.03

Loan Terms and Conditions. The Plan Administrator shall have the final and exclusive right to determine the propriety and the amount of any loan to be made and the amount within the maximum limit. In addition to such rules and regulations as the Plan Administrator may adopt, all loans shall comply with the following terms and conditions:

- (a) The minimum amount of any loan shall be \$1,000.00. An application for a loan shall be made in writing by a Participant to the Plan Administrator whose action thereon shall be final. A married Participant's Spouse must consent to the use of the Account Balance as security for the loan. Spousal Consent shall be obtained no earlier than the beginning of the ninety (90) day period that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan Representative or a notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the Account Balance is used for negotiation, renewal, or other revision of the loan.
- (b) The period of repayment of any loan shall be set by the Plan Administrator (after consultation with the Participant) but such period shall not exceed five (5) years. The sole exception to the five (5) year repayment requirement is that a longer period of repayment may be permitted if the loan proceeds are used to acquire a dwelling unit which within a reasonable time period (determined at the time the loan is made) will be used as the principal residence of the Participant.
- (c) Any loan shall by its terms require that repayment

(principal and interest) be amortized over level payments, not less frequently than quarterly, over the repayment period.

- (d) No loan may be made to any shareholder-employee as defined in Code Section 1379 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982.
- (e) Each loan shall be made against adequate security and the loan shall be evidenced by a Promissory Note in the amount of the loan including interest payable to the Trustee. If the Participant's vested Account balance is used as security, no more than fifty percent (50%) of such vested Account balance may be considered as security for the outstanding balance of all loans from the Plan to such Participant.
- (f) Each loan shall bear interest at a rate fixed by the Plan Administrator and the Trustee and, in determining the interest rate, the Plan Administrator and the Trustee may take into consideration interest rates being charged by local financial institutions. The Plan Administrator shall not discriminate among Participants in the matter of interest rates and amount of security. However, loans granted at different times or for different loan periods, may have different terms and conditions if in the opinion of the Plan Administrator, the difference in terms and conditions is justified by changes in general economic conditions or other relevant factors.
- (g) Any loan may be prepaid in full at any time.
- (h) The Plan Administrator shall establish a method by which loans must be repaid by payroll deduction in equal amounts over the loan period sufficient to fully amortize the loan within the permissible repayment period.
- (i) Loans shall be made available to all Participants on a reasonably equivalent basis.
- (j) In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs under the provisions of the Plan.
- (k) Loans shall not be made available to Highly Compensated Employees in an amount greater than the amount made available to other Plan Participants.
- (l) If a valid spousal consent has been obtained in accordance with 13.03(b), then, notwithstanding any other provision in

this Plant the portion of the Participant's vested Account Balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account Balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's vested Account Balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account Balance shall be adjusted by first reducing the vested Account Balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.

- 13.04 Accounting for Loans. A loan to a Participant shall be treated as an investment of the funds credited to such Participant's Account. The Participant's Account balance shall be reduced by an amount equal to the principal amount of such loan. Such Account balance will be restored as principal amounts of the loan are repaid by the Participant. All interest payments by the Participant will be credited to his Account. The Trustee or Plan Administrator (or a person or entity appointed by the Plan Administrator) shall provide in a uniform and nondiscriminatory manner for an equitable allocation of trust fund earnings or losses with respect to such Participant's Account as provided in Section 2.06 based on the average fund balance of such Account during the Plan Year, or based on a selected valuation date or dates during the Plan Year.

#### ARTICLE XIV

##### Miscellaneous

- 14.01 Nonguarantee of Employment. No Employee of the Employer nor anyone else shall have any rights against the Employer or the Trustee as a result of this agreement except those expressly granted to them under this agreement. Nothing in this agreement shall be construed to give any Participant the right to remain an Employee of the Employer.
- 14.02 Construction of Agreement. This agreement may be executed and/or conformed in any number of counterparts, each of which shall be deemed an original and shall be construed and enforced according to the laws of the state in which the agreement is executed to the extent not inconsistent with the applicable provisions of the Code or ERISA.
- 14.03 Duration of Plan. Subject to the provisions contained in this agreement with respect to earlier termination, the trust created under this agreement shall continue in existence for the longest

period permitted by law.

- 14.04 Illegality. In case any provisions of this agreement shall be held illegal or invalid for any reason, said illegal or invalid provision shall not affect the remaining parts of this agreement but this agreement shall be construed and enforced as if said illegal or invalid provisions had never been inserted.

#### ARTICLE XV

##### Top Heavy Rules

- 15.01 Effective Date. The provisions of this Article XV shall be applicable to the Plan for any Plan Years beginning after December 31, 1983 and will supersede any conflicting provision in the Plan.
- 15.02 Determination of Top Heavy Status. The Plan will be deemed to be top heavy if, as of the determination date, the aggregate of the Individual Accounts of Key Employees under the Plan exceeds 60 percent of the aggregate of the Individual Accounts of all Employees under the Plan. The Account of a Participant who has not performed any service for the Employer during the 5 year period ending on the Determination Date will be disregarded. The Plan Administrator shall be responsible for making the determination of whether the Plan is top heavy for any Plan Year. In carrying out this responsibility, the Plan Administrator shall use the Present Value of each Participant's Account as of the Determination Date. For purposes of making the determination of top heavy status the Plan Administrator shall include any Required Aggregation Group of plans. The determination of top heavy status may be made by means of top heavy ratios which are either precisely in accord with Code Section 416 or which are not precisely in accord with Code Section 416 but which mathematically prove that the Plan is not top heavy. For purposes of this Section 15.02, the top heavy ratio is a fraction, the numerator of which is the sum of the account balances of all Key-Employees as of the Determination Date (including any part of any account balance distributed in the five year period ending on the Determination Date), and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the five year period ending on the Determination Date) of all Participants as of the Determination Date. Both the numerator and denominator of the top heavy ratio are to be adjusted to reflect any contribution which is due but unpaid on the Determination Date. If the Plan Administrator chooses the latter method, any top heavy ratios used must conform to the requirements of Code Section 416 and the regulations promulgated thereunder.



The following definitions apply for purposes of this Section 15.02:

- (a) "Determination Date" for any Plan Year means the last day of the preceding Plan Year or, in the case of the first Plan Year of the Plan, the last day of that Plan Year.
- (b) "Employer" means all the members of a controlled group of corporations (as defined in Code Section 414(b)), of a commonly controlled group of trades or businesses (whether or not incorporated) (as defined in Code Section 414 (c)), or of an affiliated service group (as defined in Code Section 414(m)), of which the Employer is a part. However, the aggregation rules under Code Sections 414 (b), (c) and (m) do not apply for determining ownership of the Employer for purposes of determining who is a Key Employee under the Plan.
- (c) "Key Employee" means as of any Determination Date, any Employee or former Employee who, at any time during the Plan Year (which includes the Determination Date) or during the preceding four Plan Years, is an officer of the Employer, one of the Employees owning the 10 largest interests in the Employer, a more than 5% owner of the Employer, or a more than 1% owner of the Employer who has annual compensation of more than \$150,000. An officer is any Employee or former Employee (and the beneficiaries of such Employee) who at any time during the determination period was an officer of the Employer and such Individual's annual Compensation exceeded 150 percent of the dollar limitation under Section 415(c)(1)(A) of the Code. In determining one of the Employees owning the 10 largest interests in the Employer, Employees having Compensation at least equal to the dollar limitation specified under Section 415(c)(1)(A) of the Code shall be taken into account. The constructive ownership rules of Code Section 318 (or the principles of that section, in the case of an unincorporated Employer), will apply to determine ownership in the Employer. The Plan Administrator will make the determination of who is a Key Employee in accordance with Code Section 416(i)(1) and the regulations under that Code Section.
- (d) "Non-Key Employee" means an Employee who does not meet the definition of a Key Employee.
- (e) "Permissive Aggregation Group" means the Required Aggregation Group plus any other qualified plan maintained by the Employer, but only if such Group would satisfy in the aggregate, the requirements of Code Section 401(a)(4) and Code Section 410. The Plan Administrator shall

determine which plan to take into account in determining the Permissive Aggregation Group.

- (f) "Present Value" means the sum of the account balance as of the most recent valuation date and an adjustment for contributions due as of the determination date.
- (g) "Required Aggregation Group" means:
  - (1) Each qualified plan of the Employer in which at least one Key Employee participates or participated at any time during the 5 year period ending on the Determination Date (regardless of whether the Plan was terminated); and
  - (2) Any other qualified Plan of the Employer which enables a plan described in (1) to meet the requirements of Code Section 401(a)(4) or Code Section 410.
- (h) "Valuation Date" means the annual date on which Plan assets must be valued for purpose of determining the value of account balances. The valuation date for the Plan shall be the most recent valuation date within a twelve (12) month period ending on the Determination Date.

15.03 Effect of Top Heavy Status. If the Plan is determined to be top heavy as of a Determination Date, the following rules shall apply:

- (a) The vesting schedule contained in Section 5.01 shall be automatically amended by deleting said vesting schedule and replacing it with the following vesting schedule:

YEARS OF VESTING SERVICE	VESTED INTEREST IN ACCOUNT
Less than 2 years	0%
2 years but less than 3	20%
3 years but less than 4	40%
4 years but less than 5	60%
5 years but less than 6	80%
6 years or more	100%

- (b) A five percent (5%) owner as described in Code Section 416(i) must receive distribution of his benefits under the Plan commencing no later than April 1 of the calendar year following the calendar year in which he attains age

70-1/2 regardless of whether such individual actually retires from employment with the Employer.

- (c) This provision will only apply to Participants employed by the Employer on the last day of the Plan Year. The Employer Contributions and forfeitures allocated on behalf of any Participant who is not a key employee shall not be less than the lesser of three percent (3%) of such Participant's Compensation or the largest percentage of the first \$200,000.00 of the key employee's compensation, allocated on behalf of any key employee for that year. The minimum allocation is determined without regard to any Social Security contribution. This minimum allocation shall be made even though under other plan provisions, the Participant would not otherwise be entitled to receive an allocation or would have received a lesser allocation because of the Participant's failure to complete a specified minimum number of Hours of Service.

## ARTICLE XVI

### Definitions

The following words and phrases when used in this Agreement shall have the following meanings, unless the context clearly indicates otherwise:

- 16.01 Account: An account maintained by the Trustee on behalf of a Participant which shall reflect the following:
- (a) the value derived from all Employer Contributions; and
  - (b) the value of all Elective Deferrals by Employees.
- 16.02 Actual Deferral Percentage: For a specified group of Participants for a Plan Year, the average of the ratios (calculated separately for each Participant in such group) of (1) the amount of Employer Contributions actually paid over to the Trustee on behalf of such Participant for the Plan Year to (2) the Participant's Compensation for such Plan Year (whether or not the Employee was a Participant for the entire Plan Year) Employer contributions on behalf of any Participant shall include: (1) any Elective Deferrals made pursuant to the Participant's deferral election (including Excess Elective Deferrals of Highly Compensated Employees), but excluding (a) Excess Elective Deferrals of Nonhighly Compensated Employees that arise solely from Elective Deferrals made under this Plan or other plans of the Employer and (b) Elective Deferrals that are taken into account in the Contribution Percentage test (provided the ADP test is satisfied both with and without exclusion of these Elective Deferrals; and (2) at the election of the Employer, Qualified

Nonelective Contributions and Qualified Matching Contributions. For purposes of computing Actual Deferral Percentages, an Employee who would be a Participant but for the failure to make Elective Deferrals shall be treated as a Participant on whose behalf no Elective Deferrals are made.

- 16.03 Aggregate Limit: The sum of (a) 125 percent of the greater of the ADP of the Non-highly Compensated Employees for the Plan Year or the ACP of Non-highly Compensated Employees under the Plan and (b) the lesser of 200% or two plus the lesser of such ADP or ACP.
- 16.04 Average Contribution Percentage: The average of the Contribution Percentages of the Eligible Participants in a group.
- 16.05 Base Contribution Percentage: The percentage of compensation contributed by the Employer under the Plan with respect to that portion of each Participant's compensation not in excess of the integration level specified in Section 2.03(b).
- 16.06 Beneficiary: A person or entity designated in accordance with this Plan to receive benefits from the Plan upon the death of a Participant.
- 16.07 Break-in-Service: Any consecutive twelve (12) month computation period following an Employee's date of hire by the Employer (or date of rehire by the Employer, if applicable) or any consecutive twelve (12) month computation period following an anniversary of such date of hire or rehire, as the case may be, during which the Employee's employment with the Employer has been terminated (for at least part of such computation period) and in which the Employee does not complete more than five hundred (500) Hours of Service. "Date of hire" or "Date of rehire" shall mean the first day on which the Employee completes at least one Hour of Service for the Employee after being hired or rehired.
- 16.08 Code: The Internal Revenue Code of 1986, as amended from time to time.
- 16.09 Compensation: The amount actually paid by the Employer to an Employee for the Plan Year as remuneration for services rendered and which is required to be reported as wages on the Participant's Form W-2. Compensation shall also include any amount which is contributed by the Employer pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Code Sections 125, 402(a)(8), 402(h) or 403(b).

For Plan Years beginning prior to January 1, 1994, the annual compensation of each Participant taken into account under the Plan for any year shall not exceed \$200,000, as adjusted by the Secretary at the same time and in the same manner as under

Section 415(d) of the Code.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the Plan shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. For Plan Years beginning on or after January 1, 1994, any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the OBRA '93 annual compensation limit set forth in this provision.

If compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current Plan Year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is \$150,000.

In determining the Compensation of a Participant for purposes of this limitation, the rules of Section 414(q)(6) of the Code shall apply, except in applying such rules, the term "family" shall include only the spouse of the participant and any lineal descendant of the Participant who have not attained age 19 before the close of the year. If, as a result of the application of such rules the adjusted \$200,000.00 limitation is exceeded, then (except for purposes of determining the portion of compensation up to the integration level if this plan provides for permitted disparity), the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this section prior to the application of this limitation.

16.10 Contribution Percentage: The ratio (expressed as a percentage) of the Participant's Contribution Percentage Amounts to the Participant's Compensation for the Plan Year (whether or not the Employee was a Participant for the entire Plan Year).

16.11 Contribution Percentage Amounts: The sum of the Matching Contributions, and Qualified Matching Contributions (to the extent not taken into account for purposes of the ADP test) made under the Plan on behalf of the Participant for the Plan Year. Such Contribution Percentage Amounts shall not include Matching Contributions that are forfeited either to correct Excess Aggregate Contributions or because the contributions to which they relate are Excess Deferrals, Excess Contributions, or Excess Aggregate Contributions. The Employer may also include Qualified Nonelective Contributions in the Contribution Percentage Amounts. The Employer also may elect to use Elective Deferrals in the Contribution Percentage Amounts so long as the ADP test is met before the Elective Deferrals are used in the ACP test and continues to be met following the exclusion of those Elective Deferrals that are used to meet the ACP test.

16.12 Disabled: A disabled Participant is a Participant who is, in the opinion of a licensed physician selected or approved by the Plan Administrator:

- (a) unable to engage in any substantial gainful activity by reason of a physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration; or
- (b) has permanently lost, or lost the use of, a member or function of the body or has been permanently disfigured.

Payments made under this Plan to a Disabled Participant are intended by the Employer to be payments under an accident and health plan within the meaning of Code Sections 105(c) and 105(e). Such payments will be computed with reference to the nature of the injury without regard to the period the Participant is absent from work.

16.13 Effective Date: January 1, 1984.

16.14 Elective Deferrals: Employer Contributions made to the Plan during the Plan Year by the Employer, at the election of the Participant, in lieu of cash compensation and shall include contributions made pursuant to a salary reduction agreement or other mechanism. With respect to any taxable year, a Participant's Elective Deferral is the sum of all Employer Contributions made on behalf of such Participant pursuant to an election to defer under any qualified CODA as described in Code Section 401(k), any simplified employee pension cash or deferred arrangement as described in Code Section 402(h)(1)(B), any eligible deferred compensation plan under Code Section 457, any plan described under Code 501(c)(18), and any employer contributions made on the Participant's behalf for the

purchase of an annuity contract under Code Section 403(b) pursuant to a salary reduction agreement. Elective Deferrals shall not include any deferrals properly distributed as excess annual additions.

16.15 Eligible Participant: Any Employee who is eligible to make an Elective Deferral (if the Employer takes such contributions into account in the calculation of the Contribution Percentage), or to receive a Matching Contribution (including forfeitures) or a Qualified Matching Contribution.

16.16 Employee: A person employed by the Employer including leased employees within the meaning of Code Section 414(n) (5) but excluding:

- (a) An independent contractor or a self-employed individual;
- (b) An employee who is included in a unit of employees covered by a collective bargaining agreement between employee representatives and the Employer, where there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and the Employer; and
- (c) An employee who is a non-resident alien deriving no earned income from the Employer which constitutes income from sources within the United States.

Employment shall not be deemed to have been terminated where an employee is on leave of absence if such leave of absence is granted pursuant to uniform rules established by the Employer and if all Employees in similar circumstances are treated alike and the Employee returns to employment with the Employer within the period of authorized absence. An absence due to service in the Armed Forces of the United States shall be considered an authorized leave of absence if the Employee meets all of the requirements of federal law in order to be entitled to reemployment and the Employee returns to employment with the Employer within the period provided by federal law.

Notwithstanding the foregoing, if such leased employees constitute less than twenty percent (20%) of the Employer's nonhighly compensated work force within the meaning of Section 414(n) (1) (c) (ii) of the Code, the term "Employee" shall not include those leased employees covered by a plan described in Section 414(n) (5) of the Code.

The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing



organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n) (6) of the Code) on a substantially full time basis for a period of at least one year, and such services are of a type historically performed by employees in the business field of the recipient employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

A leased employee shall not be considered an employee of the recipient if: (a) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of Compensation, as defined in Section 16.09 of the Plan, but including amounts contributed pursuant to a salary reduction agreement which are excludible from the employee's gross income tax under Section 125, Section 402(a) (8), Section 402(h) or Section 403(b) of the Code, (2) immediate participation, and (3) full and immediate vesting; and (b) if leased employees do not constitute more than 20 percent of the recipient's nonhighly compensated workforce.

16.17 Employer/Affiliated Employer: The "Employer" named above, any succeeding entity and any other entity which adopts the Plan with respect to its Employees with the consent of such establishing Employer. For purposes of this Plan, a Participant shall receive credit for all service with the Employer and with any other entity which adopts the Plan with respect to its Employees with the consent of the establishing Employer. In addition, if such an Employee ever becomes a Participant hereunder, service to be counted for Plan purposes shall include service for the Employer in a class of Employees otherwise ineligible for participation under this Plan. For purposes of applying the provisions of Code Sections 401, 408(k), 410, 411, 415 and 416, all employees of Affiliated Employers shall be treated as employed by a single employer. An "Affiliated Employer" shall mean the Employer and any corporation which is a member of a controlled group of corporations (as defined in Code Section 416(b)) which includes the Employer, any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c) with the Employer; , any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer, and any other entity required to be aggregated with the Employer pursuant to regulations under Code Section 414(o). In any case where an Employer is maintaining the Plan of a predecessor Employer, service for such predecessor shall be treated as service for the Employer.

16.18 Employer Contributions: Contributions made by the Employer

to the Plan.

16.19 Excess Aggregate Contributions: With respect to any Plan Year, the excess of:

- (a) The aggregate Contribution Percentage Amounts taken into account in computing the numerator of the Contribution Percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over
- (b) The maximum Contribution Percentage Amounts permitted by the ACP test (determined by deducting contributions made on behalf of High Compensated Employees in order of their Contribution Percentages beginning with the highest of such percentages).

Such determinations shall be made after first determining Excess Elective Deferrals pursuant to Section 2.02(f) and then determining Excess Contributions pursuant to Section 2.02(g).

16.20 Excess Contributions: With respect to any Plan Year, the excess of:

- (a) The aggregate amount of Employer Contributions actually taken into account in computing the ADP of Highly Compensated Employees for such Plan Year, over
- (b) The maximum amount of such contributions permitted by the ADP test (determined by reducing contributions made on behalf of Highly Compensated Employees in order of the ADPs, beginning with the highest of such percentages).

16.21 Excess Contribution Percentage: The percentage of Compensation which is contributed by the Employer under the Plan with respect to that portion of each Participant's Compensation in excess of the integration level specified in Section 2.03(b).

16.22 Excess Elective Deferrals: Those Elective Deferrals that are includible in a Participant's gross income under Code Section 402(g) to the extent such Participant's Elective Deferrals for a taxable year exceed the dollar limitation under such Code section. Excess Elective Deferrals shall be treated as annual additions under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

16.23 Family Member: An individual described in Section 16.25 of the Plan.

16.24 Fiduciaries: The Employer, the Trustee and the Plan Administrator, but only to the extent of the specific responsibilities allocated

to each of them under the Plan. Any person or entity may serve in more than one fiduciary capacity with respect to the Plan.

16.25 Highly Compensated Employee: An individual who is either a highly compensated active Employee or a highly compensated former Employee.

A highly compensated active Employee includes any Employee who performs service for the Employer during the determination year and who, during the look-back year: (a) received compensation from the Employer in excess of \$75,000.00 (as adjusted pursuant to Section 415(d) of the Code); (b) received compensation from the Employer in excess of \$50,0000.00 (as adjusted pursuant to Section 415(d) of the Code) and was a member of the top-paid group for such year; or (c) was an officer of the Employer and received compensation during such year that is greater than fifty percent (50%) of the dollar limitation in effect under Section 415(b)(1)(A) of the Code. The term highly compensated Employee also includes: (a) 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 of the 100 Employees who received the most compensation from the Employer during the determination year; and (b) Employees who are five percent (5%) owners at any time during the look-back year or determination year.

If no officer has satisfied the compensation requirement of (iii) 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. The look-back year shall be the twelve-month period immediately preceding the determination year.

A highly compensated former 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 a highly compensated active Employee for either the separation year or any determination year ending on or after the Employee's 55th 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 of the 10 most highly compensated Employees ranked on the basis of compensation paid by the Employer during such year, then the family member and the five percent (5%) owner or top-ten highly compensated Employee

shall be aggregated. In such case, the family member and five percent (5%) owner or top-ten highly compensated Employee shall be treated as a single Employee receiving compensation and Plan contributions or benefits equal to the sum of such compensation and contributions or benefits of the family member and five percent (5%) owner or top-ten highly compensated Employee. For purposes of this Section, family member includes the spouse, lineal ancestors and descendants of the Employee or former Employee and the spouses of such lineal ancestors and descendants.

The determination of who is a highly compensated Employee, including the determinations of the number and identify of Employees in the top-paid group, the top 100 Employees, the number of Employees treated as officers and the compensation that is considered, will be made in accordance with Section 414(q) of the Code and the regulations thereunder.

16.26 Hour of Service: An "Hour of Service" shall include:

- (a) Each hour for which an Employee is paid or entitled to payment by the Employer for the performance of duties during the applicable computation period. These hours shall be credited to the Employee for the computation period in which the duties were performed.
- (b) Each hour for which an Employee is paid, or entitled to payment by the Employer, either directly or indirectly, on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, but excluding payments under a plan maintained solely for the purpose of complying with workmen's compensation, unemployment compensation, or disability insurance laws and also excluding payments for medical or medically related expenses. No more than 501 Hours of Service shall be credited under this paragraph (b) or paragraph (c) for any single continuous period (whether or not such period occurs in a single computation period).
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be credited both under paragraph (a) or paragraph (b), as the case may be, and under this paragraph (c). Further, no more than 501 Hours of Service shall be credited for payment of back pay to the extent it is agreed to or awarded for a period of time during which an Employee did not or would not have performed duties. These Hours

shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

- (d) Hours of Service under paragraphs (a), (b), and (c) shall be interpreted and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which is incorporated by this reference.
- (e) Effective for Plan Years beginning after December 31, 1984, the following provision applies for purposes of determining Hours of Service for participation and vesting purposes in a computation period. An individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of this paragraph (e), an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of a birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement. The Hours of Service credited under this paragraph shall be credited (1) in the computation period in which the absence begins if the crediting is necessary to prevent the Participant from receiving credit for less than 501 Hours of Service, or (2) in all other cases, in the following computation period.

- 16.27 Matching Contributions: An Employer contribution made to the Plan or any other defined contribution plan for the Plan Year on behalf of a Participant on account of the Participant's Elective Deferrals.
- 16.28 Net Profit: The amount of net profit earned by the Employer (or consolidated net income for an affiliated group of Employers) for the particular taxable year before making contributions to this Plan other than Elective Deferrals and prior to deductions for taxes or income but excluding extraordinary items and as determined in accordance with generally accepted accounting principles.
- 16.29 Non-Highly Compensated Employee: An Employee of the Employer who is neither a Highly Compensated Employee nor a Family Member.
- 16.30 Normal Retirement Age: Normal Retirement Age shall be age 59-1/2.

- 16.31 Participant: An Employee who satisfies the eligibility requirements set forth in this Plan.
- 16.32 Plan: The defined contribution plan and trust known as the Holiday Rambler Corporation Employees' Retirement Plan as amended from time to time.
- 16.33 Plan Administrator: The Employer or any person, committee or entity appointed by the Employer whose purpose shall be to administer the Plan.
- 16.34 Plan Limitation Year: The twelve (12) month period used for computing the limitations imposed by Code Section 415. The Employer elects to use the Employer's fiscal year as the Plan Limitation Year.
- 16.35 Plan Year: Any fiscal year of the Employer which ends on a date subsequent to the Effective Date.
- 16.36 Qualified Matching Contributions: Matching Contributions which are subject to the distribution and nonforfeitability requirements under Code Section 401(k) when made.
- 16.37 Qualified Nonelective Contributions: Contributions (other than Matching Contributions or Qualified Matching Contributions) made by the Employer and allocated to Participants' accounts that the Participants may not elect to receive in cash until distributed from the Plan; that are nonforfeitable when made; and that are distributable only in accordance with the distribution provisions that are applicable to Elective Deferrals and Qualified Matching Contributions.
- 16.38 Trustee: The "Trustee" as named above and any successors.
- 16.39 Year of Service: A twelve (12) month period during which the Employee has not less than 1,000 Hours of Service. The initial eligibility computation period shall be the twelve (12) consecutive month period beginning with the employment commencement date. If an Employee fails to complete 1,000 Hours of Service in the twelve (12) consecutive months beginning with the employment commencement date, the eligibility computation period shall be the Plan Year which includes the first anniversary of the employment commencement date, and, where additional eligibility computation periods are necessary, succeeding Plan Years. An Employee's employment commencement date shall be deemed to be the day on which the Employee first completes an Hour of Service with the Employer.
- 16.42 Year of Vesting Service: A Plan Year during which the Employee has not less than 1,000 Hours of Service. Except for Plan Years in which the Employee did not elect to make Elective Deferrals, all

Years of Vesting Service of an Employee shall be aggregated for purposes of determining the vested interest of an Employee under the Plan including service with the Employer while a member of an ineligible class of Employees. However, for purposes of determining the vested interest of a Participant in Matching Contributions, no Year of Vesting Service will be credited for any Plan Year in which the Participant fails to make Elective Deferrals to the Plan.

Under no circumstances shall any of the foregoing definitions be interpreted or construed in a manner which shall be inconsistent with ERISA or the Code or any valid regulations issued under them.



CONSENT OF ERNST & YOUNG, INDEPENDENT AUDITORS

We consent to the incorporation by reference in Post-Effective Amendment No. 1 to the Registration Statement (Form S-8 No. 33-35311) of Harley-Davidson, Inc., pertaining to the (a) Harley-Davidson, Inc. Thrift Incentive Plan for Salaried Employees; (b) Harley-Davidson, Inc. Thrift Incentive Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees; and (c) Holiday Rambler Corporation Employees' Retirement Plan, of our reports (i) dated February 10, 1993, with respect to the consolidated financial statements and schedules of Harley-Davidson, Inc. included in its Annual Report (Form 10-K); (ii) dated April 30, 1993, with respect to the financial statements of the Harley-Davidson, Inc. Thrift Incentive Plan for Salaried Employees included in its Annual Report (Form 11-K); (iii) dated April 30, 1993, with respect to the financial statements of the Harley-Davidson, Inc. Thrift Incentive Plan for Milwaukee and Tomahawk Hourly Bargaining Unit Employees included in its Annual Report (Form 11-K); and (iv) dated May 1993, with respect to the financial statements of the Holiday Rambler Corporation Employees' Retirement Plan included in its Annual Report (Form 11-K), all for the year ended December 31, 1992, filed with the Securities and Exchange Commission.

ERNST & YOUNG

Milwaukee, Wisconsin  
January 28, 1994