TEAMSTERS-NATIONAL 401(k) SAVINGS PLAN

Originally Effective: February 12, 1996

Amended and Restated: October 28, 2014
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Preamble

The Teamsters-National 401(k) Savings Plan (“Plan”) was established effective February 12, 1996 to provide a vehicle for eligible employees to have money set aside for their retirement on a tax-favored basis to supplement that which they will receive from Social Security and other pension or retirement plans in which they participate. Monies eligible to be set aside under this Plan include pre-tax employee elective deferrals, after-tax employee contributions, employer matching contributions and employer nonelective contributions, and, effective December 1, 2013, designated Roth contributions. The benefits provided under the Plan will depend upon the level of contributions and the investment results of the Trust Fund established by the Trust Agreement adopted as part of this Plan, and accordingly, may vary with respect to each employee.

The Plan and the Trust established hereunder are intended to qualify as a multiemployer profit-sharing plan and trust which meet the requirements of Section 401(a), 401(k) and 501(a) respectively, of the Internal Revenue Code of 1986, as now in effect or hereafter amended, or any other applicable provisions of law, including, without limitation, the Employee Retirement Income Security Act of 1974, as now in effect or hereafter amended.

The Plan was amended and restated effective January 1, 2002, except as otherwise provided herein, to incorporate all prior amendments to the Plan and to comply with changes in the law pursuant to the Uruguay Round Agreements Act (GATT), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Small Business Job Protection Act of 1996 (SBJPA ‘96), the Taxpayer Relief Act of 1997 (TRA ‘97), the IRS Restructuring and Reform Act of 1998, the Community Renewal Tax Relief Act of 2000 (collectively referred to as “GUST”), the Economic Growth and Tax Relief Reconciliation Act of 2001, as well as other technical changes. The Plan was amended and restated effective October 27, 2004 to reorganize the Plan and incorporate subsequent Plan amendments and was again amended and restated effective October 1, 2009, to incorporate subsequent Plan amendments including the applicable provisions of Sections 401(a)(9) and 415 of the Internal Revenue Code and regulations thereunder, as well as applicable provisions of the Pension Protection Act of 2006 (“PPA ‘06”).

The Plan is hereby amended and restated effective October 28, 2014, except as otherwise specifically provided herein, to incorporate subsequent Plan amendments, including applicable provisions of the Worker, Retiree, and Employer Recovery Act of 2008, to provide Qualified Hurricane Sandy Distributions, to permit required minimum distributions to be made annually, and to add Roth 401(k) contributions.

The rights of any person who terminates employment on or before the effective date of a particular amendment, including his or her eligibility for benefits and the time and form in which such benefits, if any, will be paid, shall be determined solely under the terms of the Plan as in effect on the date of such person’s termination of employment or retirement, unless such person is thereafter reemployed and again becomes a Participant.
Article I - Definitions

Section 1.1 - Definitions

The words and phrases used in the Plan shall have the meanings set forth in this Article unless a different meaning is required by the context.

(a) “Account” or “Accounts” means the Account or Accounts established and maintained on behalf of a Participant pursuant to Section 4.1, including such Participant’s Elective Deferral Pre-tax Contribution Account, Elective Deferral Roth Contribution Account, After-tax Contribution Account, Nonelective Contribution Account, Matching Contribution Account, Merger Account, YRCW Stock Fund Account, Rollover Contribution Account, Roth Rollover Contribution Account, and After-Tax Rollover Contribution Account.

(b) “Affiliated Employer” means any corporation which is included in a controlled group of corporations (within the meaning of Section 414(b) of the Code) which includes the Employer, any trade or business (whether or not incorporated) which is under common control with the Employer (within the meaning of Section 414(c) of the Code), any organization included in the same affiliated service group (within the meaning of Section 414(m) of the Code) as the Employer and any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) of the Code.

(c) “After-tax Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which a Participant’s After-tax Contributions are credited.

(d) “After-tax Contribution” means a contribution made to the Plan on behalf of a Participant by his Employer pursuant to Section 3.4 in accordance with his payroll deduction authorization.

(e) “After-Tax Rollover Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which the portion of a Participant’s Rollover Contribution comprised of after-tax contributions is credited.


(g) “Compensation” means all wages, salaries, fees for professional services and other amounts paid to an Eligible Employee during the Plan Year by reason of his employment with an Employer to the extent that the amounts are includible in gross income and shall also include, but is not limited, to bonuses, overtime pay and commissions, elective deferrals under this or any other plan of deferred compensation and salary reduction contributions, if any, to a plan described in Section 125 of the Code, a simplified employee pension under Code section 408(k), a tax-sheltered annuity or account under Code section 403(b), compensation deferred under an eligible deferred compensation plan of a state or local government or tax-exempt organization within the meaning of Code section 457(b) and “qualified transportation fringes” excludable from gross income under Section 132(f)(4) of the Code, if any, but excluding expense reimbursements and allowances and amounts allocated or benefits paid under any employee benefit plan.
maintained by the Employer or to which the Employer contributes. Notwithstanding the foregoing, for Plan Years beginning before January 1, 2002, the maximum amount of Compensation taken into account during any Plan Year with respect to an Eligible Employee for any purpose under the Plan, shall not exceed $150,000 (as adjusted under Code Section 401(a)(17)) for the calendar year in which such Plan Year begins. For Plan Years beginning on or after January 1, 2002, the maximum amount of Compensation taken into account with respect to an Eligible Employee for any purpose under the Plan shall not exceed $200,000 (as adjusted under Code section 401(a)(17)) for the calendar year in which such Plan Year begins. Effective January 1, 2009, Compensation shall include the amount of any differential wage payments paid by the Employer to a Participant in accordance with Section 3401(h) and Section 414(u)(12) of the Code.

(h) “Distribution Date” means the Valuation Date on which a distribution of all or a portion of a Participant’s benefits under the Plan is processed in accordance with the provisions of Article VI of the Plan.

(i) “Effective Date” means February 12, 1996.

(j) “Elective Deferral Pre-tax Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which a Participant’s Elective Deferral Pre-tax Contributions are credited.

(k) “Elective Deferral Contribution” means a contribution made to the Plan on behalf of a Participant by his Employer pursuant to Section 3.1 and in accordance with the Participant’s Elective Deferral. An Elective Deferral Contribution may be an Elective Deferral Pre-tax Contribution or, if permitted under the terms of the applicable Participation Agreement, an Elective Deferral Roth Contribution.

(l) “Elective Deferral” means a payroll reduction agreement made by an Eligible Employee in accordance with procedures established by the Trustees, directing the Eligible Employee’s Employer to have a portion of the Employee’s Compensation contributed to the Plan on behalf of the Eligible Employee by his Employer. An Elective Deferral may be an Elective Deferral Pre-tax Contribution or, if permitted under the terms of the applicable Participation Agreement, an Elective Deferral Roth Contribution.

(m) “Elective Deferral Pre-tax Contribution” means the portion of an Elective Deferral Contribution made on a pre-tax basis

(n) “Elective Deferral Roth Contribution” means the portion an Elective Deferral Contribution designated irrevocably by the Participant to be made on an after-tax basis as a designated Roth contribution in accordance with Code section 402A.

(o) “Elective Deferral Roth Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which a Participant’s Elective Deferral Roth Contributions are credited.

(p) “Eligible Employee” means
(i) a Union Employee with respect to whom the Employer has entered into a Participation Agreement approved by the Trustees which sets forth the terms and conditions of the Employer’s participation in the Plan.

(ii) an Employee who is not a Union Employee but with respect to whom the Employer has entered into a Participation Agreement approved by the Trustees which sets forth the terms and conditions of the Employer’s participation in the Plan. The Trustees may accept for participation in the Plan a class or classes of non-Union Employees on the following conditions:

(a) If the Employer of such non-Union Employees is also an Employer of Union Employees with respect to whom the Employer participates in the Plan; and

(b) The Employer agrees to participate in the Plan on behalf of all of the Employer’s non-Union Employees or on behalf of a specified group or classification of non-Union Employees as is satisfactory to the Trustees to ensure the continued qualification of the Plan.

(iii) a self-employed individual within the meaning of Section 401(c)(3) of the Code who has entered into a Participation Agreement approved by the Trustees setting forth the terms and conditions of his participation in the Plan.

(iv) an Employee of a Union Employer or a Fund Employer with respect to whom such Union Employer or Fund Employer has entered into a Participation Agreement with the Trustees setting for the terms and conditions of its participation in the Plan.

(v) an Employee of a Non-IBT Union Employer if such Non-IBT Union Employer has entered into a Participation Agreement approved by the Trustees setting forth the terms and conditions of its participation in the Plan.

(q) “Employee” means any individual employed on a full-time or a part-time basis by the Employer to work regularly scheduled hours, who is classified as an employee by the Employer, and who is on the payroll of the Employer. An Employee shall not include:

(i) an individual hired by an Employer or an Affiliated Employer as an independent contractor, consultant, or otherwise as a person who is not an employee for purposes of withholding federal employment taxes, as evidenced by payroll records or a written agreement with the individual, regardless of any contrary governmental or judicial determination or holding relating to such status or tax withholding; or

(ii) an individual who renders services to an Employer or an Affiliated Employer under circumstances in which his or her wages or remuneration is paid by a third party service provider or temporary service agency, regardless of any governmental or judicial determination or holding which characterizes the individual as an employee of an Employer or an Affiliated Employer.
If an individual described in (i) or (ii), above, is subsequently reclassified as, or determined to be, an Employee by an Employer, an Affiliated Employer, the Internal Revenue Service, any other governmental agency or authority, or the judiciary, or if the Employer or Affiliated Employer is required to reclassify such individual as an Employee as a result of such reclassification or determination (including any reclassification by an Employer or Affiliated Employer in settlement of a claim or action relating to such individual’s employment status), such individual shall become eligible to become a Participant in this Plan from the later of (i) the actual (and not the effective) date of such reclassification or determination (or the date as of which such reclassification by a governmental body or the judiciary becomes final and not appealable), or (ii) the first date on which such individual is an Employee based on his or her employment status after the actual date of reclassification and has satisfied the both the requirements of an Eligible Employee and the service requirements set forth in Section 2.1.

(r) “Employer” means an Employer who has entered into a Participation Agreement with the Trustees setting forth the terms and conditions of the Employer’s participation in the Plan on behalf of one or more of the Employer’s Eligible Employees. The term “Employer” shall also mean a Union Employer, Fund Employer or Non-IBT Union Employer, as defined in this Section 1.1 of the Plan, which has entered into a Participation Agreement.

(s) “Employment Commencement Date” means the date on which an individual first performs an Hour of Service.


(u) “Former Participant” means a person who has been a Participant but who has ceased to be a Participant for any reason, including termination of employment with the Employer.

(v) “415 Compensation” means compensation as defined in Code Section 415(c)(3) and the Treasury Regulations at 1.415(c)-2.

(w) “Fund Employer” means a Taft-Hartley pension or welfare fund covering members of the Union.

(x) “Highly Compensated Employee” means any individual who:

(i) owned more than 5% of the Employer or an Affiliated Employer (including any ownership attributable from a related party under Code section 318) at any time during the Plan Year or during the 12-month period preceding the Plan Year (the “look-back year”), or

(ii) had 415 Compensation in excess of $80,000 (as adjusted pursuant to Code section 414(q)(1)). The top-paid election described in Code section 414(q)(1)(B)(ii) shall not apply.

(y) “Hour of Service” means:
(i) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours shall be credited to the Employee for the computation period in which the duties are performed; and

(ii) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. No more than 501 Hours of Service shall be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which are incorporated herein by this reference; and

(iii) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be credited both under subparagraph (i) or (ii), as the case may be, and under this subparagraph (iii). These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

(z) “Investment Fund” means the investment funds described in Section 4.3.

(aa) “Matching Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which Matching Contributions are credited.

(bb) “Matching Contribution” means the Employer contribution determined under Section 3.10.

(cc) “Merger Account” means the Account established and maintained for a Transfer Participant to which is credited amounts transferred from another employer’s plan due to a plan merger or spin-off approved by the Trustees.

(dd) “Nonelective Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which Nonelective Contributions are credited.

(ee) “Nonelective Contribution” means a contribution determined under Section 3.11.

(ff) “Non-IBT Union Employer” means a labor organization other than a Union Employer.

(gg) “Normal Retirement Age” means age 62.

(hh) “One-Year Break in Service” means a “One-Year Break in Service” is a Period of Severance of at least twelve (12) consecutive months.

In the case of an individual who is absent from work for maternity or paternity reasons beyond the first anniversary of the first day of absence by reason of such absence, the
Period of Severance shall commence on the second anniversary of the first date of such absence. The period between the first and second absence is neither a Period of Service nor a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement.

In the case of an individual reemployed by an Employer in the period during which his right to reemployment after the completion of qualified military service (as defined in Code section 414(u)(5)) is protected by Federal law, no One-Year Break in Service shall have occurred by reason of such individual’s period of qualified military service.

(ii) “Participant” means an Employee who has satisfied the eligibility requirements for participation in the Plan as provided in Article II. Except for purposes of Section 1(ay), Article 3 and Sections 6.10, 8.1(a) and 8.2 and elsewhere in the Plan where the term “Former Participant” or “Transfer Participant” is specifically used, the term “Participant” shall also include a Former Participant and a Transfer Participant.

(jj) “Participation Agreement” means an agreement in the form approved by the Trustees entered into between the Trustees and an Employer which sets forth the specific terms and conditions of the Employer’s participation in the Plan.

(kk) “Period of Severance” means the period of time beginning on the Employee’s Severance from Service Date and ending on the Employee’s Reemployment Commencement Date.

(ll) “Period of Service” means the period of time beginning on the Employee’s Employment Commencement Date or Reemployment Commencement Date, whichever is applicable, and ending on the Employee’s Severance from Service Date.

(mm) “Plan” means the Teamsters-National 401(k) Savings Plan as set forth herein, and as the same may be amended from time to time by the Trustees.

(nn) “Plan Administrator” means the Trustees, except to the extent the Trustees have delegated responsibility for Plan administration to an individual or individuals, firm, company, committee or other entity as an administrative agent pursuant to Section 7.2.

(oo) “Plan Year” means the calendar year, except that the first Plan Year shall commence on the date when the Plan is declared to be operative by the Trustees and shall terminate on December 31 of that same year.

(pp) “Reemployment Commencement Date” means the first date on which an individual performs an Hour of Service following a Period of Severance, as an Employee, following a Period of Service.

(qq) “Rollover Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which a Participant’s Rollover Contribution, other than any
portion of the rollover comprised of designated Roth contributions or after-tax contributions, is credited.

(rr) “Rollover Contribution” means a contribution made by a Participant pursuant to Section 3.9.

(ss) “Roth Rollover Contribution Account” means the Account established and maintained pursuant to Section 4.1 to which the portion of a Participant’s Rollover Contribution comprised of designated Roth contributions is credited.

(tt) “Severance from Service” means the termination of employment with an Employer by reason of death, disability, retirement, quit, discharge, failure to return from layoff or authorized leave of absence, or for any other reason.

(uu) “Severance from Service Date” means the earlier of the date on which an Employee voluntarily quits, retires, dies, or is discharged, or the first anniversary of the first date of absence for any other reason. Notwithstanding the preceding, the Severance from Service Date of an Employee who is absent from Service beyond the first anniversary of the first day of absence by reason of a maternity or paternity absence as discussed in Section 1.1(hh) is the second anniversary of the first day of such absence.

(vv) “Transfer Participant” means an individual other than a Participant or Former Participant whose account is transferred to the Plan from another qualified plan pursuant to a plan merger agreement approved by the Trustees.

(ww) “Trust” or “Trust Fund” means property held for the Plan pursuant to the terms of the Trust Agreement.

(xx) “Trust Agreement” means the Teamsters-National 401(k) Savings Plan Trust Agreement, including any future amendments and modifications thereto.

(yy) “Trustees” means, collectively, the Employer-designated Trustees and the Trustees designated by the International Brotherhood of Teamsters as named in the Trust Agreement and their successors from time to time acting pursuant to the Trust Agreement.

(zz) “Union” means the International Brotherhood of Teamsters and each of its affiliate local unions or negotiating committees representing Employees of one or more Employers for purposes of collective bargaining.

(aaa) “Union Employee” means an Employee who is a member of a specified group or class of employees who are represented for purposes of collective bargaining by the Union.

(bbb) “Union Employer” means the Union or any subordinate body of the Union.

(ddd) “Valuation Date” means each business day.

(eee) “Year of Service” means a Period of Service of twelve (12) consecutive months commencing on the Employment Commencement Date.

(fff) “YRCW Stock Fund Account” means the Account established and maintained pursuant to Section 4.1 to which YRCW Stock is credited in accordance with Article XII.

Section 1.2 - Interpretation and Construction

Whenever required, words used in the masculine gender shall include the feminine gender. Words used in the singular or plural shall be construed as if plural or singular, respectively, where the context so requires.
Article II - Eligibility for Participation

Section 2.1 - Service Requirement

(a) Each Eligible Employee who is employed as such by an Employer on the effective date set forth in the applicable Participation Agreement shall become a Participant as of such effective date.

(b) Each other Eligible Employee shall become a Participant upon the completion of thirty (30) days of employment following the Employee’s Employment Commencement Date.

Section 2.2 - Application to Contribute

Upon satisfying the eligibility requirements for participation in the Plan in accordance with Section 2.1, each Participant shall be eligible to make Elective Deferral Pre-Tax Contributions and/or After-tax Contributions upon making proper application therefor. With respect of Employers for whom the Trustees have approved Elective Deferral Roth Contributions, each Participant shall also be eligible to make Elective Deferral Roth Contributions upon making proper application therefor. Such application shall be made in accordance with procedures adopted by, and in a form approved by, the Trustees or their designee and shall contain the Elective Deferral Contribution and/or After-tax Contribution percentage selected by the Participant. The Plan Administrator shall promptly process each Participant’s election to make an Elective Deferral Contribution and/or After-tax Contribution and shall notify the Participant in writing of the acceptance or non-acceptance thereof.

Section 2.3 - Notification to the Employer

As soon as practical following the acceptance of a Participant’s Elective Deferral and/or After-tax Contribution election, the Plan Administrator shall notify the Employer of the Elective Deferral percentage and/or After-tax Contribution percentage selected by the Participant. As soon as practical (but in no event later than the second payroll period) following notification of a Participant’s initial Elective Deferral percentage and/or After-tax Contribution percentage, the Employer shall implement or cause to be implemented the necessary procedures to assure that proper payroll deductions are made consistent with the Elective Deferral percentage and/or After-tax Contribution percentage selected by the Participant.

Section 2.4 - Transfer to Position Not Covered by Plan

If a Participant is transferred to a position with an Employer which is not covered by a Participation Agreement and is therefore no longer an Eligible Employee, the Participant shall remain a Participant in this Plan with respect to contributions previously made on his behalf, but shall no longer be eligible to have Elective Deferral Contributions or After-tax Contributions made to the Plan on his behalf unless and until he again becomes an Eligible Employee. In the event the Participant is subsequently transferred to a position in which he again becomes an Eligible Employee, the Participant may renew his Elective Deferral or After-tax Contribution election as of the first day on which he subsequently performs an Hour of Service for the Employer as an Eligible Employee. Notwithstanding anything contained herein to the contrary,
a transfer to a position with an Employer which is not covered by a Participation Agreement shall not be deemed a Severance from Service for purposes of Section 6.2 of the Plan.

Section 2.5 - Termination of Participation

A Participant who ceases to be an Eligible Employee either because of the termination of his Employer’s Participation Agreement or because he otherwise fails to satisfy the requirements set forth in Section 1.1(m) shall become a Former Participant. A Former Participant shall remain a Participant with respect to contributions previously made on his behalf, except that no loans may be available to a Former Participant under Section 6.10. Unless a Former Participant again becomes an Eligible Employee, he shall not be eligible to have Elective Deferral Contributions or After-tax Contributions made to the Plan on his behalf.
Article III - Contributions

Section 3.1 - Elective Deferrals

(a) In each Plan Year, a Participant may elect to defer a portion of his Compensation designated as a whole percentage (subject to any maximum percentage limitation contained in the Participation Agreement, but not to exceed 89%) on a pre-tax basis by agreeing to reduce the amount of Compensation otherwise payable to the Participant during such year in the manner herein set forth. To the extent provided in the Participation Agreement, a Participant may irrevocably designate all or a portion of such deferral as Elective Deferral Roth Contributions, which shall be made on an after-tax basis under Section 402A of the Code. Unless specifically stated otherwise, designated Roth contributions shall be treated as Elective Deferral Contributions for all purposes under the Plan. Any election to defer a portion of a Participant’s Compensation shall be made in whole percentage points in accordance with procedures adopted by the Trustees or their designee. With respect to each Participant for whom there is in effect an Elective Deferral there shall be contributed by the Employer as an Elective Deferral Contribution, an amount equal to the amount by which the Participant’s Compensation was reduced pursuant to the terms of the Elective Deferral. Elective Deferral Contributions shall be paid to the Trust by electronic funds wire transfer (or by any other method acceptable to the Trustees or their designee) on the earliest date such amounts can reasonably be segregated from the Employer’s general assets, but not later than the fifteenth (15th) business day following the last day of the month during which such deferred amounts would have (but for the Participant’s Elective Deferral) been paid to the Participant, and shall, upon receipt thereof, be credited to the Participant’s Elective Deferral Pre-tax Contribution Account and/or, if applicable, Elective Deferral Roth Contribution Account. The Elective Deferral percentage and, if applicable, the allocation of the percentage between Elective Deferral Pre-tax Contributions and Elective Deferral Roth Contributions, selected by the Participant shall remain in effect until changed by the Participant in accordance with Section 3.7 or 3.8 hereof, or until reduced by the Trustees in accordance with Section 3.2(g).

In addition, if an Employer so elects in accordance with procedures established by the Plan Administrator, a Participant may make a separate deferral election (hereinafter a “special deferral election”) to defer all or any portion of an “annual bonus,” “unused vacation pay” and/or “unused sick pay” earned by the Participant during the Plan Year. Such special deferral election shall be made without regard to and without any affect on, the Elective Deferral percentage otherwise in effect with respect to the Participant. Except as otherwise provided, a Participant’s special deferral election (and contributions made thereunder) shall be treated for all purposes under the Plan in the same manner as the Participant’s Elective Deferral and shall be taken into account for purposes of complying with all applicable limitations set forth in the Plan and the applicable Participation Agreement. For purposes of this Section 3.1, the term “annual bonus” means a contractual bonus which is payable to 50% or more of an Employer’s Eligible Employees on substantially the same date but shall not include any payment described as, or which in substance consists of, unused vacation pay, sick pay or similar irregular pay. For purposes of this Section 3.1, the term “unused vacation pay” means any
compensation earned by the Participant solely as a result of not using all of the vacation time to which the Participant is entitled pursuant to the terms and conditions of the Participant’s employment with an Employer. For purposes of this Section 3.1, the term “unused sick pay” means an annual payment of unused sick pay which a Participant earns solely as a result of not using all of the sick days to which the Participant is entitled under the terms and conditions of the Participant’s employment with an Employer.

Finally, each Eligible Employee shall, commencing as of the beginning of the taxable year in which he will reach age fifty (50) or older, be eligible to make “catch-up contributions” which are Elective Deferral Contributions made in accordance with, and subject to the limitations of, Code Section 414(v). Notwithstanding any other provision of the Plan to the contrary, catch-up contributions shall not be taken into account for purposes of determining the limitation on annual additions under Code Section 415 or whether the Plan is a top-heavy plan under Code Section 416. Moreover, the Plan shall not be treated as failing to satisfy the average deferral percentage test under Code Section 401(k)(3) or the average contribution percentage test under Code Section 401(m)(3) on account of such catch-up contributions.

(b) A Participant who has received a hardship distribution pursuant to Section 6.5(a) shall be suspended from having any Elective Deferral Contributions made on his behalf in accordance with Section 6.5(d).

(c) Notwithstanding the foregoing, in no event may a Participant’s Elective Deferral Contributions for any calendar year exceed the limitation under Section 402(g) of the Code. If, on or before March 1 of any year, a Participant notifies the Plan Administrator in writing that all or a specified part of the Elective Deferral Contributions under the Plan for the preceding calendar year exceed the limitation under Code Section 402(g), such excess Elective Deferral Contributions, as adjusted for any allocable income or loss through the date of distribution, shall be distributed to the Participant no later than the April 15 following the calendar year in which the excess Elective Deferral Contributions occurred; provided, however, in distributing excess Elective Deferral Contributions, the Elective Deferral Pre-Tax Contributions shall be distributed first and the Elective Deferral Roth Contributions, if any, shall be distributed second. A Participant shall be deemed to notify the Plan Administrator of any excess Elective Deferral Contributions that arise by taking into account only those contributions made under this Plan.

Section 3.2 - Nondiscrimination Testing for Elective Deferral Contributions and Correction of Excess Contributions

(a) Notwithstanding any other provision of the Plan to the contrary, with respect to any Plan Year, the Actual Deferral Percentage of Eligible Employees who are Highly Compensated Employees shall not exceed the greater of: (i) the Actual Deferral Percentage for such Plan Year of Eligible Employees who are not Highly Compensated Employees, multiplied by 1.25; or (ii) the Actual Deferral Percentage for such Plan Year of Eligible Employees who are not Highly Compensated Employees by more than two percentage points, provided that the Actual Deferral Percentage for such Highly Compensated Employees does not exceed the Actual Deferral Percentage for such other
Eligible Employees, multiplied by 2. For purposes of this Section, the “Actual Deferral Percentage” for a Plan Year means, for each specified group of Eligible Employees, the average of the ratios (calculated separately for each Eligible Employee in such group) of (i) the amount of contributions made to the Eligible Employee’s Elective Deferral Pre-tax Contribution Account plus the amount of contributions made to the Eligible Employee’s Elective Deferral Roth Contribution Account for the Plan Year (including any amount treated as an Elective Deferral Contribution pursuant to Section 3.2(f) hereunder) to (ii) the amount of the Eligible Employee’s Compensation for the Plan Year. For purposes of conducting the Actual Deferral Percentage test, any other uniform and nondiscriminatory definition of compensation may be used, consistent with the requirements of Section 414(s) of the Code and the regulations thereunder. An Eligible Employee’s Actual Deferral Percentage for the Plan Year shall be zero if, pursuant to the Employee’s election, no Elective Deferral Contribution is made on his behalf for such Plan Year. The Plan Administrator shall be entitled to rely on information furnished by the Employer regarding the Compensation of all Eligible Employees for the purpose of determining the Actual Deferral Percentage described in this Section 3.2 and the Actual Contribution Percentage described in Section 3.5. The Actual Deferral Percentage taken into account under this Section for any Highly Compensated Employee who is a participant under two or more cash or deferred arrangements of the Employer or an Affiliated Employer shall be determined as if all such cash or deferred arrangements were a single cash or deferred arrangement. The Actual Deferral Percentage taken into account under this Section for any Highly Compensated Employee shall include excess deferrals made on behalf of such Highly Compensated Employee regardless of whether such excess deferrals were refunded to the Highly Compensated Employee in accordance with Section 3.1(c). The determination and treatment of the Actual Deferral Percentage of an Eligible Employee described in this Section 3.2(a) shall satisfy such other requirements as may be required by the Code and applicable income tax regulations.

(b) The Plan Administrator shall determine as of the end of each Plan Year, and at such other time or times in its discretion, whether one of the Actual Deferral Percentage tests specified in Section 3.2(a) is satisfied for such Plan Year. This determination shall be made after first determining the treatment of excess deferrals (within the meaning of Section 402(g) of the Code) under Section 3.1(c) of the Plan. In the event that neither of the Actual Deferral Percentage tests described in Section 3.2(a) is satisfied, the Plan Administrator shall, to the extent permissible under the Code and the regulations, and to the extent that the recharacterization of Elective Deferral Contributions would not cause a violation of Section 3.5(a) with respect to the specified group of Employees being tested thereunder, recharacterize excess contributions as After-tax Contributions, in the manner described in Section 3.2(c) or, to the extent such recharacterization is not possible, refund the excess contributions in the manner described in Section 3.2(d) hereunder. Alternatively, the Plan Administrator may correct any excess contributions in the manner described in Section 3.2(f). For purposes of this Section, “excess contributions” means, with respect to any Plan Year, the excess of the aggregate amount of Elective Deferral Contributions made to the Elective Deferral Accounts of Participants who are Highly Compensated Employees for such Plan Year, over the maximum amount of such contributions that could be made to the Elective Deferral Accounts of such Participants without violating the requirements of subsection 3.2(a). Effective January 1, 1997, the
excess contribution shall be reduced commencing with the Participant with the highest amount contributed for the Plan Year and reducing his contribution amount by an amount equal to the lesser of the amount necessary to relieve the excess contribution or the amount necessary to reduce his contribution amount to the next highest contribution amount; provided, however, Elective Deferral Pre-Tax Contributions shall be reduced first and the Elective Deferral Roth Contributions, if any, shall be reduced second. If more than one Participant has the highest contribution amount, such Participants shall have their contribution amounts decreased equally until the amount of reduction described in the preceding sentence is attained. The procedure described in the preceding two sentences shall be performed repeatedly until no excess contributions remain. If a distribution of excess contributions results in the distribution of any Elective Deferral Contributions which were matched by the Employer, the matching contributions attributable to such Elective Deferral Contributions shall be forfeited in accordance with Section 5.2.

(c) To the extent provided in the Code and the regulations thereunder, the Plan Administrator shall recharacterize excess contributions of any Participant who is a Highly Compensated Employee for the Plan Year as an After-tax Contribution in order to satisfy the requirements of section 3.2(a), in which event the amount of excess contributions so recharacterized shall, to the extent permitted by the Code and the regulations, be treated as having been refunded to the Participant and then contributed by the Participant to the Participant’s After-tax Contribution Account. The recharacterization of excess contributions hereunder shall in all events be made in accordance with the provisions of Section 401(k) of the Code and Treas. Reg. §1.401(k)-1(f)(3) and §1.401(k)-1(f)(5) (effective January 1, 2006, §1.401(k)-2(b)(3) §1.401(k)-2(b)(4)) and as the same may be amended from time-to-time or otherwise modified in accordance with notices, announcements, procedures, rulings or other administrative guidance issued by the Internal Revenue Service.

(d) If the recharacterization of excess contributions of one or more Participants who are Highly Compensated Employees would violate the terms of the Plan, the terms of an applicable Participation Agreement, or the provisions of the Code or the regulations thereunder, the Plan Administrator shall refund excess contributions for the Plan Year and any earnings thereon, with respect to such Participants on or before the 15th day of the third month immediately following the Plan Year for which such excess contributions were made, but in no event later than the end of the Plan Year following the Plan Year in which such excess contributions were made or, in the case of the termination of the Plan in accordance with Article VIII, no later than the end of the twelve-month period immediately following the date of such termination. Any refunds of excess contributions and earnings for the Plan Year made hereunder shall be distributed to those Participants who are Highly Compensated Employees in the same manner as the recharacterization of excess contributions described in Section 3.2(c) above.

(e) Notwithstanding the foregoing provisions of this Section, the amount of excess contributions to be recharacterized or refunded pursuant to Sections 3.2(c) or 3.2(d) respectively, with respect to a Participant who is a Highly Compensated Employee for a Plan Year, shall first be reduced by any excess deferrals distributed to such Participant.
for such Plan Year pursuant to Section 3.1(c). For Plan Years 2006 and 2007, all excess contributions to be refunded shall be adjusted for allocable earnings and loss through the date of distribution.

(f) To the extent provided in accordance with the Code and applicable regulations thereunder, the Plan Administrator may, in its absolute discretion, elect to treat Matching Contributions made pursuant to Section 3.10 (to the extent such contributions qualify as “Qualified Matching Contributions” within the meaning of Section 1.401(k)-1(g)(13) of the income tax regulations and otherwise satisfy the requirements of Section 1.401(k)-1(b)(5) of such regulations) and Nonelective Contributions made pursuant to Section 3.11 (to the extent such Nonelective Contributions qualify as “Qualified Nonelective Contributions” within the meaning of Section 1.401(k)-1(g)(13) (effective January 1, 2006, Section 1.401(k)-6) of the income tax regulations and otherwise satisfy the requirements of Section 1.401(k)-1(b)(5) (effective January 1, 2006, Section 1.401(k)-2(a)(6)) of such regulations) as Elective Deferral Contributions to the extent necessary to satisfy the Actual Deferral Percentage test described in Section 3.2(a), but only to the extent such contributions are not considered under Section 3.5(d) in conducting the Actual Contribution Percentage test. In addition, subject to the limitations in Article IX hereof, an Employer may make Qualified Matching Contributions and/or Qualified Nonelective Contributions on a uniform non-discriminatory basis in accordance with applicable provisions of the Code and regulations thereunder, for the purpose of satisfying the Actual Deferral Percentage test. Such Qualified Matching Contributions and Qualified Nonelective Contributions shall be made subject to the approval of the Trustees and without regard to the specific terms of the applicable Participation Agreement. Contributions made under this Section 3.2(f) shall be allocated to the appropriate Participants’ Elective Deferral Pre-Tax Contribution Account. Qualified Matching Contributions and Qualified Nonelective Contributions that are considered in conducting the Actual Deferral Percentage test under Section 3.2(a), may not be taken into account in determining whether any other contributions or benefits satisfy the requirements of Section 401(a)(4) of the Code and shall not be taken into account in determining the Plan’s compliance with the Actual Contribution Percentage test in Section 3.5(a).

(g) The Plan Administrator may in its absolute discretion determine at any time during the Plan Year whether the Actual Deferral Percentage test as set forth in Section 3.2(a) is likely to be satisfied for such Plan Year with respect to a specified group of Eligible Employees. If in the absolute discretion of the Plan Administrator, it is determined that a reduction in the Elective Deferral percentage of Highly Compensated Employees within the specified group is required or desirable in order to ensure compliance with the Actual Deferral Percentage limits set forth in Section 3.2(a) hereunder, Elective Deferrals of Highly Compensated Employees within such specified group may, at the direction of the Plan Administrator, be reduced commencing with Elective Deferral Contributions of those Highly Compensated Employees with the highest integral deferral percentage (rounding off non-integral percentages to the nearest one hundredth (.01) percent), and then the next highest integral deferral percentage, and so on, until it is determined by the Plan Administrator that the Plan will or is likely to satisfy the requirements of the Actual Deferral Percentage limits for the particular Plan Year. Each reduction at a stated
percentage level shall apply to all Highly Compensated Employees within the specified group at that level regardless of whether their Elective Deferral percentages have been reduced from higher levels. Except as provided in Section 3.3, any reduction effected pursuant to this Section 3.2(g) shall remain in effect for the remainder of the Plan Year in which the reduction is made.

Section 3.3 - Reinstatement of Reduced Amounts

The Elective Deferral percentage of a Participant which has been reduced pursuant to Section 3.2(g) hereof shall be reinstated, in whole or in part, by the Plan Administrator to the extent the Plan Administrator has determined that the Actual Deferral Percentage limits described in Section 3.2(a) are met or are likely to be met for the Plan Year.

Section 3.4 - After-tax Contributions

(a) To the extent provided in the Participation Agreement and subject to the limitations set forth in Article IX hereof, a Participant may, at his discretion, elect to make voluntary contributions to the Plan on an after-tax basis during each Plan Year (subject to any maximum percentage limitation contained in the Participation Agreement) by agreeing to reduce his after-tax Compensation for such year in the manner set forth herein. An election to make After-tax Contributions shall be made in whole percentage points in accordance with procedures adopted by the Plan Administrator. With respect to each Participant who elects to make voluntary After-tax Contributions, there shall be contributed by the Employer as an After-tax Contribution, an amount equal to the amount elected by the Participant to be contributed to the Plan as an After-tax Contribution. After-tax Contributions shall be paid to the Trust by electronic funds wire transfer (or by any other method acceptable to the Trustees or their designee) on the earliest date such amounts can reasonably be segregated from the Employer’s general assets but no later than the fifteenth (15th) business day following the last day of the month during which such amounts would have (but for the Participant’s election) been paid to the Participant, and shall, upon receipt thereof, be credited to the Participant’s After-tax Contribution Account. The After-tax Contribution percentage selected by the Participant shall remain in effect until changed by the Participant in accordance with Section 3.7 or 3.8 hereof, or until reduced by in accordance with Section 3.5(e).

(b) A Participant who has received a hardship distribution pursuant to Section 6.5 shall be suspended from making After-tax Contributions in accordance with Section 6.5(d).

Section 3.5 - Nondiscrimination Testing for After-tax Contributions and Matching Contributions and Correction of Excess Aggregate Contributions

(a) Notwithstanding any other provision of the Plan to the contrary, and solely with respect to the class of Eligible Employees who are not Union Employees, the Actual Contribution Percentage for the Plan Year of Eligible Employees who are Highly Compensated Employees shall not exceed the greater of: (a) the Actual Contribution Percentage for such Plan Year of Eligible Employees who are not Highly Compensated Employees, multiplied by 1.25; or (b) the Actual Contribution Percentage for the Plan Year of Eligible Employees who are Highly Compensated Employees within the specified group at that level regardless of whether their Elective Deferral percentages have been reduced from higher levels. Except as provided in Section 3.3, any reduction effected pursuant to this Section 3.2(g) shall remain in effect for the remainder of the Plan Year in which the reduction is made.
Year of Eligible Employees who are not Highly Compensated Employees by more than two percentage points, provided that the Actual Contribution Percentage for such Highly Compensated Employees does not exceed the Actual Contribution Percentage for such other Eligible Employees, multiplied by 2. For purposes of this Section, the “Actual Contribution Percentage” for a Plan Year means, for each specified group of Eligible Employees who are not Union Employees, the average of the ratios (calculated separately for each Eligible Employee in such group) of (a) the sum of the After-tax Contributions and Matching Contributions, if any, credited to the Participant’s After-tax Contribution Account and Matching Contribution Account respectively, for the Plan Year (including Elective Deferral Contributions recharacterized as After-tax Contributions pursuant to Section 3.2(c) which are includible in the Participant’s gross income for the Plan Year, and Elective Deferral Contributions and Qualified Nonelective Contributions treated as Matching Contributions pursuant to paragraph (d) hereunder) to (b) the amount of the Participant’s Compensation for the Plan Year. For purposes of conducting the Actual Contribution Percentage test, the Plan Administrator may use any other uniform and nondiscriminatory definition of compensation consistent with the requirements of Section 414(s) of the Code and the regulations thereunder. An Eligible Employee’s Actual Contribution Percentage shall be zero if no After-tax Contributions are made on his behalf and no Matching Contributions are allocated to his Account for such Plan Year. The Plan Administrator may rely on information furnished by the Employer with respect to Compensation. If the Plan and one or more other plans of the Employer to which After-tax Contributions or Matching Contributions are made are treated as one plan for purposes of Sections 401(a)(4), 401(m) or 410(b) of the Code, all After-tax Contributions and Matching Contributions made under such plans shall be treated as being made under a single plan for purposes of this Section. The Actual Contribution Percentage taken into account under this Section for any Highly Compensated Employee within the class of Eligible Employees described in this Section 3.5(a) who is eligible to make After-tax Contributions or to receive Matching Contributions under two or more plans described in Section 401(a) of the Code or arrangements described in Section 401(k) of the Code that are maintained by the Employer or an Affiliated Employer shall be determined as if all such contributions were made under a single plan. The determination and treatment of the Actual Contribution Percentage of an Eligible Employee described in this Section 3.5(a) shall satisfy such other requirements as may be required by the Code and applicable income tax regulations.

(b) The Plan Administrator shall determine as of the end of each Plan Year, and at such time or times in its discretion, whether one of the Actual Contribution Percentage tests specified in Section 3.5(a) is satisfied for such Plan Year. In the event that neither of the Actual Contribution Percentage tests is satisfied, the Plan Administrator shall refund the excess aggregate contributions in the manner described in Section 3.5(c), or to the extent permissible, correct any excess aggregate contributions pursuant to Section 3.5(d). For purposes of this Section, “excess aggregate contributions” means, with respect to any Plan Year and with respect to a Participant described in Section 3.5(a) who is a Highly Compensated Employee, the excess of the aggregate amount of contributions made to the Participant’s After-tax Contribution Account (including Elective Deferral Contributions recharacterized as After-tax Contributions pursuant to Section 3.2(c) which are includible in the Participant’s gross income for the Plan Year) and Matching Contribution Account,
over the maximum amount of such contributions that could be made to the respective Accounts of the Participant without violating the requirements of Section 3.5(a). The excess aggregate contributions shall be reduced commencing with the Participant with the highest amount contributed for the Plan Year and reducing his aggregate matching and after-tax contribution amount by an amount equal to the lesser of the amount necessary to relieve the excess aggregate contribution or the amount necessary to reduce his aggregate matching and after-tax contribution amount to the next highest aggregate matching and after-tax contribution amount. If more than one Participant has the highest aggregate matching and after-tax contribution amount, such Participants shall have their aggregate matching and after-tax contribution amounts decreased equally until the amount of reduction described in the preceding sentence is attained. The Plan Administrator shall perform the procedure described in the preceding two sentences repeatedly until no excess aggregate contributions remain.

(c) If the Plan Administrator is required to refund excess aggregate contributions to any Participant described in Section 3.5(a) who is a Highly Compensated Employee for a Plan Year in order to satisfy the requirements of such section, the refund of such excess aggregate contributions for the Plan Year and any earnings thereon, shall be made with respect to such Highly Compensated Employee to the extent practicable before the 15th day of the third month immediately following the Plan Year for which such excess aggregate contributions were made, but in no event later than the end of the Plan Year following such Plan Year or, in the case of the termination of the Plan in accordance with Article VIII, no later than the end of the twelve-month period immediately following the date of such termination. The refund of excess aggregate contributions and earnings for the Plan Year shall in all events be made in accordance with the provisions of section 401(m) of the Code and Treas. Reg. §1.401(m)-1(e)(3) (effective January 1, 2006, §1.401(m)-2(b)(2)) as the same may be amended from time-to-time or otherwise modified in accordance with notices, announcements, procedures, rulings or other administrative guidance issued by the Internal Revenue Service.

(d) To the extent provided in accordance with the Code and applicable regulations thereunder, the Plan Administrator may, in its absolute discretion, elect to treat Nonelective Contributions made pursuant to Section 3.11 (to the extent such Nonelective Contributions qualify as “Qualified Nonelective Contributions” within the meaning of Section 1.401(k)-1(g)(13) (effective January 1, 2006, Section 1.401(k)-6) of the income tax regulations and otherwise satisfy the requirements of Section 1.401(m)-1(b)(5) (effective January 1, 2006, Section 1.401(m)-2(a)(6)) of such regulations) and Elective Deferral Contributions, as Matching Contributions to the extent necessary to satisfy the Actual Contribution Percentage test described in Section 3.5(a), but only to the extent such contributions are not considered under Section 3.2(f) in conducting the Actual Deferral Percentage test. In addition, subject to the limitations in Article IX hereof, an Employer may make Qualified Nonelective Contributions and/or additional Matching Contributions on a uniform non-discriminatory basis in accordance with the applicable terms of the Code and the regulations thereunder for the purpose of satisfying the Actual Contribution Percentage test. Such Qualified Nonelective Contributions and additional Matching Contributions shall be made subject to the approval of the Trustees and without regard to the specific terms of the applicable Participation Agreement. Contributions
made under this Section shall be allocated to the appropriate Participants’ Matching Contribution Account. Qualified Nonelective Contributions, Elective Deferral Contributions, and additional Matching Contributions treated as Matching Contributions for purposes of the Actual Contribution Percentage test, may not be taken into account in determining whether any other contributions or benefits satisfy the requirements of Section 401(a)(4) of the Code and shall not be taken into account in determining the Plan’s compliance with the Actual Deferral Percentage test described in Section 3.2(a).

(e) The Plan Administrator may in its absolute discretion determine at any time during the Plan Year whether the Actual Contribution Percentage as set forth in Section 3.5(a) is likely to be satisfied for such Plan Year. If in the absolute discretion of the Plan Administrator, it is determined that a reduction in the After-tax Contribution percentage made by Participants described in Section 3.5(a) who are Highly Compensated Employees will be required in order to comply with the Actual Contribution Percentage limits set forth in Section 3.5(a), After-tax Contributions with respect to the Highly Compensated Employees described in Section 3.5(a) may be reduced commencing with the After-tax Contributions of those Highly Compensated Employees which represent the highest integral percentage of compensation (rounding off non-integral percentages of compensation to the nearest one hundredth (.01) percent), and then the next highest integral percentage, and so on, until it is determined by the Plan Administrator that the Plan will satisfy the requirements of the Actual Contribution Percentage limits and the aggregate limits for the particular Plan Year. Each reduction at a stated percentage level will apply to all Highly Compensated Employees described in Section 3.5(a) at that level, regardless of whether their After-tax Contribution Percentages have been reduced from higher levels. Except as provided in Section 3.6, any reduction effected pursuant to this Section 3.5(e) shall remain in effect for the remainder of the Plan Year in which the reduction is made.

Section 3.6 - Reinstatement of Reduced Amounts

The After-tax Contribution percentage of a Participant which has been reduced pursuant to Section 3.5(e) hereof shall be reinstated, in whole or in part, by the Plan Administrator to the extent the Plan Administrator have determined that the Actual Contribution Percentage limits described in Section 3.5(a) are met or are likely to be met for the Plan Year.

Section 3.7 - Change in Elective Deferral and After-tax Contribution Percentages

A Participant may change his Elective Deferral Contribution percentage or After-tax Contribution percentage, or both, to increase or decrease said percentage in accordance with procedures established by the Plan Administrator; provided however, that except as permitted under Section 3.8, the Participant may not make a change in his Elective Deferral Contribution or After-tax Contribution percentage within ninety (90) days of the effective date of any prior change. The change shall be communicated to the Employer in such form as may be authorized by the Plan Administrator and shall be implemented as soon as practicable after such notification, but in no event later than the first pay period commencing on or after the first day of the calendar month following the month in which such communication is received.
This Section 3.7 shall not apply to and shall not be affected by a special deferral election described in Section 3.1 of the Plan.

Section 3.8 - Voluntary Reduction of Elective Deferrals and After-tax Contributions to Zero

Notwithstanding the requirements specified in Section 3.7, any Participant may elect to reduce the level of the Participant’s Elective Deferral Contributions and After-tax Contributions to zero as of the beginning of any pay period. The reduction will take effect as soon as practicable following receipt by the Plan Administrator or its designee of the reduction request in such form as may be authorized by the Trustees. A Participant who has reduced his Elective Deferral Contribution percentage or After-tax Contribution percentage to zero may again make an Elective Deferral Contribution or an After-tax Contribution by submitting a request to the Plan Administrator or its designee to increase his Elective Deferral Contributions or After-tax Contributions in accordance with Section 3.7; provided however that no request made by a Participant to increase his Elective Deferral Contribution percentage or After-tax Contribution percentage shall become effective until at least ninety (90) days following the date the reduction of such contributions rate to zero.

Section 3.9 - Rollover Contributions

(a) A Participant who was formerly a participant in a plan described in Section 401(a) of the Code and who has received or is otherwise entitled to receive an eligible rollover distribution (within the meaning of Section 402(c)(4) of the Code) from such plan, may make a Rollover Contribution to this Plan in accordance with the provisions in Section 3.9(c), of all or a portion of such eligible rollover distribution subject to the conditions set forth herein. In addition, a Participant may make a Rollover Contribution to this Plan of the balance in a conduit individual retirement account maintained by the Participant in accordance with the provisions in Section 3.9(c) hereof. Effective January 1, 2002, the provisions of this Section 3.9 shall also apply to a Participant who is the surviving spouse of a participant or former participant in a plan described in Section 401(a) of the Code who is entitled to a distribution from such other plan as a result of the death of such Participant’s spouse.

(b) In addition to a Rollover Contribution, the Trustees may, in their absolute discretion, accept a contribution transferred directly to the Trust Fund from another qualified trust on behalf of a Participant who was a Participant in a plan of which such trust is a part, without the transfer being treated as a payment or distribution to the Participant. Prior to the acceptance of such a contribution, the Trustees shall obtain such evidence, assurances, opinions and certifications as they may deem necessary to establish to their satisfaction that the amount to be contributed will not affect the qualification of the Plan or the tax-exempt status of the Trust under Sections 401(a) and 501(a) of the Code, respectively.

(c) For purposes of this Section 3.9, a Rollover Contribution means:
(i) An eligible rollover distribution transferred to this Plan directly from another qualified plan pursuant to a direct rollover from such other plan;

(ii) An eligible rollover distribution received by a Participant from another qualified plan which is eligible for tax-free rollover treatment and which is transferred by the Participant to this Plan within sixty (60) days following his receipt thereof;

(iii) An amount transferred to this Plan from a conduit individual retirement account, provided that such account has no assets other than assets (and earnings allocable to such assets) which were previously distributed to the Participant by another qualified plan; and further, provided that such amount met the applicable requirements of Section 408(d)(3) of the Code for rollover treatment on transfer to the conduit individual retirement account; and

(iv) An amount distributed to a Participant from a conduit individual retirement account meeting the requirements of (iii) above, which is transferred by the Participant to this Plan within sixty (60) days of his receipt from such account.

(d) Notwithstanding the foregoing, a Rollover Contribution shall only be permitted to be made to this Plan if the Trustees are reasonably assured of the tax-qualified status of the transferor plan and are otherwise reasonably assured that such transfer will not jeopardize the qualified status of the Plan or the tax-exempt status of the Trust hereunder.

(e) Rollover Contributions representing employee after-tax contributions which were made to a prior plan may be accepted effective December 1, 2013; provided they shall be credited to a separate After-Tax Rollover Contribution Account in which the Participant on whose behalf such After-Tax Rollover Contribution Account is established shall be 100% vested at all times.

(f) Amounts contributed to this Plan in a Rollover Contribution shall be allocated to a separate Rollover Contribution Account in which the Participant on whose behalf such Rollover Contribution Account is established shall be 100% vested at all times.

(g) Amounts allocated to a Participant’s Rollover Contribution Account shall be subject to the distribution rules set forth in Section 6.1.

(h) For purposes of this Section 3.9, the term “Participant” shall include a Former Participant with an Account balance in the Plan.

(i) Rollover Contributions representing designated Roth contributions which were made to a prior plan may be accepted effective December 1, 2013; provided they shall be credited to a separate Roth Rollover Contribution Account in which the Participant on whose behalf such Roth Rollover Contribution Account is established shall be 100% vested at all times.
Section 3.10 - Matching Contributions

Subject to the limitations set forth in Article IX hereof, the Employer shall make Matching Contributions to the Plan in accordance with the terms of the Participation Agreement. The amount of such Matching Contributions shall be calculated by reference to the Participant’s Elective Deferral Contributions and/or After-tax Contributions, as specified by the Employer in the Participation Agreement. Matching Contributions will not be made with respect to Elective Deferral Contributions that are catch-up contributions (as described in Section 3.1(a)) unless the Participation Agreement specifically states otherwise. Subject to the applicable nondiscrimination rules of Section 401(a)(4) of the Code and the regulations thereunder, Matching Contributions may be allocated on behalf of all Participants, certain types or classes of Participants specified in the Participation Agreement, or only Participants who are non-Highly Compensated Employees. Matching Contributions made on behalf of a Participant shall be allocated to the Participant’s Matching Contribution Account (except to the extent that such Matching Contributions are designated as Qualified Matching Contributions under Section 3.2(f)). Except as may otherwise be provided in the Participation Agreement, a Participant shall be 100% vested in the balance of his Matching Contribution Account at all times. Matching Contributions shall be paid to the Trust by electronic funds wire transfer (or by any other method acceptable to the Trustees or their designee) no later than twenty (20) business days immediately following the close of the calendar quarter to which the Matching Contributions relate.

Section 3.11 - Nonelective Contributions

Subject to the limitations set forth in Article IX hereof, the Employer shall make Nonelective Contributions to the Plan in an amount determined in accordance with the provisions of the Participation Agreement. Subject to the nondiscrimination rules of Section 401(a)(4) of the Code and the regulations thereunder, Nonelective Contributions shall be allocated on the basis set forth in the Participation Agreement on behalf of all Participants, certain types or classes of Participants specified in the Participation Agreement, or only Participants who are non-Highly Compensated Employees. Nonelective Contributions shall be paid to the Trust by electronic funds wire transfer (or by any other method acceptable to the Trustees) no later than the due date for filing the Employer’s federal tax return (including extensions) to which they relate. Nonelective Contributions made on behalf of a Participant shall be allocated to the Participant’s Nonelective Contribution Account (except to the extent that such Nonelective Contributions are designated as Qualified Nonelective Contributions under Section 3.2(f) or Section 3.5(d)). Except as may otherwise be provided in the Participation Agreement, a Participant shall be 100% vested in the balance of his Nonelective Contribution Account at all times.

Section 3.12 - Reemployment of Returning Veterans

(a) If a Participant is in qualified military service, as that term is defined under USERRA, and he returns to employment with the Employer within ninety (90) days of the end of his military leave (or such longer period of time as his reemployment rights are protected by law) such Employee shall be entitled to the following:
(i) The Participant may make Elective Deferral Contributions and After-tax Contributions to the Plan and designate them to a particular Plan Year, or Plan Years, that he was out on military leave.

(ii) To the extent the Participant makes contributions pursuant to (i) above, the Employer shall make Matching contributions on such contributions in accordance with the terms of the Plan or Participation Agreement in effect during the designated Plan Year.

(iii) Participants entitled to any Nonelective Contributions for the designated Plan Year(s) shall have such amounts credited to his account.

The Participant shall be entitled to make the contributions described in (i) above during the period which begins on the Participant’s reemployment date and ends upon the lesser of: (1) the product of three (3) and the number of years the Employee was engaged in qualified military service under USERRA or (2) five (5) years from the date of reemployment.

(b) Contributions made pursuant to Section 3.12(a) are subject to the following limitations:

(i) Contributions made pursuant to (a)(i) above shall not be taken into account in the Plan Year during which the contributions are made for purposes of determining whether the limit under Code section 402(g) is exceeded. Contributions shall be counted as elective deferrals in the Plan Year to which the Participant designated such contributions.

(ii) Contributions made pursuant to (a)(i) and (a)(ii) above shall not be considered in determining the Actual Deferral Percentage or Actual Contribution Percentage of the Plan for any Plan Year.

(iii) Contributions made pursuant to (a)(i) and (a)(ii) above shall not be counted as an annual addition during the Limitation Year when they are made for purposes of Section 9.1. Contributions shall be counted as annual additions for purposes of Section 9.1 in the Plan Year to which the contributions are designated.

(c) For purposes of (a) and (b) above, the Employee shall be treated as receiving Compensation during the period of qualified military service equal to the amount of Compensation the Employee would have received from the Employer during such period, based on the rate of pay the Employee would have received from the Employer but for the absence due to military service or if such rate of pay is not reasonably certain, the Employee’s average Compensation during (i) the twelve-month period immediately before the qualified military service or, (ii) if shorter, the period of employment immediately before the qualified military service.

(d) A Participant who is entitled to a contribution pursuant to (a) above shall not be entitled to receive corresponding retroactive earnings attributable to such contribution.
(e) If an Eligible Employee begins a period of qualified military leave, as that term is defined under USERRA, prior to his meeting the requirements to become a Participant in the Plan under Section 2.1, such individual shall be deemed to have become a Participant on the date he would otherwise have become a Participant had his employment not been interrupted in order to begin military leave.

Section 3.13 - Allocation of Delinquent Contributions; Correction of Operational Failures

(a) In the event an Employer fails to timely make Elective Contributions, After-tax Contributions, Matching Contributions and/or Nonelective Contributions, and such contributions are later recovered by the Plan, such recovered delinquent contributions and earnings thereon shall be allocated to the accounts of the Employer’s participants to whom such contributions relate.

(b) In the event that due to an operational failure participant accounts are required to be adjusted, such adjustment (including the allocation of restorative contributions and earnings thereon or reduction of accounts due to incorrect excess allocations) shall be done in accordance with principles set forth in Revenue Procedure 2008-50 or any guidance that modifies and supersedes such guidance
Article IV - The Trust Fund and Participants’ Accounts

Section 4.1 - Trust and Accounts Established

All monies or other property contributed to the Plan shall be delivered to the Trust Fund to be managed, invested, reinvested and distributed for the exclusive benefit of the Participants and their beneficiaries in accordance with the terms of the Plan and Trust Agreement. Neither the Employer nor the Union shall have any right, title or interest in or to the Trust Fund. An Elective Deferral Pre-Tax Contribution Account and, if applicable, an Elective Deferral Roth Contribution Account shall be established and maintained in the name of each Participant to which shall be credited such sums of money from time to time contributed by each Employer pursuant to the Participant’s Elective Deferral. An After-tax Contribution Account shall be established and maintained in the name of each Participant to which shall be credited such sums of money from time to time contributed by the Participant as an After-tax Contribution in accordance with the provisions of Section 3.4 hereunder. A Matching Contribution Account shall be established and maintained for the benefit of those Participants who are eligible to receive a Matching Contribution under the terms of an applicable Participation Agreement, to which shall be credited such sums of money from time to time contributed by the Employer as a Matching Contribution on their behalf. A Merger Account shall be established and maintained for each Participant for whom amounts are transferred to the Plan due to a plan merger or spin-off merger. A Nonelective Contribution Account shall be established and maintained for the benefit of those Participants who are eligible to receive a Nonelective Contribution under the terms of an applicable Participation Agreement, to which shall be credited such sums of money or other property from time to time contributed by the Employer as a Nonelective Contribution on their behalf. A Rollover Contribution Account shall be established and maintained on behalf of each Participant who makes a Rollover Contribution to which shall be credited such sums of money or other property from time to time contributed to this Plan from time to time by a Participant in accordance with the provisions of Section 3.9 hereunder. A Roth Rollover Contribution Account shall be established and maintained on behalf of each Participant who makes a Rollover Contribution comprised of designated Roth contributions to which shall be credited such sums of money or other property transferred to this Plan from time to time by a Participant in accordance with the provisions of Section 3.9 hereunder. An After-Tax Rollover Contribution Account shall be established and maintained on behalf of each Participant who makes a Rollover Contribution comprised of after-tax contributions to which shall be credited such sums of money or other property transferred to this Plan from time to time by a Participant in accordance with the provisions of Section 3.9 hereunder. A YRCW Stock Fund Account shall be established and maintained for the benefit of those Participants who are eligible to receive a contribution of YRCW Stock pursuant to Article XII of the Plan, to which shall be credited the Participant’s interest in the YRCW Stock Fund as determined under Article XII of the Plan.

Each Account maintained under the Plan shall be credited with earnings, profits and appreciation and charged with any losses, depreciation and expenses properly pursuant to Section 4.5.

Section 4.2 - Payments Into Trust

All Elective Deferral Contributions and After-tax Contributions shall, in the ordinary course, be remitted by the Employer to the Trust Fund on the earliest date such amounts can reasonably be
segregated from the Employer’s general assets, but no later than the fifteenth (15th) business day following the last day of the month during which such contributed amount would have (but for the Participant’s election) been paid to the Participant in cash. All other amounts required to be contributed on behalf of a Participant under the Plan or pursuant to the terms of an applicable Participation Agreement, shall be remitted to the Trust Fund at such time or times as specified in the Plan or the applicable Participation Agreement.

Section 4.3 - Investment of Trust Fund

The Trustees or their designee shall cause to be established and maintained separate Investment Funds to include, but not be limited to, the following:

(a) one or more money market funds;

(b) one or more equity funds;

(c) one or more bond funds;

(d) one or more equity index funds;

(e) one or more asset allocation funds.

In addition, the Trustees shall cause to be established and maintained a self-directed brokerage account subject to such rules and regulations as may be established by the Trustees from time to time, pursuant to which Participants may select from a broad range of publicly traded stocks and securities (including “qualifying employer securities”) and mutual funds. The Trustees or their designee reserve the right to add at any time and from time to time additional or alternative funds for the investment of the Trust Fund.

It is intended that the Plan will satisfy the requirements for participant-directed investments of plan accounts contained in Section 404(c) of ERISA and the regulations thereunder (DOL Reg. §2550.404c-1), so as to afford to each Participant the opportunity to exercise control over the assets in his Account and to choose from a broad range of investment alternatives the manner in which said assets are to be invested. Neither the Trustees, the Plan Administrator, the Employer or any other Plan fiduciary shall be liable for any losses that are the result of investment instructions provided by any Participant, beneficiary or alternate payee (as that term is defined in Section 414(p) of the Code.

Section 4.4 - Designation of Investment Funds

Each Employee, upon becoming a Participant in the Plan, shall designate the Investment Fund or Funds in which contributions under the Plan made on his behalf shall be invested. Such designation shall be made in accordance with procedures established by, and in a manner approved by, the Trustees or their designee. The same Investment Fund or Funds designated by a Participant shall apply to all Elective Deferral Contributions, After-tax Contributions, Matching Contributions and Nonelective Contributions made to the Plan on his behalf. Each Participant, upon making a Rollover Contribution pursuant to Section 3.9, may designate the Investment Fund or Funds in which his Rollover Contribution shall be invested which may be
different from the investment allocations made for all other contributions to the Plan. In the
event a Participant fails to designate the Investment Fund or Funds in which his Rollover
Contribution shall be invested, his Rollover Contribution shall be invested in the same manner as
other Plan contributions made on his behalf are invested. Each Participant’s Elective Deferral
Contribution, After-tax Contribution, Matching Contribution, Nonelective Contribution and
Rollover Contribution shall be invested in the Investment Fund or Funds last designated by the
Participant until such time as the Participant changes his investment election pursuant to Section
4.6. The Investment Fund or Funds designated by the Participant pursuant to this Section must
be designated in multiples of 1% of all contributions. In the event that a Participant either
initially fails to designate an Investment Fund for all or a portion of his or her Account or
erroneously designates the investment of more than 100% of his or her Account, the Participant’s
Account will be invested in a default fund selected by the Trustees until the Participant makes a
new investment designation that meets the foregoing requirements.

Section 4.5 - Investment of Accounts

Each Participant’s Account shall be invested and reinvested in the Investment Funds described in
Section 4.3, in accordance with the Participant’s direction, which shall remain in force until
altered in accordance with Sections 4.6 and 4.7. Investment income and loss generated by each
Fund shall be allocated among the Accounts of Participants which
Section 4.6 - Change in Investment Allocation of Future Contributions

Subject to the terms and limitations of the Investment Funds, each Participant may from time to
time elect to change the investment allocation of future contributions made to the Plan on his
behalf. The change must be made in accordance with procedures established by the Plan
Administrator or its designee (“change authorization”) and will be implemented as soon as
practicable following receipt of a valid change authorization by the Plan Administrator or its
designee, subject to limitations, if any, of the investment vehicles selected. Changes must be
made in 1% increments or decrements and must result in a total investment of 100% of the
Participant’s contributions. Change authorizations which do not result in the allocation of 100%
of the Participant’s contributions or which are incorrect in any other respect will not be
processed by the Plan Administrator or its designee and the last election on file will continue in
effect until a valid change authorization is submitted.

Section 4.7 - Transfer of Account Balances Between Investment Funds

Subject to the terms and limitations of the Investment Funds, each Participant may from time to
time elect to transfer amounts in the Participant’s Account or Accounts among the various
Investment Funds. Such election must be made in accordance with procedures established by the
Plan Administrator (“transfer authorization”) and will be implemented as soon as practicable
following receipt of a valid transfer authorization by the Plan Administrator, subject to
limitations, if any, of the investment vehicles selected. Such transfers must be made in multiples
of 1% or whole dollar amounts and must result in the investment of 100% of the Participant’s
Accounts. If a transfer authorization does not request the allocation of 100% of the Participant’s
Accounts, or if it is incorrect in any other respect, the transfer authorization will not be processed by the Plan Administrator and the last investment allocation will continue in effect until a valid transfer authorization is submitted.

Section 4.8 - Ownership Status of Funds

The Trust shall be the owner of record of the assets invested in each Investment Fund. The Plan Administrator shall maintain records with respect to each Investment Fund showing the allocation of the Investment Fund for each Participant who has elected that his Account be invested in such Fund. The records shall reflect each Participant’s proportionate share of the various Investment Funds selected in a dollar amount.

Section 4.9 - Appraisal

As of each Valuation Date, all of the assets of the Trust shall be appraised so that such assets will be stated at market value for the applicable date. Such appraisal shall be made in accordance with market quotations when available and on the basis of such other factors as the Trustees or their designee deems appropriate under the circumstances. As of each Valuation Date, each Account maintained under the Plan for a Participant shall be credited with earnings, profits and appreciation and charged with any losses, depreciation and expenses pursuant to Section 4.5

Section 4.10 - Expenses of the Plan

(a) All investment expenses of the Plan including, but not limited to, investment management fees, custodial fees, and all other expenses and fees relating to the investment of the assets of the Plan in the various Investment Funds shall be accrued daily and paid out of Trust Fund assets and charged to Participants’ Accounts that are invested in such Investment Funds based on the value of each Participant’s Account within each Investment Fund compared to the value of all Participants’ Accounts invested in such Investment Fund.

(b) In addition to any annual per capita charge assessed against each Participant’s Account, administrative expenses of the Plan incurred during the Plan Year (other than administrative expenses relating to financial hardship withdrawals and loans, and other than certain fees and expenses which are paid directly by one or more participating Employers pursuant to a separate agreement between one or more such Employers and the Trustees) including, but not limited to, fees for legal, accounting, auditing, and printing, shall be paid out of Trust Fund assets and charged on a pro rata basis or, at the Trustees’ discretion, on a per capita basis, against the Accounts of all Participants.

(c) The Trustees, in their discretion, may allocate the expenses of the Plan and Trust for the first two Plan Years over a period extending beyond such two Plan Years to include in such allocation other Participant Accounts which were not established in the first two Plan Years, if the Trustees determine that such expenses are excessive. Further, the Trustees, in their discretion, may allocate any extraordinary expense of the Plan and Trust for a later Plan Year over a period extending beyond such Plan Year to include in such allocation other Participant Accounts which were not established in such Plan Year.
Section 4.11 - Excessive Trading

A Participant may change or transfer into and out of, or out of and into, the same Investment Fund (a “round trip”) no more frequently than once every other calendar month. If a Participant engages in a round trip transaction more frequently than once every other calendar month, the Participant will be provided with a written warning. If the frequent activity continues after issuance of the warning, the Participant will, for a six-month period, be denied the ability to direct investment transactions electronically and during this six month period will be required to submit all investment change and transfer transactions by U.S. mail.
Article V - Vesting

Section 5.1 - Vesting Status

(a) Except as otherwise provided in subparagraph (b) below, each Participant shall at all times have a fully vested nonforfeitable interest in the balance of his entire Account.

(b) Each Participant who is participating in the Plan pursuant to the terms of a Participation Agreement which provides for a vesting schedule other than immediate full vesting with respect to Nonelective and/or Matching Contributions shall be vested in the balance of his Nonelective Contribution Account and/or Matching Contribution Account in accordance with the following vesting schedule:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Vested Percentage</th>
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<tbody>
<tr>
<td>1</td>
<td>20%</td>
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<tr>
<td>2</td>
<td>40%</td>
</tr>
<tr>
<td>3</td>
<td>60%</td>
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<tr>
<td>4</td>
<td>80%</td>
</tr>
<tr>
<td>5 or more</td>
<td>100%</td>
</tr>
</tbody>
</table>

(c) Notwithstanding the foregoing, a Participant shall automatically be fully vested in the entire balance of his Matching Contribution Account and Nonelective Contribution Account upon attainment of his Normal Retirement Age.

(d) Special vesting rules that apply to a Participant’s Merger Account will be noted in an appendix to the Plan.

Section 5.2 - Forfeitures

(a) If a Participant is less than 100% vested in his Nonelective Contribution Account or his Matching Contribution Account when he incurs a Severance from Service with the Employer, the non-vested portion of such Account(s) shall be forfeited upon the first to occur of (i) when the entire vested portion of such Account is distributed or (ii) five (5) consecutive One-Year Breaks in Service following the Participant’s Severance from Service Date. For purposes of this Section 5.2, a Participant who has made no Elective Deferral Contributions under the Plan and has a zero percent vested interest in his Nonelective Contribution Account at the time he incurs a Severance from Service with the Employer is deemed to have received a distribution of the entire vested portion of his Account. Any forfeiture hereunder shall be used first to restore accounts for terminated Participants who return to employment with an Employer in accordance with Section 5.3, and second to pay reasonable Plan expenses. Any forfeitures remaining shall be reallocated to the remaining Participants who are members of the specified group or class with respect to whom the Employer agreed to make the Nonelective Contribution or Matching Contribution, as the case may be. If any forfeiture of a Participant’s Account, as described herein, is allocable to contributions made by two or more unrelated Employers, the reallocation of such forfeitures shall be made to the respective Accounts of the remaining Participants in the specified group or class with respect to whom each respective Employer agreed to make the contributions described herein, in proportion to
the amount contributed by the respective Employer. To the extent that forfeitures are to be reallocated, they shall be reallocated as of the last day of the Plan Year in which such forfeitures become subject to reallocation under this Section 5.2.

(b) If, due to an operational failure, any Employer has made Matching Contributions and/or Nonelective Contributions in excess of the amount such Employer is required to provide, and in correcting such failure the excess Matching Contributions and/or Nonelective Contributions, and earnings associated therewith, are removed from participants accounts, such amounts shall be credited to a subaccount established on account of the Employer. Amounts allocated to an Employer subaccount under this paragraph (b) shall be invested in Teamsters Stable Value Option, or any stable value fund that replaces the Teamsters Stable Value Option, and used to offset the Employer’s future Nonelective Contribution and Matching Contribution obligations until such excess is used up.

Section 5.3 - Suspense Account for Terminated Participants

If a Participant is less than 100% vested in his Nonelective Contribution Account or his Matching Contribution Account when he incurs a Severance from Service with the Employer and returns to employer with an Employer prior to the occurrence of five (5) consecutive One-Year Breaks in Service, the non-vested portion of his Accounts forfeited in accordance with Section 5.2 shall be restored to his credit provided within five (5) years following his re-employment he repays to the Plan the amount, if any, of any distribution of his vested interest in the Plan that was distributed to him. If the Participant fails to return to employment with an Employer prior to incurring five (5) consecutive One-Year Breaks in Service, or fails to repay any amounts distributed to him, the non-vested portion of his Account shall not be restored to his Account(s).

If the Participant returns to employment with an Employer prior to incurring five (5) consecutive One-Year Breaks in Service, he shall once again continue to vest in the balance of his Nonelective Contribution Account and Matching Contribution Account.
Article VI - Distributions, Withdrawals and Loans

Section 6.1 - Distribution of Participant’s After-tax Contribution Account and Rollover Contribution Account

A Participant may request a withdrawal from his After-tax Contribution Account and Rollover Contribution Account at any time and for any reason up to the full value of such Account as of the Distribution Date (reduced by any unpaid loans). In accordance with Section 6.11, a Hurricane Affected Individual (as defined in Section 6.11(b)) may request a withdrawal from his After-tax Contribution Account and Rollover Contribution Account.

Section 6.2 - Distribution of Participant’s Accounts

(a) A Participant who has had a Severance from Service shall have a nonforfeitable right to the distribution of the entire balance in his Elective Deferral Pre-tax Contribution Account, Elective Deferral Roth Contribution Account and Roth Rollover Contribution Account, as well as the vested portions of his Nonelective Contribution Account and Matching Contribution Account, (reduced by any unpaid loans), determined as of the Distribution Date.

(b) If the benefit of a Participant becomes payable pursuant to this Section 6.2, and if the Participant so elects, distribution of the vested balance in the Participant’s Accounts will be made as soon as practicable following the Participant’s Severance from Service. All such distributions shall be made in a single lump sum payment of the vested balance of the Participant’s Accounts valued as of the Distribution Date. Distribution of amounts in a Participant’s Accounts shall be made in cash.

(c) If the Participant does not choose to receive an immediate distribution of the balance in his Accounts at the time of Separation from Service, the entire vested balance in the Participant’s Accounts shall be retained in the Trust Fund until such time that the Participant notifies the Plan Administrator (in the manner approved by the Plan Administrator) of his intent to receive a distribution under the Plan, in which event distribution of the balance in his Accounts shall be made as soon as practicable following such notification in the manner described in paragraph (b) above.

(d) Notwithstanding any other provision of this Section 6.2, unless a participant chooses to defer distribution of the vested balance in his Accounts, in no event shall distribution of a Participant’s Account be made later than the 60th day after the close of the Plan Year in which the latest of the following events occurs:

(i) The date on which the Participant attains age 62;

(ii) The 10th anniversary of the year in which the Participant commenced participation in the Plan; or

(iii) The Participant terminates his service with the Employer.
(e) In no event shall distributions commence later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70 ½, or (2) the calendar year in which the Participant retires. If the Participant owns 5% or more of the stock of the Employer or an Affiliated Employer (including any ownership attributable from a related party under Section 318 of the Code), distributions must begin by April 1 of the calendar year following the year in which the Participant attains age 70 ½. Notwithstanding the preceding, effective March 1, 2013, required minimum distributions as defined in Code section 401(a)(9) shall be made in annual distributions for each year for which such a distribution is required. The amount of each annual distribution shall be calculated by dividing the Participant’s Account balance as of December 31 of the year for which the required minimum distribution is being made by the applicable life expectancy factor under the Treasury Regulations issued under Code section 401(a)(9). For clarity, annual distributions shall be made beginning with required minimum distributions payable on April 1, 2013 for a Participant who attained age 70 ½ in 2012. A Participant may, in lieu of receiving required minimum distributions under this paragraph, request a lump sum distribution of the Participant’s Accounts under Section 6.2(c).

(f) In accordance with Section 6.11, a Hurricane Affected Individual (as defined in Section 6.11(b)) may request a distribution from his Elective Deferral Account, the vested portions of his Matching Contribution and Nonelective Contribution Accounts, if any, and the balance of his After-tax Contribution and Rollover Contribution Accounts.

(g) Special distribution rules that apply to a Participant’s Merger Account will be noted in an appendix to the Plan.

Section 6.3 - Payment to Beneficiary in the Event of Death

(a) In the event of the death of a Participant, the balance in the Participant’s Accounts shall be payable in full to his surviving spouse unless:

   (i) There is no surviving spouse; or

   (ii) The Participant has elected, in the manner described in paragraph (b) below, to waive survivor benefits.

(b) For purposes of this Section, an election by a Participant to waive spousal survivor benefits under the Plan, shall be effective only if the Participant’s spouse consents to the election, and such consent:

   (i) Is in writing;

   (ii) Acknowledges the effect of the election; and

   (iii) Is witnessed by a notary public.

(c) Each married Participant shall be entitled to designate a beneficiary or beneficiaries other than his spouse who is (or are) to receive the distributions provided under the Plan in the
event of the Participant’s death prior to receiving a distribution under the Plan, provided the Participant has previously obtained spousal consent in accordance with paragraph (b). In addition, each married Participant shall be entitled to designate a beneficiary or beneficiaries who is (or are) to receive the distribution of his Accounts under the Plan in the event that the Participant’s spouse does not survive the Participant. A married Participant may change the designation of a non-spousal beneficiary from time to time, provided, however, that the Participant’s spouse must consent thereto in the manner specified in paragraph (b), unless the spouse has executed a general consent which meets the requirements of Treas. Reg. §1.401(a)-20, Q&A - 31(c). No such designation or change therein shall be effective unless and until it is properly made and received by the Plan Administrator prior to the Participant’s death. In the event that a Participant fails to designate a non-spousal beneficiary, a designated beneficiary does not survive the Participant, or the designation is invalid, payment will be made to the surviving spouse of the deceased Participant, if any, but if no spouse survives the Participant, in equal shares to his surviving children. If no children survive the Participant, payment will be made to the Participant’s estate.

(d) Notwithstanding any other provision in the Plan to the contrary, all distributions under the Plan shall comply with the requirements of Code section 401(a)(9) (including the incidental death benefit requirements of Code section 401(a)(9)(G)) and the regulations thereunder, provided that the Accounts of a deceased Participant shall be distributed within 5 years after such Participant’s death and that all distributions will be made in a single lump sum.

Section 6.4 - In-Service Withdrawals

(a) An active Participant may withdraw all or a portion of his Matching Contribution Account and Nonelective Contribution Account, to the extent vested therein, and all or a portion of his Elective Deferral Pre-tax Contribution Account and/or, if applicable, his Elective Deferral Roth Contribution Account, prior to Severance from Service upon attainment of age 59 ½. In addition, an active Participant may withdraw from his Elective Deferral Pre-tax Contribution Account and/or, if applicable, his Elective Deferral Roth Contribution Account, prior to attaining 59½, for reasons of financial hardship as defined in Section 6.5, that portion of his Elective Deferral Contributions in an amount not greater than the amount necessary to satisfy the financial hardship. If approved, such hardship withdrawals will be paid no later than the last day of the month following the month in which the Participant’s request is received by the Plan Administrator for such purpose. In accordance with Section 6.12, a Hurricane Affected Individual (as defined in Section 6.12(b)) may withdraw all or a portion of his Matching Contribution Account and Nonelective Contribution Account, to the extent vested therein, and all or a portion of his Elective Deferral Pre-tax Contribution Account and/or, if applicable, his Elective Deferral Roth Contribution Account.

(b) Notwithstanding the preceding, an active Participant may withdraw all or a portion of the value of his YRCW Stock Fund Account attributable to his initial interest in the YRCW Stock Fund, less any prior withdrawals, at any time after the YRCW Stock contribution has been in the Plan for at least 24 months.
Section 6.5 - Advance Distributions for Hardship

(a) A Participant may withdraw all or a portion of his Elective Deferral Account but only to:

   (i) Pay for medical expenses as described in Code section 213(d) previously incurred by the Participant, the Participant’s spouse or any of the Participant’s dependents (as defined in Code section 152, without regard to Code section 152(b)(1), (b)(2), and (d)(1)(B) thereof) or as necessary for these persons to obtain medical care described in Code section 213(d);

   (ii) Purchase (excluding mortgage payments) a principal residence of the Participant;

   (iii) Pay for tuition, related educational fees, and room and board expenses for up to the next twelve (12) months of post-secondary education for the Participant, his spouse, children, or dependents (as defined in Code section 152, without regard to Code section 152(b)(1), (b)(2), and (d)(1)(B) thereof);

   (iv) Prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant’s principal residence;

   (v) Pay for burial or funeral expenses for the Participant’s deceased parent, spouse, children or dependents (as defined in Code section 152, without regard to Code section 152(d)(1)(B) thereof);

   (vi) Pay for expenses for the repair of damage to the Participant’s principal residence that would qualify for the casualty deduction under Code section 165; or

   (vii) Provide for any other distribution which may be deemed to be made on account of a financial hardship pursuant to Treasury Regulation 1.401(k)-1(d)(3)(v).

(b) A Participant may withdraw all or a portion of his Elective Deferral Contributions in accordance with Section 6.5(a), above only if the following requirements are satisfied:

   (i) The distribution may not exceed the amount necessary to pay the expenses (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution) described in Section 6.5(a) above.

   (ii) The Participant must first obtain all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under this Plan or any other plan maintained by the Employer.

(c) The following restrictions apply to withdrawals pursuant to Section 6.5(a)

   (i) No investment income related to Elective Deferral Contributions may be withdrawn.
(ii) Amounts attributable to Qualified Nonelective Contributions and Qualified Matching Contributions made in accordance with Section 3.2(f) may not be withdrawn under this Section 6.5.

(d) Following a withdrawal under section 6.5(a) the Participant will not be permitted to make Elective Deferral Contributions or After-tax Contributions to this Plan or any other plan maintained by the Employer (which includes a stock option, stock purchase or similar plan, but does not include a cafeteria plan to which salary reduction contributions are used to purchase health and welfare benefits) for six (6) months after receipt of the hardship withdrawal.

Section 6.6 - Redeposits Prohibited

No amount withdrawn pursuant to Sections 6.4 or 6.5 may be redeposited into the Plan.

Section 6.7 - Administrative Costs Associated With Financial Hardship Withdrawals

(a) The Trustees shall charge an up-front administrative fee, representing the costs to process a distribution from the Plan, for each distribution under this Section 6, other than a hardship withdrawal or the distribution of a loan, and shall deduct this fee from the Participant’s Account Balance prior to such distribution.

(b) The Trustees shall charge an up-front administrative fee to process each hardship withdrawal application and shall deduct from the Participant’s Elective Deferral Account, or from the proceeds of any hardship withdrawal, a reasonable fee representing the estimated or actual cost of a hardship distribution.

Section 6.8 - Distribution Pursuant to a Qualified Domestic Relations Order

Any portion of a Participant’s Account that is awarded to an Alternate Payee by reason of a Qualified Domestic Relations Order as provided in Section 10.5(c) shall, to the extent provided in such Order, become available for distribution as soon as practicable following the determination by the Trustees that the Order meets the requirements of Code Section 414(p).

Section 6.9 - Direct Rollovers

(a) With respect to any eligible rollover distribution of $200 or more described in this Article VI, the distributee thereof shall, in accordance with procedures established by the Trustees or their designee, be afforded the opportunity to direct that such distribution be made in the form of a direct transfer to an eligible retirement plan in accordance with the direct rollover provisions of Code Section 401(a)(31) and the regulations thereunder.

(i) An “eligible rollover distribution” is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period
of ten years or more, or (B) any distribution to the extent such distribution is required under Code Section 401(a)(9). Effective January 1, 2000, for purposes of this Section 6.9(a), any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such distribution paid directly to an eligible retirement plan. The portion of a distribution that is not includible in gross income may be transferred only to an eligible retirement plan described in the following subsections 6.9(a)(ii)(A), (B), (C) or (D) that agrees to separately account for the portion of such distribution which is includible in gross income and the portion of such income that is not includible in gross income. Effective August 1, 2007, and for purposes of the direct rollover provisions in Subparagraph (a) of Section 6.9 of the Plan, a portion of a distribution shall not fail to be an “eligible rollover distribution” merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code, or to a tax-sheltered annuity described in 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Effective January 1, 2008, a “qualified rollover contribution” as described in section 408A(e) of the Code may be made from the Plan to a Roth IRA in a direct rollover subject to the rules and provisions set forth in Section 408A(e) of the Code and any regulations issued there under.

(ii) An “eligible retirement plan” is: (A) an individual retirement account described in Section 408(a) of the Code, (B) an individual retirement annuity described in Section 408(b) of the Code, (C) an individual retirement annuity described in Section 403(a) of the Code, (D) a qualified retirement plan described in Section 401(a) of the Code that accepts the distributee’s eligible rollover distribution, (E) an eligible deferred compensation plan described in Section 457(b) of the Code maintained by a state, political subdivision of a state, any agency or instrumentality of a state or political subdivision of a state or any other organization (other than a government unit) that separately accounts for eligible rollover distributions, or (F) an annuity contract described in Section 403(b) of the Code. Effective for distributions made on or after December 1, 2013 an eligible rollover plan for the purpose of a direct rollover of a distribution of an Elective Deferral Roth Contribution Account shall include only another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or a Roth IRA described in Code Section 408A.

(iii) A “distributee” is a Participant and a Participant’s surviving spouse, a Participant’s former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p), or, effective on or after August 1, 2007, an individual who is a designated beneficiary of the Participant and who is not the surviving spouse of the Participant, in accordance with the provisions of Section 402(c)(11) of the Code.
(iv) A “direct rollover” is a payment by the Plan made directly to the eligible retirement plan specified by the distributee. However, effective August 1, 2007, a “distributee” who is a nonspouse beneficiary of the Participant may only direct a trustee-to-trustee transfer of a direct rollover to an individual retirement account described in Section 408(a) of the Code or an “inherited” individual retirement annuity described in Section 408(b) of the Code which shall be treated as an inherited individual retirement account in accordance with the provisions of Section 402(c)(11) of the Code.

In addition, effective August 1, 2007, and notwithstanding any provision in this Section 6.9 to the contrary, any portion of an eligible rollover distribution that consists of after-tax monies may be rolled over only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code, or to a tax-sheltered annuity described in Section 403(b) of the Code that agrees to separately account for such-after tax monies.

(b) Notwithstanding the foregoing, if the distributee elects to have his eligible rollover distribution paid in part to him and in part as a direct rollover:

(i) The direct rollover must be in an amount of $500 or more;

(ii) The direct rollover may not be payable to two or more eligible retirement plans.

(c) The Plan Administrator shall, within a reasonable period of time (but no later than thirty (30) days and not earlier than 180 days before the date the distribution commences) prior to making a distribution from the Plan, provide a written explanation to the distributee of the provisions under, which the distributee may have an eligible rollover distribution from the Plan directly transferred to another eligible retirement plan in a direct rollover satisfying the requirements of Section 401(a)(31) of the Code; and of the provisions requiring the withholding of tax on an eligible rollover distribution from the Plan if such distribution is not directly transferred to another eligible retirement plan in a direct rollover. In addition, such written explanation shall include the provisions under which a distribution from this Plan will not be subject to tax if transferred to an eligible retirement plan within sixty (60) days after the date on which the distributee receives the distribution, and shall contain such other information required by the Section 402(f) of the Code and the regulations thereunder.

Section 6.10 - Loans to Participants

Unless otherwise specified under the terms of an applicable Participation Agreement, each Participant may request a loan of a portion of the vested balance of his Account or Accounts under the Plan. All loans made to a Participant from the Trust Fund shall be subject to the rules and regulations herein set forth.

(a) The Trustees shall determine the time or times each year when loans shall be made available to Participants, and shall formulate a loan policy containing such rules and
procedures consistent with the provisions contained in this Section, as it deems appropriate.

(b) No loan may be made to a Participant to the extent that such loan when added to the outstanding balance of all other loans to the Participant would exceed the lesser of: (i) $50,000, reduced by the excess (if any) of the highest outstanding balance of loans during the one-year period ending on the day before the loan is made, over the outstanding balance of loans from the Plan on the date the loan is made, or (ii) one-half of the vested Participant’s Account balance. For purposes of the above limitation, all loans from all plans of the Employer or an Affiliated Employer shall be aggregated. Until December 31, 2006, the reference to “$50,000” in (i) shall be replaced with “$100,000” and the reference to “one-half” in (ii) shall be replaced with “all” when applied to a Hurricane Affected Individual (as defined in Section 6.11(b)).

(c) Each loan shall be repayable by payroll deduction or, subject to the approval of the Trustees or their designee, directly by the Participant, and shall by its terms require that repayment of the loan be amortized in level payments of principal and interest, not less frequently than quarterly, over a period not extending beyond five (5) years from the date of the loan, unless such loan is used to acquire a dwelling unit which, within a reasonable time, will be used as the principal residence of the Participant. Notwithstanding the foregoing, if the Participant so requests, loan repayments may be suspended for a period of up to one year while the Participant is absent or on leave from work for any reason without pay or at a rate of pay (after income and employment tax withholding) that is less than the amount of the level payments required under the terms of the loan. No extension of the repayment period hereunder shall be permitted as a result of a suspension on loan repayments. A Participant shall be permitted to prepay a loan in full without penalty. A Hurricane Affected Individual (as defined in Section 6.11(b)) with an outstanding loan that requires a repayment from August 25, 2005 through December 31, 2006 shall have the repayment(s) suspended, with the repayment period extended by the duration of the suspension period and subsequent loan repayments adjusted to reflect the extension (including interest that accrued during the delay).

(d) Each loan shall be evidenced by a note and shall be secured by the Participant’s Account and by such other security, if any, as the Trustees may require. Each loan shall bear interest at a rate equal to 1% above the prime rate as quoted in the Wall Street journal on the last day of the month preceding the month in which application for the loan is made.

(e) Loans shall be made available to all Participants on a reasonably equivalent basis, except that the Plan Administrator may make reasonable distinctions based upon the Participant’s credit-worthiness, other obligations of the Participant, state law restrictions affecting payroll deductions, and other factors that may adversely affect the ability to assure timely repayment. The Plan Administrator may reduce or refuse a requested loan where it determines that timely repayment of the loan is not assured. Notwithstanding the foregoing, no loan shall be made hereunder in an amount less than $1,000.
(f) All costs and expenses in connection with obtaining a loan and securing the Plan’s security interest therein, shall be prepaid by the Participant or be deducted from the total loan proceeds.

(g) A note evidencing a loan to a Participant shall be an asset of the Trust which is allocated to the Account of the Participant, and shall for purposes of the Plan be deemed to have a fair market value at any given time equal to the unpaid balance of the note plus the amount of any accrued but unpaid interest.

(h) Although all amounts allocated to a Participant’s Accounts shall be taken into account in determining the amount of the loan that may be available to a Participant, a Participant may borrow only from his Elective Deferral Pre-tax Contribution Account (but not his Elective Deferral Roth Contribution Account, if any), Matching Contribution Account (to the extent vested therein), Nonelective Contribution Account (to the extent vested therein), Rollover Contribution Account, After-Tax Rollover Contribution Account, (but not his Roth Rollover Contribution Account, if any), and After-tax Contribution Account.

(i) The amount of any loan shall be deemed an investment of, and allocated to, the vested portion of the Participant’s Account or Accounts in the following order: the Participant’s After-tax Contribution Account; Rollover Contribution Account, Matching Contribution Account (to the extent vested therein); and Nonelective Contribution Account (to the extent vested therein); Elective Deferral Account and, subject to any limitations of the Investment Funds selected, shall be taken from the Investment Fund or Funds on a pro rata basis. Loan repayments shall be applied to the Participant’s Account or Accounts in the following order: the Participant’s After-tax Contribution Account; Rollover Contribution Account, Matching Contribution Account; Nonelective Contribution Account; and Elective Deferral Account and shall be invested in accordance with the participant’s investment options then in effect.

(j) Failure to make any installment when due under the terms of the loan (taking into account any grace period) shall be an event of default and shall result in a deemed distribution of the entire outstanding balance of the loan at the time of such default. In no event shall the grace period for any required installment extend beyond the last day of the calendar quarter following the calendar quarter in which the required installment was due.

(k) In the event of default, foreclosure on the note and attachment of the security shall not occur until a distributable event occurs. If, at the time benefits are to be distributed to a Participant or beneficiary, there remains any unpaid balance of a loan hereunder, such unpaid balance shall become immediately due and payable in full. Such unpaid balance, together with any accrued but unpaid interest on the loan, shall be deducted from the Participant’s Account before any such distribution of benefit is made.

(l) No loan may be made to a Participant to the extent that at the time such loan is requested, there is outstanding a prior loan made to the Participant under this Plan. Notwithstanding the preceding, a Participant may refinance an existing loan if (i) the Participant’s loan is still in active status (i.e., payments are still being made on the loan and it is not in default)
at its original maturity date, and (ii) the original maturity date of the loan is less than five years from the date of the loan. If the original loan was used to acquire the principal residence of the Participant, the loan may be refinanced if the condition of (i), above, is satisfied, even if the maturity date of the original loan is greater than five (5) years.

(m) No loan may be made to a Former Participant or a Transfer Participant unless and until he is again an Eligible Employee and is participating in the Plan under a Participation Agreement that permits Participant loans.

(n) Notwithstanding the first sentence of Section 6.10(l), during the period December 9, 2009 through December 17, 2009 a second loan may be made to a Participant under this Plan. The aggregate amount of each Participant’s outstanding loans may not exceed the amount set forth in Section 6.10(b).

Section 6.11 - Special Distribution Provisions for Merged Plans

(a) Effective as of the Merger Date set forth in the Agreement and Plan of Spinoff and Merger entered into by and between Alpharma Inc. and the Trustees of the Plan, dated December 15, 2005, the only form of benefit distribution available to a Participant who previously participated in the Alpharma Inc. Savings Plan, including a distribution of amounts transferred from the Alpharma Inc. Savings Plan to the Plan, shall be a lump sum distribution.

Section 6.12 - Qualified Hurricane Katrina Distributions

(a) Until December 31, 2006, a Hurricane Affected Individual (as defined in this Section 6.11(b)) may request a withdrawal or distribution of no more than $100,000 to be treated as a qualified Hurricane Katrina distribution from his vested Accounts in the Plan and other plans maintained by the Hurricane Affected Individual’s Employer and Affiliated Employer(s).

(b) A “Hurricane Affected Individual” is any Participant who the Plan Administrator determines has sustained an economic loss by reason of Hurricane Katrina and who, on August 28, 2005, had principal residence, in Alabama, Florida, Louisiana, or Mississippi.

Section 6.13 - Qualified Hurricane Sandy Distributions

(a) Beginning October 26, 2012 and continuing until February 1, 2013, notwithstanding the first sentence of Section 6.10(l) of the Plan, a second loan may be made to Hurricane Sandy Affected Individual (as defined in Section 6.13(c)) for those Participants permitted to take loans pursuant to their applicable Participation Agreement. The aggregate amount of a Hurricane Sandy Affected Individual’s outstanding loans may not exceed the amount set forth in Section 6.10(b). For clarity, this Section 6.13(a) does not intend to permit Participants to take a loan where their Employer has not otherwise agreed to allow participant loans under its applicable Participation Agreement.

(b) Beginning October 26, 2012 and continuing until February 1, 2013, notwithstanding Section 6.5 of the Plan, a Hurricane Sandy Affected Individual may request, and, upon
providing documentation of expenses, receive a withdrawal on account of a Hurricane Sandy Related Hardship (as defined in Section 6.13(c)) of all or a portion of his Elective Deferral Contributions.

(c) A “Hurricane Sandy Affected Individual” is any Participant who the Plan Administrator determines has a Hurricane Sandy Related Hardship and whose principal residence on October 26, 2012, was located in one of the counties or Tribal Nations that have been identified as covered disaster areas because of the devastation caused by Hurricane Sandy or whose place of employment was located in one of these counties or Tribal Nations on that date or whose lineal ascendant or descendant, dependent or spouse had a principal residence or place of employment in one of these counties or Tribal Nations on that date. A “Hurricane Sandy Related Hardship” is a financial need arising from Hurricane Sandy relating to the criteria set forth in Section 6.5 as well as for (i) food, (ii) shelter, (iii) essential non-luxury personal items (including a reasonable amount for clothing, if clothing had been destroyed in the storm, furniture, appliances, cell phones, tools (specialized or protective clothing and equipment) required for job, and necessary educational materials), but not including luxury and nonessential items such as televisions, memorabilia, collectibles, and other non-essential items, (iv) expenses for basic transportation needs (towing, gasoline, expenses for public transportation while vehicle is being repaired) or expenses related to disaster-damaged vehicle, (v) fuel for primary heating source, (vi) moving or storage expenses related to disaster, (vii) clean-up items, (viii) expenses for restoration of personal property (e.g., tree removal, debris removal, boat removal, etc.).
Article VII - Administration of the Plan

Section 7.1 - Administration of Plan

This Plan shall be administered by the Plan Administrator and/or, to extent delegated, to an administrative agent appointed by the Plan Administrator in accordance with Section 7.2. The Plan Administrator may make such rules and prescribe such procedures for the administration of its duties under this Plan as it shall deem necessary and reasonable. However, as set forth in Section 7.8, regardless of any delegation of responsibility to an administrative agent, the Trustees retain exclusive right and discretion to decide any and all matters pertaining to the administration of the Plan, and any decisions made by the Trustees shall be final.

Section 7.2 - Appointment of an Administrative Agent

The Trustees may retain the services of an administrative agent. The Trustees may remove the administrative agent with or without cause at their discretion, at any time.

The administrative agent may resign effective sixty (60) days after delivering written notice to the Trustees. Thereupon the Trustees may appoint a successor administrative agent and on or prior to the effective date of resignation, the resigning administrative agent shall turn over all files and records of the Plan in its possession to the successor administrative agent or to the Trustees.

Section 7.3 - Agents and Expenses

The Trustees and the Plan Administrator may employ agents to assist in their duties and may rely upon the written certificates of any agent, counsel, accountant, consultant or physician so employed. The Trustees and the Plan Administrator shall be entitled to reimbursement by the Trust Fund for all proper and reasonable charges and expenses incurred in carrying out their duties under the Plan, including compensation of agents.

The Trustees may appoint an investment manager or managers to manage all or a portion of the investments of the Trust Fund. In such event, the Trustees will not be liable for any act or omission of such investment manager.

Section 7.4 - Records and Reports

The Trustees and the Plan Administrator shall keep, or cause to be kept, records of all proceedings and actions, shall maintain all such books of account, records, and other data as shall be necessary for the proper administration of the Plan.

Section 7.5 - Fiduciary Responsibility Insurance

The Trustees may purchase fiduciary responsibility insurance on behalf of the Plan and the Plan’s fiduciaries, including the Trustee members, to cover liability or losses occurring by reason of the acts or omissions of a fiduciary; provided, however, that such insurance, if paid from the assets of the Trust Fund, must permit recourse by the insurer against the fiduciary in the case of a
breach of fiduciary duty or obligation by such fiduciary. The Trustees shall also obtain a bond covering all of the Plan’s fiduciaries, to be paid from the assets of the Trust Fund.

Section 7.6 - Claims Procedure

(a) All claims for benefits hereunder shall be directed to the Plan Administrator or its designee. No benefits shall be paid under the Plan unless the Plan Administrator, in its sole discretion, determines that the applicant is entitled to them. Within ninety (90) days following receipt of a claim for benefits, the Plan Administrator shall determine whether the claimant is entitled to benefits under the Plan, unless additional time is required for processing the claim. In this event, the Plan Administrator shall, within the initial ninety-day period, notify the claimant that additional time is needed, explain the reason for the extension, and indicate when a decision on the claim will be made, which shall be no later than one-hundred eighty (180) days from the date the claim was initially filed.

(b) A denial of a claim for benefits shall be stated in writing and delivered or mailed to the claimant. Such notice shall set forth the specific reasons for the denial, written in a manner calculated to be understood by the claimant without benefit of legal counsel or actuarial assistance. The notice shall include specific reference to the Plan provisions on which the denial is based and a description of any additional material or information necessary to perfect the claim, an explanation of why the material or information is necessary, and the steps to be taken if the claimant wishes to submit his claim for review.

(c) The Plan Administrator shall afford a reasonable opportunity for review to any claimant whose request for benefits has been denied. The review must be requested by written application to the Plan Administrator within sixty (60) days following receipt by the claimant of written notification of the denial of his or her claim. Pursuant to this review, the claimant or his duly authorized representative may review any documents which are pertinent to the denied claim and submit issues and comments in writing.

(d) A decision on the claimant’s appeal of the denial of benefits shall ordinarily be made by the Plan Administrator with sixty (60) days of the receipt of the request for review, unless additional time is required for processing the claim. In this event, the Plan Administrator shall, within the initial sixty-day period, notify the claimant in writing that additional time is needed, which shall be no later than one-hundred twenty (120) days from the date the claim was initially filed.

The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific reference to the Plan provision on which the decision is based. A decision on review shall be final and binding on all parties.

Section 7.7 - Delegation of Specific Responsibilities

The Trustees and the Plan Administrator may delegate to anyone (including one of their number or to other persons including corporations) any of the responsibilities with which they are charged pursuant to the terms of this Plan, provided the responsibilities and duties so delegated are set forth in writing so that the a reasonable person would be aware of such duties and
responsibilities. If such delegation is made to a person not a Trustee, that person or, in the case of a corporation, its responsible officer, shall acknowledge the acceptance and understanding of such duties and responsibilities.

Section 7.8 - Power to Establish Regulations, Pay Expenses

The Plan Administrator shall be authorized to establish rules, regulations and procedures for the day to day administration of the Plan. Except as otherwise herein expressly provided, the Trustees shall have the exclusive right and discretion to interpret the Plan, to construe the Plan’s terms, and to decide any matters arising in and with respect to the administration and operation of the Plan, and any interpretations or decisions so made shall, subject to the claims procedure described in Section 7.6, be conclusive and binding on all persons; provided, however, that all such interpretations and decisions shall be applied in a uniform, non-discriminatory manner to all Employees similarly situated. The Trustees or their designee may draw checks and drafts against assets of the Trust to pay the expenses of administering the Plan, or reimburse the Plan Administrator or other party if it pays said expenses directly at the request of the Trustees.

Section 7.9 - Liability of the Trustees

The Trustees and the Plan Administrator, to the extent of the exercise of their respective authorities, shall discharge their duties with respect to the Plan solely in the interests of the Plan’s Participants and their beneficiaries, and for the exclusive purpose of providing benefits thereto in accordance with the terms of the Plan and to defray the reasonable administration expenses thereof. In all such actions they, and any other fiduciary acting under the Plan, shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; provided, however, that neither the Plan Administrator, any individual Trustee, nor any fiduciary acting hereunder shall be responsible for the actions or omissions of any other party that is a fiduciary with respect to this unless: (a) such fiduciary knowingly participates in or knowingly conceals such conduct which it or he knows to be in breach of ERISA’s standard of care; (b) the fiduciary’s own conduct has enabled the other fiduciary to be in breach of this standard; or (c) the fiduciary has knowledge of such breach by another fiduciary and fails to make reasonable efforts under the circumstances to remedy such breach, or fails to take actions to prevent such breach from occurring.

Section 7.10 - Allocation of Responsibility Among Employers, Plan Fiduciaries and Trust Administration

The Plan fiduciaries shall have only those powers, duties, responsibilities, and obligations as are specifically given them under this Plan or the Trust Agreement. In general, the Employers shall have the sole responsibility for making timely contributions to the Trust of all contributions required under the terms of the Plan and any applicable Participation Agreement entered into by the Employer. The Trustees shall have the sole authority to amend or terminate, in whole or in part, this Plan or the Trust Agreement. The Plan Administrator or its designee shall have responsibility for the day-to-day administration of this Plan, which responsibility is specifically described in this Plan and the Trust Agreement. Except as otherwise provided in this Plan or the Trust Agreement, the Trustees shall have the sole responsibility for the administration of the
Trust Fund and the management of the assets held under the Trust Agreement. Each fiduciary warrants that any directions given, information furnished, or action taken shall be in accordance with the provisions of the Plan or the Trust Agreement, as the case may be, authorizing or providing for such direction, information, or action. Furthermore, each fiduciary may rely upon such direction, information, or action of another fiduciary as being proper under this Plan or the Trust Agreement, and is not required under this Plan or the Trust Agreement to inquire into the propriety of any such direction, information or action. It is intended under this Plan and the Trust Agreement that each fiduciary shall be responsible for the proper exercise of its or his own powers, duties, responsibilities and obligations under this Plan and the Trust Agreement and shall not be responsible for any act or omission of another fiduciary, except as otherwise provided under ERISA.

Section 7.11 - Forfeiture in Case of Unlocatable Participant

If the Trust Fund is unable to pay benefits under the Plan to any Participant or beneficiary who is entitled to benefits hereunder because such person cannot be located or ascertained, the Plan Administrator shall proceed as follows:

(a) Within ninety (90) days of the date any such benefits are payable but cannot be paid hereunder due to the circumstances stated above, the Plan Administrator shall send an appropriate notice to the last address for such individual listed in the Plan Administrator’s records.

(b) If the individual remains unlocatable, the Plan Administrator shall utilize any method it deems reasonable to attempt to locate the missing Participant or beneficiary.

(c) If, after reasonable attempts are made locate a missing Participant, on the last day of the fifth Plan Year during which the individual remains unlocatable, all amounts held for his or her benefit shall be treated as though it were a forfeiture under Section 5.2 and all liability for payment thereof shall thereupon be suspended, unless some other procedure is permitted or required by law. However, if an individual subsequently makes what the Plan Administrator determines to be a valid and proper claim for such amounts, the Account or Accounts shall be restored and will be distributed in accordance with the terms of this Plan.
Article VIII - Amendment and Termination

Section 8.1 - Amendment and Termination

The Trustees may at any time and from time to time modify, alter, or amend the Plan in any respect, retroactively (to the extent permitted by law) or otherwise, and in addition may terminate or partially terminate the Plan. It is intended that the Plan will at all times meet the requirements of a qualified plan under Section 401 of the Code and ERISA, that contributions made by an Employer to the Trust Fund will be deductible for income tax purposes as an item of expense by each Employer making the contribution, and that the Trust Fund will be exempt from income taxation. The Plan may be amended at any time provided, however, that:

(a) No modification, alteration or amendment shall adversely affect any retirement benefit being paid to any Former Participant or Transfer Participant;

(b) No amendment shall diminish a Participant’s existing rights under the Plan, including his interest in his Account or Accounts as of the later of the date such amendment is adopted or the date such amendment becomes effective;

(c) No amendment shall provide for the use of funds or assets held under the Plan other than for the exclusive benefit of Participants or their beneficiaries and payment of reasonable administration expenses;

(d) No amendment shall cause the reversion of any assets of the Trust to the Union or an Employer;

The Trustees may amend this Plan to qualify it under the provisions of Section 401(a), 401(k) and 401(m) of the Code, and any such amendment, by its terms, may be effective retroactively to the extent permitted or required by law.

If there is a termination of this Plan, a partial termination of this Plan as determined under Code § 411(d)(3), or a declaration of a discontinuance of contributions to the Plan, the Accounts of each affected Participant shall be fully vested. In the case of a termination or partial termination, the Accounts shall be distributed in accordance with the provisions of Article VI hereof, and the Trust Agreement shall remain in effect until all funds are distributed as provided in Article VI.

Section 8.2 - Merger, Consolidation or Transfer of Plan Assets

No merger or consolidation of this Plan with, or transfer of assets or liabilities of this Plan to, any other plan shall occur unless each Participant, Former Participant or Transfer Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had then terminated).
Article IX - Limitations of Section 415 of the Code

Section 9.1 - Maximum Permissible Amount of a Participant’s Annual Additions

Notwithstanding any other provision of this Plan, the sum of the Annual Additions made to a Participant’s Accounts in respect of any Limitation Year may not exceed the lesser of: (i) $40,000 (as adjusted for increases in the cost-of-living in accordance with Code Section 415(d) and the regulations thereunder), or (ii) 100% of the Participant’s 415 Compensation for such Plan Year. The compensation limit referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Sections 401(h) or 419A(f)(2) of the Code) that is otherwise treated as an Annual Addition under Code Section 415(c).

For this purpose, the term “Annual Additions” shall mean the sum of the following amounts which, without regard to this Section, have been credited to the Participant’s Accounts for the Plan Year under this Plan and any other defined contribution plan of the Employer or an Affiliated Employer: (1) elective deferral contributions; (2) employer matching contributions; (3) employee after-tax contributions; (4) nonelective nontributions; (5) forfeitures, if any; (6) with respect to any pension plan maintained by the Employer or an Affiliated Employer, contributions allocated to any individual medical account defined in Section 415(l)(2) of the Code; and (7) in the case of a Participant who is a “key employee” as defined in Section 416(i) of the Code, the amount allocated to a separate account established for post-retirement medical or life insurance benefits of such Participant, as described in Section 419A(d)(1) of the Code. The term “Annual Additions” shall not include any Rollover Contributions made pursuant to Section 3.9, but shall include excess deferrals, excess contributions, and excess aggregate contributions, unless recharacterized or refunded. For purposes of this Section, the term “Limitation Year” means the calendar year or any other 12-consecutive month period adopted for all qualified defined contribution plans of the Employer pursuant to a written resolution adopted by the board of directors of the Employer.

Section 9.2 - Coordination of Annual Additions

For Limitation Years ending on or before December 31, 2007, if any Annual Additions (as defined in Section 9.1) are allocated under other qualified defined contribution plans maintained by an Employer or an Affiliated Employer with respect to a Participant under this Plan, and the amounts that would otherwise be contributed or allocated to the Participant’s Accounts under this Plan would cause the limits on Annual Additions for the Limitation Year to be exceeded, the amount contributed or allocated under this Plan shall be reduced and refunded to the Participant starting with the Participant’s After-tax Contributions, if any, and then by reducing the Participant’s Elective Deferral Contributions to the Plan so that the Annual Additions under all such plans for the Limitation Year will equal the maximum Annual Additions specified in Section 9.1. If the Annual Additions with respect to the Participant under other qualified defined contribution plans in the aggregate are equal to or greater than the maximum permissible amount, as specified in Section 9.1, any amount contributed or allocated to the Participant’s Account for the Limitation Year, adjusted for earnings, will be treated as an excess amount and shall be paid to the Participant. For Limitation Years beginning on and after January 1, 2008, if the limitation in Section 9.1 is exceeded, the excess amount for the Plan Year shall be reduced in...
Section 9.3 - Coordination with Limitation on Benefits From All Plans

(a) Notwithstanding the foregoing, prior to January 1, 2000, the otherwise permissible Annual Addition under this Plan for any Participant may be further reduced to the extent necessary, as determined by the Trustees, to prevent disqualification of the Plan under Section 415 of the Internal Revenue Code, which imposes the following additional limitations on the benefits payable to Participants who also may be participating in another tax qualified pension, profit sharing, savings, or stock bonus plan of the Employer. If an individual is a Participant at any time in both a defined benefit plan and a defined contribution plan maintained by the Employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any Limitation Year may not exceed 1.0.

(b) The defined benefit plan fraction for any Limitation Year is a fraction, the numerator of which is the Participant’s projected annual benefit under the Plan (determined at the close of the Limitation Year) and the denominator of which is the lesser of:

(i) 1.25 times the dollar limitation in effect under Code Section 415(b)(1)(A) for that Limitation Year; or

(ii) 1.4 times the compensation limitation under Code Section 415(b)(1)(B) for that Limitation Year.

(c) The defined contribution plan fraction for any Limitation Year is a fraction, the numerator of which is the sum of the Annual Additions to the Participant’s Accounts (determined at the close of the Limitation Year) and the denominator of which is the sum of the lesser of the following amounts determined as of the end of the Limitation Year and all prior Limitation Years: (1) 1.25 times the dollar limitation in effect under Code Section 415(c)(1)(A) for that year; or (2) 1.4 times the compensation limitation under Code Section 415(c)(1)(B) for that year. For purposes of this limitation all defined benefit plans of the Employer, whether or not terminated, are to be treated as one defined benefit plan and all defined contribution plans of the Employer, whether or not terminated, are to be treated as one defined contribution plan.

(d) Notwithstanding the foregoing, for purposes of determining maximum permissible Annual Additions which may be made to a Participant’s Account during the Limitation Year, the provisions set forth in Code Section 415 and the regulations thereunder as the same may be amended from time to time, shall apply.

The limitation described in this Section 9.3 shall not apply after December 31, 1999.
Article X - Miscellaneous

Section 10.1 - Governing Law

The provisions of the Plan shall be construed, regulated and administered according to the laws of the District of Columbia except to the extent preempted by Federal law.

Section 10.2 - Necessity of Initial Qualification

This Plan is established with the intent that it shall qualify under Sections 401(a) and 401(k) of the Code as those sections exist at the time the Plan is established. If the Internal Revenue Service determines that the Plan initially fails to meet those requirements, and it is not or cannot be amended to meet said requirements, then within one-hundred and twenty (120) days after the date of such determination all of the vested assets of the Trust Fund held for the benefit of Participants and their beneficiaries shall be distributed to them and the Plan shall be considered to be rescinded and of no force or effect.

Section 10.3 - Titles

Titles of Articles and Sections are inserted for convenience only and shall not affect the meaning or construction of the Plan.

Section 10.4 - Counterparts

This Plan and the Trust Agreement may be executed by the Employer, the Union and the Trustees in various counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one document.

Section 10.5 - Prohibition Against Attachment

(a) None of the benefits payable hereunder shall be subject to the claims of any creditor of any Participant or beneficiary other than this Plan, nor shall the same be subject to attachment, garnishment or other legal or equitable process by any creditor of a Participant or beneficiary, other than this Plan, nor shall any Participant or beneficiary have any right to alienate, anticipate, commute, pledge, encumber, or assign any of such benefits.

(b) The restrictions of subsection (a) of this Section will not be violated by either (1) the creation of a right to payments from this Plan by reason of a Qualified Domestic Relations Order or (2) the making of such payments. For purposes of this subsection (b), the term “Qualified Domestic Relations Order” means any judgment, decree, or order (including approval of a property settlement agreement), made pursuant to a State domestic relations law (including a community property law), which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant (an “Alternate Payee”) and which:
(i) Creates or recognizes the right of an Alternate Payee to, or assigns to any Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under this Plan;

(ii) Clearly specifies: (1) the name and last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the order; (2) the amount or percentage of the Participant’s benefits to be paid by the Plan to each alternate Payee, or the manner in which such amount or percentage is to be determined; (3) the number of payments or period to which such order applies; and (4) the Plan to which the order applies;

(iii) Does not require this Plan to provide any type of form of benefit, or any option, not otherwise provided under this Plan except as may be permitted by Section 206(d)(3)(E) of ERISA.

(iv) Is approved as a Qualified Domestic Relations Order by the Plan Administrator in accordance with its procedures.

(c) This provision shall not apply to any liabilities of the Participant to the Plan pursuant to a judgment or settlement described in Code section 401(a)(13)(C) due to: (1) the Participant being convicted of committing a crime involving the Plan, (2) a civil judgment (or consent order or decree) being entered by a court in an action brought in connection with a violation of ERISA’s fiduciary duty rules, or (3) a settlement agreement between the Secretary of Labor and the Participant in connection with a violation of ERISA’s fiduciary rules. The court order establishing such liability must require that the Participant’s benefit be applied to satisfy the liability.

Section 10.6 - Payment to Minor Beneficiary or Incompetent

If the beneficiary of any Participant shall be a minor, or in the absolute judgment of the Trustees, incompetent, and no guardian shall have been appointed for him or her, the Trustees shall pay any benefit due under the Plan to the person caring for such minor or incompetent, or in the absence of such person may retain any payment due under the Plan for his or her benefit until he or she attains majority, or, in the judgment of the Trustees, regains his or her competency or until a guardian is appointed for him or her. Such amount, as authorized by the Trustees, may be held in cash, deposited in bank accounts, or invested, or the income and principal may be expended and applied directly for the maintenance, education and support of such minor or incompetent without the intervention of any guardian and without application to any court.

Section 10.7 - Plan Provisions in Effect

The benefit to which a Participant under this Plan is entitled shall be determined by the provisions of the Plan which were in effect on the Participant’s Severance from Service Date. No amendment made to the Plan after a Participant’s Severance from Service Date shall adversely affect the entitlement of the Participant to any benefit hereunder.
Section 10.8 - Return of Contributions

It is intended that the Plan constitute a qualified plan within the meaning of section 401(a) of the Code and that the trust or other funding vehicle associated with the Plan be exempt from federal income taxation pursuant to the provisions of section 501(a) of the Code. Any Employer contribution (or the portion thereof disallowed in the case of a contribution not deductible under Code section 404) shall revert and be paid to the Employer (adjusted by losses but not gains): (i) within one year of the payment of the contribution to the extent the contribution is made as a result of a mistake of fact; or (ii) within one year of a disallowance of a tax deduction for such contribution under Code section 404. All contributions hereunder are conditioned on their deductibility under Code section 404.
Article XI - Top-Heavy Provisions

Section 11.1 - Top-Heavy Rules and Definitions

Notwithstanding any other provision in the Plan, and solely with respect to Eligible Employees who are not represented for purposes of collective bargaining, the provisions in the Section shall supersede all other provisions in the Plan during each Plan Year with respect to which the Plan is determined to be a Top Heavy Plan.

For purposes of this Section, the following terms shall have the meanings set forth below:

(a) "Top-Heavy Plan" - The Plan is a Top-Heavy Plan in any Plan Year in which:

(i) The Plan is a member of a Top-Heavy Group, if the Plan is described in Section 11.1(c)(i) or (ii), below; or

(ii) The Plan is a member of an Aggregation Group as described in Section 11.1(c)(i) or (ii), below, and as of the Determination Date, the Account Aggregate of Participants who are Key Employees exceeds 60% of the Account Aggregate of the Plan for all Participants.

(b) "Key Employee" means an Employee (or former Employee) who at any time during the Plan Year is:

(i) An officer of the Employer having a Total Compensation from the Employer of more than $130,000 (as adjusted under Section 416(i)(1) of the Code);

(ii) An owner of more than 5% of the outstanding stock of the Employer or stock possessing more than 5% of the total combined voting power of all stock of the Employer; or

(iii) An owner of more than 1% of the outstanding stock of the Employer or stock possessing more than 1% of the total combined voting power of all stock of the Employer, who has a Total Compensation from the Employer of more than $150,000.

For purposes of determining ownership in the Employer (A) the constructive ownership rules of Section 318 of the Code, as modified by substituting “five percent” for “fifty percent” in subsection (a)(2)(C) thereof, shall apply, but (B) the rules of subsections (b), (c) and (m) of Section 414 of the Code shall not apply. Each beneficiary of a Key Employee designated under this Plan is a Key Employee.

(c) "Aggregation Group" means a group of plans consisting of more than one plan and including:

(i) Each plan of the Employer in which a Key Employee is a Participant;
(ii) Each other plan of the Employer which enables any plan described in (i) to meet the requirements of Section 401(a)(4) or Section 410 of the Code; and

(iii) Any plan not described in (i) or (ii) which the Employer elects to include, provided that such inclusion does not prevent the group from meeting the requirements of Section 401(a)(4) and Section 410 of the Code.

(d) “Top-Heavy Group” is an Aggregation Group for which, as of the Determination Date, the Total Benefit for Key Employees exceeds 60% of the Total Benefit for all Participants.

(e) “Determination Date” is the last day of the preceding Plan Year.

(f) “Account Aggregate” is, with respect to a defined contribution plan, the sum of Employee accounts, plus the sum of all in-service distributions made from such accounts during the five-year period (and all other distributions made during the one-year period) ending on the Determination Date, provided that (1) rollover contributions and similar transfers initiated by an Employee, (2) the account of any Employee who was a Key Employee in a prior Plan Year but is no longer a Key Employee, (3) any accrued benefits attributable to deductible employee contributions, and (4) the account of any individual who has not performed services for the Employer (other than benefits under any plan maintained by the Employer) during the one-year period ending on the Determination Date, shall not be taken into account. A transfer from one plan of an Employer to any other such plan shall be considered neither a “distribution” nor a “rollover contribution” for purposes of this subsection, but a distribution from a terminated plan shall be considered a “distribution” for purposes of this subsection if such terminated plan, had it not been terminated, would have been described in Section 11.1(c)(1) or (2).

(g) “Cumulative Accrued Benefit” is, with respect to a defined benefit plan, the sum of the present values of all accrued benefits, the sum of in-service distributions made with respect to such benefits during the five-year period (and all other distributions made during the one-year period) ending on the Determination Date, provided that (1) rollover contributions and similar transfers initiated by an Employee, (2) the accrued benefit of any Employee who was a Key Employee in a prior Plan Year but is no longer a Key Employee, (3) any accrued benefits attributable to deductible employee contributions, and (4) the accrued benefit of any individual who has not performed services for the Employer (other than benefits under any plan maintained by the Employer) during the one-year period ending on the Determination Date, shall not be taken into account. A transfer from one plan of an Employer to any other such plan shall be considered neither a “distribution” nor a “rollover contribution” for purposes of this subsection, but a distribution from a terminated plan shall be considered a “distribution” for purposes of this subsection if such terminated plan, had it not been terminated, would have been described in Section 11.1(c)(1) or (2).

(h) “Total Benefit” is the sum of the Account Aggregate of all plans within an Aggregation Group which are defined contribution plans, and the Cumulative Accrued Benefit of all plans within an Aggregation Group which are defined benefit plans.
(i) “Total Compensation” is the Participant’s compensation as defined in Section 415(c)(3) of the Code, but shall not exceed the applicable dollar amount set forth in Section 1.1(g).

(j) “Minimum Percentage” is the greater of:

(i) The percentage of the Participant’s Total Compensation which would be allocated to the Participant’s Account for the Plan Year if Section 11.2 were disregarded; or

(ii) The lesser of (A) 3% or (B) the highest percentage at which contributions are made or required to be made for any Key Employee, which percentage shall be determined by dividing the contributions made or required to be made for such Key Employee by his or her Total Compensation; provided that for purposes of computing such percentage all defined contribution plans included in an Aggregation Group will be treated as one plan, but provided further that if the Plan is included in such Aggregation Group in order to allow a defined benefit plan within the group to meet the requirements of Section 401(a)(4) or Section 410 of the Code, then such percentage shall be deemed to be 3%.

(k) “Employer,” for purposes of Section 11.1, includes Affiliated Employers.

Section 11.2 - Top-Heavy Minimum Benefit

For each Plan Year for which the Plan is a Top-Heavy Plan, the Employer for whom the Participant is employed shall contribute to the account of each Participant who is not a Key Employee an amount which, when added to any forfeitures allocated to such Participant’s Account, is not less than the Minimum Percentage of the Participant’s Total Compensation for the year. This Section shall apply to a Participant who is not a Key Employee regardless of his or her level of Compensation. A non-Key Employee may not fail to receive a Minimum Percentage because the Employee accrues no benefit merely because of a failure to make an Elective Deferral or After-tax Contribution election.
Article XII - YRCW STOCK CONTRIBUTION

In accordance with the YRCW Restructuring Agreement and in accordance with the agreement between YRCW and TNFINC to support the out-of-court restructuring of YRCW and its direct and indirect subsidiaries and the related letter of agreement between YRCW and TNFINC, YRCW will make a one-time contribution to the Plan of shares of newly issued YRCW series B preferred stock convertible into shares of new YRCW common stock (the “YRCW Stock”). The YRCW Stock that is contributed to the Plan shall be held in the YRCW Stock Fund, described in Section 12.1, and allocated to the YRCW Stock Fund Accounts of Eligible Employees of the following YRCW subsidiaries: YRC Inc., New Penn Motor Express, Inc., USF Holland, Inc., and USF Reddaway, Inc., provided such Eligible Employees are actively employed on September 24, 2010. The amount that shall be allocated to the YRCW Stock Fund Account of each Eligible Employee shall be made in accordance with the letter of agreement dated July 22, 2011 between YRCW, TNFINC, JPMorgan Chase Bank, and the Steering Group Majority (the “Letter Agreement”), based on the ratio that such Eligible Employee’s total Compensation for the period beginning January 1, 2011 through June 30, 2011 bears to the total Compensation of all Eligible Employees for the period January 1, 2011 through June 30, 2011.

Notwithstanding any Plan provision to the contrary, the following provisions apply to the YRCW Stock contribution:

Section 12.1 - YRCW Stock Fund. The YRCW Stock Fund is an investment fund which holds primarily stock of YRC Worldwide, Inc. but may also hold cash and other short-term investments. The YRCW Stock Fund may be valued either via share or unitized accounting as a unitized fund.

Section 12.2 - Investment Direction. Each Participant may, in accordance with Section 4.7, transfer all or a portion of the Participant’s YRCW Stock Fund Account to any available Investment Fund then offered under the Plan. However, in no event shall any Participant have the right to transfer or reinvest any portion of his Account into the YRCW Stock Fund.

Section 12.3 - Form of Distribution. Each distribution and/or withdrawal from a Participant’s YRCW Stock Fund Account may, at the election of the Participant, be payable in cash or in whole shares of YRCW Stock with fractional shares paid in cash.

Section 12.4 - Voting and Tender of YRCW Stock.

(a) Stock Rights, Stock Splits and Stock Dividends. The Trustees, in their discretion, may exercise or sell any rights to purchase any securities appertaining to units of YRCW Stock held by the Trustees, whether or not allocated to individual YRCW Stock Fund Accounts. In the event, Participants’ YRCW Stock Fund Accounts shall be appropriately credited. Securities received by the Trustees by reason of a stock split, a stock dividend or other distribution shall be appropriately allocated to Participants’ YRCW Stock Fund Accounts.

(b) Exercise of YRCW Stock Voting Rights. Each Participant shall have the right to direct the Trustees as to the exercise of voting rights with respect to YRCW Stock, including fractional shares, attributable to YRCW Stock attributable to units of the YRCW Stock.
Fund allocated to such Participant’s YRCW Stock Fund Account. As soon as practicable prior to the occasion for the exercise of such voting rights, the Trustees shall deliver or cause to be delivered, to each Participant all notices, prospectuses, financial statements, proxies and proxy soliciting material relating to YRCW Stock. Instructions by Participants to the Trustees shall be on such form or in such other manner and pursuant to such regulations as the Plan Administrator shall prescribe. Any such instruction shall remain in the strict confidence of the Trustees. Subject to obligation of the Trustees to act in accordance with Section 404 of ERISA, any shares of YRCW Stock attributable to a Participant’s YRCW Stock Fund Account for which no instructions are received by the Trustees within such time specified by notice shall be voted by the Trustees in the same proportion as the shares of YRCW Stock attributable to Participants’ YRCW Stock Fund Accounts for which timely instruction were received by the Trustees. With respect to fractional shares of YRCW Stock attributable to Participants’ YRCW Stock Fund Accounts for which instructions are received by the Trustees, the Trustees shall aggregate all such fractional share for which the same instructions are received into whole shares and shall vote such whole shares as instructed. Any remaining fractional shares shall be voted by the Trustees in the same proportion as the shares for which timely instructions were received by the Trustees.

(c) **Tender Offer Response on YRCW Stock.** In the event of a tender offer for any YRCW Stock held in the YRCW Stock Fund, the Trustees shall as promptly as practicable request of each Participant instructions as to the tender offer response desired by that Participant in connection with the shares of YRCW Stock, including fractional shares, attributable to units in the YRCW Stock Fund allocated to such Participant and the Trustees shall be bound by the instructions received. Instructions by Participants to the Trustees shall be on such form or in such other manner pursuant to such regulations as the Plan Administrator shall prescribe. Any such instructions shall remain in the strict confidence of the Trustees. Subject to obligation of the Trustees to act in accordance with Section 404 of ERISA, any shares of YRCW Stock attributable to units of the YRCW Stock Fund Account for which no instructions are received by the Trustees within such time specified by notice shall be tendered by the Trustees in the same proportion as the shares of YRCW Stock attributable to Participants’ YRCW Stock Fund Accounts for which timely instructions were received by the Trustees. With respect to fractional shares of YRCW Stock attributable to Participants’ YRCW Stock Fund Accounts for which instructions are received by the Trustees, the Trustees shall aggregate all such fractional shares for which the same instructions are received into whole shares and shall tender such whole shares as instructed. Any remaining fractional shares shall be tendered by the Trustees in the same proportion as the shares for which timely instructions were received by the Trustees.

(d) **Rights of Beneficiaries and Alternate Payees.** The Beneficiary of a deceased Participant or an Alternate Payee under a Qualified Domestic Relations Order for whom a separate Account has been established shall have the rights with respect to direction of investments and voting as are available to Participants under this Article XII.
IN WITNESS WHEREOF, the Trustees have executed this Plan this 28th day of October, 2014.

Union Trustee: _______________________________ Employer Trustee: _______________________________

John Murphy, Co-Chairman Joshua B. Frank, Co-Chairman
# SPECIAL VESTING RULES FOR MERGED PLANS

<table>
<thead>
<tr>
<th>Merged Plan</th>
<th>Merger Date</th>
<th>Protected Benefits – Grandfathered Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Teamsters Local 653</strong></td>
<td>December 12, 2012</td>
<td>Qualified Reservist Distribution – withdrawal of elective deferrals provided participant was called to active duty for more than 179 days and the distribution was made before close of active duty period.</td>
</tr>
<tr>
<td><strong>YRC Worldwide Inc. 401(k) Plan</strong></td>
<td>April 21, 2013</td>
<td>Allow distributions upon disability. Disability defined as a disability for which the Participant is eligible for and receiving benefits under his Employer’s Long Term Disability Plan or Social Security Disability. Normal Retirement Age under the YRCW Worldwide Inc 401(k) Plan was 55 Years old.</td>
</tr>
<tr>
<td><strong>YRCW Portland</strong></td>
<td>August 1, 2014</td>
<td>Normal Retirement Age under the YRCW Portland Plan was 55 Years old.</td>
</tr>
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</table>
## APPENDIX B

### MERGED PLANS

<table>
<thead>
<tr>
<th>Merged Plan</th>
<th>Merger Date</th>
</tr>
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<tbody>
<tr>
<td><strong>BWay</strong></td>
<td>June 28, 2010</td>
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<tr>
<td><strong>Nicholas Trucking Company, Inc. 401(k) Plan</strong></td>
<td>December 1, 2010</td>
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<tr>
<td><strong>Frederick P. Winner 401(k) Plan</strong></td>
<td>June 1, 2011</td>
</tr>
<tr>
<td><strong>Hall’s Complete Rental Service, Inc. Profit Sharing Plan and Trust (Teamsters Local 743)</strong></td>
<td>December 1, 2012</td>
</tr>
<tr>
<td><strong>Teamsters Local 653</strong></td>
<td>December 12, 2012</td>
</tr>
<tr>
<td><strong>YRC Worldwide Inc. 401(k) Plan</strong></td>
<td>April 21, 2013</td>
</tr>
<tr>
<td><strong>The Former United (Portland Terminal) Union 401(k) Plan</strong></td>
<td>August 12, 2013</td>
</tr>
<tr>
<td><strong>USF Reddaway</strong></td>
<td>November 11, 2013</td>
</tr>
<tr>
<td><strong>ABF Freight</strong></td>
<td>December 18, 2013</td>
</tr>
<tr>
<td><strong>YRCW Portland</strong></td>
<td>August 1, 2014</td>
</tr>
</tbody>
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