

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **May 10, 2005**

DST SYSTEMS, INC.
(Exact Name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation)

1-14036
(Commission File Number)

43-1581814
(IRS Employer Identification No.)

333 West 11th Street, Kansas City, Missouri
(Address of principal executive offices)

64105
(Zip Code)

(816) 435-1000
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2.):

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

On March 2, 2005, the Board of Directors (the “DST Board”) of DST Systems, Inc. (“DST” or the “Company”) approved the DST Systems, Inc. 2005 Equity Incentive Plan (the “Employee Plan”) and the DST Systems, Inc. 2005 Non-Employee Directors’ Award Plan (the “Directors’ Plan”), in each case, subject to stockholder approval. At the Annual Meeting of Stockholders of DST on May 10, 2005, stockholders approved the Employee Plan and the Directors’ Plan. These plans became effective as of May 10, 2005. The Employee Plan amends, restates and renames the DST Systems, Inc. 1995 Stock Option and Performance Award Plan (“1995 Plan”). The Directors’ Plan will replace the component of the 1995 Plan that provided for equity awards to directors who are not employees of DST or any affiliate (“Non-Employee Directors”). The descriptions of certain material terms of the Employee Plan and the Directors’ Plan set forth below are subject to the specific provisions in the full text of such plans, which are attached as Exhibits 10.1 and 10.2, respectively.

DST Systems, Inc. 2005 Equity Incentive Plan

The term of the Employee Plan is from May 10, 2005 through May 9, 2015. Eligible participants in the Employee Plan are employees, prospective employees and consultants to DST or an affiliate. The Compensation Committee (the “Committee”) of the DST Board, which is made up entirely of independent directors, or another committee of the DST Board that meets specified independence criteria, will administer this plan. The Committee may interpret and administer the Employee Plan, establish, amend, suspend or waive any rules relating to the Employee Plan, and make any other determination and take any other action that may be necessary or advisable for administration of the Employee Plan. Except as otherwise expressly provided in the Employee Plan, all determinations, designations, interpretations, and other decisions of the Committee are final, conclusive and binding.

Subject to adjustment as provided in the Employee Plan, the number of shares of common stock reserved for delivery under this plan is the sum of 4,000,000 shares, plus the number of shares remaining under the 1995 Plan as of May 10, 2005 which are not subject to outstanding awards under the 1995 Plan and not delivered out the shares reserved under the 1995 Plan, plus shares that become available under the 1995 Plan after May 10, 2005 pursuant to forfeiture, termination, lapse or satisfaction of an award in cash or property other than shares of common stock, application as payment for an award, or, except with respect to restricted stock, to satisfy tax withholding, plus any shares of common stock required to satisfy substitute awards.

Subject to limits set forth in the Employee Plan, the Committee determines the size of awards. The Committee may grant Shares of DST common stock, Dividend Equivalents, Options (including Non-Qualified Stock Options and Incentive Stock Options), Stock Appreciation Rights, Limited Stock Appreciation Rights, Performance Units, Restricted Stock, Restricted Stock Units, Deferred Stock, Annual Incentive Awards, Service Awards and Substitute Awards (each as defined in the Employee Plan), any or all of which may be made contingent on continued employment and/or achievement of performance-based criteria. The Employee Plan sets forth a list of performance criteria, one or more of which may be applied to awards. The Committee may adjust any award downward in its discretion. In addition, the Committee may include or exclude items to measure specific objectives, such as losses from discontinued operations, extraordinary gains or losses, the cumulative effect of accounting changes, acquisitions or divestitures, foreign exchange impacts and any unusual non-recurring gain or loss. Performance-based awards may be paid in cash, shares, or the equivalent value in any other form of award allowed in the Employee Plan, or any combination thereof, as determined by the Committee.

The maximum number of shares with respect to which an individual may be granted awards in one year is 800,000. The maximum cash award payout for which an individual may be granted an award in any year is 600% of his or her base salary (up to \$1,000,000 of base salary). Vesting is determined by the Committee at the time of grant, except that time-based restrictions on Restricted Stock shall remain in effect at least until the third anniversary of the grant date (subject to acceleration if the Committee allows in the event of death, disability, change in control, constructive termination of employment or termination of employment by DST other than for cause). Grantees may elect to or may be required to defer receipt of cash awards or delivery of stock awards on terms and conditions established by the Committee. Unless otherwise provided in an agreement governing an award made under the Employee Plan, all awards other than Service Awards become fully vested on a Change in Control (as defined in the Employee Plan). In addition, if there is a Change in Control, the Committee may provide for the cash-out of any award, adjust the award as appropriate to reflect the Change in Control, or cause the award to be assumed by the survivor or a Substitute Award to be granted by the survivor. Unless otherwise determined by the Committee, awards granted under the Employee Plan are not transferable except by will or the laws of descent and distribution. The Committee will have sole discretion to permit the transfer of an award to certain family members specified in the Employee Plan.

The DST Board may amend or terminate the Employee Plan, without stockholder approval unless stockholder approval is required by any federal or state law or regulation or the rules of any stock exchange on which DST common stock is traded. However, unless permitted by the Employee Plan or the terms of the award, no amendment or termination may materially adversely affect any outstanding award without the grantee's consent.

In the event a stock dividend, stock split, reorganization, recapitalization, spin-off, or other similar event affects shares such that the Committee determines an adjustment to be appropriate to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Employee Plan, then the Committee may (among other actions and subject to certain exceptions) adjust the number and type of shares available under the Employee Plan, the number and type of shares subject to outstanding awards and the exercise price of outstanding stock options and other awards.

The above description of the Employee Plan is qualified in its entirety by reference to the terms of the Employee Plan attached hereto as Exhibit 10.1.

DST Systems, Inc. 2005 Non-Employee Directors' Award Plan

The term of the Directors' Plan is from May 10, 2005 through May 9, 2015. Eligible participants in the Directors' Plan are Non-Employee Directors. The full DST Board will administer the Directors' Plan, provided that any determination under this plan with respect to a particular Non-Employee Director will be determined by a vote of the majority of the members of the DST Board excluding such Non-Employee Director. The DST Board may interpret and administer the Directors' Plan, establish, amend, suspend or waive any rules relating to the Directors' Plan, and make any other determination and take any other action that may be necessary or advisable for administration of this plan. Except as otherwise expressly provided in the Directors' Plan, all determinations, designations, interpretations, and other decisions of the DST Board are final, conclusive and binding. All determinations of the DST Board shall be made by a majority of its members, excluding any director with respect to whom the determination is being made.

Subject to adjustment as provided in the Directors' Plan, the number of shares of common stock reserved for delivery under this plan is the sum of 300,000 shares plus any shares of common stock required to satisfy Substitute Awards (as defined in the Directors' Plan).

Subject to limits set forth in the Directors' Plan, the DST Board determines the size of awards. Non-Employee Directors may receive Shares of DST common stock, Dividend Equivalents, Options (non-qualified stock options), Restricted Stock, Restricted Stock Units, Deferred Stock and Substitute Awards (each as defined in the Directors' Plan), any or all of which may be made contingent on continued service on the DST Board and/or achievement of performance-based criteria.

Vesting is determined by the full DST Board at the time of grant, except that time-based restrictions on Restricted Stock shall remain in effect at least until the third anniversary of the grant date with accelerated vesting in certain limited circumstances.

The DST Board may amend or terminate the Directors' Plan, without stockholder approval unless stockholder approval is required by any federal or state law or regulation or the rules of any stock exchange on which DST common stock is traded. However, unless permitted by the Directors' Plan or the terms of the award, no amendment or termination may materially adversely affect any outstanding award without the grantee's consent.

In the event a stock dividend, stock split, reorganization, recapitalization, spin-off, or other similar event affects shares such that the DST Board determines an adjustment to be appropriate to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Directors' Plan, then the DST Board may adjust the number and type of shares available under the Directors' Plan or subject to outstanding grants, and, subject to various limits set forth in the Directors' Plan, the exercise price of outstanding stock options and other awards.

The above description of the Directors' Plan is qualified in its entirety by reference to the terms of the Directors' Plan attached hereto as Exhibit 10.2.

ITEM 9.01 Financial Statements and Exhibits

(c). Exhibits.

Exhibit Number	Description
10.1	DST Systems, Inc. 2005 Equity Incentive Plan
10.2	DST Systems, Inc. 2005 Non-Employee Directors' Award Plan

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized on this 12th day of May, 2005.

DST SYSTEMS, INC.

By: /s/ Randall D. Young
Name: Randall D. Young
Title: Vice President and General Counsel

Exhibit Index

Exhibit Number	Description
10.1	DST Systems, Inc. 2005 Equity Incentive Plan
10.2	DST Systems, Inc. 2005 Non-Employee Directors' Award Plan

DST SYSTEMS, INC. 2005 Equity Incentive Plan
(formerly the "1995 Stock Option and Performance Award Plan")

Section 1.
Effective Date, Purpose and Duration

1.1 Effective Date of the Plan.

DST Systems, Inc., a Delaware corporation (the "Company"), hereby amends and restates the DST Systems, Inc. 1995 Stock Option and Performance Award Plan ("1995 Plan"), and renames it the DST Systems, Inc. 2005 Equity Incentive Plan (the "Plan"). The Plan also amends and incorporates the DST Systems, Inc. Executive Incentive Plan, which was most recently amended and restated as of March 2, 2005, and the DST Systems, Inc. 1991 Stock Bonus Plan, which was most recently amended and restated as of October 7, 2003. The Plan was approved by the Board on March 2, 2005, and is effective May 10, 2005 (the "Effective Date"), subject to approval by the Company's stockholders.

1.2 Purposes of the Plan.

The Plan is intended to generate an increased incentive for employees and consultants of the Company, its subsidiaries and joint ventures to contribute to the Company's future success, to secure for the Company and its stockholders the benefits inherent in equity ownership by employees of the Company, its subsidiaries and joint ventures, and to enhance the ability of the Company, and its affiliates and joint ventures to attract and retain exceptionally qualified employees upon whom, in large measure, the sustained progress, growth and profitability of the Company depend. By encouraging employees of the Company, and its affiliates to acquire a proprietary interest in the Company's growth and performance through both cash and stock Awards, the Company intends to more closely align the interests of the Company's employees, management and stockholders and motivate employees to enhance the value of the Company for the benefit of all stockholders.

1.3 Duration of the Plan.

The Plan, as amended and restated herein, shall apply as of the Effective Date and shall remain in effect, subject to the right of the Board to amend or terminate the Plan at any time, until the earlier of May 9, 2015 or the date all Shares subject to the Plan shall have been delivered and the restrictions on all Restricted Stock granted under the Plan shall have lapsed, according to the Plan's provisions. The amendment and restatement of the Plan shall not, unless otherwise expressly provided, adversely affect any Awards outstanding on the Effective Date. The termination of the Plan shall not adversely affect any Awards outstanding on the date of termination.

Section 2.
Definitions

As used in the Plan, the following terms shall have the meanings set forth below:

2.1 "Affiliate" means any Person that directly, or through one or more intermediaries, controls or is controlled by, or is under common control with, the Company.

2.2 "Annual Incentive Award" means a performance bonus determined under Section 13.

2.3 "Award" means any Option (including Non-Qualified Stock Options and Incentive Stock Options), Stock Appreciation Right, Limited Stock Appreciation Right, Performance Unit, Restricted Stock, Shares, Restricted Stock Unit, Deferred Stock, Annual Incentive Award, Service Award, Substitute Award, or Dividend Equivalent.

2.4 "Award Agreement" means the written agreement by which an Award shall be evidenced.

2.5 "Beneficiary" or "Beneficiaries" means the person designated to receive Plan benefits, if any, following the Grantee's death in accordance with Section 18.

2.6 "Board" means the Board of Directors of the Company.

2.7 "Bonus Opportunity" means the threshold, target and maximum bonus opportunity for an Annual Incentive Award for an individual for a Year, based on threshold, target and maximum bonus levels either (a) specified in the individual's employment agreement with the Company for such Year, and based on the individual's base salary in effect on the first day of such Year, or (b) if the individual does not have an employment agreement as of the first day of such Year or if the individual's employment agreement does not specify such bonus levels, then specified as a percentage of such individual's base salary in effect on the first day of such Year (or such later date as such person is designated as an eligible Grantee) as determined by the Committee.

2.8 "Change in Control" has the meaning set forth in Section 15.

2.9 "Code" means the Internal Revenue Code of 1986 (and any successor Internal Revenue Code), as amended from time to time. References to a particular section of the Code include references to regulations and rulings thereunder and to successor provisions.

2.10 "Committee" has the meaning set forth in Section 3.1(a).

2.11 "Common Stock" means common stock, one cent (\$.01) par value per share, of the Company.

2.12 "Company" means DST Systems, Inc., a Delaware corporation.

2.13 "Consultant" means a non-employee consultant or advisor to the Company, a Subsidiary or a Joint Venture who is a natural person (other than a non-employee director) providing bona fide services that are not in connection with an offer or sale of Company equity securities in a capital raising transaction; *provided* the individual does not directly or indirectly maintain or promote a market in Company securities.

2.14 "Covered Employee" means a Grantee who, as of the last day of the fiscal year in which the value of an Award is recognizable in income for federal income tax purposes, is one of the groups of "covered employees," within the meaning of Code Section 162(m), with respect to the Company.

2.15 "Deferred Stock" means a right, granted as an Award (under Section 11), to receive payment in the form of Shares (or measured by the value of Shares) at the end of a specified deferral period.

2.16 "Dividend Equivalent" means any right to receive payments equal to dividends or property, if and when paid or distributed, on Shares or Restricted Stock Units.

2.17 "Effective Date" has the meaning set forth in Section 1.1.

2.18 "Eligible Person" means any employee of an Employer, any individual expected to become an employee of an Employer, and any Consultant. A former employee of Employer shall also be treated as an Eligible Person if and to the extent such former employee is entitled to be granted any Award under the Plan pursuant to the terms of an employment agreement or similar contract between the former employee and the Employer that was entered into prior to such former employee's Termination of Affiliation. Solely for purposes of Section 2.50, the term Eligible Person includes any current or former employee or non-employee director of, or consultant to, an Acquired Entity (as defined in Section 2.50) who holds Acquired Entity Awards (as defined in Section 2.50) immediately prior to the Acquisition Date (as defined in Section 2.50).

2.19 "Employer" means, with respect to any Eligible Person, the Company, the Subsidiary or the Joint Venture (as the case may be) by whom he or she is employed.

2.20 "Exchange Act" means the Securities and Exchange Act of 1934, as amended, or any successors thereto, and the rules and regulations promulgated thereunder, all as shall be amended from time to time.

2.21 "Exercise Date" means the date the holder of an Award that is subject to exercise delivers notice of such exercise to the Company, accompanied by such payment, attestations, representations or other documentation as the Committee may specify; *provided* that if such notice is delivered after 11:00 a.m. Central Time (or such other time as the Committee may specify), the Exercise Date shall be the following day.

2.22 "Fair Market Value" means

(a) with respect to a Share or other securities, (i) the average of the highest and lowest reported sales prices reported in the table entitled "New York Stock Exchange Composite Transactions" contained in The Wall Street Journal (or an equivalent successor table); (ii) if the Shares or other securities are not listed on the New York Stock Exchange, the closing sales price of the Shares or other securities on such other national exchange on which the Shares are principally traded, or as reported by the National Market System, or similar organization, as reported in the appropriate table or listing contained in The Wall Street Journal, or if no such quotations are available, the average of the high bid and low asked quotations in the over-the-counter market as reported by the National Quotation Bureau Incorporated or similar organizations; or (iii) in the event that there shall be no public market for the Shares or other securities, the fair market value of the Shares as determined (which determination shall be conclusive) in good faith by the Committee. Except as provided in the following sentence, the valuation of a Share or other securities on any date shall be determined as of that date (or, if no sale of Shares or such other securities was reported for such date, on the most recent trading day prior to such date on which a sale of Shares or such other securities was reported). On the Exercise Date of an Award, the valuation of Shares shall be determined as of the last trading day preceding the exercise of the Award;

(b) with respect to any property other than cash or securities, the market value of such property determined by such methods or procedures as shall be established from time to time by the Committee; and

(c) with respect to cash, the value of such cash in United States dollars.

2.23 "Grant Date" means the date on which an Award is granted or such later date as specified in advance by the Committee. With respect to Annual Incentive Awards payable in Shares, Options, Restricted Stock, or Restricted Stock Units, the Grant Date shall be the date on which the Committee certifies the attainment of the performance goals as provided in Section 13.2(c).

2.24 "Grantee" means an Eligible Person who has been granted an Award.

2.25 "Incentive Stock Option" means an Option granted as an Award under the Plan that is intended to meet the requirements of Section 422 of the Code.

2.26 "Including" or "includes" means "including, without limitation," or "includes, without limitation," respectively.

2.27 "Joint Venture" means any Person in which the Company has an ownership interest equal to at least fifty percent (50%) of the common stock, voting rights or profits.

2.28 "Limited Stock Appreciation Right" or "LSAR" means an Award under the Plan consisting of the right to receive, as of a specified date following a Change in Control, an amount equal to the number of Shares with respect to which the LSAR is exercised, multiplied by the excess of (a) the Fair Market Value of one Share on the Exercise Date or, if the Committee shall so determine in the case of any LSAR other than one related to any Incentive Stock Option, at any time during a specified period before the Exercise Date, over (b) the Strike Price of the LSAR.

2.29 "Non-Qualified Stock Option" means an Option granted as an Award under the Plan that is not intended to be an Incentive Stock Option.

2.30 "Option" means an Incentive Stock Option or Non-Qualified Stock Option.

2.31 "Option Price" means the price at which a Share may be purchased by a Grantee pursuant to an Option.

2.32 "Performance-Based Exception" means the performance-based exception from the tax deductibility limitations of Code Section 162(m) contained in Code Section 162(m)(4)(C) (including the special provision for options thereunder).

2.33 "Performance Measures" has the meaning set forth in Section 4.4.

2.34 "Performance Goals" means the objective or subjective criteria determined by the Committee, the degree of attainment of which will affect (a) in the case of an Award other than the Annual Incentive Award, the amount of the Award the Grantee is entitled to receive or retain, and (b) in the case of an Annual Incentive Award, the portion of the individual's Bonus Opportunity potentially payable as an

Annual Incentive Award. Performance Goals may contain threshold, target, and maximum levels of achievement and, to the extent the Committee intends an Award (including the Annual Incentive Award) to comply with the Performance-Based Exception, the Performance Goals shall be chosen from among the Performance Measures set forth in Section 4.4.

2.35 "Performance Period" means that period established by the Committee at the time any Performance Unit is granted or at any time thereafter during which the attainment of performance goals specified by the Committee with respect to such Award are to be measured. Except as provided in Section 9.2, a Performance Period may be a year or a longer or shorter period.

2.36 "Performance Unit" means an Award under the Plan that is (a) a bonus consisting of cash or other property the amount or value of which, and/or the entitlement to which, is conditioned upon the attainment of Performance Goals, or (b) a unit valued by reference to a designated amount of cash or property other than Shares.

2.37 "Person" means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization, institution, public benefit corporation, entity or government instrumentality, division, agency, body or department.

2.38 "Plan" has the meaning set forth in Section 1.1. If the Plan is amended, the term "Plan" shall mean the Plan as so amended.

2.39 "Restricted Stock" means any Share issued as an Award under the Plan that is subject to Restrictions.

2.40 "Restricted Stock Unit" means the right granted as an Award under the Plan to receive a Share, conditioned on the satisfaction of Restrictions imposed by the Committee, which Restrictions may be time-based or performance-based.

2.41 "Restriction" means any restriction on a Grantee's free enjoyment of the Shares or other rights underlying Awards, including (a) that the Grantee or other holder may not sell, transfer, pledge, or assign a Share or right, and (b) such other restrictions as the Committee may impose in the Award Agreement (including, without limitation, any restriction on the right to vote such Share, and the right to receive any dividends). Restrictions may be based on the passage of time or the satisfaction of performance criteria or the occurrence of one or more events or conditions, and shall lapse separately or in combination upon such conditions and at such time or times, in installments or otherwise, as the Committee shall specify. Awards subject to a Restriction shall be forfeited if the Restriction does not lapse prior to such date or the occurrence of such event or the satisfaction of such other criteria as the Committee shall determine.

2.42 "Retirement" means a Termination of Affiliation other than for cause on or after reaching age fifty-nine and one-half (59½).

2.43 "Rule 16b-3" means Rule 16b-3 promulgated by the SEC under the Exchange Act, as amended from time to time, together with any successor rule.

2.44 "SEC" means the United States Securities and Exchange Commission, or any successor thereto.

2.45 "Section 16 Person" means a person who is subject to potential liability under Section 16(b) of the Exchange Act with respect to transactions involving equity securities of the Company.

2.46 "Service Award" means an Award of Shares delivered automatically to an individual pursuant to Section 14 in recognition of his or her service.

2.47 "Share" means a share of the Common Stock of the Company.

2.48 "Stock Appreciation Right" or "SAR" means a right granted as an Award under the Plan to receive, as of the date specified in the Award Agreement, an amount equal to the number of Shares with respect to which the SAR is exercised, multiplied by the excess of (a) the Fair Market Value of one Share on the Exercise Date or, if the Committee shall so determine in the case of any such right other than one related to any Incentive Stock Option, the Fair Market Value at any time during a specified period before the Exercise Date, over (b) the Strike Price.

2.49 "Strike Price" means the per-Share price used as the baseline measure for the value of an SAR or LSAR, as specified in the Award Agreement.

2.50 "Subsidiary" means an Affiliate controlled by the Company directly, or indirectly, through one or more intermediaries.

2.51 "Substitute Award" means an Award granted under the Plan in substitution for stock and stock-based awards ("Acquired Entity Awards") held by current and former employees or former non-employee directors of, or consultants to, another corporation or entity who become Eligible Persons as the result of a merger or consolidation of the employing corporation or other entity (the "Acquired Entity") with the Company, a Subsidiary or a Joint Venture or the acquisition by the Company, an Affiliate or a Joint Venture of property or stock of, or other ownership interest in, the Acquired Entity immediately prior to such merger, consolidation or acquisition ("Acquisition Date") in order to preserve for the Grantee the economic value of all or a portion of such Acquired Entity Award at such price and with such other terms as the Committee determines necessary to achieve preservation of economic value. The limitations of Sections 4.1 and 4.3 on the number of Shares reserved or available for grants, and the limitations under Sections 6.3 and 7.3 with respect to Option Prices and Strike Prices shall not apply to Substitute Awards.

2.52 "Term" means the period beginning on the Grant Date of an Option, SAR or LSAR and ending on the date such Option, SAR or LSAR expires, terminates or is cancelled.

2.53 "Termination of Affiliation" occurs on the first day on which an individual is for any reason no longer providing services to an Employer in the capacity of an employee or consultant or, with respect to an individual who is an employee of or a consultant to a Subsidiary or a Joint Venture, the first day on which such entity ceases to be a Subsidiary or a Joint Venture of the Company as applicable.

2.54 "Year" means the fiscal year of the Company. As of the Effective Date, the Company's fiscal year is the calendar year.

Section 3. Administration

3.1 Committee.

(a) Subject to Section 3.2, the Plan shall be administered by a committee (the "Committee"), the members of which shall be appointed by the Board from time to time and may be removed by the Board from time to time. Unless the Board otherwise specifies, the Compensation Committee of the Board shall be the Committee. To the extent the Board considers it desirable to comply with Rule 16b-3 or meet the Performance-Based Exception, the Committee shall consist of two or more directors of the Company, all of whom qualify as "non-employee directors" within the meaning of Code Section 162(m) and "outside directors" under Rule 16b-3. The number of members of the Committee shall from time to time be increased or decreased, and shall be subject to conditions, in each case if and to the extent the Board deems it appropriate to permit transactions in Shares pursuant to the Plan to qualify for an exemption from Section 16(b) of the Exchange Act.

(b) The Committee may delegate to the Chief Executive Officer or Chief Financial Officer of the Company any or all of the authority of the Committee with respect to Awards to Grantees, other than Grantees for whom the Committee desires the Award to qualify for an exemption from Section 16(b) of the Exchange Act as in effect at the time any such delegated authority is exercised.

3.2 Powers of the Committee.

Subject to and consistent with the provisions of the Plan, the Committee shall have full power and authority and sole discretion as follows:

(a) to determine when, to whom and in what types and amounts Awards (including Substitute Awards) should be granted;

(b) to grant Awards to Eligible Persons in any number, and to determine the terms and conditions applicable to each Award (including conditions intended to comply with Code Section 409A, the number of Shares or the amount of cash or other property to which an Award will relate, the term of the Award, any exercise price, Option Price, Strike Price, any limitation or Restriction, any schedule for, or performance conditions relating to, the earning of the Award or the lapse of Restrictions, forfeiture Restrictions, Restrictions on exercisability or transferability, any performance goals including those relating to the Company and/or an Affiliate and/or any division thereof and/or a Joint Venture and/or an individual, and/or vesting based on the passage of time, based in each case on such considerations as the Committee shall determine);

(c) to determine as to all or part of any Award as to any Grantee, at the time the Award is granted or thereafter, that an Award shall become exercisable or vested upon a Termination of Affiliation, or other event, to determine that Awards shall continue to become exercisable or vested in full or in installments after Termination of Affiliation, to extend the period for exercise of Options, SARs or LSARs following Termination of Affiliation (but not beyond ten (10) years from the Grant Date of the Option, SAR or LSAR) or to provide that any Restricted Stock Award, Restricted Stock Unit Award, Performance Unit Award or Service Award shall in whole or in part

not be forfeited upon such Termination of Affiliation, *provided* the Committee shall consider potential tax consequences in making any such determinations or taking any such actions;

(d) to determine the benefit payable under any Performance Unit or Dividend Equivalent, and to determine whether any performance or vesting conditions have been satisfied;

(e) to determine whether or not specific Awards shall be granted in connection with other specific Awards, and if so, whether they shall be exercisable cumulatively with, or alternatively to, such other specific Awards and all other matters to be determined in connection with an Award;

(f) to determine, with respect to Restricted Stock, whether to permit or require the payment of cash dividends thereon to be deferred and the terms related thereto, and whether Restricted Stock (including Restricted Stock acquired upon the exercise of an Option) shall be held in escrow or other custodial arrangement;

(g) to determine whether, to what extent and under what circumstances an Award may be settled in, or the exercise price of an Award may be paid in, cash, Shares, other Awards or other property, or an Award may be accelerated, vested, canceled, forfeited or surrendered or any terms of the Award may be waived, to accelerate the exercisability of, and to accelerate or waive any or all of the terms and conditions applicable to, any Award or any group of Awards for any reason and at any time or to extend the period subsequent to the Termination of Affiliation within which an Award may be exercised;

(h) to determine whether, to what extent and under what circumstances cash, Shares, other Awards, other property and other amounts payable with respect to an Award will be deferred, either at the election of the Grantee, or, if and to the extent specified in the Award Agreement, automatically or at the election of the Committee (whether to limit loss of deductions pursuant to Code Section 162(m) or otherwise), and to provide for the payment of interest or other rate of return determined with reference to a predetermined actual investment or independently set interest rate, or with respect to other bases permitted under Code Sections 162(m), 409A or otherwise, for the period between the Exercise Date, the date Restrictions Lapse, or the maturity of an Award, as applicable, and the date of payment or settlement of the Award;

(i) to grant Awards in replacement of Awards previously granted under this Plan or any other compensation plan of an Employer, *provided* that any such replacement grant that would be considered a repricing shall be subject to shareholder approval;

(j) to make, amend, suspend, waive and rescind rules and regulations relating to the Plan;

(k) to appoint such agents as the Committee may deem necessary or advisable to administer the Plan;

(l) with the consent of the Grantee, to amend any Award Agreement at any time; *provided* that the consent of the Grantee shall not be required for any amendment (i) that, in the Committee's determination, does not materially adversely affect the rights of the Grantee, or (ii) which is necessary or advisable (as determined by the Committee) to carry out the purpose of

the Award as a result of any new applicable law or change in an existing applicable law, or (iii) to the extent the Award Agreement specifically permits amendment without consent;

(m) to impose such additional terms and conditions upon the grant, exercise or retention of Awards as the Committee may, before or concurrently with the grant thereof, deem appropriate, including limiting the amount or percentage of Awards which may from time to time be exercised by a Grantee, and including requiring the Grantee to enter into restrictive covenants;

(n) without the consent of the Grantee, to make adjustments in the terms and conditions of, and the criteria in, Awards in recognition of unusual or nonrecurring events (including events described in Section 4.2) affecting an Employer or the financial statements of an Employer, or in response to changes in applicable laws, regulations or accounting principles; *provided*, however, that in no event shall such adjustment increase the value of an Award for a person expected to be a Covered Employee for whom the Committee desires to have the Performance-Based Exception apply;

(o) to make such adjustments or modifications to Awards or to adopt such sub-plans for Eligible Persons working outside of the United States as are advisable to fulfill the purposes of the Plan;

(p) to correct any defect or supply any omission or reconcile any inconsistency, and to construe and interpret the Plan, the rules and regulations, and Award Agreement or any other instrument entered into or relating to an Award under the Plan, and to make all determinations, including factual determinations, necessary or advisable for the administration of the Plan;

(q) to take any other action with respect to any matters relating to the Plan for which it is responsible and to make all other decisions and determinations as may be required under the terms of the Plan or as the Committee may deem necessary or advisable for the administration of the Plan; and

(r) in addition to the delegation authority in Section 3.1(b), to delegate to officers or managers of the Company, any Affiliate or any Joint Venture the authority, subject to such terms as the Committee shall determine, to perform specified functions under the Plan (subject to Section 4.3); *provided* that actions required to permit Awards to Section 16 Persons to qualify for an exemption from Section 16(b) of the Exchange Act shall not be delegated and *provided* further that actions required to be taken by the Committee to permit an Award to qualify for the Performance-Based Exception shall not be delegated.

Any action of the Committee with respect to the Plan shall be final, conclusive and binding on all Persons, including the Company, its Affiliates, any Joint Venture, any Grantee, any Eligible Person, any Person claiming any rights under the Plan from or through any Grantee, and stockholders, except to the extent the Committee may subsequently modify, or take further action not consistent with, its prior action. If not specified in the Plan, the time at which the Committee must or may make any determination shall be determined by the Committee, and any such determination may thereafter be modified by the Committee. The express grant of any specific power to the Committee, and the taking of any action by the Committee, shall not be construed as limiting any power or authority of the Committee.

Unless otherwise expressly provided in the Plan, all determinations, designations, interpretations, and other decisions of the Committee shall be final, conclusive and binding upon all Persons, including the Company, any Grantee, any Eligible Person, any stockholder, and any employee of the Company, of any Affiliate or any Joint Venture. All determinations of the Committee shall be made only if there is a quorum for Committee action and by a majority of Committee members present but no less than two members; *provided* that any determination affecting any Awards made or to be made to a member of the Committee may, at the Board's election, be made by the Board.

Section 4.

Shares Subject to the Plan, Maximum Awards and 162(m) Compliance

4.1 Number of Shares Available for Grants.

Subject to adjustment as provided in Section 4.2, the number of Shares reserved for delivery under the Plan shall be the sum of (a) four million (4,000,000), plus (b) the number of remaining Shares under the 1995 Plan (not subject to outstanding Awards under the 1995 Plan and not delivered out of the Shares reserved thereunder) as of the date of the initial stockholder approval of this Plan, plus (c) the number of Shares that became available under the 1995 Plan after the date of the initial stockholder approval of this Plan pursuant to forfeiture, termination, lapse or satisfaction of an Award in cash or property other than Shares, application as payment for an Award, or, except with respect to Restricted Stock, to satisfy tax withholding, plus (d) any Shares required to satisfy Substitute Awards.

If any Shares subject to an Award granted hereunder are forfeited or such Award otherwise terminates or lapses without the delivery of such Shares, the Shares subject to such Award, to the extent of any such forfeiture, termination, or lapse shall again be available for grant under the Plan. If an SAR is settled in Shares, only the number of Shares delivered in settlement of an SAR shall cease to be available for grant under the Plan, regardless of the number of Shares with respect to which the SAR was exercised. If any Shares subject to an Award granted hereunder are withheld or applied as payment in connection with the exercise of an Award (including the withholding of Shares on the exercise of an SAR that is settled in Shares) or, except with respect to Shares of Restricted Stock, the withholding or payment of taxes related thereto, such Shares shall again be available for grant under the Plan.

The Committee shall from time to time determine the appropriate methodology for calculating the number of Shares that have been delivered pursuant to the Plan.

Shares delivered pursuant to the Plan may be, in whole or in part, authorized and unissued Shares, or treasury Shares, including Shares repurchased by the Company for purposes of the Plan.

4.2 Adjustments in Authorized Shares and Awards.

In the event that the Committee shall determine that any dividend or other distribution (whether in the form of cash, Shares, or other securities or property), forward or reverse stock split, merger, reorganization, subdivision, consolidation or reduction of capital, recapitalization, consolidation, scheme of arrangement, split-up, spin-off or combination involving the Company, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other similar corporate transaction or event affects the Shares such that an adjustment is determined by the Committee to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall, in

such manner as it may deem equitable, adjust any or all of (a) the number and type of Shares (or other securities or property) with respect to which Awards may be granted, (b) the number and type of Shares (or other securities or property) subject to outstanding Awards, (c) the grant or exercise price with respect to any Award or, if deemed appropriate, make provision for a cash payment to the holder of an outstanding Award, (d) the number and kind of Shares of outstanding Restricted Stock or relating to any other outstanding Award in connection with which Shares are subject, and (e) the number of Shares with respect to which Awards may be granted to a Grantee, as set forth in Section 4.3; *provided*, in each case, that with respect to Awards of Incentive Stock Options intended to continue to qualify as Incentive Stock Options after such adjustment, no such adjustment shall be authorized to the extent that such adjustment would cause the Incentive Stock Option to violate Section 424(a) of the Code; and *provided* further that the number of Shares subject to any Award denominated in Shares shall always be a whole number.

4.3 Compliance With Code Section 162(m).

(a) *Section 162(m) Compliance.* To the extent the Committee determines that compliance with the Performance-Based Exception is desirable with respect to an Award (including Annual Incentive Awards under Article 13), this section 4.3(a) shall apply. In the event that changes are made to Code Section 162(m) to permit flexibility with respect to the Award or Awards available under the Plan, the Committee may, subject to this Section 4.3, make any adjustments to such Awards as it deems appropriate.

(b) *Annual Individual Limitations.* No Grantee may be granted Awards of Options, SARs, LSARs, Restricted Stock, Restricted Stock Units or Performance Units (or any other Award which is denominated in Shares) with respect to a number of Shares in any one calendar year which, when added to the Shares subject to any other Award denominated in Shares granted to such Grantee in the same calendar year shall exceed Eight Hundred Thousand (800,000) Shares. If an Award denominated in Shares is cancelled, the cancelled Award continues to count against the maximum number of Shares for which an Award denominated in Shares may be granted to a Grantee in any calendar year. The Share limit shall be adjusted to the extent necessary to reflect adjustments to Shares required by Section 4.2. No Grantee may be granted cash Annual Incentive Awards or other cash Awards in any one calendar year the maximum payout for which, when added to the maximum payout for all other cash Awards granted to such Grantee in the same calendar year, shall exceed 600% of the Grantee's annual base salary (up to a maximum of \$1,000,000 of base salary) as of the first day of such calendar year (or, if later, as of the date on which the Grantee becomes an employee of the Company, a Subsidiary or a Joint Venture); *provided*, however, that if the Performance Period applicable to a Performance Unit exceeds twelve months, the 600% limit shall apply to each 12-month period in the Performance Period.

4.4 Performance-Based Exception Under Section 162(m).

(a) *Performance Measures.* Unless and until the Company's stockholders approve a change in the general Performance Measures set forth in this Section 4.4, for Awards (other than Options) designed to qualify for the Performance-Based Exception, objective performance criteria shall be one or more of the following (each a "Performance Measure"):

- (i) Earnings (either in the aggregate or on a per-Share basis);

- (ii) Growth or rate of growth in earnings (either in the aggregate or on a per-Share basis);
- (iii) Net income or loss (either in the aggregate or on a per-Share basis);
- (iv) Cash flow provided by operations, either in the aggregate or on a per-Share basis;
- (v) Growth or rate of growth in cash flow (either in the aggregate or on a per-Share basis);
- (vi) Free cash flow (either in the aggregate on a per-Share basis);
- (vii) Reductions in expense levels, determined either on a Company-wide basis or in respect of any one or more business units;
- (viii) Operating and maintenance cost management and employee productivity;
- (ix) Stockholder returns (including return on assets, investments, equity, or gross sales);
- (x) Return measures (including return on assets, equity, or sales);
- (xi) Growth or rate of growth in return measures (including return on assets, equity, or sales);
- (xii) Share price (including attainment of a specified per-Share price during the Performance Period; growth measures and total stockholder return or attainment by the Shares of a specified price for a specified period of time);
- (xiii) Strategic business criteria, consisting of one or more objectives based on meeting specified revenue, market share, market penetration, geographic business expansion goals, objectively identified project milestones, production volume levels, cost targets, and goals relating to acquisitions or divestitures; and/or
- (xiv) Achievement of business or operational goals such as market share and/or business development;

provided that applicable Performance Measures may be applied on a pre- or post-tax basis; and *provided* further that the Committee may, on the Grant Date of an Award intended to comply with the Performance-Based Exception, and in the case of other grants, at any time, provide that the formula for such Award may include or exclude items to measure specific objectives, such as losses from discontinued operations, extraordinary gains or losses, the cumulative effect of accounting changes, acquisitions or divestitures, foreign exchange impacts and any unusual, nonrecurring gain or loss.

(b) *Flexibility as to Timing, Weighting, Applicable Business Unit.* For Awards intended to comply with the Performance-Based Exception, the Committee shall set the Performance Goals within the time period prescribed by Section 162(m) of the Code. The levels of performance required with respect to Performance Measures may be expressed in absolute or relative levels and may be based upon a set increase, set positive result, maintenance of the status quo, set decrease or

set negative result. Performance Measures may differ for Awards to different Grantees. The Committee shall specify the weighting (which may be the same or different for multiple objectives) to be given to each performance objective for purposes of determining the final amount payable with respect to any such Award. Any one or more of the Performance Measures may apply to a Grantee, to the Company as a whole, to one or more Affiliates or to a department, unit, division or function within the Company, within any one or more Affiliates or any one or more Joint Ventures, and may apply either alone or relative to the performance of other businesses or individuals (including industry or general market indices).

(c) *Discretion to Adjust.* The Committee shall have the discretion to adjust the determinations of the degree of attainment of the pre-established performance goals; *provided*, however, that Awards which are designed to qualify for the Performance-Based Exception may not (unless the Committee determines to amend the Award so that it no longer qualifies for the Performance-Based Exception) be adjusted upward. The Committee shall retain the discretion to adjust such Awards downward. The Committee may not, unless the Committee determines to amend the Award so that it no longer qualifies for the Performance-Based Exception, delegate any responsibility with respect to Awards intended to qualify for the Performance-Based Exception. All determinations by the Committee as to the achievement of the Performance Measure(s) shall be certified in writing prior to payment of the Award.

(d) *Alteration of Performance Measures.* In the event that applicable laws allow an Award to qualify for the Performance-Based Exception even if the Committee alters the governing Performance Measures without obtaining stockholder approval, the Committee shall have sole discretion to make such changes without obtaining stockholder approval.

Section 5. Eligibility and General Conditions of Awards

5.1 Eligibility.

The Committee may in its discretion grant Awards to any Eligible Person, whether or not he or she has previously received an Award; *provided*, however, eligibility to receive Annual Incentive Awards shall be in accordance with Section 13 and eligibility to receive Service Awards shall be in accordance with Section 14.

5.2 Award Agreement.

To the extent not set forth in the Plan, the terms and conditions of each Award shall be set forth in an Award Agreement.

5.3 General Terms and Termination of Affiliation.

Except as provided in an Award Agreement or as otherwise determined by the Committee, all Options, SARs or LSARs that have not been exercised, or any other Awards that remain subject to a Restriction or that have outstanding Performance Periods, or (in the case of Service Awards) that have not been granted, shall be cancelled and forfeited to the Company upon a Termination of Affiliation. If Dividend Equivalents have been credited with respect to any Award and such Award (in whole or in part)

is forfeited, all Dividend Equivalents credited in connection with such forfeited Award (or portion of an Award) shall also be forfeited to the Company.

5.4 Nontransferability of Awards.

(a) Each Award and each right under any Award shall be exercisable only by the Grantee during the Grantee's lifetime, or, if permissible under applicable law, by the Grantee's guardian or legal representative.

(b) No Award (prior to the time, if applicable, Shares are delivered in respect of such Award), and no right under any Award, may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Grantee otherwise than by will or by the laws of descent and distribution (or in the case of Restricted Stock, to the Company), and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall be void and unenforceable against the Company, any Affiliate or any Joint Venture; *provided* that the designation of a Beneficiary to receive benefits in the event of the Grantee's death shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance.

(c) Notwithstanding subsections (a) and (b) above, to the extent allowed by the Committee as provided in the Award Agreement or otherwise, Nonqualified Stock Options may be transferred, without consideration, to a Permitted Transferee. For this purpose, a "Permitted Transferee" in respect of any Grantee means any member of the Immediate Family of such Grantee, any trust of which all of the primary beneficiaries are such Grantee or members of his or her Immediate Family, or any partnership (including limited liability companies and similar entities) of which all of the partners or members are such Grantee or members of his or her Immediate Family; and the "Immediate Family" of a Grantee includes any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the Grantee's household (other than a tenant or employee), a trust in which these persons have more than fifty percent of the beneficial interest, a foundation in which these persons (or the Grantee) control the management of assets, and any other entity in which these persons (or the Grantee) control the management of assets, and any other entity in which these persons (or the Grantee) own more than fifty percent of the voting interests. Such Award may be exercised by such transferee in accordance with the terms of such Award. If so determined by the Committee, a Grantee may, in the manner established by the Committee, designate a Beneficiary or Beneficiaries to exercise the rights of the Grantee and to receive any distribution with respect to any Award upon the death of the Grantee. A transferee, Beneficiary, guardian, legal representative or other person claiming any rights under the Plan from or through any Grantee shall be subject to any restrictions or limitations in the Plan or in any applicable Award Agreement, and to any additional restrictions or limitations deemed necessary or appropriate by the Committee.

(d) Nothing herein shall be construed as requiring the Committee to honor the order of a domestic relations court regarding an Award, except to the extent required under applicable law.

5.5 Cancellation and Rescission of Awards.

Unless the Award Agreement specifies otherwise, the Committee may cancel, rescind, suspend, withhold, or otherwise limit or restrict any unexercised Award at any time if the Grantee is not in compliance with all applicable provisions of the Award Agreement and the Plan, is in violation of any restrictive covenant or other agreement with the Company, an Affiliate or a Joint Venture, or has a Termination of Affiliation.

5.6 Stand-Alone, Tandem and Substitute Awards.

Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution for, any other Award granted under the Plan or any award or benefit granted by an Employer under any other plan, program, arrangement, contract or agreement (a "Non-Plan Award"); *provided* that if the stand-alone, tandem or substitute Award is intended to qualify for the Performance-Based Exception, it must separately satisfy the requirements of the Performance-Based Exception. If an Award is granted in substitution for another Award or any Non-Plan Award, the Committee shall require the surrender of such other Award or Non-Plan Award in consideration for the grant of the new Award. Awards granted in addition to or in tandem with other Awards or Non-Plan Awards may be granted either at the same time as or at a different time from the grant of such other Awards or Non-Plan Awards.

The Committee may, in its discretion and on such terms and conditions as the Committee considers appropriate in the circumstances, grant Substitute Awards under the Plan.

5.7 Deferral of Award Payouts.

The Committee may permit a Grantee to defer, or if and to the extent specified in an Award Agreement require the Grantee to defer, receipt of the payment of cash or the delivery of Shares that would otherwise be due by virtue of the exercise of an Option, SAR or LSAR, the lapse or waiver of Restrictions with respect to Restricted Stock or Restricted Stock Units, or the satisfaction of any requirements or goals with respect to Performance Units. If any such deferral is required or permitted, the Committee shall, in its sole discretion, establish rules and procedures governing such deferrals that are in accordance with the Plan and Code Section 409A. Except as otherwise provided in an Award Agreement, any payment or any Shares that are subject to such deferral shall be made or delivered to the Grantee as specified in the Award Agreement or pursuant to the Grantee's deferral election.

5.8 Exercise by Non-Grantee.

If any Award is exercised as permitted by the Plan by any Person other than the Grantee, the exercise notice shall be accompanied by documentation as may reasonably be required by the Committee, including without limitation, evidence of authority of such Person or Persons to exercise the Award and, if the Committee so specifies, evidence satisfactory to the Company that any death taxes payable with respect to such Shares have been paid or provided for.

5.9 No Cash Consideration for Awards.

Awards may be granted for no cash consideration or for such minimal cash consideration as may be required by applicable law.

5.10 No Fractional Shares.

No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities, or other property shall be paid or transferred in lieu of any fractional Shares, or whether such fractional Shares or any rights thereto shall be canceled, terminated, or otherwise eliminated.

5.11 Tax Obligations.

No Award shall be settled, whether in cash or Shares, unless the applicable tax withholding requirements have been met to the satisfaction of the Committee.

**Section 6.
Stock Options**

6.1 Grant of Options.

(a) *Committee Grant.* Subject to and consistent with the provisions of the Plan, Options may be granted to any Eligible Person in such number, and upon such terms, and at any time and from time to time as shall be determined by the Committee.

(b) *Option Election.* In addition, if and to the extent permitted by the Committee, an Eligible Person may elect (an "Option Election") at such times and in accordance with such rules and procedures adopted by the Committee, to receive all or any portion of his salary and/or bonus (including any cash Award payable under this Plan) in the form of an Award of Options (which the Committee shall duly grant) having a fair market value (as determined by the Committee using a Black-Scholes option pricing model or similar option pricing model, applied on the basis of such risk-free interest rate, expected option life, volatility, average stock price, and other applicable parameters, or formula therefor, as the Committee in its sole discretion deems appropriate) equal to the amount of salary and/or bonus subject to such Option Election.

6.2 Award Agreement.

Each Option shall be evidenced by an Award Agreement that shall specify the Option Price, the Option Term (ten (10) years from its Grant Date unless a longer or shorter term is specified in the Award Agreement), the number of Shares to which the Option pertains, the time or times at which such Option shall be exercisable and such other provisions as the Committee shall determine.

6.3 Option Price.

The Option Price shall be determined by the Committee; *provided*, however, that except with respect to Substitute Options, the Option Price shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date; *provided* that if the Committee so determines, in the case of any Option retroactively granted in tandem with or in substitution for another Award or any outstanding

Award granted under any other plan of the Company, the purchase price per Share shall not be less than the purchase price on the Grant Date of such other Award or award under another Company plan.

6.4 Repriced Options Subject to Stockholder Approval.

The Committee may grant Options in replacement of Options previously granted under this Plan or any other compensation plan of an Employer, for such purposes and on such terms (including Option Price) as it deems appropriate, subject to stockholder approval if such grant would be deemed to be a repricing under the rules of the New York Stock Exchange.

6.5 Grant of Incentive Stock Options.

At the time of the grant of any Option, the Committee may in its discretion designate that such Option shall be made subject to additional restrictions to permit it to qualify as an Incentive Stock Option. Any Option designated as an Incentive Stock Option:

- (a) shall not be granted more than ten (10) years after the Effective Date;
- (b) shall be granted only to an employee of the Company or a Subsidiary Corporation (as defined below);
- (c) shall have an Option Price of not less than 100% of the Fair Market Value of a Share on the Grant Date, and, if granted to a person who owns capital stock (including stock treated as owned under Section 424(d) of the Code) possessing more than 10% of the total combined voting power of all classes of capital stock of the Company or any Subsidiary Corporation (a "10% Owner"), have an Option Price not less than 110% of the Fair Market Value of a Share on its Grant Date;
- (d) shall have an Option Term of not more than ten (10) years (five years if the Grantee is a 10% Owner) from its Grant Date, and shall be subject to earlier termination as provided herein or in the applicable Award Agreement;
- (e) shall not have an aggregate Fair Market Value (as of the Grant Date) of the Shares with respect to which Incentive Stock Options (whether granted under the Plan or any other stock option plan of the Grantee's employer or any parent or Subsidiary Corporation ("Other Plans")) are exercisable for the first time by such Grantee during any calendar year ("Current Grant"), determined in accordance with the provisions of Section 422 of the Code, which exceeds \$100,000 (the "\$100,000 Limit");
- (f) shall, if the aggregate Fair Market Value of the Shares (determined on the Grant Date) with respect to the Current Grant and all Incentive Stock Options previously granted under the Plan and any Other Plans which are exercisable for the first time during a calendar year ("Prior Grants") would exceed the \$100,000 Limit, be, as to the portion in excess of the \$100,000 Limit, exercisable as a separate option that is not an Incentive Stock Option at such date or dates as are provided in the Current Grant;
- (g) shall require the Grantee to notify the Committee of any disposition of any Shares delivered pursuant to the exercise of the Incentive Stock Option under the circumstances described

in Section 421(b) of the Code (relating to holding periods and certain disqualifying dispositions) ("Disqualifying Disposition"), within 10 days of such a Disqualifying Disposition;

(h) shall by its terms not be assignable or transferable other than by will or the laws of descent and distribution and may be exercised, during the Grantee's lifetime, only by the Grantee; *provided*, however, that the Grantee may, to the extent provided in the Plan in any manner specified by the Committee, designate in writing a Beneficiary to exercise his or her Incentive Stock Option after the Grantee's death; and

(i) shall, if such Option nevertheless fails to meet the foregoing requirements, or otherwise fails to meet the requirements of Section 422 of the Code for an Incentive Stock Option, be treated for all purposes of this Plan, except as otherwise provided in subsections (d) and (e) above, as an Option that is not an Incentive Stock Option.

For purposes of this Section 6.5, "Subsidiary Corporation" means a corporation other than the Company in an unbroken chain of corporations beginning with the Company if, at the time of granting the Option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. Notwithstanding the foregoing and Section 3.2, the Committee may, without the consent of the Grantee, at any time before the exercise of an Option (whether or not an Incentive Stock Option), take any action necessary to prevent such Option from being treated as an Incentive Stock Option.

6.6 Method of Option Exercise.

(a) Except as may otherwise be provided by the Committee in an Award Agreement, Options shall be exercised by the delivery of a written notice to the Company, setting forth the number of Shares with respect to which the Option is to be exercised, accompanied by full payment (including any applicable tax withholding) for the Shares made by any one or more of the following means on the Exercise Date (or such other date as may be permitted in writing by the Secretary of the Company):

- (i) cash, personal check or wire transfer;
- (ii) with the approval of the Committee, Shares or Shares of Restricted Stock valued at their Fair Market Value on the Exercise Date; or
- (iii) subject to applicable law (including the prohibited loan provisions of Section 402 of the Sarbanes-Oxley Act of 2002), through the sale of the Shares acquired on exercise of the Option through a broker-dealer to whom the Grantee has submitted an irrevocable notice of exercise and irrevocable instructions to deliver promptly to the Company the amount of sale or loan proceeds sufficient to pay for such Shares, together with, if requested by the Company, the amount of federal, state, local or foreign withholding taxes payable by Grantee by reason of such exercise.

(b) The Committee may in its discretion specify that, if any Shares of Restricted Stock ("Tendered Restricted Shares") are used to pay the Option Price, (x) all the Shares acquired on exercise of the Option shall be subject to the same restrictions as the Tendered Restricted Shares,

determined as of the Exercise Date, or (y) a number of Shares acquired on exercise of the Option equal to the number of Tendered Restricted Shares shall be subject to the same restrictions as the Tendered Restricted Shares, determined as of the Exercise Date.

(c) At the discretion of the Committee and subject to applicable law (including the prohibited loan provisions of Section 402 of the Sarbanes-Oxley Act of 2002), the Company may loan a Grantee all or any portion of the amount payable by the Grantee to the Company upon exercise of the Option.

Section 7. Stock Appreciation and Limited Stock Appreciation Rights

7.1 Grant of SARs.

Subject to and consistent with the provisions of the Plan, the Committee, at any time and from time to time, may grant SARs to any Eligible Person either alone or in addition to other Awards granted under the Plan. SARs may, but need not, be granted in connection with a specific Option. Any SAR related to a Non-Qualified Option may be granted at the same time such Option is granted or at any time thereafter before exercise or expiration of such Option. Any SAR related to an Incentive Stock Option must be granted at the same time such Option is granted. The Committee may impose such conditions or restrictions on the exercise of any SAR as it shall deem appropriate.

7.2 Award Agreements.

Each SAR shall be evidenced by an Award Agreement in such form as the Committee may approve, which shall contain such terms and conditions not inconsistent with the provisions of the Plan as shall be determined from time to time by the Committee. Unless otherwise provided in the Award Agreement, (a) no SAR grant shall have a Term of more than ten (10) years from the date of grant of the SAR, and (b) SARs granted in tandem with Options shall vest at the same time and in the same proportions as the underlying Options.

7.3 Strike Price.

The Strike Price of an SAR shall be determined by the Committee in its sole discretion; *provided* that the Strike Price shall not be less than the lesser of 100% of the Fair Market Value of a Share on the Grant Date of the SAR or the Option Price under the Non-Qualified Option to which the SAR relates.

7.4 Exercise and Payment.

Except as may otherwise be provided by the Committee in an Award Agreement, SARs shall be exercised by the delivery of a written notice to the Company, setting forth the number of Shares with respect to which the SAR is to be exercised. The Committee may provide that payment with respect to an exercised SAR may occur on a fixed date which may not be the same as the exercise date, and may provide for additional payment in recognition of the time value of money and any delay between the exercise date and the payment date. No payment of an SAR shall be made unless applicable tax withholding requirements have been satisfied in accordance with Section 17.1(a) or otherwise. Any payment by the Company in respect of an SAR may be made in cash, Shares, other property, or any combination thereof, as the Committee, in its sole discretion, shall determine.

7.5 Grant Limitations.

The Committee may at any time impose any other limitations upon the exercise of SARs which it deems necessary or desirable in order for the Grant to qualify for an exemption from Section 16(b) of the Exchange Act or to achieve desirable tax results for the Grantee or the Company.

7.6 Grant of LSARs.

(a) Subject to and consistent with the provisions of the Plan, the Committee may grant LSARs upon or after the grant of any Option under the Plan. Each LSAR shall be identified with a Share subject to an Option of the Grantee, and shall have a Term ending no later than the last day of the Term of the underlying Option. The number of LSARs awarded to a Grantee shall equal the number of Shares subject to the Option with which such LSARs are identified. Upon the lapse, expiration, termination, forfeiture or cancellation of a Grantee's Option, the Grantee's associated LSARs shall terminate. The Committee may impose such additional conditions or restrictions on the exercise of any LSAR as it shall deem appropriate.

(b) LSARs shall become exercisable for a period of ninety (90) days commencing upon a Change in Control. LSARs shall be exercised by delivery to the Company of written notice of intent to exercise specific LSARs. The exercise of LSARs shall result in cancellation of the Option with which such LSARs are identified, to the extent of such exercise.

(c) The Company shall notify all Grantees holding LSARs of a Change in Control promptly after its occurrence, but any failure of the Company to so notify shall not deprive any Grantee of any rights that accrued as a result of the Change in Control. Any such failure of the Company shall, if a Grantee does not otherwise know of the Change in Control, automatically extend the 90-day period specified above until 90 days after the Company notifies such Grantee or such Grantee otherwise knows of the Change in Control, whichever first occurs, but in no event shall such period be beyond the end of the Option Term specified in the applicable Award Agreement.

(d) Subject to the terms of the Plan and any applicable Award Agreement, within five (5) business days after the date specified in the Award Agreement for payment of any exercised LSAR, the Company shall pay to the Grantee, in cash an amount equal to the excess of (i) the Fair Market Value of one (1) Share on the Exercise Date or if greater and only with respect to any LSAR related to an Option other than an Incentive Stock Option, the highest price per Share paid in connection with the Change in Control of the Company, over (ii) the Option Price of the related Option, multiplied by the number of Shares as to which the holder is exercising the LSAR.

Section 8. Performance Units

8.1 Grant of Performance Units.

Subject to and consistent with the provisions of the Plan, Performance Units may be granted to any Eligible Person in such number, and upon such terms, and at any time and from time to time, as shall be determined by the Committee. Performance Units shall be evidenced by an Award Agreement in such form

as the Committee may approve, which shall contain such terms and conditions not inconsistent with the provisions of the Plan as shall be determined from time to time by the Committee.

8.2 Value/Performance Goals.

The Committee shall set Performance Goals which, depending on the extent to which they are met during a Performance Period, will determine the number or value of Performance Units that will be paid to the Grantee at the end of the Performance Period. Each Performance Unit shall have an initial value that is established by the Committee at the time of grant. The Performance Goals for Awards of Performance Units shall be set by the Committee at threshold, target and maximum performance levels, with the number or value of the Performance Units payable tied to the degree of attainment of the various performance levels during the Performance Period. No payment shall be made with respect to a Performance Unit if the threshold performance level is not attained. If Performance Goals are attained between performance levels (i.e., either between the threshold and target performance levels or between the target and maximum performance levels) the number or value of the Performance Unit at the end of the Performance Period shall be determined by linear interpolation, unless otherwise provided by the Committee at the time of grant. To the extent the Committee deems it appropriate to comply with Section 162(m) of the Code, all Performance Goals shall be objective, and shall be based on Performance Measures.

8.3 Earning of Performance Units.

Except as provided in Section 15, after the applicable Performance Period has ended, the holder of Performance Units shall be entitled to payment based on the performance level attained with respect to Performance Goals set by the Committee and as described in Section 8.2. If the Performance Unit Award is intended to comply with the Performance-Based Exception, the Committee shall certify the level of attainment of the Performance Goals in writing before the Award is settled. At the discretion of the Committee, the Award Agreement may specify that an Award of Performance Units is payable in cash, Shares, Restricted Stock, or Restricted Stock Units.

8.4 Adjustment on Change of Position.

If a Grantee is promoted, demoted or transferred to a different business unit of the Company during a Performance Period, then, to the extent the Committee determines that the Award, the performance goals, or the Performance Period are no longer appropriate, (taking into account the desirability of satisfying the Performance Based Exception) the Committee may adjust, change, eliminate or cancel the Award, the performance goals, or the applicable Performance Period, as it deems appropriate in order to make them appropriate and comparable to the initial Award, the performance goals, or the Performance Period.

8.5 Dividend Equivalents.

At the discretion of the Committee, a Grantee may be entitled to receive any dividends or Dividend Equivalents declared with respect to Shares deliverable in connection with grants of Performance Units which have been earned, but not yet delivered to the Grantee.

Section 9. Restricted Stock

9.1 Grant of Restricted Stock.

Subject to and consistent with the provisions of the Plan, the Committee, at any time and from time to time, may grant Restricted Stock to any Eligible Person in such amounts as the Committee shall determine.

9.2 Award Agreement.

Each grant of Restricted Stock shall be evidenced by an Award Agreement that shall specify the Restrictions, the number of Shares subject to the Restricted Stock Award, and such other provisions as the Committee shall determine. The Committee may impose such Restrictions on any Restricted Stock, including time-based Restrictions, Restrictions based upon the achievement of specific performance goals, time-based Restrictions following the achievement of specific performance goals, and/or restrictions under applicable securities laws; *provided* that time-based Restrictions (other than time-based Restrictions following the achievement of specific performance goals) shall remain in effect (in whole or in part) at least until the third anniversary of the Grant Date, except as provided in the Award Agreement in the event of death, disability, Change in Control, constructive Termination of Affiliation, or Termination of Affiliation by the Employer other than for cause. In the case of Restricted Stock awarded based on performance in a Performance Period, the Performance Period will be no less than one year.

9.3 Consideration for Restricted Stock.

The Committee shall determine the amount, if any, that a Grantee shall pay for Restricted Stock.

9.4 Effect of Forfeiture.

If Restricted Stock is forfeited, and if the Grantee paid for such Restricted Stock or acquired such Restricted Stock upon the exercise of an Option, the Grantee shall be deemed to have resold such Restricted Stock to the Company at a price equal to the lesser of (x) the amount paid by the Grantee for such Restricted Stock or the exercise price of the Option, as applicable, or (y) the Fair Market Value of a Share on the date of such forfeiture. The Company shall pay to the Grantee the deemed sale price as soon as is administratively practical. Such Restricted Stock shall cease to be outstanding, and shall no longer confer on the Grantee thereof any rights as a stockholder of the Company, from and after the date of the event causing the forfeiture, whether or not the Grantee accepts the Company's tender of payment for such Restricted Stock.

9.5 Escrow; Legends.

The Committee may provide that the evidence of ownership of Shares of Restricted Stock (x) shall be held (together with a stock power executed in blank by the Grantee) in escrow or other custodial arrangement by the Secretary of the Company until such Restricted Stock becomes nonforfeitable or is forfeited and/or (y) shall bear an appropriate legend restricting the transfer of such Restricted Stock under the Plan. If any Restricted Stock becomes nonforfeitable, the Company shall cause certificates (or other evidence of ownership) for such Shares to be delivered without such legend or shall cause a release of restrictions on a book entry account maintained by the Company's transfer agent.

9.6 Stockholder Rights in Restricted Stock.

Restricted Stock, whether held by a Grantee or in escrow or other custodial arrangement by the Secretary of the Company, shall confer on the Grantee all rights of a stockholder of the Company, except as otherwise provided in the Plan or Award Agreement. At the time of a grant of Restricted Stock, the Committee may require the payment of cash dividends thereon to be deferred and, if the Committee so determines, reinvested in additional Shares of Restricted Stock. Stock dividends and deferred cash dividends issued with respect to Restricted Stock shall be subject to the same restrictions and other terms as apply to the Shares of Restricted Stock with respect to which such dividends are issued. The Committee may in its discretion provide for payment of interest on deferred cash dividends.

Section 10. Restricted Stock Units

10.1 Grant of Restricted Stock Units.

Subject to and consistent with the provisions of the Plan and Code Sections 409A(a)(2), (3) and (4), the Committee, at any time and from time to time, may grant Restricted Stock Units to any Eligible Person, in such amount and upon such terms as the Committee shall determine. A Grantee shall have no voting rights in Restricted Stock Units.

10.2 Award Agreement.

Each grant of Restricted Stock Units shall be evidenced by an Award Agreement that shall specify the Restrictions, the number of Shares subject to the Restricted Stock Units granted, and such other provisions as the Committee shall determine in accordance with the Plan and Code Section 409A. The Committee may impose such Restrictions on Restricted Stock Units, including time-based Restrictions, Restrictions based on the achievement of specific performance goals, time-based Restrictions following the achievement of specific performance goals, Restrictions based on the occurrence of a specified event, and/or restrictions under applicable securities laws; *provided* that time-based restrictions shall remain in effect (in whole or in part) at least until the third anniversary of the Grant Date, except as provided in the Award Agreement in the event of death, disability, Change in Control, constructive Termination of Affiliation, or Termination of Affiliation by the Employer other than for cause.

10.3 Crediting Restricted Stock Units.

The Company shall establish an account ("RSU Account") on its books for each Eligible Person who receives a grant of Restricted Stock Units. Restricted Stock Units shall be credited to the Grantee's RSU Account as of the Grant Date of such Restricted Stock Units. RSU Accounts shall be maintained for recordkeeping purposes only and the Company shall not be obligated to segregate or set aside assets representing securities or other amounts credited to RSU Accounts. The obligation to make distributions of securities or other amounts credited to RSU Accounts shall be an unfunded, unsecured obligation of the Company.

(a) *Crediting of Dividend Equivalents.* Except as otherwise provided in an Award Agreement, whenever dividends are paid or distributions made with respect to Shares, Dividend Equivalents shall be credited to RSU Accounts on all Restricted Stock Units credited thereto as of

the record date for such dividend or distribution. Such Dividend Equivalents shall be credited to the RSU Account in the form of additional Restricted Stock Units in a number determined by dividing the aggregate value of such Dividend Equivalents by the Fair Market Value of a Share at the payment date of such dividend or distribution.

(b) *Settlement of RSU Accounts.* The Company shall settle an RSU Account by delivering to the holder thereof (which may be the Grantee or his or her Beneficiary, as applicable) a number of Shares equal to the whole number of Shares underlying the Restricted Stock Units then credited to the Grantee's RSU Account (or a specified portion in the event of any partial settlement); *provided* that any fractional Shares underlying Restricted Stock Units remaining in the RSU Account on the Settlement Date shall be distributed in cash in an amount equal to the Fair Market Value of a Share as of the Settlement Date multiplied by the remaining fractional Restricted Stock Unit. The "Settlement Date" for all Restricted Stock Units credited to a Grantee's RSU Account shall be the earlier of (i) when Restrictions applicable to an Award of Restricted Stock Units have lapsed, or (ii) as soon as administratively practical following the Grantee's death, disability (as defined in Code Section 409A(a)(2)(C)(i)), Retirement or Termination of Affiliation, *provided*, that such disability, Retirement or Termination of Affiliation (as applicable) constitutes a "separation from service" (as provided in Code Section 409A(a)(2)(A)(i)).

Section 11. Deferred Stock

11.1 Grant of Deferred Stock.

Subject to and consistent with the provisions of the Plan and Code Sections 409A(a)(2), (3), and (4), the Committee, at any time and from time to time, may grant Deferred Stock to any Eligible Person in such number, and upon such terms, as the Committee, at any time and from time to time, shall determine, including grants at the election of a Grantee to convert Shares to be acquired upon lapse of restrictions on Restricted Stock or Restricted Stock Units into such Deferred Stock. A Grantee shall have no voting rights in Deferred Stock.

11.2 Award Agreement.

Each grant of Deferred Stock shall be evidenced by an Award Agreement that shall specify the number of Shares underlying the Deferred Stock subject to an Award, the date such Shares of Deferred Stock shall be settled and such other provisions as the Board shall determine that are in accordance with the Plan and Code Section 409A.

11.3 Deferred Stock Elections.

(a) *Making of Deferral Elections.* If and to the extent permitted by the Committee, an Eligible Person may elect (a "Deferral Election") at such times and in accordance with rules and procedures adopted by the Committee (which shall comport with Code Section 409A), to receive all or any portion of his salary and/or bonus (including any cash or Share Award payable under this Plan) in the form of a number of shares of Deferred Stock equal to the quotient of the amount of salary and/or cash bonus or other Award to be paid in the form of Deferred Stock divided by the Fair Market Value of a Share on the date such salary or bonus or other Award would otherwise be paid in cash. The Grant Date for an Award of Deferred Stock made pursuant to a Deferral Election

shall be the date the Deferrable Amount subject to a Deferral Election would otherwise have been paid to the Grantee in cash or Shares.

(b) *Timing of Deferral Elections.* An initial Deferral Election must be filed with the Controller of the Company no later than December 31 of the year preceding the calendar year in which the amounts subject to the Deferral Election would otherwise be earned, subject to such restrictions and advance filing requirements as the Company may impose. A Deferral Election shall be irrevocable as of the filing deadline. Each Deferral Election shall remain in effect with respect to subsequently earned amounts unless the Eligible Person revokes or changes such Deferral Election. Any such revocation or change shall have prospective application only.

11.4 Deferral Account.

(a) *Establishment of Deferral Accounts.* The Company shall establish an account ("Deferral Account") on its books for each Eligible Person who receives a grant of Deferred Stock or makes a Deferral Election. Deferred Stock shall be credited to the Grantee's Deferral Account as of the Grant Date of such Deferred Stock. Deferral Accounts shall be maintained for recordkeeping purposes only and the Company shall not be obligated to segregate or set aside assets representing securities or other amounts credited to Deferral Accounts. The obligation to make distributions of securities or other amounts credited to Deferral Accounts shall be an unfunded, unsecured obligation of the Company.

(b) *Crediting of Dividend Equivalents.* Except as otherwise provided in an Award Agreement, whenever dividends are paid or distributions made with respect to Shares, Dividend Equivalents shall be credited to Deferral Accounts on all Deferred Stock credited thereto as of the record date for such dividend or distribution. Such Dividend Equivalents shall be credited to the Deferral Account in the form of additional Deferred Stock in a number determined by dividing the aggregate value of such Dividend Equivalents by the Fair Market Value of a Share at the payment date of such dividend or distribution.

(c) *Settlement of Deferral Accounts.* The Company shall settle a Deferral Account by delivering to the holder thereof (which may be the Grantee or his or her Beneficiary or estate, as applicable) a number of Shares equal to the whole number of Shares of Deferred Stock then credited to the Grantee's Deferral Account (or a specified portion in the event of any partial settlement); *provided* that any fractional Shares of Deferred Stock remaining in the Deferral Account on the Settlement Date shall be distributed in cash in an amount equal to the Fair Market Value of a Share as of the Settlement Date multiplied by the remaining fractional Share. The "Settlement Date" for all Deferred Stock credited to a Grantee's Deferral Account shall be determined in accordance with Code Section 409A.

Section 12. Dividend Equivalents

The Committee is authorized to grant Awards of Dividend Equivalents alone or in conjunction with other Awards, on such terms and conditions as the Committee shall determine. The Committee may provide that Dividend Equivalents shall be paid or distributed when accrued or shall be deemed to have been reinvested in additional Shares or additional Awards or otherwise reinvested.

Section 13.
Annual Incentive Awards

13.1 Annual Incentive Awards.

Subject to and consistent with the provisions of the Plan, Annual Incentive Awards may be granted to any Eligible Person in accordance with this Section 13. The Committee shall designate the individuals eligible to be granted an Annual Incentive Award for a Year within the first ninety (90) days of such Year *provided* that for a hiring or promotion after such period which makes any individual who is not a "covered person" within the meaning of Code Section 162(m) eligible to be granted an Annual Incentive Award, the designation shall not be later than the elapse of 25% of the remainder of such Year after such hiring or promotion. The Committee may designate an Eligible Person as eligible for a full Year or for a period of less than a full Year. The opportunity to be granted an Annual Incentive Award shall be evidenced by an Award Agreement, which shall specify the individual's Bonus Opportunity, the Performance Goals, and such other terms not inconsistent with the Plan as the Committee shall determine.

13.2 Determination of Amount of Annual Incentive Awards.

(a) *Aggregate Maximum.* The Committee may establish guidelines as to the maximum aggregate amount of Annual Incentive Awards payable for any year.

(b) *Establishment of Performance Goals and Bonus Opportunities.* Within the first ninety (90) days of each Year, the Committee shall establish Performance Goals for the Year (which may be the same or different for some or all Eligible Persons) and shall establish the threshold, target and maximum Bonus Opportunity for each Participant for the attainment of specified threshold, target and maximum Performance Goals. Performance Goals and Bonus Opportunities may be weighted for different factors and measures as the Committee shall determine.

(c) *Committee Certification and Determination of Amount of Annual Incentive Award.* The Committee shall determine and certify in writing the degree of attainment of Performance Goals as soon as administratively practicable after the end of each Year but not later than ninety (90) days after the end of such Year. The Committee shall determine an individual's maximum Annual Incentive Award based on the level of attainment of the Performance Goals (as certified by the Committee) and the individual's Bonus Opportunity. The Committee reserves the discretion to reduce (but not below zero) the amount of an individual's Annual Incentive Award below the maximum Annual Incentive Award. The determination of the Committee to reduce (or not pay) an individual's Annual Incentive Award for a Year shall not affect the maximum Annual Incentive Award payable to any other individual. No Annual Incentive Award shall be payable to an individual unless at least the threshold Performance Goal is attained.

(d) *Termination of Affiliation.* If an individual has a Termination of Affiliation during the Year, the Committee may authorize the payment of an Annual Incentive Award to such individual, and in the absence of such authorization, the individual shall receive no Annual Incentive Award for such Year.

13.3 Time of Payment of Annual Incentive Awards.

Annual Incentive Awards shall be paid as soon as administratively practicable after the Committee determines the amount of the Annual Incentive Award, but not later than ninety (90) days after the Committee certifies the degree of attainment of Performance Goals.

13.4 Form of Payment of Annual Incentive Awards.

An individual's Annual Incentive Award for a Year shall be paid in cash, Shares, Restricted Stock, Options, or any other form of Award or any combination thereof as is provided in the Award Agreement. The Committee may provide in an Award Agreement that payment of an Annual Incentive Award may be deferred in accordance with any rules or procedures that may be established by the Committee from time to time, either before or after the decision or election to defer is made.

Section 14. Service Awards

14.1 Service Awards.

Subject to and consistent with the provisions of the Plan, Service Awards shall be granted in accordance with this Section 14.

14.2 Definitions.

For purposes of this Section 14, the following terms have the meaning set forth below:

- (a) "Anniversary Date" means the 12-month anniversary of an individual's Hire Date.
- (b) "Five-Year Anniversary Date" means each Anniversary Date as of which an individual's number of years of service is a whole number that is a multiple of five.
- (c) "Hire Date" means the date an individual first performed services as an employee for the Company, for an entity that is a Designated Subsidiary (as defined in Section 14.6), or (except as provided in Section 14.4(d)) for Kansas City Southern Industries, Inc. or its successor ("KCSI"); provided, however, that the Chief Executive Officer of the Company (or the Committee with respect to Section 16 Persons) can determine that the Hire Date shall be the date an individual first performs service for an entity that later becomes a Designated Subsidiary.
- (d) "Quarter End" means the last day of the calendar quarter in which (or on which) occurs a Five-Year Anniversary with respect to an Eligible Person.

14.3 Granting of Service Awards.

Each Eligible Person who is an employee of the Company or a Designated Subsidiary shall (subject to Committee approval in the case of a Section 16 Person) be granted a Service Award on each Five-Year Anniversary Date. The number of Shares to be delivered in satisfaction of the Service Award shall be determined under the following table:

<u>Years of Service</u>	<u>Shares to Be Awarded</u>
5	5
10	10
15	15
20	20
25	25
30	30
35	35
40	40
45	45
50	50

For five year increment anniversaries above fifty years of service, the number of Shares awarded shall, as shown above, equal the number of years of service.

14.4 Determination of Years of Service.

An employee of the Company or a Designated Subsidiary shall be credited with one year of service for each 12-month period of continuous full time employment (regularly employed more than 20 hours per week and more than 5 months per 12-month period) with the Company or a Designated Subsidiary or, except as provided in Section 14.4(d), with KCSI, measured from the individual's Hire Date and anniversaries of the Hire Date, subject to the special rules set forth below:

(a) If an Employee has a Termination of Affiliation and then becomes reemployed with the Company or a Designated Subsidiary within a period not to exceed five (5) years, the Years of Service earned prior to such Termination of Affiliation shall continue to count towards the individual's Years of Service. No credit shall be given for any partial or complete Years of Service which occurred prior to a five (5) year break in employment with the Company or a Designated Subsidiary.

(b) An individual's service shall be deemed continuous throughout an approved leave of absence not exceeding one year, *provided* the individual returns to employment with the Company or a Designated Subsidiary for at least 30 days upon the conclusion of the approved leave of absence. If the individual does not so return, the individual shall be deemed to have had a Termination of Affiliation at the commencement of the approved leave of absence. Thus, any Service Award that would be delivered to an individual during an approved leave of absence shall not be delivered until the individual has completed at least 30 days of employment following the conclusion of the approved leave of absence.

(c) If an individual who is employed by the Company or a Designated Subsidiary has a Termination of Affiliation and returns to employment with the Company or a Designated Subsidiary within five years of the Termination of Affiliation, the individual's full years of service prior to the Termination of Affiliation but not partial years of service shall be added to the individual's years of service after he or she returns to employment. The individual's Hire Date shall be deemed to be the date the individual returns to employment with the Company or a Designated Subsidiary.

(d) With respect to any individual who became an employee of the Company or a Designated Subsidiary on or after October 7, 2002, service with KCSI after June 28, 2000 shall be disregarded.

The Committee shall establish rules for determining the years of service in cases not covered by the foregoing.

14.5 Delivery of Service Awards.

(a) Service Awards shall be delivered as soon as administratively practical following the applicable Quarter End, *provided* the individual (i) is an Eligible Person on such Quarter End, or (ii) died or had a Termination of Affiliation on account of disability (as defined by the Committee, or if not so defined, as defined in Code Section 409A(a)(2)(C)(i)) or Retirement on or after the individual's relevant Five-Year Anniversary and prior to applicable Quarter End. Service Awards may be accompanied by such cash payments as the Committee determines to be appropriate to reduce or eliminate the tax effect of the receipt of a Service Award by an individual.

(b) All Shares issued in connection with a Service Award shall be subject to the other provisions of the Plan.

14.6 Designation of Subsidiaries.

The Committee shall designate those Subsidiaries and Joint Ventures whose employees shall be eligible for Service Awards. Such Subsidiaries and Joint Ventures shall be "Designated Subsidiaries" for purposes of this Section 14. The Committee shall keep records of Designated Subsidiaries, together with any special terms and conditions applicable to participation by employees of a Designated Subsidiary.

14.7 Committee Delegation.

The Committee hereby delegates its authority under Section 3 with respect to this Section 14 to the Chief Executive Officer of the Company; *provided* that the Committee's authority with respect to Section 16 Persons is not delegated. The Committee reserves the right to revoke this delegation in whole or in part at any time.

Section 15. Change in Control

15.1 Special Treatment in the Event of a Change in Control.

(a) In order to maintain the Grantee's rights in the event of any Change in Control of the Company, as hereinafter defined, the Committee, as constituted before such Change in Control, may, in its sole discretion, as to any Award, either at the time an Award is made hereunder or any time thereafter, take any one (1) or more of the following actions: (i) provide for the purchase by the Company of any such Award, upon the Grantee's request, for an amount of cash equal to the amount that could have been attained upon the exercise of such Award or realization of the Grantee's rights had such Award been currently exercisable or payable; (ii) make such adjustment to any such Award then outstanding as the Committee deems appropriate to reflect such Change in

Control; or (iii) cause any such Award then outstanding to be assumed, or new rights substituted therefor, by the acquiring or surviving corporation after such Change in Control.

(b) In the event of a Change of Control, unless otherwise provided in an Award Agreement, there shall be an automatic acceleration of any time periods relating to the exercise or realization of any such Award (other than Service Awards) and all performance goals relating to Performance Units and/or Annual Incentive Awards shall be deemed satisfactorily completed without any action required by the Committee so that such Award may be exercised or realized in full on or before a date fixed by the Committee. The Committee may, in its discretion, include such further provisions and limitations in any Award Agreement as it may deem in the best interests of the Company.

15.2 Definition of Change in Control.

For purposes of this Plan, a "Change in Control" shall be deemed to have occurred if:

(a) the Incumbent Directors cease for any reason to constitute at least seventy-five percent (75%) of the directors of the Company then serving;

(b) any "person" (as such term is used in Sections 13(d) and 14(d)(2) of the Exchange Act) other than the Company or any majority-owned Subsidiary of the Company, or an employee benefit plan of the Company or of any majority-owned Subsidiary of the Company shall have become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) directly or indirectly, of securities of the Company representing twenty percent (20%) or more (calculated in accordance with Rule 13d-3) of the combined voting power of the Company's then outstanding voting securities; *provided*, however, that a person's becoming such a beneficial owner shall not constitute a Change in Control if such person is party to an agreement that limits the ability of such person and its affiliates (as defined in Rule 12b-2 under the Exchange Act) to obtain and exercise control over the management and policies of the Company.

(c) a Reorganization Transaction is consummated, other than a Reorganization Transaction which results in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving entity) at least sixty percent (60%) of the total voting power represented by the Voting Securities of such surviving entity outstanding immediately after the Reorganization Transaction, if the voting rights of each Voting Security relative to the other Voting Securities were not altered in the Reorganization Transaction; or

(d) the stockholders of the Company approve a plan of complete liquidation of the Company, other than in connection with a Reorganization Transaction.

Notwithstanding the occurrence of any of the foregoing events, a Change in Control shall not occur with respect to a Grantee if, in advance of such event, the Grantee agrees in writing that such event shall not constitute a Change in Control.

15.3 Definitions.

For purposes of this Section 15 and the definition of Change in Control, the following terms have the meaning set forth below:

(a) "Incumbent Directors" means (i) an individual who was a member of the Board on the Effective Date; or (ii) an individual whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least seventy-five percent (75%) of the members of the Board then still in office who were members of the Board on the Effective Date; or (iii) individuals whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least seventy-five percent (75%) of the members of the Board then still in office who were elected in the manner described in (i) or (ii) above; *provided* that no director whose election was in connection with a proposed transaction which, if consummated, would be a Change in Control shall be an Incumbent Director.

(b) "Related Party" means (i) a majority-owned Subsidiary of the Company; or (ii) an employee or group of employees of the Company or of any majority-owned Subsidiary of the Company; or (iii) an employee benefit plan of the Company or of any majority-owned Subsidiary of the Company; or (iv) a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportion as their ownership of the voting power of Voting Securities of the Company.

(c) "Reorganization Transaction" means a merger, reorganization, consolidation, or similar transaction or a sale of all or substantially all of the Company's assets other than any such sale which would result in a Related Party owning or acquiring more than fifty percent (50%) of the assets owned by the Company immediately prior to the sale.

(d) "Voting Securities" of a corporation means securities of such corporation that are entitled to vote generally in the election of directors, but not including any other class of securities of such corporation that may have voting power by reason of the occurrence of a contingency.

Section 16. Amendment, Modification, and Termination

16.1 Amendment, Modification, and Termination.

(a) *Board Authority.* Subject to Section 16.2, the Board may, at any time and from time to time, alter, amend, suspend, discontinue or terminate the Plan in whole or in part without the approval of the Company's stockholders, except that (i) any amendment or alteration shall be subject to the approval of the Company's stockholders if such stockholder approval is required by any federal or state law or regulation or the rules of any stock exchange or automated quotation system on which the Shares may then be listed or quoted, and (ii) the Board may otherwise, in its discretion, determine to submit other such amendments or alterations to stockholders for approval, and (iii) any Plan amendment or termination will not accelerate the timing of any payments that constitute deferred compensation under Code Section 409A unless such acceleration of payment is permitted by Code Section 409A.

(b) *Delegation to Chief Executive Officer.* Notwithstanding Section 16.1(a), the authority to amend (or terminate) Section 14 (other than the schedule of Shares to be delivered as

Service Awards), is hereby delegated to the Chief Executive Officer of the Company. The Board reserves the right to revoke this delegation in whole or in part at any time.

16.2 Awards Previously Granted.

Except as otherwise specifically permitted in the Plan (including Sections 3.2(k), 3.2(m), and 5.5 of the Plan) or an Award Agreement, no termination, amendment, or modification of the Plan shall adversely affect in any material way any Award previously granted under the Plan, without the written consent of the Grantee of such Award.

16.3 Prorata Annual Incentive.

With respect to Annual Incentive Awards, and Performance Units, in the event of a termination of the Plan or an amendment which adversely affects the computation of an award to a Participant which occurs during a Year or other applicable Performance Period, the Participant shall be entitled to receive (i) a prorata award to the effective date of such termination or amendment, calculated under the terms and conditions of the Plan immediately prior to such effective date and (ii) any award provided by such amended Plan for the balance of such Year or other applicable Performance Period.

Section 17. Withholding

17.1 Required Withholding.

(a) The Committee in its sole discretion may provide that when taxes are to be withheld in connection with the exercise of an Option or of an SAR, or upon the lapse of Restrictions on an Award, or upon payment of any other benefit or right under this Plan (the Exercise Date, date such Restrictions lapse or such payment of any other benefit or right occurs hereinafter referred to as the "Tax Date"), the Grantee may elect to make payment for the withholding of federal, state and local taxes, including Social Security and Medicare ("FICA") taxes by one or a combination of the following methods:

- (i) payment of an amount in cash equal to the amount to be withheld;
- (ii) requesting the Company to withhold from those Shares that would otherwise be received upon exercise of the Option or the SAR payable in Shares, upon the lapse of Restrictions on an Award, a number of Shares having a Fair Market Value on the Tax Date equal to the amount to be withheld; or
- (iii) withholding from any compensation otherwise due to the Grantee.

The Committee in its sole discretion may provide that the maximum amount of tax withholding upon exercise of an Option or an SAR payable in Shares to be satisfied by withholding Shares upon exercise of such Option or SAR pursuant to clause (iii) above shall not exceed the minimum amount of taxes, including FICA taxes, required to be withheld under federal, state and local law. An election by Grantee under this subsection is irrevocable. Any fractional share amount and any additional withholding not paid by the withholding or surrender of Shares must be paid in

cash. If no timely election is made, the Grantee must deliver cash to satisfy all tax withholding requirements.

(b) Any Grantee who makes a Disqualifying Disposition (as defined in Section 6.5(g)) or an election under Section 83(b) of the Code shall remit to the Company an amount sufficient to satisfy all resulting tax withholding requirements in the same manner as set forth in subsection (a).

17.2 Notification Under Code Section 83(b).

If the Grantee, in connection with the exercise of any Option, or the grant of Restricted Stock, makes the election permitted under Section 83(b) of the Code to include in such Grantee's gross income in the year of transfer the amounts specified in Section 83(b) of the Code, then such Grantee shall notify the Company of such election within 10 days of filing the notice of the election with the Internal Revenue Service, in addition to any filing and notification required pursuant to regulations issued under Section 83(b) of the Code. The Committee may, in connection with the grant of an Award or at any time thereafter, prohibit a Grantee from making the election described above.

Section 18. Beneficiary Designation

Each Grantee under the Plan may, from time to time, name any beneficiary or beneficiaries (who may be named contingently or successively) to whom any benefit under the Plan is to be paid in case of his or her death before he or she receives any or all of such benefit. Each such designation shall revoke all prior designations by the same Grantee, shall be in a form prescribed by the Company, and will be effective only when filed by the Grantee in writing with the Company during the Grantee's lifetime. In the absence of any such designation, benefits remaining unpaid at the Grantee's death shall be paid to the Grantee's estate.

Section 19. Additional Provisions

19.1 Governing Law.

The validity, construction, and effect of the Plan and any rules and regulations relating to the Plan shall be determined in accordance with the laws of the State of Delaware other than its law respecting choice of laws and applicable Federal law.

19.2 Severability.

If any provision of this Plan or any Award is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction, or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, it shall be stricken and the remainder of the Plan and any such Award shall remain in full force and effect.

19.3 Successors.

All obligations of the Company under the Plan with respect to Awards granted hereunder shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise of all or substantially all of the business and/or assets of the Company.

19.4 Requirements of Law.

The granting of Awards and the delivery of Shares under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required. Notwithstanding any provision of the Plan or any Award, Grantees shall not be entitled to exercise, or receive benefits under, any Award, and the Company (and any Affiliate or Joint Venture) shall not be obligated to deliver any Shares or deliver benefits to a Grantee, if such exercise or delivery would constitute a violation by the Grantee or the Company, or an Affiliate or Joint Venture, of any applicable law or regulation.

19.5 Securities Law Compliance.

If the Committee deems it necessary to comply with any applicable securities law, or the requirements of any stock exchange upon which Shares may be listed, the Committee may impose any restriction on Awards or Shares acquired pursuant to Awards under the Plan as it may deem advisable. All evidence of Share ownership delivered pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the SEC, any stock exchange upon which Shares are then listed, and any applicable securities law. If so requested by the Company, the Grantee shall make a written representation to the Company that he or she will not sell or offer to sell any Shares unless a registration statement shall be in effect with respect to such Shares under the Securities Act of 1993, as amended, and any applicable state securities law or unless he or she shall have furnished to the Company, in form and substance satisfactory to the Company, that such registration is not required.

If the Committee determines that the exercise or nonforfeitability of, or delivery of benefits pursuant to, any Award would violate any applicable provision of securities laws or the listing requirements of any national securities exchange or national market system on which are listed any of the Company's equity securities, then the Committee may postpone any such exercise, nonforfeitability or delivery, as applicable, but the Company shall use all reasonable efforts to cause such exercise, nonforfeitability or delivery to comply with all such provisions at the earliest practicable date.

19.6 No Rights as a Stockholder.

No Grantee shall have any rights as a stockholder of the Company with respect to the Shares (except as provided in Section 9.6 with respect to Restricted Stock) which may be deliverable upon exercise or payment of such Award until such Shares have been delivered to him or her.

19.7 Awards Not Taken into Account for Other Benefits.

Awards shall be special incentive payments to the Grantee and shall not be taken into account in computing the amount of salary or compensation of the Grantee for purposes of determining any pension, retirement, death or other benefit under (a) any pension, retirement, profit-sharing, bonus, insurance or other employee benefit plan of an Employer, except as such plan shall otherwise expressly provide, or

(b) any agreement between an Employer and the Grantee, except as such agreement shall otherwise expressly provide.

19.8 Employment Agreement Supersedes Award Agreement.

In the event a Grantee is a party to an employment agreement with the Company or an Affiliate that provides for vesting, extended exercisability or transferability of equity compensation awards on terms more favorable to the Grantee than the Grantee's Award Agreement, the employment agreement shall be controlling; *provided* that (a) if the Grantee is a Section 16 Person, any terms in the employment agreement requiring Board Compensation Committee, Board, or stockholder approval in order for an exemption from Section 16(b) of the Exchange Act to be available shall have been approved by the Board Compensation Committee, Board or stockholders, as applicable, and (b) the employment agreement shall not be controlling to the extent the Grantee and Grantee's Employer agree it shall not be controlling.

19.9 Non-Exclusivity of Plan.

Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other compensatory arrangements for employees as it may deem desirable.

19.10 Unfunded Status of Awards; Creation of Trusts.

The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Grantee pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give any such Grantee any rights that are greater than those of a general creditor of the Company; *provided*, however, that the Committee may authorize the creation of trusts or make other arrangements to meet the Company's obligations under the Plan to deliver cash, Shares or other property pursuant to any Award which trusts or other arrangements shall be consistent with the "unfunded" status of the Plan unless the Committee otherwise determines.

19.11 No Right to Continued Employment or Awards.

No employee shall have the right to be selected to receive an Award under this Plan or, having been so selected, to be selected to receive a future Award. Neither receipt of an Award hereunder, nor eligibility for an Award shall interfere with or limit in any way the right of the Company, an Affiliate or a Joint Venture to terminate any individual's employment or affiliation at any time, nor confer on any Grantee the right to continue in the employ of, or as a consultant to, the Company, any Affiliate or any Joint Venture.

19.12 Military Service.

Awards shall be administered in accordance with Section 414(u) of the Code and the Uniformed Services Employment and Reemployment Rights Act of 1994.

19.13 Construction.

The following rules of construction will apply to the Plan: (a) the word "or" is disjunctive but not necessarily exclusive, and (b) words in the singular include the plural, words in the plural include the singular, and words in the neuter gender include the masculine and feminine genders and words in the

masculine or feminine gender include the other neuter genders. The headings of sections and subsections are included solely for convenience of reference, and if there is any conflict between such headings and the text of this Plan, the text shall control.

19.14 Obligations.

Unless otherwise specified in the Award Agreement, the obligation to deliver, pay or transfer any amount of money or other property pursuant to Awards under this Plan shall be the sole obligation of a Grantee's employer; *provided* that the obligation to deliver or transfer any Shares pursuant to Awards under this Plan shall be the sole obligation of the Company.

19.15 Stockholder Approval.

All Awards granted on or after the Effective Date and prior to the date the Company's stockholders approve the amended and restated Plan are expressly conditioned upon and subject to approval of the amended and restated Plan by the Company's stockholders.

**DST Systems, Inc. 2005 Non-Employee Directors'
Award Plan**

**Article 1.
Effective Date, Objectives And Duration**

1.1 Effective Date of the Plan.

DST Systems, Inc., a Delaware corporation (the "Company"), hereby establishes the DST Systems, Inc. 2005 Non-Employee Directors Award Plan (the "Plan") as set forth herein effective May 10, 2005 ("Effective Date"), subject to approval by the Company's stockholders.

1.2 Objectives of the Plan.

The Plan is intended to attract and retain highly qualified persons to serve as Non-Employee Directors and to provide such Non-Employee Directors with a long-term proprietary interest in the Company, thereby aligning such Non-Employee Directors' interests more closely with the interests of the Company's stockholders.

1.3 Duration of the Plan.

The Plan shall commence on the Effective Date and shall remain in effect, subject to the right of the Board of Directors of the Company ("Board") to amend or terminate the Plan at any time pursuant to Article 10 hereof, until the earlier of May 9, 2015, or the date all Shares subject to the Plan shall have been issued according to the Plan's provisions.

**Article 2.
Definitions**

Whenever used in the Plan, the following terms shall have the meanings set forth below:

2.1 "Affiliate" means any Person that directly, or through one or more intermediaries, controls, or is controlled by, or is under common control with, the Company.

2.2 "Award" means any Option, Restricted Stock, Shares, Restricted Stock Unit, Deferred Stock, Substitute Award or Dividend Equivalent granted under this Plan.

2.3 "Award Agreement" means the written agreement by which an Award shall be evidenced.

2.4 "Board" means the Board of Directors of the Company.

2.5 "Cause" means the occurrence of any one of the following: (a) any act of dishonesty, willful misconduct, gross negligence, intentional or conscious abandonment or neglect of duty; (b) commission of a criminal activity, fraud or embezzlement; or (c) any unauthorized disclosure or use of confidential information or trade secrets.

2.6 "Code" means the Internal Revenue Code of 1986 (and any successor Internal Revenue Code), as amended from time to time. References to a particular section of the Code include references to regulations and rulings thereunder and to successor provisions.

2.7 "Common Stock" means the common stock, one cent (\$.01) par value per share, of the Company.

2.8 "Deferral Account" See Section 9.4.

2.9 "Deferral Election" See Section 9.3.

2.10 "Deferred Stock" means the right granted as an Award to receive payment in the form of Shares (or measured by the value of Shares) at the end of a specified deferral period.

2.11 "Directors Fees" mean the cash fees earned by an individual in his capacity as a Non-Employee Director (including annual retainer fees, meeting fees, fees for service on a committee, and fees for service as chairman of the Board or chairman of a committee of the Board).

2.12 "Disability" means, unless otherwise defined in an Award Agreement, or as otherwise established by the Board for purposes of the Plan, a disability within the meaning of Code Section 409A(a)(2)(C)(i).

2.13 "Dividend Equivalent" means a right to receive payments equal to dividends or property, if and when paid or distributed, on Shares, Restricted Stock Units or Deferred Stock.

2.14 "Effective Date" has the meaning set forth in Article 1.1.

2.15 "Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successors thereto, and the rules and regulations promulgated thereunder, all as shall be amended from time to time.

2.16 "Exercise Date" means the date the holder of an Award that is subject to exercise delivers notice of such exercise to the Company, accompanied by such payment, attestations, representations or other documentation as the Board may specify; *provided* that if such notice is delivered after 11:00 a.m. Central Time (or such other time as the Board may specify), the Exercise Date shall be the following day.

2.17 "Fair Market Value" means:

(a) with respect to a Share or other securities, (i) the average of the highest and lowest reported sales prices reported in the table entitled "New York Stock Exchange Composite Transactions" contained in The Wall Street Journal (or an equivalent successor table); (ii) if the Shares or other securities are not listed on the New York Stock Exchange, the closing sales price of the Shares or other securities on such other national exchange on which the Shares are principally traded, or as reported by the National Market System, or similar organization, as reported in the appropriate table or listing contained in The Wall Street Journal, or if no such quotations are available, the average of the high bid and low asked quotations in the over-the-counter market as reported by the National Quotation Bureau Incorporated or similar organizations; or (iii) in the event that there shall be no public market for the Shares or other securities, the fair market value of the Shares as determined (which determination shall be conclusive) in good faith by the Board.

Except as provided in the following sentence, the valuation of a Share or other securities on any date shall be determined as of that date (or, if no sale of Shares or such other securities was reported for such date, on the most recent trading day prior to such date on which a sale of Shares or such other securities was reported). On the Exercise Date of an Award, the valuation of Shares shall be determined as of the last trading day preceding the exercise of the Award;

(b) with respect to any property other than cash or securities, the market value of such property determined by such methods or procedures as shall be established from time to time by the Board; and

(c) with respect to cash, the value of such cash in United States dollars.

2.18 "Grant Date" means the date on which an Award is granted or such later date as specified in advance by the Board.

2.19 "Grantee" means a Non-Employee Director who has been granted an Award.

2.20 "Including" or "includes" means "including, without limitation," or "includes, without limitation," respectively.

2.21 "Non-Employee Director" means a member of the Board who is not an employee of the Company or any Affiliate.

2.22 "Option" means an option granted under Article 6 of the Plan.

2.23 "Option Price" means the price at which a Share may be purchased by a Grantee pursuant to an Option.

2.24 "Option Term" means the period beginning on the Grant Date of an Option and ending on the date such Option expires, terminates or is cancelled.

2.25 "Period of Restriction" means the period during which Restricted Stock or Restricted Stock Units are subject to forfeiture if the conditions specified in the Award Agreement are not satisfied.

2.26 "Person" means any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, entity or government instrumentality, division, agency, body or department.

2.27 "Plan" See Section 1.1. If the Plan is amended, the term "Plan" shall mean the Plan as so amended.

2.28 "Restricted Stock" means any Share issued as an Award under Article 7 that is subject to Restrictions.

2.29 "Restricted Stock Unit" means a right, granted under Article 8, to receive one (1) Share on the Settlement Date conditioned on the satisfaction of conditions or restrictions imposed by the Board, which restrictions may be time-based or performance-based.

2.30 "Restriction" means any restriction on a Grantee's free enjoyment of the Shares or other rights underlying Awards, including (a) that the Grantee or other holder may not sell, transfer, pledge, or assign a Share or right, and (b) such other restrictions as the Board may impose in the Award Agreement (including, without limitation, any restriction on the right to vote such Share, and the right to receive any dividends). Restrictions may be based on the passage of time or the satisfaction of performance criteria and may lapse separately or in combination upon such conditions and at such time or times, in installments or otherwise, as the Board shall specify. Awards subject to a Restriction shall be forfeited if the Restriction does not lapse prior to such date or the occurrence of such event or the satisfaction of such other criteria as the Board shall determine.

2.31 "Retirement" means satisfaction of such of the following requirements (or a combination thereof) as may be specified by the Board in the applicable Award Agreement: (a) minimum age requirements, (b) minimum service requirements, and/or (c) Termination of Affiliation.

2.32 "RSU Account" See Section 8.3.

2.33 "Rule 16b-3" means Rule 16b-3 promulgated by the SEC under the Exchange Act, as amended from time to time, together with any successor rule.

2.34 "SEC" means the United States Securities and Exchange Commission, or any successor thereto.

2.35 "Settlement Date" See Section 8.3(b) with respect to RSU Accounts and 9.4(c) with respect to Deferral Accounts.

2.36 "Share" means a share of the Common Stock of the Company.

2.37 "Special Termination" means a Termination of Affiliation due to any one of the following: (a) a requirement of the Non-Employee Director's employer that he or she terminate service on the Board, *provided* that such Non-Employee Director does not control the employer as determined by the Board; (b) upon the advice of counsel to the Company or independent counsel to the Board that such Non-Employee Director should terminate his or her service on the Board due to legal, regulatory or other reasons *provided* that such other reasons are not a basis for Termination of Affiliation for Cause and are not related to the Non-Employee Director's failure to perform duties to the Company or its stockholders; or (c) a failure to be nominated for re-election as a member of the Board, *provided* that the reason for such failure to nominate is not due to either the Non-Employee Director's Termination of Affiliation for Cause or the Non-Employee Director declining to stand for reelection.

2.38 "Substitute Award" means an Award granted under the Plan in substitution for stock and stock-based awards ("Acquired Entity Awards") held by current and former employees or non-employee directors of, or consultants to, another corporation or entity who become Non-Employee Directors in connection with a merger or consolidation of the other corporation or entity (the "Acquired Entity") with the Company or an Affiliate or the acquisition by the Company or an Affiliate of property or stock of the Acquired Entity immediately prior to such merger, consolidation or acquisition ("Acquisition Date") in order to preserve for the Grantee the economic value of all or a portion of such Acquired Entity Award at such price and with such other terms as the Board determines necessary to achieve preservation of economic value. The limitations of Section 4.1 on the number of Shares reserved or available for grants and the limitations under Section 6.3 with respect to Option Prices shall not apply to Substitute Awards.

2.39 "Termination of Affiliation" occurs on the first day on which a Grantee is for any reason no longer providing services to the Company as a Non-Employee Director.

Article 3. Administration

3.1 Administered by the Board.

Subject to Section 3.2, the Plan shall be administered by the full Board.

3.2 Powers of Board.

Subject to and consistent with the provisions of the Plan, the Board has full and final authority and sole discretion as follows; *provided* that any such authority or discretion exercised with respect to a specific Non-Employee Director shall be approved by the affirmative vote of a majority of the members of the Board, even if not a quorum, but excluding the Non-Employee Director with respect to whom such authority or discretion is exercised:

- (a) to determine when, to whom and in what types and amounts Awards should be granted;
- (b) to grant Awards to Non-Employee Directors in any number, and to determine the terms and conditions applicable to each Award (including conditions intended to comply with Code Section 409A, the number of Shares to which an Award will relate, any exercise price, Option Price or purchase price, any limitation or Restriction, any schedule for, or performance conditions relating to, the earning of the Award or the lapse of Restrictions, forfeiture Restrictions, Restrictions on exercisability or transferability, any performance goals and/or vesting based on the passage of time, based in each case on such considerations as the Board shall determine);
- (c) to determine the Option Term;
- (d) to determine the benefit payable under any Dividend Equivalent;
- (e) to determine, with respect to Restricted Stock, whether to permit or require the payment of cash dividends thereon to be deferred and the terms related thereto, and whether Restricted Stock shall be held in escrow;
- (f) to determine whether, to what extent and under what circumstances an Award may be settled in, or the exercise price of an Award may be paid in, cash, Shares, other Awards or other property;
- (g) to determine whether, to what extent and under what circumstances cash, Shares, other Awards, other property and other amounts payable with respect to an Award will be deferred, either at the election of the Grantee, or if and to the extent specified in the Award Agreement, automatically or at the election of the Board;

(h) to grant Awards in replacement of Awards previously granted under this Plan or any other compensation plan of the Company; *provided* that any such replacement grant that would be considered a repricing shall be subject to shareholder approval;

(i) to construe and interpret the Plan and to make all determinations, including factual determinations, necessary or advisable for the administration of the Plan;

(j) to make, amend, suspend, waive and rescind rules and regulations relating to the Plan;

(k) to appoint such agents as the Board may deem necessary or advisable to administer the Plan;

(l) with the consent of the Grantee, to amend any Award Agreement at any time; *provided* that the consent of the Grantee shall not be required for any amendment (i) that, in the Board's determination, does not materially adversely affect the rights of the Grantee, or (ii) which is necessary or advisable (as determined by the Board) to carry out the purpose of the Award as a result of any new applicable law or change in an existing applicable law, or (iii) to the extent the Award Agreement specifically permits amendment without consent;

(m) to impose such additional terms and conditions upon the grant, exercise or retention of Awards as the Board may, before or concurrently with the grant thereof, deem appropriate, including limiting the amount or percentage of Awards which may from time to time be exercised by a Grantee;

(n) to make adjustments in the terms and conditions of Awards in recognition of unusual or nonrecurring events (including events described in Section 4.2) affecting the Company or an Affiliate or the financial statements of the Company or an Affiliate, or in response to changes in applicable laws, regulations or accounting principles;

(o) as to all or part of any Award as to any Grantee, at the time the Award is granted or any time thereafter, to determine that Awards shall become exercisable or vested upon a Termination of Affiliation, to determine that Awards shall continue to become exercisable or vested in full or in installments after Termination of Affiliation, to extend the period for exercise of Options following Termination of Affiliation (but not beyond ten (10) years from the date of grant of the Option), or to provide that any Award of Options, Restricted Stock or Restricted Stock Units shall in whole or in part not be forfeited upon such Termination of Affiliation; *provided* the Board shall consider potential tax consequences in making any such determinations or taking any such actions;

(p) to correct any defect or supply any omission or reconcile any inconsistency, and to construe and interpret the Plan, the rules and regulations, any Award Agreement or any other instrument entered into or relating to an Award under the Plan; and

(q) to take any other action with respect to any matters relating to the Plan for which it is responsible and to make all other decisions and determinations (including factual determinations) as may be required under the terms of the Plan or as the Board may deem necessary or advisable for the administration of the Plan.

Any action of the Board with respect to the Plan shall be final, conclusive and binding on all Persons, including the Company, its Affiliates, any Grantee, any person claiming any rights under the Plan from or through any Grantee, and stockholders, except to the extent the Board may subsequently modify, or take further action not consistent with, its prior action. If not specified in the Plan, the time at which the Board must or may make any determination shall be determined by the Board, and any such determination may thereafter be modified by the Board. The express grant of any specific power to the Board, and the taking of any action by the Board, shall not be construed as limiting any power or authority of the Board.

Article 4 **Shares Subject To The Plan**

4.1 Number of Shares Available for Grants.

Subject to adjustment as provided in Section 4.2, the number of Shares hereby reserved for delivery under the Plan shall be (a) three hundred thousand (300,000) plus (b) any Shares required to satisfy Substitute Awards, all of which Shares shall be available for delivery with respect to all Awards.

If any Shares subject to an Award granted hereunder are forfeited or such Award otherwise terminates or lapses without the delivery of such Shares, the Shares subject to such Award, to the extent of any such forfeiture, termination or lapse, shall again be available for grant under the Plan. If any Shares subject to an Award granted hereunder are withheld or applied as payment in connection with the exercise of an Award or, except with respect to Shares of Restricted Stock, the withholding or payment of taxes related thereto, such Shares shall again be available for grant under the Plan.

The Board shall from time to time determine the appropriate methodology for calculating the number of Shares to which an Award relates pursuant to the Plan.

Shares delivered pursuant to the Plan may be, in whole or in part, authorized and unissued Shares, or treasury Shares, including Shares repurchased by the Company for purposes of the Plan.

4.2 Adjustments in Authorized Shares and Awards.

In the event that the Board determines that any dividend or other distribution (whether in the form of cash, Shares, or other securities or property), forward or reverse stock split, merger, reorganization, subdivision, consolidation or reduction of capital, recapitalization, reorganization, consolidation, scheme of arrangement, split-up, spin-off or combination involving the Company, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other similar corporate transaction or event affects the Shares such that an adjustment is determined by the Board to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Board shall, in such manner as it may deem equitable, adjust any or all of (a) the number and type of Shares (or other securities or property) with respect to which Awards may be granted, (b) the number and type of Shares (or other securities or property) subject to outstanding Awards, (c) the grant or exercise price with respect to any Award or, if deemed appropriate, make provision for a cash payment to the holder of an outstanding Award, and (d) the number and kind of Shares of outstanding Restricted Stock or relating to any other outstanding Award in connection with which Shares are subject; *provided* that the number of Shares subject to any Award denominated in Shares shall always be a whole number.

Article 5.
Eligibility And General Conditions Of Awards

5.1 Eligibility.

Each Person who, on any date on which an Award is to be granted, is a Non-Employee Director shall be eligible to receive an Award hereunder.

5.2 Award Agreement.

To the extent not set forth in the Plan, the terms and conditions of each Award shall be set forth in an Award Agreement.

5.3 Nontransferability of Awards.

(a) Each Award and each right under any Award shall be exercisable only by the Grantee during the Grantee's lifetime, or, if permissible under applicable law, by the Grantee's guardian or legal representative.

(b) No Award (prior to the time, if applicable, Shares are delivered in respect of such Award), and no right under any Award, may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Grantee otherwise than by will or by the laws of descent and distribution (or in the case of Restricted Stock, to the Company) and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall be void and unenforceable against the Company or any Affiliate; *provided* that the designation of a beneficiary to receive benefits in the event of the Grantee's death shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance.

(c) Notwithstanding subsections (a) and (b) above, to the extent allowed by the Board as provided in the Award Agreement or otherwise, Awards may be transferred, without consideration, to a Permitted Transferee. For this purpose, a "Permitted Transferee" in respect of any Grantee means any member of the Immediate Family of such Grantee, any trust of which all of the primary beneficiaries are such Grantee or members of his or her Immediate Family, or any partnership (including limited liability companies and similar entities) of which all of the partners or members are such Grantee or members of his or her Immediate Family; and the "Immediate Family" of a Grantee includes any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the employee's household (other than a tenant or employee), a trust in which these persons have more than fifty percent of the beneficial interest, a foundation in which these persons (or the Grantee) control the management of assets, and any other entity in which these persons (or the Grantee) control the management of assets, and any other entity in which these persons (or the Grantee) own more than fifty percent of the voting interests. Such Award may be exercised by such transferee in accordance with the terms of such Award. If so determined by the Board, a Grantee may, in the manner established by the Board, designate a beneficiary or beneficiaries to exercise the rights of the Grantee, and to receive any distribution with respect to any Award upon the death of the Grantee. A transferee, beneficiary, guardian, legal representative or other person claiming any rights under

the Plan from or through any Grantee shall be subject to any restrictions or limitations in the Plan or in any applicable Award Agreement and to any additional restrictions or limitations deemed necessary or appropriate by the Board.

5.4 Cancellation and Rescission of Awards.

Unless the Award Agreement specifies otherwise, the Board may cancel, rescind, suspend, withhold, or otherwise limit or restrict any unexercised Award at any time if the Grantee is not in compliance with all applicable provisions of the Award Agreement and the Plan or if the Grantee has a Termination of Affiliation.

5.5 Stand-Alone, Tandem and Substitute Awards.

Awards granted under the Plan may, in the discretion of the Board, be granted either alone or in addition to, in tandem with, or in substitution for, any other Award granted under the Plan or any award or benefit granted by the Company or any Affiliate under any other plan, program, arrangement, contract or agreement (a "Non-Plan Award"). If an Award is granted in substitution for another Award or any Non-Plan Award, the Board shall require the surrender of such other Award or Non-Plan Award in consideration for the grant of the new Award. Awards granted in addition to or in tandem with other Awards or Non-Plan Awards may be granted either at the same time as or at a different time from the grant of such other Awards or Non-Plan Awards. The Board may, in its discretion and on such terms and conditions as it considers appropriate in the circumstances, grant Substitute Award under the Plan.

5.6 Insufficient Number of Shares.

If at any date insufficient Shares are available under the Plan for the Award of Options under Article 6, the Award of Restricted Stock under Article 7, the Award of Restricted Stock Units under Article 8 and /or Deferred Stock under Article 9, the Board shall determine the manner in which such remaining Shares shall be awarded.

5.7 Notification under Code Section 83(b).

If the Grantee, in connection with the exercise of any Option, or the grant of Restricted Stock, makes the election permitted under Section 83(b) of the Code to include in such Grantee's gross income in the year of transfer the amounts specified in Section 83(b) of the Code, then such Grantee shall notify the Company of such election within ten (10) days of filing the notice of the election with the Internal Revenue Service, in addition to any filing and notification required pursuant to regulations issued under Section 83(b) of the Code. The Board may, in connection with the grant of an Award or at any time thereafter, prohibit a Grantee from making the election described above.

5.8 Deferral of Award Payouts.

The Board may permit a Grantee to defer, or if and to the extent specified in an Award Agreement require the Grantee to defer, receipt of the payment of cash or the delivery of Shares that would otherwise be due by virtue of the lapse or waiver of Restrictions with respect to Restricted Stock or Restricted Stock Units. If any such deferral is required or permitted, the Board shall, in its sole discretion, establish rules and procedures for such payment deferrals that are in accordance with the Plan and Code Section 409A. Except as otherwise provided in an Award Agreement, any payment or any Shares that are subject to such

deferral shall be made or delivered to the Grantee as specified in the Award Agreement or pursuant to the Grantee's Deferral Election.

5.9 Exercise by Non-Grantee.

If any Award is exercised as permitted by the Plan by any Person other than the Grantee, the exercise notice shall be accompanied by documentation as may reasonably be required by the Board, including without limitation, evidence of authority of such Person or Persons to exercise the Award and, if the Board so specifies, evidence satisfactory to the Company that any death taxes payable with respect to such Shares have been paid or provided for.

5.10 No Cash Consideration for Awards.

Awards may be granted for no cash consideration or for such minimal cash consideration as may be required by applicable law.

5.11 No Fractional Shares.

No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Board shall determine whether cash, other securities, or other property shall be paid or transferred in lieu of any fractional Shares, or whether such fractional Shares or any rights thereto shall be canceled, terminated, or otherwise eliminated.

**Article 6.
Stock Options**

6.1 Grant of Options.

Subject to and consistent with the provisions of the Plan, the Board may grant Options to any Non-Employee Director in such number, and upon such terms, and at any time and from time to time as shall be determined by the full Board.

6.2 Award Agreement.

Each Option shall be evidenced by an Award Agreement that shall specify the Option Price, the Option Term, the number of Shares to which the Option pertains, the time or times at which such Option shall be exercisable and such other provisions as the Board shall determine.

6.3 Option Price.

The Option Price for each Option shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date.

6.4 Option Term.

The Option Term of each Option shall expire no later than the tenth (10th) anniversary of the Grant Date.

Article 7. Restricted Stock

7.1 Grant of Restricted Stock.

Subject to and consistent with the provisions of the Plan, the Board may grant Restricted Stock to any Non-Employee Director in such number, and upon such terms, and at any time and from time to time as shall be determined by the Board. The Board shall determine the amount, if any, that a Grantee shall pay for Restricted Stock.

7.2 Award Agreement.

Each grant of Restricted Stock shall be evidenced by an Award Agreement that shall specify the Restrictions, the number of Shares of Restricted Stock granted, and such other provisions as the Board shall determine. The Board may impose such Restrictions on Restricted Stock, including time-based Restrictions, Restrictions based on the achievement of specific performance goals, time-based Restrictions following the achievement of specific performance goals, Restrictions based on the occurrence of a specified event, and/or restrictions under applicable securities laws; *provided* that time-based Restrictions not tied to or following the achievement of specific performance goals shall remain in effect (in whole or in part) at least until the third anniversary of the Grant Date, except as provided in the Award Agreement in the event of death, Disability, Retirement, Special Termination, or other circumstances specified in such agreement.

7.3 Effect of Forfeiture.

If Restricted Stock is forfeited, and if the Grantee was required to pay for such Shares or acquired such Restricted Stock upon the exercise of an Option, the Grantee shall be deemed to have resold such Restricted Stock to the Company at a price equal to the lesser of (x) the amount paid by the Grantee for such Restricted Stock, or (y) the Fair Market Value of a Share on the date of such forfeiture. The Company shall pay to the Grantee the deemed sale price as soon as is administratively practical. Such Shares of Restricted Stock shall cease to be outstanding, and shall no longer confer on the Grantee thereof any rights as a stockholder of the Company, from and after the date of the event causing the forfeiture, whether or not the Grantee accepts the Company's tender of payment for such Restricted Stock.

7.4 Escrow; Legends.

The Board may provide that the certificates for any Restricted Stock (x) shall be held (together with a stock power executed in blank by the Grantee) in escrow by the Secretary of the Company until such Restricted Stock becomes non-forfeitable or is forfeited and/or (y) shall bear an appropriate legend restricting the transfer of such Restricted Stock under the Plan. If any Restricted Stock becomes non-forfeitable, the Company shall cause certificates for such Shares to be delivered without such legend or shall cause a release of restrictions on a book entry account maintained by the Company's transfer agent.

7.5 Stockholder Rights in Restricted Stock.

Restricted Stock, whether held by a Grantee or in escrow or other custodial arrangement by the Secretary of the Company, shall confer on the Grantee all rights of a stockholder of the Company, except as otherwise provided in the Plan or Award Agreement. At the time of a grant of Restricted Stock, the

Board may require the payment of cash dividends thereon to be deferred and, if the Board so determines, reinvested in additional Shares of Restricted Stock. Stock dividends and deferred cash dividends issued with respect to Restricted Stock shall be subject to the same restrictions and other terms as apply to the Shares of Restricted Stock with respect to which such dividends are issued. The Board may in its discretion provide for payment of interest on deferred cash dividends.

Article 8. Restricted Stock Units

8.1 Grant of Restricted Stock Units.

Subject to and consistent with the provisions of the Plan and Code Sections 409A(a)(2), (3) and (4), the Board may grant Restricted Stock Units to any Non-Employee Director in such number, upon such terms, and at any time and from time to time as the Board shall determine.

8.2 Award Agreement.

Each grant of Restricted Stock Units shall be evidenced by an Award Agreement that shall specify the Restrictions, the number of Shares subject to the Restricted Stock Units granted, and such other provisions as the Board shall determine in accordance with Code Section 409A. The Board may impose such Restrictions on Restricted Stock Units, including time-based Restrictions, Restrictions based on the achievement of specific performance goals, time-based Restrictions following the achievement of specific performance goals, Restrictions based on the occurrence of a specified event, and/or restrictions under applicable securities laws; *provided* that time-based restrictions shall remain in effect (in whole or in part) at least until the third anniversary of the Grant Date, except as provided in the Award Agreement in the event of death, Disability, Special Termination, or other circumstances specified in such agreement. A Grantee shall have no voting rights in Restricted Stock Units.

8.3 Crediting Restricted Stock Units.

The Company shall establish an account ("RSU Account") on its books for each Non-Employee Director who receives a grant of Restricted Stock Units. Restricted Stock Units shall be credited to the Non-Employee Director's RSU Account as of the Grant Date of such Restricted Stock Units. RSU Accounts shall be maintained for recordkeeping purposes only and the Company shall not be obligated to segregate or set aside assets representing securities or other amounts credited to RSU Accounts. The obligation to make distributions of securities or other amounts credited to RSU Accounts shall be an unfunded, unsecured obligation of the Company.

(a) *Crediting of Dividend Equivalents.* Except as otherwise provided in an Award Agreement, whenever dividends are paid or distributions made with respect to Shares, Dividend Equivalents shall be credited to RSU Accounts on all Restricted Stock Units credited thereto as of the record date for such dividend or distribution. Such Dividend Equivalents shall be credited to the RSU Account in the form of additional Restricted Stock Units in a number determined by dividing the aggregate value of such Dividend Equivalents by the Fair Market Value of a Share at the payment date of such dividend or distribution.

(b) *Settlement of RSU Accounts.* The Company shall settle an RSU Account by delivering to the holder thereof (which may be the Grantee or his or her designated beneficiary or

estate, as applicable) a number of Shares equal to the whole number of Shares underlying the Restricted Stock Units then credited to the Grantee's RSU Account (or a specified portion in the event of any partial settlement); *provided* that any fractional Shares underlying Restricted Stock Units remaining in the RSU Account on the Settlement Date shall be distributed in cash in an amount equal to the Fair Market Value of a Share as of the Settlement Date multiplied by the remaining fractional Restricted Stock Unit. The "Settlement Date" for all Restricted Stock Units credited to a Grantee's RSU Account shall be the earlier of (i) when Restrictions applicable to an Award of Restricted Stock Units have lapsed, or (ii) as soon as administratively practical following the Grantee's death, Disability, Retirement or Special Termination, *provided*, that such Disability, Retirement or Special Termination (as applicable) constitutes a "separation from service" (as provided in Code Section 409A(a)(2)(A)(i)).

Article 9. Deferred Stock

9.1 Grant of Deferred Stock.

Subject to and consistent with the provisions of the Plan and Code Sections 409A(a)(2), (3) and (4), the Board may grant Deferred Stock to any Non-Employee Director in such number, upon such terms, and at any time and from time to time as the Board shall determine, including grants at the election of a Grantee to convert Shares to be acquired upon lapse of restrictions on Restricted Stock or Restricted Stock Units into such Deferred Stock; *provided* that any such grant of Deferred Stock shall be subject to an Award Agreement that comports with all restrictions under Code Section 409A(a)(2), (3) and (4) with respect to timing of deferrals, acceleration of deferred compensation and timing of distribution of deferred compensation.

9.2 Award Agreement.

Each grant of Deferred Stock shall be evidenced by an Award Agreement that shall specify the number underlying the Shares of Deferred Stock subject to an Award, the date such Shares of Deferred Stock shall be settled and such other provisions as the Board shall determine that are in accordance with Code Section 409A. A Grantee shall have no voting rights in Deferred Stock.

9.3 Deferred Stock Elections.

(a) *Making of Deferral Elections.* Pursuant to procedures approved by the Board to implement this Section 9.3 in accordance with Code Section 409A and subject to the approval of the Board in its sole discretion, a Non-Employee Director may elect ("Deferral Election") to be paid any or all of the following amounts in the form of Deferred Stock in lieu of cash or Shares, as applicable: (i) Shares to be delivered upon lapse of Restrictions on Restricted Stock or Restricted Stock Units or (ii) Directors Fees. In the case of a Deferral Election relating to Directors Fees, the number of Shares of Deferred Stock credited to the Non-Employee Director's Deferral Account (as defined in Section 9.4 below) shall be a number equal to the quotient of the amount of Directors Fees to be paid in the form of Deferred Stock divided by the Fair Market Value of a Share on the date such Directors Fees would otherwise be paid in cash. The Grant Date for an Award of Deferred Stock made pursuant to a Deferral Election shall be the date the amount subject to the Deferral Election would otherwise have been paid to the Grantee in cash or Shares.

(b) *Timing of Deferral Elections.* An initial Deferral Election must be filed with the Controller of the Company no later than December 31 of the year preceding the calendar year in which the amount to which the Deferral Election applies would otherwise be earned, subject to such restrictions and advance filing requirements as the Company may impose; *provided* that any newly elected or appointed Non-Employee Director may file a Deferral Election not later than thirty (30) days after the date such person first became a Non-Employee Director. A Deferral Election shall be irrevocable as of the filing deadline. Each Deferral Election shall remain in effect with respect to subsequently earned amounts unless the Non-Employee Director revokes or changes such Deferral Election. Any such revocation or change shall have prospective application only.

9.4 Deferral Account.

(a) *Establishment of Deferral Accounts.* The Company shall establish an account ("Deferral Account") on its books for each Non-Employee Director who receives a grant of Deferred Stock or makes a Deferral Election. Deferred Stock shall be credited to the Non-Employee Director's Deferral Account as of the Grant Date of such Deferred Stock. Deferral Accounts shall be maintained for recordkeeping purposes only and the Company shall not be obligated to segregate or set aside assets representing securities or other amounts credited to Deferral Accounts. The obligation to make distributions of securities or other amounts credited to Deferral Accounts shall be an unfunded, unsecured obligation of the Company.

(b) *Crediting of Dividend Equivalents.* Except as otherwise provided in an Award Agreement, whenever dividends are paid or distributions made with respect to Shares, Dividend Equivalents shall be credited to Deferral Accounts on all Deferred Stock credited thereto as of the record date for such dividend or distribution. Such Dividend Equivalents shall be credited to the Deferral Account in the form of additional Deferred Stock in a number determined by dividing the aggregate value of such Dividend Equivalents by the Fair Market Value of a Share at the payment date of such dividend or distribution.

(c) *Settlement of Deferral Accounts.* The Company shall settle a Deferral Account by delivering to the holder thereof (which may be the Grantee or his or her designated beneficiary or estate, as applicable) a number of Shares equal to the whole number of Shares of Deferred Stock then credited to the Grantee's Deferral Account (or a specified portion in the event of any partial settlement); *provided* that any fractional Shares of Deferred Stock remaining in the Deferral Account on the Settlement Date shall be distributed in cash in an amount equal to the Fair Market Value of a Share as of the Settlement Date multiplied by the remaining fractional Share. The "Settlement Date" for all Deferred Stock credited to a Grantee's Deferral Account shall be the earlier of (i) the 180th day following the Non-Employee Director's Termination of Affiliation for any reason other than death or Disability, or (ii) as soon as administratively practical following the Grantee's death or Disability; *provided, however*, if such Disability, Retirement or Termination of Affiliation does not constitute a "separation from service" (as provided in Code Section 409A(a)(2)(A)(i)), then payment on account of (i) above shall not be made until 180 days following the Grantee's "separation from service" in accordance with Code Section 409A(a)(2)(A)(i) unless the Grantee's death or Disability occurs earlier.

Article 10.
Amendment, Modification And Termination

10.1 Amendment, Modification, and Termination.

Subject to Section 10.2, the full Board may, at any time and from time to time, alter, amend, suspend, discontinue or terminate the Plan in whole or in part without the approval of the Company's stockholders, except that (a) any amendment or alteration shall be subject to the approval of the Company's stockholders if such stockholder approval is required by any federal or state law or regulation or the rules of any stock exchange or automated quotation system on which the Shares may then be listed or quoted, (b) the Board may otherwise, in its discretion, determine to submit other such amendments or alterations to stockholders for approval, and (c) any Plan amendment or termination will not accelerate the timing of any payments that constitute deferred compensation under Code Section 409A unless such acceleration of payment is permitted by Code Section 409A.

10.2 Awards Previously Granted.

Except as otherwise specifically permitted in the Plan or an Award Agreement, no termination, amendment, or modification of the Plan shall adversely affect in any material way any Award previously granted under the Plan, without the written consent of the Grantee of such Award.

Article 11.
Additional Provisions

11.1 Successors.

All obligations of the Company under the Plan with respect to Awards granted hereunder shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise of all or substantially all of the business and/or assets of the Company.

11.2 Severability.

If any provision of this Plan or any Award is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction, or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Board, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Board, materially altering the intent of the Plan or the Award, it shall be stricken and the remainder of the Plan and any such Award shall remain in full force and effect.

11.3 Requirements of Law.

The granting of Awards and the delivery of Shares under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required. Notwithstanding any provision of the Plan or any Award, Grantees shall not be entitled to exercise, or receive benefits under, any Award, and the Company (and any Affiliate) shall not be obligated to deliver any Shares or deliver benefits to a Grantee, if such exercise or delivery would constitute a violation by the Grantee or the Company of any applicable law or regulation.

11.4 Securities Law Compliance.

(a) If the Board deems it necessary to comply with any applicable securities law, or the requirements of any stock exchange upon which Shares may be listed, the Board may impose any restriction on Awards or Shares acquired pursuant to Awards under the Plan as it may deem advisable. All evidence of Share ownership delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Board may deem advisable under the rules, regulations and other requirements of the SEC, any stock exchange upon which Shares are then listed, or any applicable securities law. If so requested by the Company, the Grantee shall make a written representation to the Company that he or she will not sell or offer to sell any Shares unless a registration statement shall be in effect with respect to such Shares under the Securities Act of 1933, as amended, and any applicable state securities law or unless he or she shall have furnished to the Company, in form and substance satisfactory to the Company, evidence that such registration is not required.

(b) If the Board determines that the exercise or non-forfeitability of, or delivery of benefits pursuant to, any Award would violate any applicable provision of securities laws or the listing requirements of any national securities exchange or national market system on which are listed any of the Company's equity securities, then the Board may postpone any such exercise, non-forfeitability or delivery, as applicable, but the Company shall use all reasonable efforts to cause such exercise, non-forfeitability or delivery to comply with all such provisions at the earliest practicable date.

11.5 No Rights as a Stockholder.

No Grantee shall have any rights as a stockholder of the Company with respect to the Shares (other than Shares of Restricted Stock) which may be deliverable upon exercise or payment of an Award until such Shares have been delivered to him or her.

11.6 Non-Exclusivity of Plan.

Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other compensatory arrangements for Non-Employee Directors as it may deem desirable.

11.7 Governing Law.

The Plan, and all agreements hereunder, shall be construed in accordance with and governed by the laws of the State of Delaware, other than its laws respecting choice of law.

11.8 Construction.

The following rules of construction will apply to the Plan: (a) the word "or" is disjunctive but not necessarily exclusive, and (b) words in the singular include the plural, words in the plural include the singular, and words in the neuter gender include the masculine and feminine genders and words in the masculine or feminine gender include the other neuter genders. The headings of articles and sections are

included solely for convenience of reference, and if there is any conflict between such headings and the text of this Plan, the text shall control.

11.9 Obligations.

Unless otherwise specified in the Award Agreement, the obligation to deliver, pay or transfer any amount of money or Shares or other property pursuant to Awards under this Plan shall be the sole obligation of the Company.

11.10 No Right to Continue as Director, No Right to Awards.

Nothing in the Plan or any Award Agreement shall confer upon any Non-Employee Director the right to continue to serve as a director of the Company. No Non-Employee Director shall have a right to an Award or having been granted an Award, to additional Awards.

11.11 Stockholder Approval.

All Awards granted on or after the Effective Date and prior to the date the Company's stockholders approve the amended and restated Plan are expressly conditioned upon and subject to approval of the Plan by the Company's stockholders.