

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

BRINKER INTERNATIONAL, INC.

(Exact name of registrant as specified in its charter)

Delaware

75-1914582

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer
Identification No.)

6820 LBJ Freeway
Dallas, Texas 75240
(972) 980-9917

(Address of Principal Executive Offices)

Brinker International, Inc. 401(k) Savings Plan
As Restated Effective January 1, 1999
Brinker International, Inc. Savings Plan II, As Amended
(Full Titles of the Plans)

Russell G. Owens
Executive Vice President and Chief Financial
and Strategic Officer
Brinker International, Inc.

6820 LBJ Freeway
Dallas, Texas 75240
(972) 980-9917

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

With Copies To:

Roger F. Thomson
Executive Vice President and General Counsel
Brinker International, Inc.
6820 LBJ Freeway
Dallas, Texas 75240
(972) 980-9917

Stuart Bumpas, Esq.
Locke Liddell & Sapp LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201
(214) 740-8000

CALCULATION OF REGISTRATION FEE

Title Of Securities To Be Registered	Amount To Be Registered	Proposed Maximum Offering Price Per Share (1)	Proposed Maximum Aggregate Offering Price (1)	Amount of Registration Fee
Common Stock, \$0.10 Par Value (3)				
Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999	275,000 shares (3)	\$31.16 (2)	\$8,569,000.00	\$2,262.22

Brinker International, Inc. Savings Plan II, as amended	100,000 shares (3)	\$31.16 (2)	\$3,116,000.00	\$822.62
TOTAL	375,000 shares		\$11,685,000.00	\$3,084.84

(1) For the sole purpose of calculating the registration fee, the number of shares to be registered under this registration statement has been broken down into two subtotals. In addition, pursuant to Rule 416 under the Securities Act of 1933, as amended, this registration statement also covers shares of common stock of the registrant issuable to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(2) Estimated in accordance with Rule 457 (c) and (h) under the Securities Act of 1933, as amended, solely for purposes of calculating the registration fee, based on the average of the high and low prices of the registrant's common stock on July 18, 2000 as reported on the New York Stock Exchange.

(3) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plans described herein.

PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified by Item 1 (Plan Information) and Item 2 (Registrant Information and Employee Plan Annual Information) of Part I of Form S-8 is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory Note to Part I of Form S-8.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The documents set forth below are incorporated by reference in this Registration Statement. All documents subsequently filed by Brinker International, Inc. ("Brinker"), Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999 and Brinker International, Inc. Savings Plan II, as amended, pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this registration statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this registration statement to the extent a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

(a) Brinker's annual report on Form 10-K for the year ended June 30, 1999;

(b) All other reports filed with the Securities and Exchange Commission ("Commission") pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the documents described in (a) above; and

(c) The description of the common stock which is contained in Brinker's registration statements on Form 8-A filed with the Commission pursuant to Section 12 of the Exchange Act, and all amendments thereto and reports that have been filed for the purpose of updating such description.

Item 4. Description of Securities.

Not Applicable.

Item 5. Interests of Named Experts and Counsel.

Not Applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law (the "DGCL") provides, in effect, that any person made a party to any action by reason of the fact that he is or was a director, officer, employee or agent of Brinker may and, in certain cases, must be indemnified by Brinker against, in the case of a non-derivative action, judgments, fines, amounts paid in settlement and reasonable expenses (including attorney's fees) incurred by him as a result of such action, and in the case of a derivative action, against expenses (including attorney's fees), if in either type of action he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of Brinker. This indemnification does not apply, in a derivative action, to matters as to which it is adjudged that the director, officer, employee or agent is liable to Brinker, unless upon court order it is determined that, despite such adjudication of liability but in view of all the circumstances of the case, he is fairly and reasonably entitled to indemnity for expenses, and, in a non-derivative action, to any criminal proceeding in which such person had reasonable cause to believe his conduct was unlawful.

Article Ninth of Brinker's Certificate of Incorporation provides that no director shall be liable to Brinker or its stockholders for monetary damages for breach of fiduciary duty, provided that the liability of a director is not limited (i) for any breach of the director's duty of loyalty to Brinker or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, (iii) under Section 174 of the DGCL or (iv) any transaction from which such director derived an improper personal benefit.

Article VI, Section 2 of Brinker's bylaws provides, in general, that Brinker shall indemnify its directors and officers under the circumstances defined in Section 145 of the DGCL. Brinker has obtained an insurance policy insuring the directors and officers of Brinker against certain liabilities, if any, that arise in connection with the performance of their duties on behalf of Brinker and its subsidiaries.

Item 7. Exemption from Registration Claimed.

Not Applicable.

Item 8. Exhibits.

- 5.1* Opinion of Locke Liddell & Sapp LLP.
- 23.1* Consent of KPMG LLP.
- 23.2* Consent of Locke Liddell & Sapp LLP
(included in opinion filed as Exhibit 5.1).
- 24.1* Power of Attorney (included on the
signature pages of this Registration Statement).
- 99.1* Brinker International, Inc. 401(k)
Savings Plan As Restated Effective January 1, 1999.
- 99.2* Brinker International, Inc. Savings Plan II,
as amended.

* Filed herewith.

Brinker hereby undertakes that it will submit or has submitted Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999, and any amendments thereto to the Internal Revenue Service (the "IRS") in a timely manner and has made or will make all changes required by the IRS in order to qualify the plan under Section 401 of

the Internal Revenue Code.

Item 9. Undertakings.

(a) Brinker hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Securities and Exchange Commission by Brinker pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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

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

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe

that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, State of Texas, on May 1, 2000.

BRINKER INTERNATIONAL, INC.

By: /s/Russell G. Owens
 Russell G. Owens, Executive
 Vice President and Chief Financial
 Strategic Officer

POWER OF ATTORNEY

KNOW ALL MEN AND WOMEN BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints each of Ronald A. McDougall and Russell G. Owens, and each of them, his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done on and about the premises as fully and to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signatures	Title	Date
/s/Ronald A. McDougall Ronald A. McDougall	Vice Chairman, Chief Executive Officer and Director (Principal Executive Officer)	May 1, 2000
/s/Russell G. Owens Russell G. Owens	Executive Vice President and Chief Financial and Strategic Officer (Principal Financial and Accounting Officer)	May 1, 2000
/s/Norman E. Brinker Norman E. Brinker	Chairman of the Board and Director	May 1, 2000
/s/Douglas H. Brooks Douglas H. Brooks	Director	May 1, 2000
_____ Donald J. Carty	Director	_____, 2000
_____ Dan W. Cook, III	Director	_____, 2000
/s/J.M. Hagggar, Jr. J.M. Hagggar, Jr.	Director	May 1, 2000
_____ Frederick S. Humphries	Director	_____, 2000

July 21, 2000

Brinker International, Inc.
6820 LBJ Freeway
Dallas, Texas 75240

Re: Registration of 375,000 shares of Common Stock, par value \$.10
per share, pursuant to a Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel for Brinker International, Inc., a Delaware corporation (the "Company"), in connection with the registration under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a Registration Statement on Form S-8 (the "Registration Statement"), of 375,000 shares of Common Stock, par value \$.10 per share, of the Company (the "Common Stock") to be offered pursuant to Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999 and Brinker International, Inc. Savings Plan II, as amended (the "Plans").

Based on our examination of such documents and the investigation of such matters of law as we have deemed relevant or necessary in rendering this opinion, we hereby advise you that we are of the opinion that:

Assuming, with respect to shares of Common Stock issued after the date hereof, (i) the receipt of proper consideration for the issuance thereof in excess of par value thereof, (ii) the availability of a sufficient number of shares of Common Stock authorized by the Company's Certificate of Incorporation then in effect, (iii) compliance with the terms of any agreement entered into in connection with the Plans, and (iv) that no change occurs in the applicable law or the pertinent facts, the shares of Common Stock purchasable or granted under the Plans will upon issuance be duly authorized and validly issued, fully paid and non-assessable shares of Common Stock.

We consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement filed by the Company with the Securities and Exchange Commission for the registration under the Securities Act of 375,000 shares of Common Stock of the Company covered by the Plans. By so consenting, we do not thereby admit that our firm's consent is required by Section 7 of the Securities Act.

Very truly yours,

/s/ LOCKE LIDDELL & SAPP LLP

By: /s/ Kent Jamison
Kent Jamison

Consent of KPMG LLP

The Board of Directors
Brinker International, Inc.:

We consent to the use of our report incorporated herein by reference. Our report refers to a change in accounting for the cost of start-up activities in fiscal 1999.

/s/ KPMG LLP

Dallas, Texas
July 25, 2000

Brinker International, Inc. 401(k) Savings Plan
As Restated Effective January 1, 1999

BRINKER INTERNATIONAL, INC.
401(K) SAVINGS PLAN
AS RESTATED EFFECTIVE JANUARY 1, 1999

ARTICLE I

PURPOSE

On this 31st day of December, 1999, BRINKER INTERNATIONAL, INC., a corporation organized and existing under the laws of the State of Delaware (hereinafter, the "Company"), hereby restates in its entirety the BRINKER INTERNATIONAL, INC. 401(K) SAVINGS PLAN AND TRUST (the "Prior Plan"), such restatement to be effective as of January 1, 1999;

W I T N E S S E T H :

WHEREAS, the Company has heretofore adopted, for the benefit of its employees, the BRINKER INTERNATIONAL, INC. 401(K) SAVINGS PLAN AND TRUST, as effective January 1, 1993 (hereinafter, the "Prior Plan"); and

WHEREAS, pursuant to the provisions of Article XIV of the Prior Plan to the effect that the Prior Plan may be amended by the Company, the Company wishes to, and does hereby, amend and restate the Prior Plan as the BRINKER INTERNATIONAL, INC. 401(K) SAVINGS PLAN AS RESTATED EFFECTIVE JANUARY 1, 1999 (hereinafter, the "Plan"); and

WHEREAS, in order to carry out the terms of the Prior Plan and the Plan, the Company has heretofore established a trust fund (hereinafter, the "Trust") pursuant to the BRINKER INTERNATIONAL, INC. 401(K) SAVINGS PLAN AND TRUST AGREEMENT; and

WHEREAS, the following affiliate of the Company (hereinafter, the "Participating Employer") desires hereby to adopt the Plan and Trust for the benefit of its employees: Brinker International Payroll Corporation; and

WHEREAS, it is intended that the Plan and the Trust meet the requirements of Sections 401(a) and 501(a) of the Internal Revenue Code of 1986 and the requirements of the Employee Retirement Income Security Act of 1974;

NOW, THEREFORE, the Company, joined by the Participating Employer, hereby agrees as follows:

ARTICLE II

DEFINITIONS, CONSTRUCTION, ADOPTION AND APPLICABILITY

2.01 Definitions

The following words and phrases, when used herein, unless their context clearly indicates otherwise, shall have the following respective meanings:

- (a) ADDITIONS: With respect to each year, the sum of the following amounts allocated on behalf of a Participant for a Year: (i) all Employer contributions; (ii) all Forfeitures; and (iii) all Employee contributions. Except to the extent provided in Treasury regulations, Additions include "excess contributions" (as defined in Code Section 401(k)(8)(B)) and "excess aggregate contributions" (as defined in Code Section 401(m)(6)(B)), irrespective of whether the Plan

distributes or forfeits such excess amounts. "Excess deferrals" (as defined in Code Section 402(g)) are not Additions unless distributed after the correction period described in Code Section 402(g). Additions also include excess amounts reapplied to reduce Employer contributions.

(b) ADMINISTRATIVE DELEGATE: An individual or institution to which the Committee may, from time to time, delegate certain administrative functions pursuant to a written agreement.

(c) AFFILIATE: Any corporation (other than an Employer) which is included within a controlled group of corporations (as defined in Code Section 414(b)) which includes an Employer; any trade or business (other than an Employer), whether or not incorporated, which is under common control (as defined in Code Section 414(c)) with an Employer; any organization (other than an Employer), whether or not incorporated, which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes an Employer; and any other entity required to be aggregated with an Employer pursuant to regulations under Code Section 414(o).

(d) AUTHORIZED LEAVE OF ABSENCE: Any absence (including military leave) authorized by an Employer under the Employer's standard personnel practices, uniformly applied and in accordance with applicable Federal law (other than ERISA); provided however that no absence shall be considered an Authorized Leave of Absence unless the Employee returns to employment immediately (in the case of military leave, within the 90-day period after his discharge or release or within the period prescribed by applicable law, whichever is longer) upon the expiration of such absence. An absence due to service in the Armed Forces of the United States shall be considered an Authorized Leave of Absence provided that the absence is caused by war or other emergency, or provided that the Employee is required to serve under the laws of conscription in time of peace.

(e) BENEFICIARY: A person or persons (natural or otherwise) designated by a Participant or Former Participant in accordance with the provisions of Section 6.05 to receive any death benefit which shall be payable under this Plan.

(f) CODE: The Internal Revenue Code of 1986, as amended from time to time.

(g) COMMITTEE: The persons appointed under the provisions of Article VIII to administer the Plan.

(h) COMMON STOCK: The common stock of Brinker International, Inc.

(i) COMPANY: BRINKER INTERNATIONAL, INC., a corporation organized and existing under the laws of the State of Delaware, or its successor or successors.

(j) COMPANY MATCHING CONTRIBUTION ACCOUNT: The account maintained for a Participant or Former Participant to record his share of the contributions of his Employer made pursuant to Section 4.01(b) hereof and adjustments relating thereto.

(k) COMPANY MATCHING CONTRIBUTION: Any contribution to the Plan made by an Employer for the Plan Year on behalf of a Participant pursuant to Section 4.01(b) hereof.

(l) COMPENSATION: The total of all wages and other amounts paid by the Company or any Affiliate (in the course of its business) to or for the

benefit of an Employee, for services rendered or labor performed which is required to be reported on the Employee's Form W-2, excluding, however, (i) amounts paid or reimbursed by the Company or Affiliate for moving expenses incurred by the Employee (but only to the extent that it is reasonable to believe, at the time of the payment that the moving expenses will be deductible under Code Section 217), and (ii) tips. Except as provided in the prior sentence, such amounts shall be determined without regard to any rules that limit the amount to be included in wages based on the nature or location of the services performed. Notwithstanding the foregoing, a Participant's Compensation shall include amounts which he could have received in cash in lieu of a contribution to a cafeteria plan under Code Section 125 or a Savings Contribution and shall exclude any income, whether or not reportable on Form W-2, which is attributable to any stock options issued by the Company. However, the annual Compensation of each Participant taken into account for determining all benefits provided under the Plan for any Plan Year shall not exceed \$150,000, as adjusted for increases in the cost-of-living adjustment in effect for a calendar year as applied to any determination period beginning in such calendar year.

Notwithstanding the foregoing, the Compensation of a Salaried Eligible Employee shall be modified as follows:

(1) for purposes of computing Savings Contributions made during the period beginning on January 1, 1999 and ending on July 31, 1999, Compensation shall exclude bonus payments;

(2) for purposes of computing Savings Contributions made on or after August 1, 1999, Compensation shall include bonus payments;

(3) for purposes of computing Company Matching Contributions made during the period beginning on January 1, 1999 and ending on July 31, 1999, Compensation shall exclude bonus payments;

(4) for purposes of computing Company Matching Contributions made on or after August 1, 1999, Compensation shall include bonus payments.

If a determination period consists of fewer than twelve (12) months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve (12).

(m) DISABILITY: The inability of a Participant to perform each of the material duties of his regular occupation because of injury or sickness that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The Company may accept, as evidence of Disability and the continuation of Disability, payment to the Participant of long-term disability benefits under a group insurance or welfare plan sponsored by the Company.

Upon written request by the Participant or upon the Committee's own initiative, the Committee shall determine whether a Participant has become unable to perform the duties of his position due to a physical or mental disability and shall so notify such Participant within sixty (60) days

thereafter. A Participant shall be considered disabled if such disability is so certified by the Committee and, unless waived by the Committee as unnecessary, supported by a written medical opinion that such Participant will be permanently incapable of performing his job for physical or mental reasons.

(n) EFFECTIVE DATE: Except where otherwise indicated herein, January 1, 1999, the date on which the provisions of this amended and restated Plan became effective.

(o) ELAPSED-TIME EMPLOYMENT: With respect to an Employee, the period beginning on his Employment Commencement Date (or Re-employment Commencement Date, as the case may be) and ending on the date of his Severance from Service. Such period shall be determined without regard to the actual number of Hours of Employment completed by the Employee during such period. Except to the extent otherwise permitted by the Committee in its sole discretion, Elapsed-Time Employment completed with an Affiliate or a Participating Employer prior to the date on which such Affiliate or Employer was included within a controlled group of corporations (as defined in Code Section 414(b)) which includes the Company shall not be recognized under this Plan.

(p) EMPLOYEE: Any individual on the payroll of an Employer whose wages from such Employer are subject to withholding for purposes of Federal income taxes and for purposes of the Federal Insurance Contributions Act. Notwithstanding the preceding, the term "Employee" shall not include any individual who is designated as an "independent contractor" by the Employer, even if the status of such individual subsequently is changed from that of an independent contractor to that of an employee as a result of administrative or legal proceedings.

(q) EMPLOYER or PARTICIPATING EMPLOYER: The Company, Brinker International Payroll Corporation or any other Affiliate of the Company that may have adopted this Plan in accordance with the provisions of Section 2.03 hereof.

(r) EMPLOYMENT COMMENCEMENT DATE: The first date on which an Employee completes an Hour of Employment.

(s) ERISA: Public Law No. 93-406, the Employee Retirement Income Security Act of 1974, as amended from time to time.

(t) EXTENDED ABSENCE EMPLOYEE: An Employee who is absent from his Employer's employment solely because of (i) the Employee's pregnancy, (ii) the birth of the Employee's child, (iii) the placement of a child with the Employee in connection with the adoption of the child by the Employee, or (iv) the care of a child by the Employee during the period immediately following such child's birth to, or placement with, the Employee.

(u) FIDUCIARIES: The Employers, the Committee, and the Trustee, but, except to the extent of an appointment made by the Committee pursuant to Section 8.05(g) hereof, only with respect to the specific responsibilities of each for Plan and Trust administration, all as described in Section 8.01. Each fiduciary under the Plan shall discharge his duties and responsibilities with respect to the Plan in accordance with the provisions of ERISA. For purposes of this Plan, the term "named fiduciary" means one or more fiduciaries named in this Plan who jointly and severally shall have authority to control or manage the operation and administration of the

Plan. The Company shall be the "named fiduciary" unless the Company designates in writing another person.

(v) **FORFEITURES:** The portion of a Participant's Company Matching Contribution Account that is forfeited because of a Severance from Service before full vesting.

(w) **FORMER PARTICIPANT:** A Participant whose Participation has terminated but who has a vested account balance under the Plan that has not been paid in full.

(x) **HIGHLY COMPENSATED EMPLOYEE:** A Participant or Former Participant who is a Highly Compensated Employee, as defined in Code Section 414(q). A Participant or Former Participant is considered a Highly Compensated Employee if:

- (1) during the Plan Year (the "Determination Year"), during the twelve month period immediately preceding the Determination Year or, if the Employer elects, during the calendar year ending with or within the Determination Year (the "Look Back Year"), the Participant or Former Participant was at any time a "five percent owner" as defined in Code Section 416(i)(1)(A)(iii); or
- (2) for the preceding Plan Year, the Participant or Former Participant had Compensation from the Employer in excess of \$80,000 (as automatically increased in accordance with Treasury Department regulations).

The Committee shall determine which Participants or Former Participants are Highly Compensated Employees in a manner consistent with Code Section 414(q) and the regulations promulgated thereunder. The Employer may make a calendar year election to determine the Highly Compensated Employees for the Look Back Year, as described above and as prescribed by the applicable Treasury Department regulations, provided that a calendar year election must apply to all employee pension benefit plans of the Employer.

A Former Participant who separated from Service, or is deemed to have separated from Service under the applicable Treasury Department regulations, prior to the Plan Year, who performs no Service for the Employer during the Plan Year and who was a Highly Compensated Employee either for the "separation year" or any Plan Year ending on or after such Former Participant attained age fifty-five (55) is considered a Highly Compensated Employee. For purposes of this paragraph (u), "separation year" means the Plan Year during which the Employee separates from Service with the Employer.

(y) **HOOR OF EMPLOYMENT:** Each hour (i) for which an Employee is on an Authorized Leave of Absence or is directly or indirectly paid or entitled to payment by his Employer for the performance of duties or for reasons other than the performance of duties, or (ii) for which back-pay (irrespective of mitigation of damages) has been either awarded or agreed to by the Employer. In the case of clause (i) above, each such Hour of Employment shall, in general, be credited for the computation period in which the duties were performed, or to which payments or entitlements to payments relate (in cases in which Hours of Employment are credited for periods in which duties are not performed.) In the case of clause (ii) above, each such Hour of Employment shall, in general, be credited for the computation period to which the agreement or award pertains. Notwithstanding any provision to the contrary

herein contained, no Employee shall be credited with an Hour of Employment under both clauses (i) and (ii) above. In determining the number of Hours of Employment to be credited to an Employee in the case of a payment which is made or due to an Employee under the provisions of clause (i) above, for a period during which services were not performed (including a payment made by application of clause (ii) for a period also covered by clause (i) during which services were not performed), and the computation period(s) to which Hours of Employment shall be credited, the Committee shall apply the rules set forth in United States Department of Labor Regulations 2530.200b-2(b) and (c), which rules are incorporated into and made a part of this Plan by reference. Nothing in this paragraph shall be construed as denying an Employee credit for an Hour of Employment that he is required to receive under any Federal law, the nature and extent of which credit shall be determined by such Federal law.

Hours of Employment shall be determined from records maintained by each Employer; provided, however, that an Employer may elect to determine Hours of Employment for any classification of Employees which is reasonable, nondiscriminatory and consistently applied, on the basis that Hours of Employment include forty-five (45) Hours of Employment for each week or portion thereof during which an Employee is credited with one (1) Hour of Employment. In determining the equivalent number of Hours of Employment to be credited to an Employee in the case of a payment made or due under paragraph (1) above, when the payment is not calculated on the basis of units of time, the Committee shall apply the rules set forth in United States Department of Labor Regulations 2530.200b-2(b)(2) and (3). If such a payment is calculated on the basis of units of time, which units are greater than the period of employment used in this equivalency formula, the Employee shall be credited with the number of Hours of Employment included in the periods of employment which, in the course of the Employee's regular work schedule, would be included in the unit or units of time on the basis of which the payment is calculated.

Except to the extent otherwise permitted by the Committee in its sole discretion, Hours of Employment completed with an Affiliate or a Participating Employer prior to the date on which such Affiliate or Employer was included within a controlled group of corporations (as defined in Code Section 414(b)) which includes the Company shall not be recognized under this Plan.

(z) HOURLY EMPLOYEE: Any Employee compensated on an hourly basis.

(aa) INCOME: The net gain or loss of the Trust Fund from investments, as reflected by interest payments, dividends, realized and unrealized gains and losses on securities, other investment transactions and expenses paid from the Trust Fund. In determining the Income of the Trust Fund for any period, assets shall be valued on the basis of their fair market value, as determined by the Trustee.

(bb) KEY EMPLOYEE: An Employee who, at any time during the Plan Year in which the determination date occurs or any of the four preceding Plan Years, is (i) an officer of the Employer having annual compensation greater than 50% of the amount in effect under Code Section 415(b)(1)(A) for any such Year, (ii) an owner of (or considered as owning within the meaning of Code Section 318) both more than a one-half percent interest as well as one of the ten largest interests in the

Employer and having annual compensation from the Employer of more than the limitation in effect under Code Section 415(c)(1)(A), (iii) a 5% owner of the Employer in accordance with Code Section 416(i)(A)(iii), or (iv) a 1% owner of the Employer having annual compensation in excess of \$150,000.

(cc) LEASED EMPLOYEE: A Leased Employee is any individual who is not an Employee of the Company or an Affiliate, but who provides services for the Company or an Affiliate, pursuant to an agreement, whether oral or written, between the Company or the Affiliate and any leasing organization, provided that such individual has performed such services for the Company, an Affiliate, or for related persons (within the meaning of Code Section 144(a)(3)) on a substantially full-time basis for a period of at least one (1) year and such services are performed subject to the primary direction and control of the Company or an Affiliate. A person will be considered to have performed services on a substantially full-time basis for a period of at least one (1) year if, during any consecutive twelve (12) month period: (i) such person has performed at least fifteen hundred (1,500) Hours of Employment for the Company, or (ii) such person has performed at least five hundred and one (501) Hours of Employment for the Company, and the number of Hours of Employment performed equals at least seventy-five percent (75%) of the median number of Hours of Service credited to individuals who had performed similar services for the recipient as Employees of the recipient during the same period. For this purpose, any service rendered by a Leased Employee prior to the effective date of Code Section 414(n) as well as any service as a common-law Employee of the Company shall be considered.

Notwithstanding any Plan provisions to the contrary, a Leased Employee shall not be eligible to become a Participant of the Plan.

Solely for purposes of Code Sections 401(a)(3), (4), (7), (16), (17), and (26) and Sections 408(k), 410, 411, 415, and 416, and not for purposes of participation in this Plan, any Leased Employee shall be treated as an Employee of the recipient Company; however, contributions or benefits provided by the leasing organization which are attributable to services performed for the Company shall be treated as provided by the Company.

If twenty (20) percent or less of the Company's "non-highly compensated work force" as defined at Code Section 414(n)(5)(C)(ii), are Leased Employees, then the preceding sentence shall not apply to any leased employees who participated in a money purchase pension plan maintained by the leasing organization providing terms not less favorable than: (i) a nonintegrated company contribution at the rate of ten (10) percent of compensation, (ii) immediate participation, and (iii) full and immediate vesting (the "safe harbor plan"); provided that such preceding sentence shall in no event apply to any Leased Employee whose compensation from the leasing organization is less than One Thousand Dollars (\$1,000) during the Plan Year and each of the three (3) prior Plan Years.

(dd) NON-HIGHLY COMPENSATED EMPLOYEE: An Employee who is not a Highly Compensated Employee.

(ee) PARTICIPANT: An Employee participating in the Plan in accordance with the provisions of Section 3.01.

(ff) PARTICIPATION: The period commencing on the date on which an Employee becomes a Participant

and ending on the date on which the Employee incurs a Break in Service (as defined in Section 3.02(d)).

(gg) PLAN: Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999, the Plan set forth herein, as amended from time to time.

(hh) PRIOR PLAN: The Brinker International, Inc. 401(k) Savings Plan and Trust, effective January 1, 1993, as in effect prior to the Effective Date.

(ii) QUALIFIED DOMESTIC RELATIONS ORDER OR QDRO: Any judgment, decree or order pursuant to a state domestic relations or community property law which relates to the provision of child support, alimony payments or marital property rights, which creates or recognizes the existence of an Alternate Payee's right to (or assigns to an Alternate Payee the right to) receive all or part of a Participant's benefit, and meets the requirements of the Company's written procedure for administering such an order as interpreted in accordance with Code Section 414(p) and, in particular:

(1) specifies--

(a) the name and last known mailing address of the Participant and each Alternate Payee;

(b) the amount or percentage of the Participant's benefit to be paid to each Alternate Payee, or the manner in which such amount or percentage is to be determined;

(c) the number of payments or period to which the order applies; and

(d) each plan to which the order applies; and

(2) does not require the Plan to--

(a) provide any type or form of benefit or option not otherwise provided under the Plan;

(b) provide increased benefits; or

(c) pay to an Alternate Payee amounts required to be paid to another Alternate Payee under a prior Qualified Domestic Relations Order.

For purposes of this Plan, an "Alternate Payee" is a spouse, former spouse child or other dependent of a Participant or Former Participant who is designated as an "Alternate Payee" under the terms of a Qualified Domestic Relations Order, as described in Code Section 414(q).

(jj) RE-EMPLOYMENT COMMENCEMENT DATE: The first date on which an Employee completes an Hour of Employment upon his return to the employment of the Employers after a Break in Service.

(kk) ROLLOVER CONTRIBUTION ACCOUNT: The account maintained for a Participant or Former Participant to record "qualifying rollover distributions" contributed to the Plan pursuant to Section 4.04 hereof and adjustments relating thereto.

(mm) SALARIED ELIGIBLE EMPLOYEE: Any Non-Highly Compensated Employee who is compensated on a salaried basis. To the extent that a salaried Employee is or becomes a Highly Compensated Employee on or after January 1, 1999 and

subsequently becomes a Non-Highly Compensated Employee, such Employee shall not become a Salaried Eligible Employee at the time that he becomes a Non-Highly Compensated Employee.

(nn) SAVINGS CONTRIBUTION: Any contribution to the Plan made by an Employer for the Plan Year on behalf of a Participant pursuant to Section 4.01(a) hereof.

(oo) SAVINGS CONTRIBUTION ACCOUNT: The account maintained for a Participant or Former Participant to record contributions made on his behalf by his Employer pursuant to Section 4.01(a) hereof and adjustments relating thereto.

(pp) SERVICE: A Participant's period of employment with the Employers determined in accordance with Section 3.02.

(qq) SEVERANCE FROM SERVICE: With respect to an Employee, the later of (1) or (2), where--

(1) is the earlier of (i) the date on which he quits, or is discharged from, the employment of the Employers, or the date of his retirement or death, or (ii) the first anniversary of the first date of a period in which he remains absent from the employment of the Employers, with or without pay, for any reason other than one specified in (i), above, such as vacation, holiday, sickness, Authorized Leave of Absence or layoff; and

(2) is, in the case of an Extended Absence Employee, the second anniversary of such Employee's absence.

(rr) TRUST AGREEMENT: The Brinker International, Inc. 401(k) Savings Plan and Trust Agreement, a separate agreement entered into between the Company and the Trustee which establishes a trust to hold contributions made under the Plan and from which the benefits under the Plan will be distributed.

(ss) TRUST OR TRUST FUND: The legal entity established under the Trust Agreement to hold the funds and properties for the use and benefit of the Participants and their beneficiaries, together with all income, profits and increments thereto.

(tt) TRUSTEE: American Express Trust Company, or any other individual or corporation named and duly appointed to act as an additional or successor Trustee under the Trust Agreement at any time.

(uu) VALUATION DATE: Any business day on which the New York Stock Exchange is open.

(vv) YEAR or PLAN YEAR: The 12-month period ending on December 31 of each year.

(uu) YEAR OF ELIGIBILITY SERVICE. An Employee shall have one (1) Year of Eligibility Service on the anniversary of his Employment Commencement Date if he has not had a Severance from Service before such anniversary. If an Employee has experienced a Severance from Service before the first anniversary of his Employment Commencement Date, he shall have one (1) Year of Eligibility Service on the date his aggregate periods of service equal twelve (12) months.

2.02 Construction

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to

the entire Plan and not to any particular provision or Section.

2.03 Adoption by Others

Any Affiliate of the Company may adopt this Plan and thereby become an Employer; provided, however, that the Board of Directors of the Company approves such adoption; provided, further, that the administrative powers and control of the Company as provided herein shall not be deemed diminished under the Plan by reason of the adoption of the Plan by any other Employer, and such administrative powers and control granted in Section 8.01 hereof with respect to the appointment of the Committee and other matters shall apply only with respect to the Company and not to any other Employer.

2.04 Applicability

The provisions of this Plan shall apply only to an Employee who terminates employment on or after the Effective Date. In the case of an Employee who terminates employment prior to the Effective Date, and except as otherwise provided in Sections 3.01 and 9.06 hereof, the rights and benefits, if any, of such former Employee shall be determined in accordance with the provisions of the Prior Plan, as in effect on the date on which his employment terminated.

ARTICLE III

PARTICIPATION AND SERVICE

3.01 Participation

Subject to the provisions of Section 3.03, an Employee, other than an Employee who is a member of a collective bargaining unit, the recognized representative of which has not agreed to Participation in the Plan by its members or a Leased Employee, shall become a Participant in this Plan as follows:

(a) Any Employee included under the provisions of the Prior Plan as of January 1, 1999 shall continue to participate in accordance with the provisions of this Plan.

(b) A Salaried Eligible Employee shall become eligible to participate in the Plan on the first day of the calendar month which coincides with or next follows his attainment of age 21 and his completion of one (1) Year of Eligibility Service with the Employer.

(c) An Hourly Employee shall become eligible to participate in the Plan on the first day of the calendar month which coincides with or next follows his attainment of age 21 and his completion of one (1) Year of Eligibility Service with the Employer.

An active Participant who incurs a Severance from Service and who is subsequently re-employed by an Employer shall immediately reenter the Plan as an active Participant on his Re-employment Commencement Date, with such Participant's prior salary reduction agreement to continue to apply until amended, terminated or suspended in accordance with the provisions of Section 4.02 hereof, unless his prior period of Service is disregarded under the rule of parity described in Section 3.02(d) hereof.

In the event that a Participant shall become a member of a collective bargaining unit, or otherwise cease to qualify as a Salaried Eligible Employee or an Hourly Employee, his Participation shall thereupon cease but he shall continue to accrue Service hereunder during the period of his continued employment with the Employer. For purposes of this Section 3.01, an Employee shall be credited with Service for periods of employment with an Affiliate (determined as if such

Affiliate were an Employer), but shall not commence Participation hereunder prior to the date on which he commences employment with an Employer. The term "active Participant" shall mean any Eligible Employee currently participating in the Plan who has not incurred a Severance from Service.

3.02 Service

The amount of benefit payable to or on behalf of a Participant or Former Participant shall be determined on the basis of his period of Service, in accordance with the following:

(a) In General--Subject to the Break in Service provisions of paragraph (d) of this Section, an Employee's Service shall equal the total of his Elapsed-Time Employment. Service shall be counted in years and completed days.

(b) Transfers from Affiliates--In the event that an Employee who at any time was employed by an Affiliate either commences employment with a Participating Employer, or returns to the employment of a Participating Employer, then, except as otherwise provided below, such Employee shall receive Service with respect to the period of his employment with such Affiliate (to the extent not credited under paragraph (c) of this Section). In applying the provisions of the preceding sentence--

(1) except to the extent otherwise permitted by the Committee in its sole discretion, such Employee shall not receive Service with respect to any period of employment with such Affiliate completed prior to the date on which such Affiliate became an Affiliate;

(2) the amount of such Service shall be determined in accordance with paragraph (a) of this Section 3.02, as if such Affiliate were a Participating Employer; and

(3) if such Employee incurs a Break in Service (as defined in paragraph (d) of this Section and determined as if such Affiliate were a Participating Employer) prior to his commencement of employment with the Participating Employer or return to the employment of the Participating Employer, then the amount of such Employee's Service attributable to the period of his employment with such Affiliate shall be determined in accordance with paragraph (d) of this Section.

(c) Transfers to Affiliate--In the event that a Participant who at any time was employed by a Participating Employer either commences employment with an Affiliate, or returns to the employment of an Affiliate, then, except as otherwise provided below, such Participant shall receive Service with respect to the period of his employment with such Affiliate (to the extent not credited under paragraph (b) of this Section). In applying the provisions of the preceding sentence--

(1) the amount of such Service shall be determined in accordance with paragraph (a) of this Section, as if such Affiliate were a Participating Employer; and

(2) if such Participant incurs a Break in Service (as defined in paragraph (d) of this Section and determined as if such Affiliate were a Participating Employer) prior to his commencement of employment with the Affiliate or return to the employment of the Affiliate, then the amount of such

Participant's Service attributable to his prior period of employment with the Participating Employer shall be determined in accordance with paragraph (d) of this Section.

Except as otherwise provided in Sections 4.02, 6.07 and 12.03 hereof, such Participant shall receive no benefits under this Plan prior to the date on which he incurs a Severance from Service, determined as if all Affiliates were Participating Employers.

(d) Break in Service--An Employee who incurs a Severance from Service and who fails to complete at least one (1) Hour of Employment during the twelve (12)-month period beginning on the date of such Severance from Service shall have a Break in Service. If, during the twelve (12)-month period beginning on the date of an Employee's Severance from Service, the Employee shall return to the employment of a Participating Employer by completing at least one (1) Hour of Employment within such twelve (12)-month period, then such Employee will not have a Break in Service and shall receive Service for the period beginning on the date of his Severance from Service and ending on the date of his re-employment; provided, however, that in the case of an Employee who is absent from the employment of the Participating Employers for a reason specified in Section 2.01(qq)(1)(ii) hereof and who, prior to the first anniversary of the first date of such absence incurs a Severance from Service for a reason specified in section 2.01(qq)(1)(i) hereof, such Employee shall receive Service only if he completes at least one (1) Hour of Employment within the twelve (12)-month period beginning on the first date of such absence and shall receive such Service only for the period beginning on the first day of such absence and ending on the date of his re-employment.

Upon incurring a Break in Service, an Employee's rights and benefits under the Plan shall be determined in accordance with his Service at the time of the Break in Service. Notwithstanding the foregoing, an Employee who has never been a Participant will not receive credit for service performed before any one-year Break-in-Service if his consecutive one-year Breaks-in-Service upon reemployment exceed the greater of (i) his aggregate service before the commencement of such consecutive one-year Breaks-in-Service, or (ii) five (5) years. Service that has once been disregarded under this rule shall not be required to be counted in determining whether any future periods of service may be disregarded after any future period of consecutive one-year Breaks-in-Service.

(e) Special Rule for Extended Absence Employees-- Notwithstanding the preceding provisions of this Section 3.02, in the case of an Extended Absence Employee, the period between the first and second anniversaries of such Employee's absence shall, under no circumstances, be treated as a period of Service.

3.03 Election to Participate

In order to participate hereunder, an Employee otherwise eligible to participate pursuant to Section 3.01 must, after having received a written explanation of the terms of, and the benefits provided under, the Plan, elect to participate in such Plan in accordance with such procedures as the Committee or Trustee may prescribe. Unless otherwise specified by the Committee, any Eligible Employee entitled to become a Participant may do so by effecting a telephonic instruction through a designated telephone access

system, prior to the date he is first eligible to become a Participant.

3.04 Transfer

An Employee who is transferred between Participating Employers shall be as eligible for Participation and benefits as in the absence of such transfer.

3.05 Special Rules for Former Employees of Maggiano's

Notwithstanding any provision to the contrary herein contained, for purposes of determining the "vested percentage" under Section 6.03 of an Employee who was employed by the Company or an Affiliate as a result of the acquisition by the Company of Maggiano's Old Orchard, Inc. ("Maggiano's"), all determinations of the Employee's vested interest under the Plan shall include any period of service with Maggiano's.

ARTICLE IV

CONTRIBUTIONS AND FORFEITURES

4.01 Employer Contributions

Employers shall make contributions to the Trust Fund in accordance with the following:

(a) Savings Contribution--For each Year, each Employer shall contribute on behalf of each of its Employees participating in the Plan an amount of contribution agreed to be made by such Employer pursuant to a salary reduction agreement under Section 4.02 entered into between the Employer and the Participant for such Year. Contributions made by the Employer for a given Year pursuant to this paragraph (a) shall be deposited in the Trust Fund as soon as administratively feasible, but in no event later than fifteen (15) business days after the end of the month during which such amounts would otherwise have been payable to the Participant, in accordance with Department of Labor Regulations 2510.3-102.

(b) Additional Matching Contribution--

(1) In General. For each payroll period, each Employer shall make an additional contribution on behalf of each Participant who is a Salaried Eligible Employee for whom a contribution was made pursuant to paragraph (a) of this Section 4.01. Such contributions shall equal an amount which will be sufficient to credit each such Participant's Company Matching Contribution Account with an amount of Common Stock which, at fair market value as of the date of contribution, when added to the Forfeitures, if any, then available for allocation to the Participants' Company Matching Contribution Accounts, shall be equal to twenty-five percent (25%) of that portion of the Participant's Savings Contributions for such payroll period which does not exceed five percent (5%) of his Compensation for such payroll period. An Employer may satisfy such contribution obligation by contributing treasury shares or shares of Common Stock acquired on the open market. Company Matching Contributions of the Employers shall be paid to the Trustee and payment generally shall be made following each payroll period; provided, however, that payments shall be made not later than the time prescribed by law for filing the consolidated Federal income tax return of the Employers, including any extensions which have been granted for the filing of such tax return.

For any Year, the Employers may decline to

make any portion of the contribution specified in this paragraph (b) if the Employers determine that such action is necessary to ensure that the discrimination requirements of Code Section 401(a)(4), as amended, or the discrimination tests of Code Section 401(m), as amended, are satisfied; or, alternatively, in the case of a violation of the discrimination tests of Code Section 401(m), the Employers may direct the Trustee to distribute by the last day of the following Year "excess aggregate contributions" (as defined in Code Section 401(m)(6)(B)) to the Participants by or on whose behalf such contributions were made.

- (2) Discrimination Tests. With respect to Company Matching Contributions, the discrimination tests of Code Section 401(m) are satisfied in the following manner:
- (a) the Average Contribution Percentage for Eligible Participants who are Highly Compensated Employees for the Year shall not exceed the Average Contribution Percentage for Eligible Participants who are Non-Highly Compensated Employees for the prior Year multiplied by 1.25; or
 - (b) the Average Contribution Percentage for Eligible Participants who are Highly Compensated Employees for the Year shall not exceed the Average Contribution Percentage for Eligible Participants who are Non-Highly Compensated Employees for the prior Year multiplied by two (2), provided that the Average Contribution Percentage for Eligible Participants who are Highly Compensated Employees does not exceed the Average Contribution Percentage for Eligible Participants who are Non-Highly Compensated Employees for the prior Year by more than two (2) percentage points.

In any year in which the Average Contribution Percentage for Highly Compensated Employees who are Eligible Participants does not satisfy the limitation set forth above, the Committee shall reduce allocations of Company Matching Contributions to such individuals in the manner provided in this paragraph. First, the Committee shall calculate the amount of "excess deferrals" and "excess contributions," if any, under Section 4.03(d) and shall make any required distributions thereunder. Second, if the Committee then determines that the Plan continues to fail the Average Contribution Percentage Test for the Year, it shall reduce "excess aggregate contributions," as adjusted for allocable income, during the next Plan Year. For purposes of this paragraph, "excess aggregate contributions" are the amount of aggregate Company Matching Contributions allocated on behalf of the Highly Compensated Employees which causes the Plan to fail the Average Contribution Percentage Test. The Committee shall reduce the "excess aggregate contributions" to the Highly Compensated Employees in accordance with the following steps:

(A) The Committee shall calculate total "excess aggregate contributions" for the Highly Compensated Employees.

(B) The Committee shall calculate the total dollar amount by which the "excess aggregate contributions" for the Highly Compensated Employees must be reduced in

order to satisfy the Average Contribution Percentage Test.

(C) The Committee shall calculate the total dollar amount of Company Matching Contributions for each Highly Compensated Employee.

(D) The Committee shall reduce the Company Matching Contributions of the Highly Compensated Employee(s) with the highest dollar amount of Company Matching Contributions by reducing such contributions in such Highly Compensated Employee(s) Account in an amount necessary to cause the dollar amount of such Highly Compensated Employee(s)' Company Matching Contributions to equal the sum of the Company Matching Contributions of the Highly Compensated Employee(s) with the next highest dollar amount of such contributions.

(E) If the total dollar amount reduced pursuant to Step (D) above is less than the total dollar amount of "excess aggregate contributions," Step (D) shall be applied to the Highly Compensated Employee(s) with the next highest dollar amount of Company Matching Contributions until the total amount of reduced Company Matching Contributions equals the total dollar amount of "excess aggregate contributions" calculated in Step (B).

(F) When calculating the amount of reduction under Step (D), if a lesser reduction, when added to any amounts already reduced under this paragraph, would equal the total amount of reductions necessary to permit the Plan to satisfy the Average Contributions Percentage Test under this Section 4.01(b)(2), the lesser amount shall be reduced instead.

(G) Any Company Matching Contributions amount reduced from a Highly Compensated Employee's Account pursuant to Step (D) above, which shall be treated as an "excess aggregate contribution" (as defined in Code Section 401(m)(6)(B) and the regulations thereunder), together with the income allocable thereto, shall be distributed (or, if not vested, forfeited) to the Participant within two and one-half (2-1/2) months of the beginning of the subsequent Plan Year.

For purposes of this subparagraph (2), an Eligible Participant's "Contribution Percentage" shall mean the ratio (expressed as a percentage), of the sum of the Company Matching Contributions under the Plan on behalf of the Eligible Participant for the Year to such Eligible Participant's Compensation for the Year. The Contribution Percentage of an Eligible Participant who has no Company Matching Contributions allocated to his Company Matching Contribution Account for the Year shall equal zero (0). "Eligible Participant" shall mean any Employee who is authorized under the terms of the Plan to have Company Matching Contributions allocated to his Company Matching Contribution Account for the Year, and shall include any Employee who is eligible to make Savings Contributions under the terms of the Plan but elects not to make such contributions for the Year, who is eligible to participate under the terms of

the Plan but elects not to participate pursuant to the provisions of Section 3.03 hereof, or who is not eligible to have Company Matching Contributions allocated to his Company Matching Contribution Account due to the limitation on Additions set forth in Section 5.03 hereof. The "Average Contribution Percentage" is the average (expressed as a percentage) of the Contribution Percentages of all Eligible Participants.

In the event that this Plan satisfies the requirements of Code Section 401(a)(4) and 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of Code Section 401(a)(4) and 410(b) only if aggregated with this Plan, then this subparagraph (2) shall be applied by determining the Contribution Percentage of Eligible Participants as if all such plans were a single plan. If a Highly Compensated Employee participates in two (2) or more plans of the Employers to which matching contributions are made then all such contributions shall be aggregated for purposes of this subparagraph (2).

The income allocable to an "excess aggregate contribution" (as defined in Code Section 401(m)(6)(B) and regulations thereunder) shall be determined by multiplying the income allocable to a Participant's Company Matching Contribution Account for the Plan Year by a fraction, the numerator of which is the "excess aggregate contributions" (as defined in Code Section 401(m)(6)(B) and regulations promulgated thereunder) for the Participant, as determined above, and the denominator of which is the balance of the Participant's Company Matching Contribution Account on the last day of the Plan Year, reduced by the income allocable to such account for the Plan Year and increased by the loss allocable to such account for the Plan Year.

The Committee may, in its sole discretion, elect to take contributions to a Participant's Savings Contribution Account into account in computing the Average Contribution Percentage, in the manner and to the extent provided by Treasury Department regulations promulgated under Code Section 401(m). However, in such a case, the Actual Deferral Percentage tests under Section 4.02(f) must still be computed and met separately, and in connection therewith, no aggregation with Company Matching Contributions shall be permitted. Alternatively, the Employer may, in its sole discretion, elect to make qualified nonelective contributions, subject to the vesting and distribution requirements under Sections 6.03 and 6.04 hereof, and in the manner and to the extent provided by Treasury Department regulations under Code Section 401(m), that would, in combination with Company Matching Contributions under the Plan, satisfy the limitation set forth above. In any event, said correction of the discrimination tests described herein shall be made within twelve (12) months of the end of the Year.

In order to prevent the multiple use of the alternative limitations described in clause (ii) of the first paragraph of this subparagraph (2) and in Section 4.02(f)(ii) hereof, the limitation on the multiple use of

alternative limitations described in Treasury Department regulations under Code Section 401(m) is specifically incorporated herein by reference and shall apply to reduce the Savings Contributions of, or Company Matching Contributions for, those Eligible Participants who are Highly Compensated Employees, so that there is no multiple use of said alternative limitations. Any "excess contribution" (as defined in Code Section 401(k)(8)(B) and regulations thereunder) resulting from a reduction in Savings Contributions shall be distributed in accordance with Section 4.02(e), and any "excess aggregate contribution" (as defined in Code Section 401(m)(6)(B) and regulations thereunder) resulting from a reduction in Company Matching Contributions shall be distributed in accordance with this Section. In lieu of said reduction, the Employer may make such additional contributions as described in this Section and Section 4.02(e) hereof, in the manner and to the extent provided under the Treasury Department regulations under Code Sections 401(k) and 401(m), so as to comply with the limitation on the multiple use of alternative limitations.

(c) Limitations--All contributions of an Employer shall be made from consolidated current earnings, as computed in accordance with accepted accounting practices, before deduction of Federal income taxes and reserves for contingencies, if any, other than reasonable reserves of a type or character allowed or allowable as deductions for Federal income tax purposes, and before deduction of any contributions hereunder. In no event, however, shall the Employer contributions for any Year exceed the amount deductible for such Year for income tax purposes (on a consolidated return basis) as a contribution to the Trust under the applicable provisions of the Code. Further, no Company Matching Contributions shall be made for a Year unless the Company's earnings per share for such Year are sufficient to cover dividends to stockholders; provided, however, that in no event will a Company Matching Contribution be made if the Company's net profits for such Year are less than Thirty-Three and One-Third Cents (\$.33-1/3) per share.

4.02 Participant Salary Reduction

Upon commencement of Participation hereunder and in accordance with such procedures as the Committee or Trustee shall prescribe, a Participant shall, as provided in Section 3.03, enter into a salary reduction agreement with his Employer. The terms of such salary reduction agreement shall provide that the Participant agrees to accept a reduction in salary from the Employer equal to (i) any whole percentage of his Compensation per payroll period, with such percentage to be not less than one percent (1%) and not more than twenty percent (20%) of such Compensation, and (ii) for a Salaried Eligible Employee, any whole percentage of his Compensation received in the form of a bonus payment.

In the event that the total reduction on behalf of any Participant for any of his or her taxable years exceeds \$7,000 (or such greater amount as permitted under Treasury Department regulations to reflect cost-of-living adjustments), such "excess deferrals" (as defined in Code Section 402(g)(2) and regulations promulgated thereunder), together with income allocable thereto, shall be distributed to the Participant on whose behalf such reduction was made not later than April 15 following the close of the Participant's taxable year in which the reduction was made, in the manner and to the extent provided under regulations

promulgated by the Secretary of Treasury; provided that such excess deferrals shall first be reduced by any "excess contributions" previously distributed for the Plan Year beginning in that taxable year pursuant to Section 4.02(e) hereof.

The income allocable to an "excess deferral" (as defined in Code Section 402(g)(2) and regulations promulgated thereunder) shall be determined by multiplying the income allocable to a Participant's Savings Contribution Account for the Plan Year by a fraction, the numerator of which is the "excess deferrals" (as defined in Code Section 402(g)(2) and regulations promulgated thereunder) of the Participant, as determined above, and the denominator of which is the balance of the Participant's Savings Contribution Account on the last day of the Plan Year, reduced by the income allocable to such account for the Plan Year and increased by the loss allocable to such account for the Plan Year.

Amounts credited to a Participant's Savings Contribution Account pursuant to Section 4.01(a) and this Section shall be one hundred percent (100%) vested and non-forfeitable at all times.

Further, salary reduction agreements shall be governed by the following:

(a) A Participant may elect to defer a portion of his Compensation or to change his deferral percentage within the percentage limits set forth in Section 4.02(a), effective as of the first pay period commencing on or after the date that such election is submitted to the Committee by effecting an instruction through a designated telephone access system.

(b) Any Eligible Employee who does not become a Participant upon the date on which he first becomes entitled under Section 3.01 may become a Participant commencing with the first pay period beginning on or after the date that he submits an election to the Committee by making an appropriate telephonic instruction.

(c) A Participant's election shall remain in force and effect for all periods following the date it is made until (i) such election is modified or terminated, or (ii) such Participant terminates his employment.

(d) A Participant may cancel his election effective as of the first pay period commencing on or after the date that such cancellation is submitted to the Committee by effecting a telephonic instruction through a designated telephone access system. A Participant who so cancels his election may resume active participation in the Plan, effective as of the first day of the first pay period commencing on or after the date that such election is submitted to the Committee by effecting an instruction through a designated telephone access system.

(e) An Employer may amend or revoke its salary reduction agreement with any Participant at any time if the Employer determines that such revocation or amendment is necessary (i) to ensure that a Participant's Additions for any Year will not exceed the limitation of Section 5.03 hereof, (ii) to ensure that Employer contributions made pursuant to Section 4.01 hereof are fully deductible by the Employer for Federal income tax purposes, (iii) to ensure that a Participant's Savings Contributions do not exceed the limitation of Section 4.02 hereof relating to "excess deferrals" (as defined in Code Section 402(g)(2) and regulations promulgated thereunder), or (iv) to ensure that the discrimination tests of Code Section 401(k) are met for such Year.

In any case in which such discrimination tests are not met for a Year, the Employer may, in the alternative, (i) direct the Trustee to distribute "excess contributions" (as defined in Code Section 401(k)(8)(B) and regulations promulgated thereunder), together with the income allocable thereto, but first reduced by any "excess deferrals" (as defined in Code Section 402(g)(2) and regulations promulgated thereunder) previously distributed pursuant to Section 4.02 hereof for the taxable year ending within the Plan Year, to the Participant on whose behalf such contributions were made within two and one-half (2-1/2) months of the beginning of the subsequent Year, or (ii) make such additional contributions, subject to the vesting and distribution requirements of Sections 6.03 and 6.04 hereof, and in the manner and to the extent provided by regulations under Code Section 401(k) promulgated by the Secretary of Treasury, to the Savings Contribution Accounts of Participants who are Non-Highly Compensated Employees as to cause such tests to be satisfied. The Plan shall forfeit Company Matching Contributions attributable to "excess contributions" (as defined in Code Section 401(k)(8)(B)) distributed under the foregoing clause (i) and such amounts treated as Forfeitures shall be applied as Forfeitures in accordance with Section 4.03 of the Plan. In any event, said correction of the discrimination tests described herein shall be made within twelve (12) months of the end of the Year. In addition, an Employer may amend or revoke its salary reduction agreement with any Participant at any time if the Employer determines that such revocation or amendment is necessary to ensure that the discrimination tests of Code Section 401(m) are met for such Year.

The income allocable to an "excess contribution" (as defined in Code Section 401(k)(8)(B) and regulations promulgated thereunder) shall be determined by multiplying the income allocable to a Participant's Savings Contribution Account for the Plan Year by a fraction, the numerator of which is the "excess contributions" (as defined in Code Section 401(k)(8)(B) and regulations promulgated thereunder) of the Participant, as determined under Section 4.02(f), and the denominator of which is the balance of the Participant's Savings Contribution Account on the last day of the Plan Year, reduced by the income allocable to such account for the Plan Year and increased by the loss allocable to such account for the Plan Year.

(f) The discrimination tests of Code Section 401(k) are satisfied in the following manner:

(1) The Actual Deferral Percentage for Eligible Participants who are Highly Compensated Employees for the Year shall bear a relationship to the Actual Deferral Percentage for Eligible Participants who are Non-Highly Compensated Employees for the prior Year whereby (i) the Actual Deferral Percentage for the group of Eligible Participants who are Highly Compensated Employees for the Year is not more than the Actual Deferral Percentage for Eligible Participants who are Non-Highly Compensated Employees for the prior Year multiplied by 1.25; or (ii) the excess of the Actual Deferral Percentage for the group of Eligible Participants who are Highly Compensated Employees for the Year over that of all Eligible Participants who are Non-Highly Compensated Employees for the prior Year shall not be more than two (2) percentage points, and

(2) the Actual Deferral Percentage for the group of Eligible Participants who are Highly Compensated Employees for the prior Year is not more than the Actual Deferral Percentage of all Eligible Participants who are Non-Highly Compensated Employees for the prior Year multiplied by two (2).

If the allocations of the Participant Savings Contributions do not satisfy the tests set forth above, the Committee shall adjust the accounts of the Highly Compensated Employees as provided in this paragraph. The Committee shall distribute excess contributions, as adjusted for allocable income, during the next Plan Year. However, the Employer will incur an excise tax equal to 10% of the amount of excess contributions for a Year if such contributions are not distributed to the appropriate Highly Compensated Employees during the first 2-1/2 months of the next Plan Year. For purposes of this paragraph, "excess contributions" are the amount of aggregate Savings Contributions that cause the Plan to fail the Actual Deferral Percentage Test. The Committee shall make distributions to each Highly Compensated Employee of his or her respective share of excess contributions pursuant to the following steps:

(A) The Committee shall calculate total excess contributions for the Highly Compensated Employees.

(B) The Committee shall calculate the total dollar amount by which the excess contributions for the Highly Compensated Employees must be reduced in order to satisfy the Actual Deferral Percentage Test.

(C) The Committee shall calculate the total dollar amount of the Savings Contributions for each Highly Compensated Employee.

(D) The Committee shall reduce the Savings Contributions of the Highly Compensated Employee(s) with the highest dollar amount of Savings Contributions by refunding such contributions to such Highly Compensated Employee(s) in an amount sufficient to cause the dollar amount of such Highly Compensated Employee(s)' Savings Contributions to equal the dollar amount of the Savings Contributions of the Highly Compensated Employee(s) with the next highest dollar amount of Savings Contributions.

(E) If the total dollar amount distributed pursuant to Step (D) above is less than the total dollar amount of excess contributions, Step (D) shall be applied to the Highly Compensated Employee(s) with the next highest dollar amount of Savings Contributions until the total amount of distributed Savings Contributions equals the total dollar amount of excess contributions calculated in Step (B).

(F) When calculating the amount of a distribution under Step (D), if a lesser reduction, when added to any amounts already distributed under this paragraph, would equal the total amount of distributions necessary to permit the Plan to satisfy the Actual Deferral Percentage Test under this paragraph (f), the lesser amount shall be distributed from the Plan.

For purposes of this paragraph (f), the "Actual Deferral Percentage" for a specified group of Eligible Participants for a Year shall be the average of the ratios (expressed as a percentage

and calculated separately for each Eligible Participant in such group) of (i) the amount of each such Eligible Participant's Savings Contributions actually paid over to the Trust on behalf of the Participant for such Year, to (ii) such Participant's Compensation for the Year. Savings Contributions shall be taken into account for the Year if such contributions (i) relate to Compensation that would have been received during the Year (but for the deferral election) or relate to Compensation attributable to services performed during the Year that would have been received within 2-1/2 months after the close of the Year (but for the deferral election), and (ii) are allocated to the Participant's account as of a date within the Year in accordance with Treasury Department regulations under Code Section 401(k). The Actual Deferral Percentage of an Eligible Participant for whom no Savings Contributions are paid to the Trust on his behalf for the Year shall equal zero (0). "Eligible Participant" shall mean any Employee who is authorized under the terms of the Plan to have contributions allocated to his Savings Contribution Account for all or a portion of the Year, and shall include any Employee who is eligible to make Savings Contributions under the terms of the Plan but elects not to make such contributions for the Year, who is eligible to participate under the terms of the Plan but elects not to participate pursuant to the provisions of Section 3.03 hereof, whose right to make Savings Contributions has been suspended under Section 4.02(h)(1) hereof, or who is not eligible to have Savings Contributions allocated to his Savings Contribution Account due to the limitations on Additions set forth in Section 5.03 hereof.

In the event that this Plan satisfies the requirements of Code Section 401(a)(4) or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of Code Section 401(a)(4) or 410(b) only if aggregated with this Plan, then this paragraph (f) shall be applied by determining the Contribution Percentage of Eligible Participants as if all such plans were a single plan. If a Highly Compensated Employee participates in two (2) or more plans of the Employers to which Savings Contributions are made then all such contributions shall be aggregated for purposes of this paragraph (f).

(g) An Employer may revoke its salary reduction agreements with all Participants or amend its salary reduction agreements with all Participants on a uniform basis, if it determines that it will not have sufficient current profits to make the contributions to the Plan required by the salary reduction agreements.

(h) Except as provided above, a salary reduction agreement applicable to any given Year, once made, may not be revoked or amended by the Participant or the Employer.

(i) No amounts may be withdrawn by a Participant from his Savings Contribution Account prior to termination of employment with the Employers except to the extent of an election made in accordance with Section 6.07.

4.03 Disposition of Forfeitures

If, upon a Severance from Service, a Participant is not entitled to a distribution of the entire balance in his Company Matching Contribution Account, then as of the date on which such Severance from Service occurs, his Account shall be divided into two portions, one representing the nonforfeitable portion, and the other representing the Forfeiture portion, of such Account. His Company Matching Contribution Account shall

continue to receive Income allocations pursuant to Section 5.02(a) until the nonforfeitable portion of such Account is distributed. The Participant shall receive a distribution of the nonforfeitable portion of such Account pursuant to Section 6.04. Notwithstanding the foregoing, prior to a Participant's sixty-fifth (65th) birthday, written consent of the Participant is required before commencement of the distribution of any portion of his Account if the present value of the nonforfeitable total interest in his Account is greater than \$5,000.

As of the date on which such payment occurs, the Forfeiture portion of such Account shall be transferred to a special interest-bearing "forfeiture management account". As of the end of the calendar month in which such transfer occurs, and except as otherwise provided below, such forfeiture management account shall be applied to reduce the Company Matching Contributions to the Plan under Section 4.01(b) hereof; provided that, to the extent that the amount in the forfeiture management account available to reduce Company Matching Contributions for the Year exceeds such Company Matching Contributions and all restoration amounts described below, such excess shall be applied in payment of Trustee fees and other administrative expenses of the Plan and Trust.

If the Participant returns to the employ of an Employer before incurring five (5) consecutive one (1)-year Breaks in Service, he shall have the right to repay to the Trust Fund the amount of a prior lump sum payment within the five (5)-year period beginning on his Re-employment Commencement Date. If such repayment is made, then, as of the end of the Year of repayment, the amount of his prior Forfeiture shall be restored and, together with the amount repaid, shall become the beginning balance in his new Company Matching Contribution Account. Such restoration shall be made first from the forfeiture management account. To the extent that such forfeiture management account is insufficient for this purpose, restoration shall be effected by the making of a special Employer contribution for such Year of repayment.

Notwithstanding the preceding provisions of this Section 4.03, a Participant who, upon a Severance from Service, is entitled to no portion of his Company Matching Contribution Account, shall be deemed to have received a distribution of zero from such Account at the earliest date on which a distribution could be made under Section 6.04 hereof.

4.04 Rollover Contributions; Transfers

With the approval of the Committee, any Employee who was a participant in another plan of deferred compensation which is qualified under Code Section 401(a) may contribute to this Plan a portion or all of the amount of any "eligible rollover distribution" received by him from such other plan. Any amounts so contributed, together with related earnings or losses, shall be held in a separate Rollover Contribution Account established for such Participant. Such Rollover Contribution Account shall be one hundred percent (100%) vested in the Participant, shall share in Income allocations in accordance with Section 5.02(a), but shall not share in Employer contribution or Forfeiture allocations. The total amount in such Rollover Contribution Account shall be distributed in accordance with Article VI. The term "eligible rollover distribution" is herein defined as any amount which, pursuant to Code Section 402(c)(4), may be transferred to this Plan and thereby not be includible in the gross income of the recipient for the taxable year in which paid.

The Trustee, upon approval of the Committee, may accept a transfer from the trustee of another qualified plan or trust of all or any of the assets held by such plan or trust for some or all participants therein;

provided, however, that no such transfer shall be accepted for any one particular individual participant in another qualified plan or trust. In the case of a transfer to the Trustee of all or any of the assets of another qualified plan or trust by the trustee of the transferor plan, the amounts so transferred shall be allocated to the individual accounts of each Participant who was also a participant in such other qualified plan. In no event shall a Participant's vested interest in such a transferred account be less after such transfer than it was prior to such transfer. Furthermore, with respect to such transferred amounts, the vesting schedule of this Plan shall be the same or better than the vesting schedule under the transferor plan, or, in the alternative, this Plan may provide that the entire value of such transferred amounts shall be fully vested and nonforfeitable in the Participant affected.

The Trustee, upon direction from the Committee, may transfer any amount available for distribution to a Participant hereunder by reason of termination of employment to another trust forming part of a pension, profit sharing or stock bonus plan maintained by such Participant's new employer and represented by such employer in writing as meeting the requirements of Code Section 401(a), provided that the trust to which such transfer is to be made permits such transfers.

4.05 Contributions by Participants

Except as provided in Section 4.04 hereof, Participants are neither required nor permitted to make any contributions under this Plan.

4.06 Special Rules under USERRA

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 404(u).

ARTICLE V

ALLOCATIONS TO PARTICIPANTS' ACCOUNTS

5.01 Individual Accounts

The Committee shall create and maintain adequate records to disclose the interest in the Trust of each Participant, Former Participant, and Beneficiary. Such records shall be in the form of individual accounts and credits and charges shall be made to such accounts in the manner herein described. When appropriate, a Participant, Former Participant, and Beneficiary shall have three separate accounts--a Company Matching Contribution Account, a Savings Contribution Account, and a Rollover Contribution Account. The accounts of each Participant, Former Participant or Beneficiary shall be divided into subaccounts to reflect such Participant's, Former Participant's or Beneficiary's investment designations in particular fund options pursuant to Article VII. The maintenance of individual accounts is only for accounting purposes, and a segregation of the assets of the Trust Fund to each account shall not be required.

5.02 Account Adjustments

The accounts of Participants, Former Participants, and Beneficiaries shall be adjusted in accordance with the following:

- (a) Income--The Trustee shall, following the end of each Valuation Date, value all assets of the Trust Fund, allocate net gains and losses, and process additions to and withdrawals from Account balances in the following manner:

- (1) The Trustee shall first compute the fair market value of securities and/or the

other assets comprising each investment fund designated by the Committee for direction of investment by the Participants, Former Participants and Beneficiaries of this Plan. Each Account balance shall be adjusted each business day by applying the closing market price of the investment fund for the current business day to the share/unit balance of the investment fund as of the close of business on the current business day.

(2) The Trustee shall then account for any requests for additions or withdrawals to be made to or from a specific designated investment fund by any Participant, Former Participant or Beneficiary, including allocations of contributions and Forfeitures. In completing the valuation procedure described above, such adjustments in the amounts credited to such accounts shall be made on the business day to which the investment activity relates. A contribution received by the Trustee pursuant to this Plan shall not be taken into account until the Valuation Date coincident with or next following the date such contribution was both actually paid to the Trustee and allocated among the accounts of Participants, Former Participants and Beneficiaries.

(3) Notwithstanding subsections (1) and (2) above, in the event a pooled investment fund is created as a designated investment fund for investment election in this Plan, the valuation of the pooled investment fund and the allocation of earnings of the pooled investment fund shall be governed by the Administrative Services Agreement for such pooled investment fund.

It is intended that this paragraph (a) operate to distribute among each account all income of the Trust Fund and changes in the value of the assets of the Trust Fund.

(b) Savings Contributions--Each Employer contribution made on behalf of a Participant pursuant to Section 4.01(a) hereof shall be allocated to the Participant's Savings Contribution Account as of the date such contribution is received by the Trust and posted to the Participant's Savings Contributions Account.

(c) Company Matching Contributions--Each Employer contribution made to a Participant's Company Matching Contribution Account pursuant to Section 4.01(b) hereof, plus the Forfeitures, if any, which are being applied to reduce such Company Matching Contributions, shall be allocated to such Company Matching Contribution Account as of the date such contribution is received by the Trust and posted to the Participant's Company Matching Contributions Account.

5.03 Maximum Additions

(a) Notwithstanding anything contained herein to the contrary, the total additions made to the Salary Reduction Account and Company Matching Contribution Account of a Participant for any Year shall not exceed the lesser of (1) or (2), where--

(1) is the greater of \$30,000 (or such greater amount as permitted under Internal Revenue Service rulings to reflect increases in the cost-of-living); and

(2) is 25% of the Participant's total compensation for such Year.

For purposes of this Section 5.03, a Participant's "total compensation" includes earned income, wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with his Employer (including, but not limited to, commissions paid to salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and excluding the following: (i) Employer contributions to a plan of deferred compensation to the extent contributions are not included in the gross income of a Participant for the taxable year in which contributed, or on behalf of a Participant to a simplified employee pension plan under Code Section 219(b)(7), and any distributions from a plan of deferred compensation whether or not includible in the gross income of the Participant when distributed, provided that a Participant's "total compensation" shall include his Savings Contributions and contributions to a plan described in Code Section 125; (ii) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by a Participant becomes freely transferable or is no longer subject to a substantial risk of forfeiture; (iii) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; (iv) other amounts which receive special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in Code Section 403(b) (whether or not the contributions are excludible from the gross income of the Participant); and (v) compensation in excess of \$150,000 (as automatically increased in accordance with Treasury Department regulations to reflect cost-of-living adjustments).

(b) If such Additions exceed the limitations set forth in paragraph (a), above, such excess shall be deemed to arise solely from Company Matching Contributions described in Section 4.01(b) hereof and the amount of such contributions constituting the excess shall be treated as a Forfeiture for the Year. In the event that all or any portion of such excess cannot be treated as a Forfeiture for such Year because of the application of paragraph (a), above, the amount which cannot be so treated shall be held in a suspense account until it can be so treated in a subsequent Year, and no further Additions shall be made to Participants' accounts until the amount in such suspense account has been fully disposed of. Notwithstanding any provision to the contrary herein contained, if this Plan terminates during any Year in which such suspense account cannot be disposed of because of the application of paragraph (a), above, the amount in the suspense account shall revert to the Employers.

(c) Notwithstanding the foregoing, the otherwise permissible annual Additions for any Participant under this Plan may be further reduced to the extent necessary, as determined by the Committee, to prevent disqualification of the Plan under Code Section 415, 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 maintained by an 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 Plan Year may not exceed 1.0. The defined benefit plan fraction for any Plan Year is a fraction, the

numerator of which is the Participant's projected annual benefit under the Plan (determined at the close of the Plan Year) and the denominator of which is the lesser of (i) 1.25 multiplied by \$90,000 or such greater amount permitted by Internal Revenue Service regulations to reflect cost-of-living adjustments, or (ii) 1.4 multiplied by one hundred percent (100%) of the Participant's average monthly compensation, as defined in the applicable Treasury Department regulations under Code Section 415, during the three consecutive years when the total compensation paid to him was highest. The defined contribution plan fraction for any Plan Year is a fraction, the numerator of which is the sum of the annual Additions to the Participant's accounts in such Plan Year and for all prior Plan Years and the denominator of which is the sum of the applicable maximum amounts of annual Additions which could have been made under Code Section 415(c) for such Plan Year and for all prior years of such Participant's employment (assuming for this purpose, that said Code Section 415(c) had been in effect during such prior years). The applicable maximum amount for any Plan Year shall be equal to the lesser of (i) 1.25 multiplied by the dollar limitation in effect for such Plan Year under Code Section 415(c)(1)(A), or (ii) 1.4 multiplied by twenty five percent (25%) of the Participant's total compensation for such Plan Year.

(d) 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. The extent to which a Participant's annual Additions under the Plan shall be reduced as compared to the extent to which his annual benefits or Additions under any other plans shall be reduced in order to achieve compliance with the limitations of Code Section 415 shall be determined by the Committee in such a manner as to maximize the aggregate benefits payable to such Participant. If such reduction is under this Plan, the Committee shall advise the affected Participant of any additional limitations on his annual benefits required by this paragraph.

(e) The above limitations are intended to comply with the provisions of Code Section 415, so that the maximum benefits provided by plans of the Employers shall be exactly equal to the maximum amounts allowed under Code Section 415 and regulations thereunder. If there is any discrepancy between the provisions of Code Section 415 and the provisions of this Plan, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Code Section 415.

(f) For purposes of this Plan, the "limitation year" shall be the Plan Year.

(g) Notwithstanding the foregoing, the combined plan limitations as defined in Code Section 415(e) and described in paragraphs (c) and (d) above shall not be applied to limitation years beginning after December 31, 1999.

5.04 Top-Heavy Provisions

The following provisions shall become effective in any Year in which the Plan is determined to be a Top-Heavy Plan:

(a) Determination of Top-Heavy Status--The Plan will be considered a Top-Heavy Plan for the Year if as of the last day of the preceding Plan Year, (the "determination date"):

(1) The value of the sum of Company Matching Contribution Accounts and Savings Contribution Accounts (but not including any allocations to be made as of such last day of the Year except contributions actually made on or before that date and allocated pursuant to Section 5.02(b) or (c)) of Participants who are Key Employees and their Beneficiaries exceeds sixty percent (60%) of the value of the sum of Company Matching Contribution Accounts and Savings Contribution Accounts (but not including any allocations to be made as of such last day of the Year, except contributions actually made on or before that date and allocated pursuant to Section 5.02(b) or (c)) of all Participants and their Beneficiaries (the "60% Test") or (2) the Plan is part of a required aggregation group (within the meaning of Code Section 416(g)(2)) and the required aggregation group is top-heavy. However, and notwithstanding the results of the "60% Test", the Plan shall not be considered a Top-Heavy Plan for any Year in which the Plan is a part of a required or permissive aggregation group (within the meaning of Section 416(g)(2)) which is not top-heavy. For purposes of the "60% Test" for any Plan Year, (i) the value of the Employer and Savings Contribution Accounts of individuals who are former Key Employees shall not be taken into account, (ii) the value of the Employer and Savings Contribution Accounts of individuals who have not rendered services to the Employers for the five (5)-year period ending on the determination date shall not be taken into account, and (iii) any contribution of eligible rollover contributions, or any plan-to-plan transfer described in Section 4.05 hereof, shall not be treated as part of the Participant's Employer or Savings Contribution Account.

(2) Aggregation shall be determined as follows:

(A) Aggregation Group-

(i) Required Aggregation-The term "aggregation group" means-

(I) each plan of the Employer in which a Key Employee is a participant, and

(II) each other plan of the Employer that enables any plan described in subclause (I) to meet the requirements of Section 401(a)(4) or 410.

(ii) Permissive Aggregation-The Employer may treat any plan not required to be included in an aggregation group under clause (i) as being part of such group if such group would continue to meet the requirements of Code Sections 401(a)(4) and 410 with such plan being taken into account.

(B) Top-Heavy Group-The term "top-heavy group" means any aggregation group if-

(i) the sum (as of the determination date) of-

(I) the present value of the

cumulative accrued benefits for Key Employees under all defined benefit plans included in such group, and

(II) the aggregate of the accounts of Key Employees under all defined contribution plans included in such group,

(ii) exceeds sixty percent (60%) of a similar sum determined for all Employees.

(b) Minimum Allocations--Notwithstanding the provisions of Sections 5.02(b) and (c), for any Year during which the Plan is deemed a Top-Heavy Plan, the amount of Employer contribution for the Year to be allocated to the Company Matching Contribution Account of each Participant who is not a Key Employee and who is employed by the Employers on the last day of the Year shall not be less than the lesser of (i) three percent (3%) of the Participant's total compensation for the Year or (ii) the percentage obtained by dividing the amount allocated to the Savings Contribution Account and Company Matching Contribution Account of the most highly compensated Key Employee for the Year by so much of the total compensation of such Key Employee for the Year as does not exceed \$150,000 (as automatically increased in accordance with Treasury Department regulations); provided,, however, that an amount allocated to the Savings Contribution Account of a Participant who is not a Key Employee shall not be considered in determining the minimum allocation for such Participant hereunder; provided, further, that the requirements of this paragraph (b) shall not apply to the extent that the minimum allocations set forth herein are made under another defined contribution plan maintained by the Employer.

(c) Impact on Maximum Benefits--For any Plan Year in which the Plan is a Top-Heavy Plan, Section 5.03 shall be read by substituting the number 1.00 for the number 1.25 wherever it appears therein; provided, however, that where the Plan is not a "Super" Top-Heavy Plan (as defined in Code Section 416(h)(2)(B)), no such substitution shall occur if, for such Plan Year, the minimum allocations determined pursuant to paragraph (b) of this Section are determined by reference to four percent (4%), in lieu of three percent (3%), of total compensation.

(d) "Total Compensation" Defined--The term "total compensation" as used in this Section 5.04 shall have the same meaning as that set forth in Section 5.03(a) hereof.

ARTICLE VI

BENEFITS

6.01 Retirement or Disability

(a) In General--If a Participant's employment with his Employer is terminated at or after his normal retirement date, or if his employment is terminated prior to his normal retirement date because of Disability, he shall be entitled to receive the entire amount then in each of his accounts in accordance with Section 6.04. The "entire amount" in a Participant's accounts at termination of employment shall include any Employer contribution to be made pursuant to Section 4.01 for the Year of termination of employment but not yet allocated. If a Participant remains in employment after his normal retirement date, he shall continue to be treated as an active Participant hereunder. For purposes of this Plan, the term "normal retirement date"

means, with respect to a Participant, the first day of the month coincident with, or immediately following, his attainment of age sixty-five (65).

(b) Required Beginning Date. Except to the extent that Section 1121(d)(4) of the Tax Reform Act of 1986 provides otherwise, a Participant or Former Participant must commence receipt of his benefits not later than his Required Beginning Date. The "Required Beginning Date" of a five percent (5%) owner, as described in Code Section 416(i)(1)(A)(iii), is the later of (i) April 1 of the calendar year following the calendar year in which he attains age seventy and one-half (70 1/2), or (ii) the last day of the calendar year with or within which ends the Plan Year in which the Participant or Former Participant becomes a five percent (5%) owner. The "Required Beginning Date" of a Participant or Former Participant who is not a five percent (5%) owner is the later of (i) April 1 of the calendar year following the calendar year in which he attains age seventy and one-half (70 1/2) or (ii) the calendar year in which the Participant terminates employment with the Company or an Affiliate. Notwithstanding the foregoing, a Participant who is not a five percent (5%) owner and who attained age seventy and one-half (70 1/2) prior to calendar year 1999 shall have the right to elect the commencement of his benefits on April 1 of the calendar year following the calendar year in which he attains such age and each subsequent year.

6.02 Death

In the event that the termination of employment of a Participant is caused by his death, the entire amount then in each of his accounts shall be paid to his Beneficiary in accordance with Section 6.04 after receipt by the Committee of acceptable proof of death. The "entire amount" in a Participant's accounts at termination of employment shall include any Employer contributions to be made pursuant to Section 4.01 for the Year of termination of employment but not yet allocated.

6.03 Termination for Other Reasons

If a Participant's employment with his Employer is terminated before his normal retirement date for any reason other than Disability or death, the Participant shall be entitled to the sum of:

(a) The entire amount credited to both his Savings Contribution Account (including any Employer contributions to be made to such account for the Year of termination of employment but not yet allocated) and his Rollover Contribution Account, plus

(b) An amount equal to the "vested percentage" of his Company Matching Contribution Account balance (including any Employer contributions to be made to such account for the Year of termination of employment but not yet allocated). Such vested percentage shall be determined in accordance with the following schedule:

Years of Service	Vested Percentage	Forfeited Percentage
Less than 2	0%	100%
2 but less than 3	25%	75%
3 but less than 4	50%	50%
4 but less than 5	75%	25%
5 or more	100%	0%

Notwithstanding the preceding, a Participant's Vested Percentage shall be 100% as of the fifth (5th) anniversary of the date he first became a Participant, if he is still

employed by the Company or an Affiliate on such fifth (5th) anniversary.

Payment of benefits due under this Section shall be made in accordance with Section 6.04. Notwithstanding any provision to the contrary herein contained, a Participant shall be fully vested in his Company Matching Contribution Account balance upon his attainment of age sixty-five (65). In the event that the Plan is amended to change the vesting schedule set forth above, a Participant with at least three (3) years of Service shall have the right to elect that his vested percentage be determined pursuant to the vesting schedule in effect prior to the amendment.

6.04 Payments of Benefits

The following provisions shall apply with respect to the method and timing of benefit payments hereunder:

(a) In General--Payment of a Participant's or Former Participant's benefits upon entitlement under Sections 6.01-6.03 hereof shall commence as soon as administratively feasible (taking into account valuation, allocation of contributions, liquidation of assets and other administrative matters) following the date that the Participant or Former Participant becomes entitled to benefits under this Article VI; provided that:

payment prior to the date set forth in the immediately following sentence shall be made only upon completion by the recipient of a distribution request in such form as may be specified from time to time by the Committee;

the value of a Participant's or Former Participant's (or, if applicable, Beneficiary's) benefits shall be determined as of the Valuation Date immediately preceding the date of such distribution; and

in the case of a Participant or Former Participant whose vested account balances exceed \$5,000, such account balances shall not be distributed without the consent of the Participant or Former Participant, unless such Participant or Former Participant has attained age sixty-five (65).

However, and notwithstanding anything to the contrary herein contained, payment of his benefits must commence no later than the earlier of (i) the Participant's or Former Participant's Required Beginning Date, if any, or (ii) unless the Participant or Former Participant elects a later date (which can be no later than the Participant's or Former Participant's Required Beginning Date), the 60th day after the latest of the close of the Plan Year in which the Participant terminates employment due to attainment of normal retirement, disability or death or which is the fifth Plan Year following the Plan Year in which the Participant otherwise terminates employment; or (iii) the 60th day after the latest of the close of the Plan Year in which the Participant attains age sixty-five (65), in which occurs the date ten (10) years after the date the Participant first commenced participation in the Plan, or in which the Participant incurs a Severance from Service. The Committee shall direct the Trustee to distribute the Participant's, Former Participant's or Beneficiary's benefits in any one of the following two methods, as elected by the recipient:

(1) In a lump sum; or

(2) In periodic payments of

substantially equal monthly installments for a specified period of time, not in excess of the life expectancy of the Participant or Former Participant or the joint life expectancy of the Participant or Former Participant and his Beneficiary designated in accordance with Section 6.05. Within the term certain, more than fifty percent (50%) of the present value of the Participant's or Former Participant's account balances shall be paid to the Participant or Former Participant, or to the Participant's or Former Participant's designated Beneficiary in the event of the Participant's or Former Participant's death. At the election of the Participant or Former Participant, the accounts from which such installments are payable may be: (i) maintained as a part of the Trust Fund and be subject to its proportionate share of the income, losses, appreciation or depreciation of the Trust Fund as a whole, but not subject to any further contributions, or to participation in Forfeitures; or (ii) segregated and placed on deposit at interest in an insured depository. In all events, the income earned thereon shall be credited to such accounts and distributed to such Participant or Former Participant not less often than annually.

If benefits are being paid over a term certain and the Participant or Former Participant dies after benefit payments have commenced but before his entire interest has been distributed to him, the balance of the interest must be distributed at least as rapidly as under the method chosen by the Participant or Former Participant. If a Participant or Former Participant dies prior to commencement of benefits his entire interest must be distributed within five (5) years after his death. Notwithstanding the preceding sentence, if any portion of a Participant's or Former Participant's interest is payable to a designated Beneficiary, payment of such portion may be made over the life of such Beneficiary or over a period certain not exceeding the life expectancy of the Beneficiary; provided that such payments must begin not later than one (1) year after the Participant's or Former Participant's death; provided, further, that if the Participant's or Former Participant's surviving spouse is the Beneficiary referred to in the preceding sentence, then payments need not commence earlier than the date on which the Participant would have attained age seventy and one-half (70 1/2). If the designated Beneficiary dies before all benefit payments have been distributed to him, the balance of such payments shall be payable to such designated Beneficiary's estate.

Notwithstanding any provision of this Section 6.04 to the contrary, a Participant, Former Participant, or Beneficiary who has previously elected to receive benefits in periodic payments of substantially equal amounts for a specified number of years may, at any time, elect to have the remaining balance of such benefits paid in a lump sum as soon as practicable following such election.

The amount which a Participant, Former Participant, or Beneficiary is entitled to receive at any time and from time to time may be paid in cash, except for any portion of such benefits which was invested in Common Stock at the time the Participant

became entitled thereto, which portion shall be distributed in Common Stock, with the value of any fractional shares to be paid in cash. In all cases, distributions from the Plan will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Department regulations thereunder, including the minimum distribution incidental benefit requirements.

(b) Distribution of Small Amounts--Notwithstanding the preceding provisions of this Section 6.04, a Participant's or Former Participant's benefits hereunder shall in all events be paid in a lump sum if the total of such benefits is \$5,000 or less. Such payment shall be made as soon as administratively feasible following the date of such Participant's or Former Participant's Severance from Service.

(c) Direct Rollovers--Notwithstanding any provision of the Plan to the contrary, the recipient of all or any portion of a Participant's or Former Participant's benefits, other than a Beneficiary who is not a surviving spouse, may elect, in the manner prescribed by the Committee, to have any portion of an eligible rollover distribution paid directly to an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that will accept the eligible rollover distribution, as specified by the recipient; provided, however, that a recipient who is a surviving spouse may elect a direct rollover to an individual retirement account or individual retirement annuity only. For purposes of this Section 6.04(c), an "eligible rollover distribution" shall mean any distribution of all or any portion of the balance to the credit of the recipient, except (i) a 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 recipient or the joint lives (or joint life expectancies) of the recipient and the recipient's designated Beneficiary, or for a specified period of ten (10) years or more; (ii) a distribution to the extent such distribution is required under Code Section 401(a)(9); or (iii) the portion of any distribution that is not includible in gross income.

(d) No less than thirty (30) days and no more than ninety (90) days before the date of any distribution to a Participant or Former Participant prior to his normal retirement date, the Participant or Former Participant must receive (i) a general description of the material features, and an explanation of the relative values, of all optional forms of benefit available under the Plan, and (ii) notice of the his right to defer the distribution until his normal retirement date. The notice requirement described clause (ii) of the prior sentence shall not apply to any distribution which commences after the Participant's or Former Participant's normal retirement date, and none of the requirements of the preceding sentence shall apply if the value of a Participant's or Former Participant's benefits under the Plan is less than \$5,000.

Notwithstanding the preceding, if Code Sections 401(a)(11) and 417 do not apply to a Participant's or Former Participant's distribution, such distribution may commence less than thirty (30) days after the notice required under Treasury Regulation 1.411(a)-11(c) is given, provided that:

(1) the Committee must inform the Participant or Former Participant that he has a right to consider the decision of whether or not to elect to receive a distribution (and, if applicable, a particular distribution option) during a period of at least thirty (30) days after such notice is delivered, and

(2) the Participant or Former Participant, after receiving such notice, must affirmatively elect to receive an immediate distribution of his account balances under the Plan.

6.05 Designation of Beneficiary

Each Participant or Former Participant from time to time may designate any person or persons (who may be designated contingently or successively and who may be an entity other than a natural person) as his Beneficiary or Beneficiaries to whom his Plan benefits are paid if he dies before receipt of all such benefits. Each Beneficiary designation shall be on a form prescribed by the Committee and will be effective only when filed with the Committee during the Participant's (or Former Participant's) lifetime. Each Beneficiary designation filed with the Committee will cancel all Beneficiary designations previously filed with the Committee. Except as otherwise provided below, the revocation of a Beneficiary designation, no matter how effected, shall not require the consent of any designated Beneficiary.

If any Participant or Former Participant fails to designate a Beneficiary in the manner provided herein, or if the Beneficiary designated by a deceased Participant or Former Participant dies before him or before complete distribution of the Participant's (or Former Participant's) benefits, the Committee shall direct the Trustee to distribute such Participant's (or Former Participant's) benefits (or the balance thereof) to his surviving spouse or, if he has no surviving spouse, then, in the Committee's discretion, to the executor or administrator of the estate of the Participant or Former Participant.

Notwithstanding any provision to the contrary herein contained, the designation, by a married Participant or a married Former Participant, of a Beneficiary other than his spouse shall require the written consent of such spouse. The consent must name the designated Beneficiary or Beneficiaries who are to be the recipients of the Participant's (or Former Participant's) benefits. The spouse's consent must acknowledge the effect of the election and be witnessed by a notary public or Plan representative.

If any amount is payable under this Plan either to a minor or to any Beneficiary who appears to have limited or restricted financial responsibility, the Committee shall have the sole and absolute right to either pay such benefits to such person or to pay such benefits to a custodial parent or guardian or guardian ad litem of such minor or other person or to the trustee of a Medicare support trust for such person, or to such other person or persons as the Committee shall determine. The Committee shall have the right but not the duty to delay payments under this Plan until the Committee's receipt of a court order designating the person to whom such payments shall be made, the cost of which shall be born by the Beneficiary or guardian and not the Plan.

6.06 Loans to Participants

The Committee is authorized to establish a program of Participant loans from the Trust Fund. A loan shall be made to a Participant for any reason.

In addition to such rules and procedures as the Committee may adopt and establish (which rules and procedures shall be set forth in a separate written document, which shall however be considered as forming a part of this Plan), all loans shall comply with the following rules and conditions:

(a) An application for a loan by a Participant shall be made in writing to the Committee, whose action thereon shall be final.

(b) The period of repayment for any loan shall be arrived at by agreement between the Committee and the borrower, but such period in no event shall exceed five (5) years; provided, however, that such period may exceed five (5) years where the Participant certifies that the proceeds of the loan are to be used to acquire, construct, reconstruct or substantially rehabilitate a dwelling which is to be used within a reasonable time as the principal residence of the Participant or a dependent of the Participant. The loan (i) must be in level payments, made not less frequently than quarterly, over the term of the loan, with privilege of prepayment, in whole or in part, at any time, and (ii) prior to termination of the borrowing Participant's employment, shall be repaid by payroll deduction. Within the limitations of the immediately preceding sentence, the Committee shall determine the precise manner and frequency of payments at the time that the loan is made.

(c) Each loan made to a Participant shall be secured by (i) an assignment and pledge of not more than 50%, as determined immediately after the origination of the loan as of the current Valuation Date, of his right, title and interest in and to his Savings Contribution Account plus the vested portion of his Company Matching Contribution Account and his Rollover Contribution Account, if any, and (ii) his promissory note for the amount of the loan, including interest, payable to the order of the Trustee. A "default" shall occur upon the failure by a Participant to make payment under the loan by the end of the calendar quarter following the calendar quarter in which the due date of such payment occurred; provided that in the case of a Participant who is on an Authorized Leave of Absence for medical reasons, no default shall occur until the end of a twelve (12)-month period beginning on such due date. Upon default, the entire remaining principal balance of the loan shall be treated as a deemed distribution to the Participant from the Plan, and the amount of such deemed distribution shall be reported to the Internal Revenue Service on Form W2-P or Form 1099-R, as appropriate.

(d) Each loan shall bear a reasonable rate of interest to be determined by the Committee.

(e) No loan shall be made in an amount less than \$1,000. In addition, with respect to a Participant, no more than two loans may be outstanding at any time.

(f) No amount shall be loaned to a Participant that would cause his outstanding loan balance under the Plan to exceed the lesser of (1) or (2), where-

(1) is \$50,000 reduced by the excess of the highest outstanding balance of loans to such Participant over the twelve (12)-month period ending on the day before the loan is made over the outstanding balance of loans to such Participant on the date the loan is made, and

(2) is one-half (1/2) of the value of

his Savings Contribution Account, Rollover Contribution Account and the vested portion of his Company Matching Contribution Account, determined as of the immediately preceding Valuation Date.

(g) No distribution (other than a hardship withdrawal described in Section 6.07(a) hereof) shall be made to any Participant or Former Participant or to a Beneficiary of any such Participant unless and until all unpaid loans of such Participant have been liquidated. Foreclosure against a Participant's Company Matching Contribution Account, Rollover Contribution Account and Savings Contribution Account shall occur immediately upon default and shall result in the reduction of such account balances to the extent of unpaid principal; provided that there shall be no foreclosure against a Participant's account balances until the occurrence hereunder of an event permitting distribution of such account balances.

(h) Loans shall be made available to Former Participants who are parties-in-interest only as required by ERISA and Department of Labor guidelines.

(i) Payments of loan principal and interest shall be reinvested in the same manner as the Participant's Savings Contributions are being invested or, if no Savings Contributions are being made currently, in the same manner as the last investment designation received by the Participant under Section 7.01.

(j) The Committee may from time to time promulgate such additional procedures as it deems necessary, in its sole discretion, for the governance of Plan loans; provided that such procedures shall be consistent with the foregoing provisions of this Section 6.06 and shall be applied in a uniform and nondiscriminatory manner.

(k) Loan repayments will be suspended under this Plan, as permitted under Code Section 414(u)(4), on behalf of those Participants who are on an Authorized Leave of Absence because of "qualified military service," as defined in Code Section 414(u).

(l) Each loan shall be treated as an investment of the Participant's individual account under the Plan

6.07 Hardship Distributions and QDROs.

(a) Hardship Distributions If the Participant elects a withdrawal from his Savings Contribution Account, such withdrawal (i) may not include any earnings accrued after 1988 and (ii) must be made on account financial hardship. The Committee, either directly or through the Administrative Delegate, will determine that the Participant has properly demonstrated financial hardship only if the Participant demonstrates that the purpose of the withdrawal is to meet his immediate and heavy financial needs, the amount of the withdrawal does not exceed such financial needs, and the amount of the withdrawal is not reasonably available from other resources. The Participant will be considered as having demonstrated that the purpose of the withdrawal is to meet his immediate and heavy financial needs only if he represents that the distribution is on account of --

(1) medical expenses (as described in Code Section 213(d)) incurred (or required to be paid in advance to obtain medical care) by the Participant, his spouse or any of his dependents;

(2) the purchase (excluding mortgage payments) of a principal residence for the Participant;

(3) the payment of tuition and related educational fees for the next twelve (12) months of post-secondary education for the Participant, his spouse, children or dependents; or

(4) foreclosure on the mortgage of, or eviction from, the Participant's principal residence.

Moreover, the Participant will be considered as having demonstrated that the amount of the withdrawal is unavailable from his other resources and in an amount not in excess of that necessary to satisfy his immediate and heavy financial needs only if each of the following requirements is satisfied:

(I) the Participant represents that the distribution is not in excess of the amount of his immediate and heavy financial needs; and

(II) the Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available to him under all plans currently maintained by the Employers.

In the event of any withdrawal by a Participant pursuant to this paragraph (a), such Participant's Savings Contributions and his contributions under all other employee plans maintained by the Employers shall be suspended for a period of twelve (12) months following such withdrawal, and the Participant may authorize no further contributions under this paragraph (a) until the first business day immediately following such twelve (12)-month period of suspension. Withdrawal elections under this paragraph may be made at any time but not more frequently than once each Plan Year. All withdrawals under this subparagraph shall be made in accordance with the provisions of Section 6.04 hereof, relating to the form of payment. To the extent elected by a Participant, any hardship withdrawal made pursuant to this paragraph to such Participant shall be increased by an amount equal to the lesser of (i) all Federal, state and local income taxes and associated penalties imposed with respect to such hardship withdrawal or (ii) the amount, if any, in such Participant's Savings Contribution Account in excess of such hardship withdrawal.

Any withdrawal by a Participant may not exceed the balance then credited to his Savings Contribution Account. Withdrawal elections shall be made on written forms supplied by the Committee for that purpose. If the Participant is married, his spouse must specifically consent to a withdrawal hereunder within a period that is ninety (90) days prior to the date on which the withdrawal is made.

(b) Qualified Domestic Relations Orders.

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a Qualified Domestic Relations Order. Furthermore, a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a Qualified Domestic Relations Order, even if the affected Participant has not separated from service and has not reached the earliest retirement age under the Plan. For

purposes of this paragraph (b), "Alternate Payee," and "earliest retirement age" shall have the meaning set forth in Code Section 414(p).

6.08 Sale of Assets.

Notwithstanding any other provision of the Plan to the contrary, in the event that either the Company or an Affiliate sells substantially all of its assets used by it in its trade or business, an Employee who continues employment with the entity acquiring such assets shall be entitled to receive a distribution in an amount equal to the vested amount in such Employee's accounts determined as of the Valuation Date coincident with or next preceding the date of his Severance from Service.

6.09 Unclaimed Payments.

(a) General. Each Participant, Former Participant, Alternate Payee under any qualified domestic relations order, and each Beneficiary of a deceased Participant shall file with the Committee from time to time in writing his or her post office address and each change of post office address. The Committee is required only to make reasonable efforts to locate a Participant, Former Participant, Alternate Payee or Beneficiary.

If the Committee mails by registered or certified mail, return receipt requested, to a Participant, Former Participant, Alternate Payee or Beneficiary entitled to a distribution hereunder at his last known address, a notification that he is so entitled and said notification is returned as being undeliverable because the addressee cannot be located at said address, and if, by the last day of the Plan Year coinciding with or immediately following the fifth (5th) anniversary of the date as of which such person first could not be located, said person has not informed the Committee of his or her whereabouts, his or her entire interest in this Plan shall become a Forfeiture and shall be reallocated as provided in Section 4.03 for the Plan Year in which it occurs. Thereafter such person shall have no further right or interest therein except as provided in paragraph (b) below.

(b) Reinstatement. If a Participant, Former Participant, Alternate Payee or Beneficiary prior to the Plan Year in which the Plan and Trust terminate, duly claims and proves entitlement to a benefit which otherwise lapsed pursuant to paragraph (a) above, such benefits as shall then be due, unadjusted for Trust earnings and/or losses subsequent to the date of forfeiture, shall be paid by the Plan as soon as administratively feasible.

(c) Source of Reinstatement. The reinstatement of lapsed benefits pursuant to paragraph (b) above shall be made first from the forfeiture management account described in Section 4.03 hereof. If the amount in such forfeiture management account is not sufficient for this purpose, such reinstatement shall, to the extent necessary, next be made from Trust earnings, and then from a special Company contribution.

(d) Missing Participants. Each Participant, Former Participant or Beneficiary is responsible for informing the Company of his current mailing address. The Committee shall not authorize a distribution from the Plan without this information.

During the time when a benefit hereunder is payable to any Participant, Former Participant, or Beneficiary, the Committee, upon request by the Trustee, or at its own instance, shall send, by registered letter, return receipt requested, to

such Participant, Former Participant or Beneficiary at his current mailing address, a written demand for his then address and for satisfactory evidence of his continued life, or both.

If, after reasonable efforts by the Committee to locate a Participant, Former Participant or Beneficiary, the Committee is unable to locate such individual, then the amounts distributable to such Participant, Former Participant or Beneficiary shall, subject to applicable federal or state laws, either (i) be treated as a Forfeiture under the Plan and used to reduce the Company's contribution to the Plan, or (ii) if the Plan is joined as a party to any escheat proceedings involving the unclaimed benefits, be paid in accordance with the final judgment as if the final judgment were a claim filed by the Participant, Former Participant or Beneficiary. If the benefits for a Participant, Former Participant or Beneficiary are forfeited pursuant to clause (i) of the preceding sentence, and such Participant, Former Participant or Beneficiary subsequently is located, the forfeited amount shall be restored to the Plan by the Company and shall not be treated as an Addition under Code Section 415.

(e) Disposition of Lapsed Benefits in Year Plan and Trust Terminate. In the event that an individual's entire interest in the Plan is forfeitable and lapses pursuant to paragraph (a) above in the Plan Year in which both the Plan and Trust terminate, if the Committee after having complied with the notice requirements of paragraph (a) is unable to locate such individuals by the close of the Plan Year, the following provisions shall apply to the exclusion of the preceding provisions of this Section 6.09.

(1) Such individual's interest shall be remitted to the appropriate state or commonwealth agency responsible for unclaimed assets and escheat (as provided below), to be held and disposed of by such agency in accordance with applicable law. Once so remitted, such individual (or any person claiming by, through or under such individual) shall have no further claim against this Plan and Trust, and such individual's rights to any such funds otherwise distributable from the Plan and Trust shall be determined solely by reference to such rights and legal remedies as exist under the laws of such state or commonwealth.

(2) It is intended that this paragraph (e) comply with the requirements of Code Section 411 and in particular Treasury Regulation 1.411(a)-4(b)(6) regarding escheat of benefits to a state, thus permitting the orderly cessation of all Plan and Trust activity consistent with the protection of the interests of Participants, Former Participants and Beneficiaries.

(3) The address listed on the Plan's records for a Participant, Former Participant or Beneficiary shall be used for purposes of identifying the appropriate state or commonwealth to which assets shall be remitted hereunder and thereafter escheat. To the extent that more than one concurrent address is shown on the Plan's records, the Committee shall, in its sole discretion, determine which address shall be used for purposes of the preceding sentence.

Any amounts in the accounts of a Participant, Former Participant or Beneficiary attributable to a discrepancy between accrued and actual Income and which arises after a complete distribution of such accrued Income shall, to the extent that the aggregate of such amounts is less than the charges imposed by the Trustee in distributing such amounts, not be distributed but shall instead be added to future Income items for subsequent allocation to other accounts.

ARTICLE VII

TRUST FUND

7.01 Establishment of Trust Fund. A Trust Fund shall be established for the purpose of receiving contributions and paying benefits under this Plan pursuant to the Trust Agreement. A Trustee (or Trustees) shall be appointed under the terms of the Trust Agreement to administer the Trust Fund in accordance with the terms of such Trust Agreement.

7.02 Payment of Contributions to Trust Fund. All contributions under this Plan shall be paid to the Trustee and shall be held, invested, and reinvested by the Trustee in accordance with the terms of the Trust Agreement. All property and funds of the Trust Fund, including income from investments and from all other sources, shall be retained for the exclusive benefit of the Participants, as provided in the Plan, and shall be used to pay benefits to Participants or their Beneficiaries, or to pay expenses of administration of the Plan and Trust Fund to the extent not paid by the Company.

All assets of the Trust Fund, including investment income, shall be retained for the exclusive benefit of Participants, Former Participants, and Beneficiaries and shall be used to pay benefits to such persons or to pay administrative expenses of the Plan and Trust Fund to the extent not paid by the Employers and, except as provided in Section 5.03(b) and below, shall not revert to or inure to the benefit of the Employers.

Notwithstanding anything herein to the contrary and pursuant to Section 403(c)(2) of ERISA, upon an Employer's request, a contribution which was made by reason of a mistake of fact or conditioned upon the deductibility of such contribution under Code Section 404, shall be returned to the Employer within one year after the payment of the contribution or the disallowance of the deduction (to the extent disallowed), whichever is applicable. It is hereby acknowledged that all contributions hereunder are expressly conditioned on the deductibility of such contributions.

7.03 Investment of Assets.

(a) The Trustee shall generally have authority for the management and investment of assets held in the Trust, to the extent provided in the Trust; provided that a Participant, Former Participant, or Beneficiary shall have the right, in accordance with procedures prescribed by the Committee, to direct the Trustee as to the investment of assets in his Accounts. Any such investment direction by a Participant, Former Participant, or Beneficiary shall consist solely of the right to direct the extent to which assets shall be invested in the investment media designated by the Company under the Trust.

(b) The Trustee shall, at the direction of the Committee, maintain at least four (4) investment funds, in addition to the Common Stock Fund described in Section 7.04 below. Such investment funds shall be designated by the Committee and shall include at least four (4) mutual funds designed to permit a diversified investment portfolio. A Participant's investments in the

Common Stock Fund and the investment options shall be governed by the following rules:

(1) Company Matching Contributions shall generally be invested in Common Stock. Notwithstanding the preceding, a Participant who has attained age fifty-five (55) may also change his investment designation for his future Company Matching Contributions and/or his existing Company Matching Contribution Account balances at the same time and in the same manner as his Savings Contributions and 401(k) Savings Account balances.

(2) A Participant shall designate how much of his Savings Contributions Account shall be invested in each investment fund. Subject to paragraph (c) below, a Participant may invest all of his Savings Contributions in any one investment fund or in any combination of investment funds so long as the percentage of contributions elected to be invested in any one investment fund is a specified whole percentage of his contribution. No other type of designation will be permitted.

(c) Changes and Transfers in Investments Among Investment Options.

A Participant may change the investment allocation of his future Savings Contributions, effective as of the next Valuation Date, and/or his Savings Account balance, effective as of the next Valuation Date, by effecting an instruction through a designated telephone access system. Any and all such changes in investment allocation will be in whole percentages of his total Savings Contributions and/or his Account balances.

Should a Participant, Former Participant, or Beneficiary fail to provide the Trustee with the investment directives described herein, the assets in such individual's Accounts shall be invested as determined by the Trustee in accordance with the provisions of the Trust Agreement.

7.04 Common Stock

(a) General. The Trustee shall maintain a Common Stock Fund to hold the shares of Common Stock under the Trust.

(b) Investment of Common Stock Fund Assets. The Trustee may, at the discretion of the Committee, elect to hold a reasonable portion (generally not more than five percent (5%)) of the assets invested in the Common Stock at any time in cash equivalents and not in Common Stock, in order to facilitate administration of such fund.

(c) Participants' Right to Vote Common Stock. All voting rights on shares of Common Stock held by the Trust shall be exercised by the Trustee only as directed by the Participants acting in their capacity as named fiduciaries with respect to shares allocated to their Accounts as follows:

(1) As soon as practicable before each annual or special shareholders' meeting of the Company, the Trustee shall furnish to each Participant, Former Participant or Beneficiary a copy of the proxy solicitation material sent generally to shareholders, together with a form requesting confidential instructions as to the manner in which the shares of Common Stock allocated to the accounts of such Participant, Former Participant or Beneficiary are to be voted. The Company will cooperate with the Trustee to ensure that Participants, Former Participants and Beneficiaries receive the

requisite information in a timely manner. Except as provided in subparagraph (2), below, the materials furnished to the Participants, Former Participants and Beneficiaries shall include a notice from the Trustee that the Trustee will not vote any shares for which timely instructions are not received by the Trustee. Upon timely receipt of such instructions, the Trustee (after combining votes of fractional shares to give effect to the greatest extent to the Participants', Former Participants' and Beneficiaries' instructions) shall vote the shares as instructed. If voting instructions for shares of Common Stock allocated to the accounts of any Participant, Former Participant or Beneficiary are not timely received by the Trustee for a particular shareholders' meeting, such shares shall not be voted. The instructions received by the Trustee from Participants, Former Participants or Beneficiaries shall be held by the Trustee in strict confidence and shall not be divulged or released to any person including directors, officers or employees of the Company, or of any other company, except as otherwise required by law.

- (2) With respect to all corporate matters submitted to shareholders, all shares of Common Stock allocated to the accounts of Participants, Former Participants and Beneficiaries shall be voted only in accordance with the directions of such Participants, Former Participants and Beneficiaries as named fiduciaries and as given to the Trustee. Each Participant, Former Participant and Beneficiary shall be entitled to direct the voting of shares of Common Stock (including fractional shares to 1/1000th of a share) allocated to his accounts. With respect to shares of Common Stock allocated to the accounts of a deceased Participant or deceased Former Participant, the designated Beneficiary of such Participant or Former Participant, if any, shall be entitled to direct the voting with respect to such allocated shares.
- (3) In the event that any person (other than the Employers or any Affiliate thereof) shall make a public offer for any Common Stock, the Company undertakes to promptly provide, or cause to be provided, a copy of the offer, and any other material information concerning such offer, to each Participant, Former Participant or Beneficiary who has shares of Common Stock allocated to his accounts together with a form for furnishing to the Trustee instructions as to whether the shares of Common Stock allocated to his accounts should be tendered. All tender or exchange decisions with respect to Common Stock held by the Trust shall be made only by the Participants, Former Participants and Beneficiaries acting in their capacity as named fiduciaries, with respect to both allocated and unallocated shares in accordance with the following provisions of this paragraph (c).
- (4) In the event that an offer shall be received by the Trustee (including a tender offer for shares of Common Stock subject to Section 14(d)(1) of the Securities Exchange Act of 1934 or subject to Rule 13e-4 promulgated under that Act, as those provisions may from time to time be amended) to purchase or exchange any shares of Common Stock held by the Trust, the Trustee will advise each Participant, Former Participant

or Beneficiary who has shares of Common Stock credited to his accounts in writing of the terms of the offer as soon as practicable after its commencement and furnish each such Participant, Former Participant or Beneficiary with a form by which he may instruct the Trustee confidentially whether or not to tender or exchange the shares allocated to his accounts and a proportionate share of any unallocated shares (including fractional shares to 1/1000th of a share). The materials furnished to the Participants, Former Participants or Beneficiaries shall include (i) a notice from the Trustee that, except as provided in subparagraph (3), the Trustee will not tender or exchange any shares for which timely instructions are not received by the Trustee and (ii) such related documents as are prepared by any person and provided to the shareholders of the Company pursuant to the Securities Exchange Act of 1934. The Company and the Trustee may also provide Participants, Former Participants and Beneficiaries with such other material concerning the tender or exchange offer as the Trustee or the Company in their discretion determine to be appropriate; provided, however, that prior to any distribution of materials by the Company, the Trustee shall be furnished with sufficient numbers of complete copies of all such materials. The Company will cooperate with the Trustee to ensure that Participants, Former Participants and Beneficiaries receive the requisite information in a timely manner.

- (5) The Trustee shall tender or not tender shares or exchange shares of Common Stock allocated to the accounts of any Participant, Former Participant or Beneficiary only as, and to the extent, instructed by the Participant, Former Participant or Beneficiary as a named fiduciary. With respect to shares of Common Stock allocated to the accounts of a deceased Participant or deceased Former Participant, the designated Beneficiary of such Participant or Former Participant, as a named fiduciary, shall be entitled to direct the Trustee whether or not to tender or exchange such shares. If tender or exchange instructions for shares of Common Stock allocated to the accounts of any Participant, Former Participant or Beneficiary are not timely received by the Trustee, the Trustee will treat the non-receipt as a direction not to tender or exchange such shares. The instructions received by the Trustee from Participants, Former Participants or Beneficiaries shall be held by the Trustee in strict confidence and shall not be divulged or released to any person, including directors, officers or employees of the Company, or of any other company, except as otherwise required by law.
- (6) In the event, under the terms of a tender offer or otherwise, any shares of Common Stock tendered for sale, exchange or transfer pursuant to such offer may be withdrawn from such offer, the Trustee shall follow such instructions respecting the withdrawal of such securities from such offer in the same manner and the same proportion as shall be timely received by the Trustee from the Participants, Former Participants and Beneficiaries, as named fiduciaries, entitled under this paragraph (c) to give instructions as to the voting, sale, exchange or transfer of securities pursuant to such offer.
- (7) In the event that an offer for fewer than all

of the shares of Common Stock held by the Trustee shall be received by the Trustee, each Participant, Former Participant or Beneficiary who has Common Stock allocated to his accounts shall be entitled to direct the Trustee as to the acceptance or rejection of such offer (as provided by subparagraphs (3) through (6) above) with respect to a portion of the shares of Common Stock allocated to his accounts, which portion shall be equal to the (i) the number of shares of Common Stock allocated to his accounts divided by the number of shares of Common Stock held by the Plan, multiplied by (ii) the number of shares of Common Stock for which an offer was received. The Trustee shall sell, exchange or transfer shares of Common Stock based on the instructions received by the Trustee from the Participants, Former Participants or Beneficiaries who timely instruct the Trustee, pursuant the preceding subparagraphs of this paragraph (c), to sell, exchange or transfer such shares pursuant to such offer, each on a pro rata basis in accordance with the number or amount of such shares allocated to his accounts.

- (8) In the event that an offer shall be received by the Trustee and instructions shall be solicited from Participants, Former Participants or Beneficiaries pursuant to subparagraphs (3) through (7) above regarding such offer and, prior to termination of such offer, another offer is received by the Trustee for the securities subject to the first offer, the Trustee shall use its best efforts under the circumstances to solicit instructions from the Participants, Former Participants or Beneficiaries to the Trustee (i) with respect to securities tendered for sale, exchange or transfer pursuant to the first offer, whether to withdraw such tender, if possible, and, if withdrawn, whether to tender any securities so withdrawn for sale, exchange or transfer pursuant to the second offer and (ii) with respect to securities not tendered for sale, exchange or transfer pursuant to the first offer, whether to tender or not to tender such securities for sale, exchange or transfer pursuant to the second offer. The Trustee shall follow all such instructions received in a timely manner from Participants, Former Participants or Beneficiaries in the same manner and in the same proportion as provided in subparagraphs (3) through (6) above. With respect to any further offer for any Common Stock received by the Trustee and subject to any earlier offer (including successive offers from one or more existing offerors), the Trustee shall act in the same manner as described above.
- (9) Instructions from a Participant, Former Participant or Beneficiary to the Trustee to tender or exchange shares of Common Stock will not be deemed a withdrawal or suspension from the Plan or a Forfeiture of any portion of the Participant's, Former Participant's or Beneficiary's interest in the Plan. Funds received in exchange for tendered shares will be credited to the accounts of the Participant, Former Participant or Beneficiary whose shares from such accounts were tendered and any funds attributable to the Participant's, Former Participant's or Beneficiary's Company Matching Contribution Account will be used by the Trustee to purchase Common Stock, as soon as practicable. In the interim, the Trustee will invest such funds credited to Company Matching Contribution Accounts in short-term

investments permitted under the Trust Agreement.

- (10) The Trustee shall, after consultation with the Company, take all steps necessary, including appointment of an outside independent administrator, to maintain the confidentiality of responses from Participants, Former Participants and Beneficiaries and/or to adequately discharge their obligations as named fiduciaries.
- (11) Nothing in this paragraph (c) shall be read or construed as extending to Participants who have experienced a termination of employment for any reason other than death or Disability (or their Beneficiaries) (referred to in this subsection as "Nonvested Individuals") the right to instruct the Trustee as to the voting or tender of any shares of Company Stock allocated to the accounts of such Nonvested Individuals if and to the extent that such shares are not a part of such Participants' Vested Interest under the Plan with respect to such Participants within the meaning of Section 6.03(b) hereof (such shares referred to herein as the "Nonvested Shares"). The Trustee shall neither accept nor be bound to follow any instruction from a Nonvested Individual with respect to Nonvested Shares allocated to the accounts of such individual and the Trustee shall be the "named fiduciary" for all purposes with respect to the voting and tender of such Nonvested Shares.
- (12) In the event that the Company initiates a tender or exchange offer, the Trustee may, in its sole discretion, enter into an agreement with the Company not to tender or exchange any shares of Common Stock in such offer, in which event, the provisions of subparagraphs (3) through (10) shall have no effect with respect to such offer and the Trustee shall not tender any shares of Common Stock in such offer.
- (13) In order to effectuate the specific powers and authority granted to the Trustee in this paragraph (c), the Trustee may make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate. The Trustee may use its own facilities in effecting any transaction involving assets of the Trust Fund, unless such use is prohibited by Section 406 of ERISA.
- (d) Notwithstanding any other provision hereof, it is specifically provided that the Trustee shall not purchase or sell Common Stock in the open market under the terms hereof during any period in which such purchase is, in the opinion of the Committee (and in the opinion of the Company's general counsel or his/her designee), restricted by any law or regulation applicable thereto. During such period, amounts that would otherwise be invested in Common Stock shall be invested in such other assets as are designated by the Committee, or, if so directed by the Committee, the Trustee shall hold such amounts uninvested for a reasonable period pending appropriate investment.

ARTICLE VIII

ADMINISTRATION

The Fiduciaries shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under this Plan or the Trust. In general, the Employers shall have the sole responsibility for making the contributions provided for under Section 4.01, and the Company shall have the sole authority to appoint and remove the Trustee, members of the Committee and any investment manager which may be appointed pursuant to Section 8.08 hereof, and to amend or terminate, in whole or in part, this Plan or the Trust. The Committee shall have the sole responsibility for the administration of this Plan, which responsibility is specifically described in this Plan and the Trust. The Trustee shall have responsibility for the administration of the Trust and the management of the assets held under the Trust, to the extent provided in the Trust and Article VII hereof. Each Fiduciary warrants that any directions given, information furnished, or actions taken by it shall be in accordance with the provisions of the Plan or the Trust, as the case may be, authorizing or providing for such direction, information or action. Furthermore, each Fiduciary may rely upon any such direction, information or action of another Fiduciary as being proper under this Plan or the Trust, and is not required under this Plan or the Trust to inquire into the propriety of any such direction, information or action. It is intended under this Plan and the Trust that each Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations and shall not be responsible for any act or failure to act of another Fiduciary. No Fiduciary guarantees the Trust Fund in any manner against investment loss or depreciation in asset value.

8.02 Appointment of Committee

The Plan shall be administered by a Committee consisting of at least three persons who shall be appointed by and serve at the pleasure of the Board of Directors of the Company. All usual and reasonable expenses of the Committee may be paid in whole or in part by the Employers, and any expenses not paid by the Employers shall be paid by the Trustee out of the principal or income of the Trust Fund. Any members of the Committee who are Employees shall not receive compensation with respect to their services for the Committee.

8.03 Claims Procedure

The Committee shall make all determinations as to the right of any person to a benefit. Any denial by the Committee of a claim for benefits under the Plan by a Participant, Former Participant, or Beneficiary shall be stated in writing by the Committee and delivered or mailed to the Participant, Former Participant, or Beneficiary; and such notice shall set forth the specific reasons for the denial, written to the best of the Committee's ability in a manner that may be understood without legal or actuarial counsel. In addition, the Committee shall afford a reasonable opportunity to any Participant, Former Participant, or Beneficiary whose claim for benefits has been denied for a review of the decision denying the claim.

8.04 Records and Reports

The Committee shall exercise such authority and responsibility as it deems appropriate in order to comply with ERISA and governmental regulations issued thereunder relating to records of Participant's Service, account balances and the percentage of such account balances which are nonforfeitable under the Plan; notifications to Participants and Former Participants; annual registration with the Internal Revenue Service; and annual reports to the Department of Labor.

8.05 Other Committee Powers and Duties

The Committee shall have such duties and powers as may be necessary to discharge its responsibilities hereunder, including, but not by way of limitation, the following:

(a) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;

(b) to prescribe procedures to be followed by Participants, Former Participants, or Beneficiaries filing applications for benefits;

(c) to prepare and distribute, in such manner as the Committee determines to be appropriate, information explaining the Plan;

(d) to receive from the Employers and from Participants or Former Participants such information as shall be necessary for the proper administration of the Plan;

(e) to furnish an Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate;

(f) to receive, review and keep on file (as it deems convenient or proper) reports of the financial condition, and of the receipts and disbursements, of the Trust Fund from the Trustee;

(g) to appoint or employ individuals to assist in the administration of the Plan and any other agents it deems advisable, including legal and actuarial counsel, the Trustee or any other Fiduciary; and

(h) to designate and/or engage one or more Administrative Delegates to perform, without discretionary authority or control, administrative functions within the framework of policies, interpretations, rules, practices and procedures established by the Committee or any other "named fiduciary." (Any action made or taken by an Administrative Delegate may be appealed by an affected Participant or Beneficiary to the Committee in accordance with the claims review procedures provided in Section 8.03. To the extent that an issue submitted to an Administrative Delegate is not addressed under the framework of policies, interpretations, rules, practices and procedures established by the Committee or any other "named fiduciary", the Administrative Delegate shall submit such issue to the Committee. To the extent that an Administrative Delegate's actions comply with the framework of policies, interpretations, rules, practices and procedures established by the Committee or any other "named fiduciary", such Administrative Delegate shall not be considered a fiduciary under the Plan.)

Notwithstanding anything to the contrary herein contained, (i) in addition to the power to appoint an "investment manager" pursuant to Section 8.08, the Committee shall have the authority to direct the Trustee as to the investment of any amounts held in the Trust Fund; and (ii) the Committee shall have no power to add to, subtract from or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for a benefit under the Plan.

8.06 Rules and Decisions

The Committee may adopt such rules as it deems necessary, desirable, or appropriate. All rules and decisions of the Committee shall be uniformly and

consistently applied to all Participants and Former Participants in similar circumstances. When making a determination or calculation, the Committee shall be entitled to rely upon information furnished by a Participant, Former Participant, or Beneficiary, the Employers, the legal counsel of the Employers, or the Trustee.

8.07 Committee Procedures

The Committee may act at a meeting or in writing without a meeting. The Committee shall elect one of its members as chairman, appoint a secretary, who may or may not be a Committee member, and advise the Trustee of such actions in writing. The secretary shall keep a record of all meetings and forward all necessary communications to the Employers or the Trustee. The Committee may adopt such bylaws and regulations as it deems desirable for the conduct of its affairs. All decisions of the Committee shall be made by the vote of the majority including actions in writing taken without a meeting. A dissenting Committee member who, within a reasonable time after he has knowledge of any action or failure to act by the majority, registers his dissent in writing delivered to the other Committee members, the Employers and the Trustee, shall not be responsible for any such action or failure to act.

8.08 Investment Manager

The Committee may, in its sole discretion, appoint one or more "investment manager(s)," with power to manage, acquire or dispose of any asset of the Trust and to direct the Trustee in this regard, provided that-

- (a) any such investment manager shall be a registered investment advisor, a bank or an insurance company qualified to do business under the laws of more than one state; and
- (b) any such investment manager shall acknowledge in writing that he is a fiduciary with respect to the Plan.

Upon such appointment, the Committee shall not be liable for the acts of the investment manager, as long as the Committee members do not violate their fiduciary responsibility in making or continuing such appointment. The Trustee shall follow the directions of such investment manager and shall not be liable for the acts or omissions of such investment manager. The Committee may, in its discretion, remove the investment manager at any time.

8.09 Authorization of Benefit Payments

The Committee shall issue directions to the Trustee concerning all benefits that are to be paid from the Trust Fund pursuant to the provisions of the Plan, and warrants that all such directions are in accordance with this Plan.

8.10 Application and Forms for Benefits

The Committee may require a Participant or Former Participant to complete and file with the Committee an application for a benefit and all other forms approved by the Committee, and to furnish all pertinent information requested by the Committee. The Committee may rely upon all such information so furnished it, including the Participant's (or Former Participant's) current mailing address. The failure by a Participant or Former Participant to file a claim for benefits will not result in the forfeiture of any benefits that are otherwise nonforfeitable under this Plan.

8.11 Indemnification

The Employers shall indemnify and hold harmless each member of the Committee against all loss, cost,

expenses or damages, including attorneys' fees and court costs: (a) occasioned by any act or omission to act in connection with the responsibility of such member for the administration of this Plan; or (b) arising under or by virtue of the provisions of Part 4, Subtitle B, Title I of ERISA; provided, however, that the Employers shall not indemnify and hold harmless any such member against any loss, cost, expenses and damages occasioned by the gross negligence or willful misconduct of such member.

8.12 Unit Accounting

The Committee may, for administrative purposes, maintain records setting forth each Participant's, Former Participant's or Beneficiary's interest in the Plan's investment funds (or any portion thereof) in terms of units. If the Committee elects to adopt unit accounting for one or more investment funds, the Committee shall establish such rules and procedures for such investment funds that the Committee shall deem to be fair, equitable and administratively practicable. In the event that unit accounting is established for an investment fund (or a portion of an investment fund), the value of a Participant's, Former Participant's or Beneficiary's interest in such investment fund (or a portion of such investment fund) as of each Valuation Date shall be equal to (i) the value of a unit in the investment fund (or a portion of the investment fund) multiplied by (ii) the number of units credited to his accounts.

ARTICLE IX

MISCELLANEOUS

9.01 Nonguarantee of Employment

Nothing contained in this Plan shall be construed as a contract of employment between an Employer and any Employee, or as a right of any Employee to be continued in the employment of an Employer, or as a limitation on the right of an Employer to discharge any of its Employees, with or without cause.

9.02 Rights to Trust Assets

No Employee or Beneficiary shall have any right to, or interest in, any assets of the Trust Fund upon termination of his employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee out of the assets of the Trust Fund. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Trust Fund and none of the Fiduciaries shall be liable therefor in any manner.

9.03 Nonalienation of Benefits

Except as provided below, no Participant, Former Participant or Beneficiary shall have the right to anticipate, assign, alienate, charge, encumber, sell or transfer any benefit provided under the Plan, and the Trustee will not recognize any anticipation, assignment, alienation, charge, sale or transfer. Furthermore, a benefit under the Plan shall not be subject to attachment, charge, encumbrance, garnishment, levy, execution or other legal or equitable process. The foregoing restrictions shall not apply in the following case(s):

(a) Participant Loans. If a Participant, Former Participant or Beneficiary who has become entitled to receive payment of benefits under the Plan is indebted to the Trustee by virtue of a participant loan made pursuant to Section 6.06, the Committee may direct the Trustee to pay the indebtedness and charge it against the account balances of the Participant, Former Participant or Beneficiary.

- (b) Distributions Under Domestic Relations Orders. Nothing contained in this Plan shall prevent the Trustee, under the direction of the Committee, from complying with the provisions of a qualified domestic relations order, as defined in Code Section 414(p).
- (c) Distributions Under Certain Judgments and Settlements. Nothing contained in this Plan shall prevent the Trustee from complying with a judgment or settlement which requires the Trustee to reduce a Participant's benefits under the Plan by an amount that the Participant is ordered or required to pay to the Plan if each of the following criteria is satisfied:
- (1) The order or requirement must arise-
 - (A) under a judgment or conviction for a crime involving the Plan;
 - (B) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with an actual or alleged violation of Part 4 of Title I of ERISA; or
 - (C) under a settlement agreement with either the Secretary of Labor or the Pension Benefit Guaranty Corporation and the Participant in connection with an actual or alleged violation of Part 4 of Title I of ERISA by a fiduciary or any other person.
 - (2) The decree, judgment, order or settlement must expressly provide for the offset of all or part of the amount ordered or required to be paid to the Plan against the Participant's benefits under the Plan.
 - (3) To the extent that (i) the survivor annuity requirements of Code Section 401(a)(11) apply to the portion of the Participant's account balance which will be reduced or offset, and (ii) the Participant has a spouse at the time at which the reduction or offset is to be made--
 - (A) (i) the spouse must consent to the reduction or offset in writing, as witnessed by a notary public or a plan representative, (ii) it must be established that such consent may not be obtained for any of the reasons outlined in Code Section 417(a)(2)(B), or (iii) the spouse must previously have executed an election to waive his or her right to a qualified joint and survivor annuity or a qualified preretirement annuity in accordance with the requirements of Code Section 417(a);
 - (B) the decree, judgment, order or settlement must require the spouse to pay an amount to the Plan in connection with a violation of Part 4 of Title I of ERISA; or
 - (C) the decree, judgment, order or settlement must provide that the spouse shall retain his or her right to receive a survivor annuity calculated as provided in Code Section 401(a)(13)(D).

9.04 Discontinuance of Employer Contributions

In the event of the permanent discontinuance of contributions to the Plan by the Employers, the accounts of all Participants shall, as of the date of such discontinuance, become nonforfeitable.

9.05 Certain Social Security Increases

In the case of a Participant or his Beneficiary who is receiving benefits under this Plan, or in the case of a Former Participant, such benefits shall not be decreased by reason of any increase in the benefit levels payable under Title II of the Social Security Act or any increase in the wage base under such Title II occurring after the date of such Participant's termination of employment.

9.06 Jurisdiction

The situs of the Plan hereby created is Dallas County, Texas. All provisions of the Plan shall be construed in accordance with the laws of Texas, except to the extent preempted by federal law.

ARTICLE X

AMENDMENTS AND ACTION BY EMPLOYER

10.01 Amendments

The Company reserves the right to make from time to time any amendment or amendments to this Plan which do not cause any part of the Trust Fund to be used for, or diverted to, any purpose other than the exclusive benefit of Participants, Former Participants, or their Beneficiaries; provided, however, that the Company may make any amendment it determines necessary or desirable with or without retroactive effect, to comply with ERISA. In addition, no amendment hereof, unless made to secure the approval of the Internal Revenue Service or other governmental bureau or agency shall operate retroactively to reduce or divest the then vested interest hereunder of any Participant, Former Participant, or Beneficiary or to reduce or divest any benefit payable hereunder unless all Participants, Former Participants, and Beneficiaries then having vested interests or benefit payments affected thereby shall consent to such amendment.

10.02 Action by Employer

Any action by an Employer under this Plan may be by resolution of its Board of Directors, or by any person or persons duly authorized by resolution of said Board to take such action.

ARTICLE XI

SUCCESSOR EMPLOYER AND MERGER OR CONSOLIDATION OF PLANS

11.01 Successor Employer

In the event of the dissolution, merger, consolidation or reorganization of an Employer, provisions may be made by which the Plan and Trust will be continued by the successor; and, in that event, such successor shall be substituted for the Employer under the Plan. The substitution of the successor shall constitute an assumption of Plan liabilities by the successor and the successor shall have all of the powers, duties and responsibilities of the Employer under the Plan.

11.02 Plan Assets

In the event of any merger or consolidation of the Plan with, or transfer in whole or in part of the assets and liabilities of the Trust Fund to, another trust fund held under any other plan of deferred compensation maintained or to be established for the benefit of all or some of the Participants of this Plan, the assets of the Trust Fund applicable to such Participants shall be transferred to the other trust fund only if:

- (a) each Participant would (if either this Plan or the other plan then terminated) receive a

benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if this Plan had then terminated);

(b) resolutions of the Board of Directors of the Employer under this Plan, or of any new or successor employer of the affected Participants, shall authorize such transfer of assets; and, in the case of a new or successor employer of the affected Participants, its resolutions shall include an assumption of liabilities with respect to such Participants' inclusion in the new employer's plan; and

(c) such other plan and trust are qualified under Code Sections 401(a) and 501(a).

ARTICLE XII

PLAN TERMINATION

12.01 Right to Terminate

In accordance with the procedures set forth in this Article, the Company may terminate the Plan at any time. In addition, each Participating Employer may, at any time, discontinue its participation in the Plan, in which event the Plan shall be considered terminated as to such Participating Employer. In the event of the dissolution, merger, consolidation or reorganization of an Employer, the Plan shall terminate with respect to such Employer unless the Plan is continued by a successor to the Employer in accordance with Section 11.01.

12.02 Partial Termination

Upon termination of the Plan with respect to a group of Participants which constitutes a partial termination of the Plan, the Trustee shall, in accordance with the directions of the Committee, allocate and segregate for the benefit of the Participants with respect to whom the Plan is being terminated the proportionate interest of such Participants in the Trust Fund. The funds so allocated and segregated shall be used by the Trustee to pay benefits to or on behalf of Participants in accordance with Section 12.03

12.03 Liquidation of the Trust Fund

Following discontinuance or termination, the Company shall promptly notify the District Director of Internal Revenue Service stating the circumstances that led to such discontinuance or termination. Unless otherwise directed by the Committee, until a determination is made by such District Director regarding the effect of such discontinuance or termination on the qualification of the Plan and the exemption of the Trust Fund from federal income tax liability, the Trustee shall make no distribution of Trust Fund assets unless sufficient assets are retained to pay any possible resulting tax liability. Upon receipt of the District Director's determination and the payment of any such resulting tax liability, the Trustee shall thereafter:

- (a) In the case of a discontinuance, and in the absence of a Plan amendment to the contrary, pay the balance of the Participant's, Former Participant's or Beneficiary's accounts to such Participant, Former Participant or Beneficiary at the time and in the manner provided in the Plan; and
- (b) In the case of a total or partial termination, and in the absence of a Plan amendment to the contrary, pay the balance of the accounts of a Participant, Former Participant or Beneficiary for whom the Plan is terminated to such Participant,

Former Participant or Beneficiary immediately, the form of such payment to be determined by the Committee within the parameters set forth in Article VI.

IN TESTIMONY WHEREOF, BRINKER INTERNATIONAL, INC. has caused this instrument to be executed in its name and on its behalf, by the officer thereunto duly authorized, this 31st day of December, 1999, effective as of January 1, 1999 (except as otherwise indicated herein).

BRINKER INTERNATIONAL, INC.

By: _____

Title: _____

ATTEST:

Joined by Brinker International Payroll Corporation, on this 31st day of December, 1999, effective as of January 1, 1999.

BRINKER INTERNATIONAL PAYROLL CORPORATION

By: _____

Title: _____

ATTEST:

EXHIBIT 99.2

Brinker International, Inc. Savings Plan II, as amended
BRINKER INTERNATIONAL, INC.

SAVINGS PLAN II

W I T N E S S E T H:

WHEREAS, BRINKER INTERNATIONAL, INC. (the "Company") desires to adopt a nonqualified, unfunded plan of deferred compensation to be known as the BRINKER INTERNATIONAL, INC. SAVINGS PLAN II, effective as of January 1, 1993, for the benefit of a select group of its eligible officers and other highly compensated employees.

NOW THEREFORE, the BRINKER INTERNATIONAL, INC. SAVINGS PLAN II shall be and is hereby adopted effective as of January 1, 1993, to read as follows:

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I.

DEFINITIONS AND CONSTRUCTION

1.01 Definitions. Where the following words and phrases appear in this Plan, they shall have the respective meanings set forth below, unless their context clearly indicates to the contrary:

- (1) Accounts: Collectively, a Participant's Savings Account, and Company Matching Account. These Accounts may be divided into subaccounts as appropriate.
- (2) Act: The "Employee Retirement Income Security Act of 1974," as amended from time to time.
- (3) Authorized Leave of Absence: Any absence authorized by the

Company under the Company's standard personnel practices, provided that all persons under similar circumstances must be treated alike in the granting of such Authorized Leave of Absence.

(4) Base Salary: Regular bi-weekly salary paid to all salaried Employees for their services.

(5) Benefit Disbursement Date: With respect to each Participant, the date the first payment is made under this Plan to provide a benefit for such Participant or his beneficiary. In general, this date shall be within thirty (30) days after the end of the Plan Quarter in which the Participant's death, certified disability or other severance from employment occurs or, in the case of a disputed claim, within thirty (30) days after the claim is settled.

(6) Bonuses: Bonuses payable under the Chili's Manager Deferred Bonus Plan, bonuses payable under the Manager Deferral Plan, monthly and quarterly cash profitability bonuses payable to restaurant managers, and annual incentive payments to home office employees to the extent includible in gross income. Long-term incentive payments made to Company officers are not included in Bonuses. The Chili's Manager Deferred Bonus Plan and manager Deferral Plan are informal arrangements under which the Employee is promised additional compensation in connection with his salary review if he or she remains with the employer and performs services. This promise relates to services to be performed in the future and not to services that have been performed before the promise.

(7) Code: The Internal Revenue Code of 1986, as amended.

(8) Committee: The administrative committee appointed by the Directors to administer the Plan.

(9) Common Stock: The common stock of Brinker International, Inc.

(10) Company: Brinker International, Inc., a Delaware corporation.

(11) Company Matching Account: An individual Account for each Participant to which is credited the Company Matching Credits and to which is credited or debited such Account's allocation of net income or net loss of the individual determined on the basis of the performance of the fund or funds in which such account is considered to be invested.

(12) Company Matching Credits: Amounts credited under the Plan by the Employing Company and allocable on a Participant's behalf pursuant to Section 4.02.

(13) Compensation: The total of all wages and other amounts paid by the Company or any Employing Company (in the course of its business) to or for the benefit of an Employee for services rendered or labor performed which is required to be reported on the Employee's Form W-2, excluding, however, amounts paid or reimbursed by the Company or Employing Company for moving expenses incurred by the Employee (but only to the extent it is reasonable to believe at the time of the payment that the moving expenses will be deductible under Section 217 of the Code), and without regard to any rules that limit the amount to be included in wages based on the nature or location of the service performed. Notwithstanding the foregoing, for purposes of Section 1.01(15), 4.01 and 4.02, a Participant's Compensation shall include amounts which he could have received in cash in lieu of a contribution to a cafeteria plan described in Section 125 of the Code, a Savings Deferral under this Plan and any salary deferral or elective contributions under any Section 401(k) plan, and shall exclude any income, whether or not reportable on Form W-2, which is attributable to any stock options issued by the Company.

(14) Directors: The Board of Directors of the Company.

(15) Eligible Employee: Any Salaried Employee: (i) who was in the group consisting of the highest paid one percent (1%) of all the Employees of the Company and Employing Companies for the immediately preceding year when ranked on the basis of Compensation received during such preceding Plan Year, or (ii) whose annual rate of Base Salary as determined on the date he first performs any service for the Company or any Employing Company placed him in the group consisting of the highest paid one percent (1%) of all the Employees of the Company and Employing Companies when ranked on the basis of annual rate of Base Salary, and (iii) who is not eligible for the Plan Year, for which the determination is made, to receive any benefit accrual under any qualified defined benefit plan maintained by the Company or Employing Company or to make any deferral under any qualified cash or deferred arrangement, maintained by the Company or Employing Company. Once an Employee becomes an Eligible Employee he shall remain an Eligible Employee as long as he continues to be an Employee of an Employing Company.

- (16) Employee: Any individual employed by the Company, or by any other Employing Company.
- (17) Employing Company: The Company and any other corporation, association, partnership, or proprietorship which adopts this Plan in accordance with the consent of the Company shall be called an "Employing Company".
- (18) Enrollment Form: That form provided by the Committee pursuant to which the Participant authorizes the Company to reduce his future Compensation in the elected amount and in consideration of which the Company agrees to make a Company matching Credit on his behalf.
- (19) One-Year Break-in-Service: Any period of severance (as described in Section 6.03) of at least twelve (12) months. If a single period of severance extends for more than twelve (12) months, there shall be a one-Year Break-in-Service for each consecutive twelve (12) month period contained in the period of severance.
- (20) Participant: Any Employee who has met the eligibility requirements for participation in this Plan as set forth in Article III herein and has elected to participate by filing a properly executed Enrollment Form.
- (21) Plan: This Brinker International, Inc. Savings Plan II, which is a nonqualified, unfunded plan of deferred compensation for a select group of officers and other highly compensated employees of the Company and Employing Companies, as it may be amended from time to time.
- (22) Plan Quarter: Any three (3) consecutive month period commencing on January 1, April 1, July 1, or October 1 of any Plan Year.
- (23) Plan Year: Any twelve (12) consecutive month period commencing upon January 1 of each year.
- (24) Salaried Employee: An Employee who is listed in the Employing Company's books and paid on a salaried basis.
- (25) Savings Account: An individual account for each Participant to which is credited the Savings Deferrals made by such Participant and to which is credited or debited such Account's allocation of net income or net loss determined on the basis of the performance of the fund, or funds, in which such account is considered to be invested.
- (26) Savings Deferrals: Deferrals made under the Plan by a Participant in accordance with the Participant's elections to defer Compensation under the Plan's deferral arrangement as described in Section 4.01.
- (27) Taxable Year: The annual accounting period adopted by the Company for federal income tax purposes.
- (28) Trust Agreement: Any agreement entered into between the Company and a Trustee establishing a trust to hold and invest some or all of the contributions made under the Plan and from which the benefits may be distributed. Any such agreement must be a model trust agreement as approved by the Internal Revenue Service in Rev. Proc. 92-64 or its successor.
- (29) Trust Fund: Any funds and properties held pursuant to the provisions of the Trust Agreement for the use and benefit of the Participants and their beneficiaries, or the creditors of the Company in the event of the Company's insolvency, together with all income, profits and increments thereto.
- (30) Trustee: The trustee or trustees qualified and acting under the Trust Agreement that may, at any time, form part of this Plan.
- (31) Valuation Date: The last day of any calendar quarter (or the next preceding business day if such date falls on a weekend or holiday), and such other date(s) as the Committee may designate from time to time.
- (32) Vested Interest: That percentage of a Participant's Company Matching Account which, pursuant to the Plan, is nonforfeitable.
- (33) Vesting Service: The measure of service used in determining a Participant's Vested Interest.

1.02 Number and Gender. Wherever appropriate herein, words used in the singular shall be considered to include the plural and the plural to include the singular. The masculine gender, where appearing in this Plan, shall be deemed to include the feminine gender.

1.03 Headings. The headings of Articles and Sections herein are included solely for convenience and if there is any conflict between such headings and the text of the Plan, the text shall control.

II.

ADMINISTRATION

2.01 Appointment of Committee. The Company shall be the Plan Administrator. However, the general administration of the Plan shall be delegated to the Committee which shall be appointed by the Directors and shall consist of three (3) or more persons. Any individual, whether or not an Employee, is eligible to become a member of the Committee. Each member of the Committee shall, before entering upon the performance of his duties, qualify by signing a consent to serve as a member of the Committee under and pursuant to the Plan and by filing such consent with the records of the Committee.

2.02 Term, Vacancies. Resignation and Removal. Each member of the Committee shall serve for a term of one (1) year and thereafter until his successor is appointed. The Directors may, in their discretion, reappoint a member of the Committee for a subsequent term or terms. If at any time and for any reason there is a vacancy on the Committee, the Directors shall appoint a substitute member to fill such vacancy for the remainder of the then current one (1) year term.

At any time during his term of office, a member of the Committee may resign by giving written notice to the Directors and the Committee, such resignation to become effective upon receipt by the Company. At any time during his term of office, and for any reason, a member of the Committee may be removed by the Directors.

2.03 Officers, Records and Procedures. The Committee may select officers and may appoint a secretary who need not be a member of the Committee. The Committee shall keep appropriate records of its proceedings and the administration of the Plan and shall make available for examination during business hours to any Participant or beneficiary of a deceased Participant such records as pertain to that individual's interest in the Plan. The Committee shall designate the person or persons who shall be authorized to sign for the Committee and, upon such designation, the signature of such person or persons shall bind the Committee.

2.04 Meetings. The Committee shall hold meetings upon such notice and at such time and places as it may from time to time determine. Notice to a member shall not be required if waived in writing by that member. A majority of the members of the Committee duly appointed shall constitute a quorum for the transaction of business. All resolutions or other actions taken by the Committee at any meeting where a quorum is present shall be by vote of a majority of those present at such meeting and entitled to vote. Resolutions may be adopted or other action taken without a meeting upon written consent signed by all of the members of the Committee.

2.05 Self-Interest of Participants. No member of the Committee shall have any right to vote or decide upon any matter relating solely to himself under the Plan or to vote in any case in which his individual right to claim any benefit under the Plan is particularly involved. In any case in which a Committee member is so disqualified to act, and the remaining members cannot agree, the Directors shall decide the matter in which such Committee member is disqualified.

2.06 Claims Review. Upon the retirement, death or other severance of employment, a Participant, his beneficiary or representative may make application to the Committee requesting payment of benefits due him under the terms of the Plan. The committee shall accept, reject or modify such request and shall no later than the end of the Plan quarter in which such retirement, death, or other severance of employment occurs, notify the Participant, beneficiary or representative in writing, setting forth the response of the Committee and, in the case of a denial or modification, the Committee shall:

(a) State the specific reason or reasons for the denial or modification;

(b) Provide specific reference to pertinent Plan provisions on which the denial or modification is based;

(c) Provide a description of any additional material or information necessary for the Participant, his beneficiary or representative to perfect the claim and an explanation of why such material or information is necessary; and

(d) Explain the Plan's claim review procedure as contained herein.

In the event the request is denied or modified, and the Participant, beneficiary or representative desires to have such denial or modification reviewed, he may, before the end of the period prescribed for making payments pursuant to Section

1.01(5), submit a written request for review by the Committee of its initial decision. Within sixty (60) days following such request for review (unless special circumstances, such as the need to hold a hearing, if necessary, requires an extension of time for processing, in which case upon notice to the claimant before the expiration of such sixty (60) day period, such period shall be extended to one hundred twenty (120) days) the Committee shall, after providing a full and fair hearing, render its final decision in writing to the Participant, beneficiary or representative stating specific reasons for such decision.

2.07 Compensation, Bonding and Expenses of Committee Members. The members of the Committee shall not receive compensation with respect to their services for the Committee. To the extent required by applicable law, or required by the Company, members of the Committee shall furnish bond or security for the performance of their duties hereunder. Any expenses properly incurred by the Committee incident to the administration, termination, or protection of the Plan and Trust, including the cost of furnishing any bond or security, shall be paid as provided in Section 10.01.

2.08 Committee Powers and Duties. The Committee shall supervise the administration and enforcement of the Plan according to the terms and provisions hereof and shall have all powers necessary to accomplish these purposes, including, but not by way of limitation, the right, power, authority and duty:

(a) To make rules, regulations and bylaws for the administration of the Plan which are not inconsistent with the terms and provisions hereof, provided such rules, regulations and bylaws are evidenced in writing and copies thereof are delivered to the Trustee and to the Company;

(b) To construe all terms, provisions, conditions and limitations of the Plan, and in all such cases, the construction necessary for the Plan to constitute a nonqualified, unfunded plan of deferred compensation under the applicable provisions of the Code and meet the requirements for exemption from Parts 2, 3 and 4 of Title I of the Act shall control;

(c) To correct any defect or supply any omission or reconcile any inconsistency that may appear in the Plan, in such manner and to such extent as it shall deem expedient to carry the Plan into effect for the greatest benefit of all interested parties;

(d) To employ and compensate such accountants, attorneys, investment advisors and other agents and employees as the Committee may deem necessary or advisable in the proper and efficient administration of the Plan;

(e) To determine all questions relating to eligibility;

(f) To determine the amount of any benefits due under the terms of the Plan and to prescribe procedures to be followed by distributees in obtaining benefits;

(g) To prepare, file and distribute, in such manner as the Committee determines to be appropriate, such action of shareholders or disinterested directors or otherwise, to the extent permitted by law. Payments of any indemnity, expenses or fees under this Section shall be made solely from assets of the Company and not, directly or indirectly, from trust funds.

III.

PARTICIPATION

3.01 Eligibility. Any Employee who is an Eligible Employee on the date he commences employment shall be entitled to become a Participant commencing with the first pay period beginning on or after the first day of the month coincident with or immediately following the date on which he first performs any service for the Company or any Employing Company. Any other Eligible Employee shall be entitled to become a Participant commencing with the first pay period beginning on or after the first day of the Plan Year in which he becomes an Eligible Employee.

Any Eligible Employee who was a Participant prior to a termination of his employment shall be eligible to become a Participant immediately upon his re-employment as an Eligible Employee.

Participation in the Plan is voluntary. Any Eligible Employee entitled to become a Participant may do so upon the date on which he first becomes so entitled by executing and filing with the Committee, prior to such date, the Enrollment Form prescribed by the Committee. Any Eligible Employee who does not

become a Participant upon the date on which he first becomes entitled may become a Participant the first day of any subsequent Plan Year by executing and filing such Enrollment Form prior to the first day of such Plan Year.

3.02 Effect of Change in Compensation. Even though a Participant's Compensation in a subsequent year is below the dollar limitation referred to in Section 1.01(15)(i), such Participant shall be entitled to remain a Participant despite the change in Compensation.

IV.

DEFERRED COMPENSATION

4.01 Savings Deferrals.

- (a) A Participant shall elect to defer an amount not in excess of an integral percentage of from one percent (1%) to twenty percent (20%) of his Base Pay plus an integral percentage of from one percent (1%) to one hundred percent (100%) of the Bonus payments he would otherwise have received in cash (the Savings Deferral) for a Plan Year by having the Company retain the amount so deferred as a credit to his Savings Account under the Plan.

Compensation for a Plan Year not so deferred by such election or by any other applicable deferral election [e.g., Section 125 of the Code] shall be received by such Participant in cash. A Participant's initial election to defer an amount of his Compensation pursuant to this Section 4.01 shall be made by properly executing an Enrollment Form. The reduction in a Participant's Compensation for a Plan Year pursuant to his election under an Enrollment Form shall be effected by Compensation reductions in each payroll check and/or bonus payment as appropriate, within such Plan Year; provided, however, that no reductions may be made in any payments to which a Participant is entitled under the Chili's Manager Deferred Bonus Plan or the Manager Deferral Plan. Thus, although the amounts that may become payable under these practices may be considered in determining a Participant's maximum deferral under this Plan, all such amounts shall be paid at the same time and in the same amount and manner as if the Participant were not participating in this Plan.

- (b) A Participant's Enrollment Form shall be effective as to Compensation earned for services performed on or after the first pay period commencing on or after the first day of the first Plan Year after it is executed, except that for a Participant who becomes an Eligible Employee on a date within the Plan Year, the Participant may execute an Enrollment Form within thirty (30) days of becoming an Eligible Employee and the Enrollment Form shall be effective as to Compensation earned for Services performed starting with the first pay period commencing on or after the first day of the first month after it is executed (with regard to bonuses, this will require prorating if the effective date of the Participant's enrollment does not coincide with the beginning of the period during which the services giving rise to the bonus are performed).

(c) A Participant may cancel his Enrollment Form, effective as of the first pay period commencing on or after the first day of any future Plan Year, by executing the form prescribed by the Committee for such purpose prior to the beginning of such future Plan Year. A Participant who so cancels his Enrollment Form may resume active participation in the Plan, effective as of the first pay period commencing on or after the first day of any Plan Year beginning after the Plan Year in which the cancellation applied, by executing a new Enrollment Form prior to the first day of such subsequent Plan Year.

4.02 Company Matching Credits. As soon as administratively feasible after the end of each Plan Quarter, the Employing Company shall credit to the Company Matching Account of each Participant who is not an officer of the Employing Company or a participant in the Chili's manager Deferred Bonus Plan, an amount which as of the date of the credit when added to the Section 6.04 forfeitures, if any, then available for allocation to the Participant's Company Matching Account, equals twenty-five percent (25%) of the Savings Deferral made pursuant to Section 4.01 by the Participant up to a maximum of twenty-five percent (25%) of the first five percent (5%) of such Participant's Compensation. This Company Matching Credit made on behalf of

Participants who are not officers of the Employing Company shall be expressed in shares and fractions of shares of Common Stock at the fair market value of such Common Stock on the date credited. The fair market value for this purpose shall be the average of the daily closing prices of the Common Stock on the New York Stock Exchange over each of the immediately preceding twenty (20) trading days. Company Matching Credits on behalf of Participants who are officers of an Employing Company shall be treated as though made in cash and invested by the Participant in one or more of the five (5) funds described in Section 5.03(a).

4.03 Payments to Trustee. Credits to the Plan may be contributed directly to the Trustee at any time. On or about the date of any such contribution, the Committee shall be informed as to the amount of such contribution.

V.

ALLOCATIONS, ADJUSTMENTS AND WITHDRAWALS IN ACCOUNT VALUES OF FUNDS

5.01 Allocation of Deferrals, Matching Allocations and Forfeitures.

(a) Savings Deferrals made by a Participant pursuant to Section 4.01 shall be credited to such Participant's Savings Account as soon as administratively feasible after the last day of the pay period in which they are deferred.

(b) The Company Matching Credits (and forfeitures available for allocation) for each Plan Quarter shall be credited as of the end of each such Plan Quarter to the Company Matching Accounts of the Participants in the amount determined under Section 4.02 of the Plan.

(c) Each Participant's Accounts shall be divided into subaccounts to reflect such Participant's investment designation in a particular fund option(s) pursuant to Section 5.03, his distribution designation made on the Enrollment Form or Forms, or for any other good administrative purpose.

5.02 Valuation of Accounts and Adjustment for Earnings and Losses.

(a) A Participant's Accounts shall be adjusted as of each applicable Valuation Date to reflect the earnings and/or losses that would have resulted if those Accounts had actually been invested in accordance with the Participant's selection in the Common Stock and mutual fund options described in Section 5.03. All Accounts and Subaccounts shall be valued at fair market value as of the Valuation Date, that they would have had if actually invested in accordance with the elections made by the Participant in accordance with Section 5.03. The fair market value of Common Stock reflected in the Participant's Company Matching Account shall be considered to be the average of the daily closing prices of such Common Stock on the New York Stock Exchange over each of the twenty (20) trading days immediately preceding the Valuation Date. An amount equal to any dividends that would have been paid on the Common Stock considered to be held since the preceding Valuation Date (had the actual stock been held) shall also be credited to such Accounts.

(b) If a Participant's employment is terminated for any reason or he is no longer eligible to participate in this Savings Plan, such Participant's Savings Account and Company Matching Account under this Plan, shall continue to receive periodic adjustments pursuant to this Section; provided, however, that the value of such Accounts as of the date of the preceding valuation date shall be reduced by the amount of any payments made therefrom since the date of such preceding valuation.

5.03 Investment Options.

(a) Except as provided in Subsection (c) below, the company Matching Account of a Participant who is not an officer of the Company shall be treated as though it were invested in Company Stock. The Company shall also designate from time to time, certain mutual funds in which Participants' Savings Accounts shall be considered to be invested. The options available for selection by the Participant shall always include at least five (5) mutual funds designed to permit a diversified selection of risks. Each Participant may select any one option or any combination of options so long as the percentage of his Savings Deferrals elected for any one option is a specified whole

percentage of his savings Deferrals. In his Enrollment Form, each Participant shall designate the manner in which his current Savings Deferrals and/or Savings Account shall be considered to be invested, choosing from among the options provided by the Committee, for purposes of determining increases or decreases in the value of such Savings Account. A Participant who is an officer of the Company shall be entitled to designate the manner in which his Company Matching Credits and/or Company Matching Account shall be considered invested, choosing from among the same mutual funds in the same manner as in the case of his Savings Account. No other type of designation will be permitted.

(b) A Participant may designate how much of his Savings Deferrals and Savings Account shall be considered to be invested in each fund option. Subject to Subsection (c) below, a Participant may designate all of his Savings Deferrals to any one fund option or any combination of fund options so long as the percentage designated to any one fund option is a specified whole percentage of his Savings Deferrals or Savings Account. No other type of designation will be permitted.

(c) A Participant may change his option designation for his future Savings Deferrals, at any time, effective as of the first day of the first pay period beginning in the next Plan Quarter and/or his designation for his existing Savings Account balances, effective as of the first day of the next Plan Quarter, by instruction through a telephone access system made before the beginning of such Plan Quarter. Any and all changes in options shall be in whole percentages of his Savings Deferrals or his Savings Account balance. A Participant who is not an officer of the Company and who has attained age fifty-five (55) shall also have the same right to change his option designation for the future Company Matching Credit to which he may become entitled and his existing Company Matching Account at the same time and in the same manner as his Savings Deferrals and Savings Account. Again, any and all such changes will be in whole percentages of the Participant's Company Matching Credits and/or Company Matching Account.

(d) The options described in Subsections (a), (b) and (c) above are solely for purposes of enabling the Participant to determine the method for measuring the change in value of his accounts. The Company is not required to actually acquire or provide any of the investment options designated by a Participant. The actual investment of any assets that may be transferred to a grantor trust forming part of the Plan shall be made by the Trustee subject to such direction as may be provided by the Committee and shall be held in the name of the Company or the Trustee.

5.04 Withdrawals. A Participant who has an unforeseeable emergency, as determined by the Committee, may withdraw from his Savings Account or from the vested portion of his Company Matching Account, an amount not to exceed the lesser of:

(a) The then value of his Savings Account and the vested portion of his Matching Account, as of the Valuation Date coincident with or immediately preceding the withdrawal, or

(b) The lesser amount determined by the Committee under the standards set forth herein, as being available for withdrawal pursuant to this section.

For purposes of this Section, "unforeseeable emergency" means an unanticipated emergency that is caused by an event beyond the control of the Participant and that would result in severe financial hardship to the Participant if early withdrawal were not permitted. A withdrawal based upon unforeseeable emergency pursuant to this Section shall not exceed the amount required to meet the immediate financial need created by the unforeseeable emergency (including the amount required to pay taxes due on the withdrawal) and not reasonably available from other resources of the Participant. The determination of the existence of a Participant's unforeseeable emergency and the amount required to be distributed to meet the need created by the unforeseeable emergency shall be made by the Committee.

VI.

SEVERANCE BENEFITS

6.01 No Benefits Unless Herein Set Forth. Except as set forth in this Article, upon termination of employment of a Participant for any reason other than total and permanent disability or death,

such Participant shall acquire no right to any benefit from the Plan or the Trust Fund.

6.02 Severance Benefit. Each Participant whose employment is terminated for any reason other than certified disability or death shall be entitled to a benefit equal in value to the sum of:

(a) The value of his Savings Account (inclusive of any Savings deferrals made after a Valuation Date), as of the Valuation Date coincident with or next preceding his Benefit Disbursement Date; and

(b) His Vested Interest, if any, in the balance in his Company Matching Account as of the Valuation Date coincident with or next preceding his Benefit Disbursement Date.

For purposes of this Section, a Participant's Vested Interest shall be determined by such Participant's full years of "Vesting Service" in accordance with the following schedule:

Full Years of Vesting Service	Vested Interest
Less than two (2) years	0%
Two (2) years but less than 3 years	25%
Three (3) years but less than 4 years	50%
Four (4) years but less than 5 years	75%
Five (5) years or more	100%

Notwithstanding the foregoing, a Participant shall be one hundred percent (100%) vested in the balances in his Company Matching Account no later than the fifth (5th) anniversary of the date he first became a Participant if he is still employed by the Company on such fifth (5th) anniversary.

A Participant shall at all times have a 100% fully vested nonforfeitable interest in his Savings Account.

6.03 Vesting Service. Vesting Service shall begin to be counted from January 1, 1993 forward.

(a) Subject to the provisions of Subsection (b), except as otherwise provided below, in determining the number of full years of Vesting Service, non-successive periods of service shall be aggregated, and less than whole year periods of service (whether or not consecutive) shall be aggregated on the basis that 365 days of service equal a whole year of Vesting Service. For this purpose a period of service commences on the later of (i) the first day the Employee performs an Hour of Service for an Employing Company or a Controlled Company or (ii) January 1, 1993 and ends on the earlier of (i) the date of the Employee's subsequent separation from service due to quit, discharge, retirement or death, or (ii) twelve (12) months from the date on which the Employee was first absent from service for any reason other than those listed in (i). If an Employee severs from service by reason of a quit, discharge, or retirement, and the Employee then performs any service for the Company or any Employing Company within twelve (12) months of the severance from service date, such Employee's period of severance shall be deemed to have been a period of service. If an Employee severs from service by reason of a quit, discharge, or retirement during any absence from service for any reason other than a quit, discharge, or retirement and then performs any service within twelve (12) months of the date on which the Employee was first absent from service, such Employee's period of severance shall be deemed to have been a period of service. Any period of severance of twelve (12) months or more shall constitute a One-Year-Break-in-Service for each twelve (12) month period of severance. An Authorized Leave of Absence and any absence from service due to maternity leave, paternity leave or military leave shall be treated as a period of service or a period of severance in accordance with the law and the applicable Company policies in effect during the period of such absence.

(b) In the case of a Participant who terminates employment at a time when he does not have any Vested Interest in his Company Matching Account and who then incurs a period of severance of consecutive One-Year-Breaks-in-Service which equals or exceeds

the greater of: (i) five (5) years, or (ii) his years of Vesting Service prior to such period of severance, such Participant's years of Vesting Service completed before such period of severance shall be disregarded in determining his years of Vesting Service.

6.04 Forfeitures. The forfeitable portion (if any) of a terminated Participant's Company Matching Account shall become a forfeiture as of his date of termination of employment and shall be available for allocation as a part of the Company Matching Contribution next coming due to the Accounts of the eligible Participants as set forth in Section 4.02. Notwithstanding the foregoing, if a Participant who incurred a forfeiture is re-employed before he incurs five (5) consecutive One-Year-Breaks-in-Service, the forfeited amount shall be restored to such Participant's Company Matching Account unadjusted for any gains or losses that would have occurred during the period of the forfeiture. Any such restoration shall be made as of the Valuation Date next succeeding the date of re-employment. Notwithstanding anything to the contrary in this Plan, any restoration shall be made first from current forfeitures otherwise available to reduce Company Matching Credits.

6.05 Termination of Employment. The following shall not constitute a termination of employment for purposes of distribution of benefits under the Plan:

(a) An Authorized Leave of Absence, provided, however, that failure to return to the employ of an Employing Company upon the expiration of such Authorized Leave of Absence shall constitute a termination as of the date of such expiration; or

(b) Transfer to employment with any Employing Company.

6.06 Sale of Assets. Notwithstanding any other provision of the Plan to the contrary, in the event that either the Company or other Employing Company sells substantially all of its assets used by it in its trade or business, an Employee whose employment is terminated because he becomes employed by the entity acquiring such assets shall receive a distribution in an amount equal to his Vested Interest in his Accounts determined as of the Valuation Date coincident with or next preceding his Benefit Disbursement Date.

VII.

DISABILITY BENEFITS

7.01 Disability Determined. Upon written request by the Participant or upon the Committee's own initiative, the Committee shall determine whether a Participant has become unable to perform the duties of his position due to a physical or mental disability and shall so notify such Participant within sixty (60) days thereafter. A Participant shall be considered disabled if such disability is so certified by the Committee and, unless waived by the Committee as unnecessary, supported by a written medical opinion that such Participant will be incapable of performing his job for physical or mental reasons and the Participant has terminated his employment.

7.02 Disability Benefits. In the event of the disability of a Participant, as of the Committee's certification thereof, such Participant shall be vested in one hundred percent (100%) of his Company Matching Account and shall be entitled to a benefit equal in value to the sum of the balances in his Accounts as of the Valuation Date immediately preceding his Benefit Disbursement Date.

VIII.

DEATH BENEFITS

8.01 Death Benefits. Upon the death of a Participant, the Participant's Company Matching Account shall be one hundred percent (100%) vested and the Participant's beneficiary shall be entitled to a benefit equal in value to the sum of the balance in his Accounts as of the Valuation Date immediately preceding his Benefit Disbursement Date.

8.02 Designation of Beneficiaries.

(a) Each Participant shall have the unrestricted right to designate the beneficiary or beneficiaries to receive payment of his benefit. Each such designation shall be made by executing a "Beneficiary Designation Form" and filing same with the Committee. Any such designation may be changed at any time by

execution of a new designation in accordance with this Section. Notwithstanding the foregoing, if a Participant who is married on the date of his death designates other than his surviving spouse as his beneficiary, such designation shall not be effective unless: (i) such spouse has consented thereto in writing, and such consent acknowledges the effect of such designation and is witnessed by a Plan representative (other than the Participant) or a notary public; or (ii) such consent may not be obtained because such spouse cannot be located or because of other circumstances described by applicable Treasury regulations.

(b) If no such designation is on file with the Committee at the time of the death of the Participant or such designation is not effective for any reason as determined by the Committee, then the designated beneficiary or beneficiaries to receive such benefit shall be as follows:

(1) If a Participant leaves a surviving spouse, his benefit shall be paid to such surviving spouse;

(2) If a Participant leaves no surviving spouse, his benefit shall be paid to such Participant's executor or administrator.

8.03 Benefits Payable to Minors or Other Persons with Limited Financial Responsibility. If any amount is payable under this Plan either to a minor or to any beneficiary who appears to have limited or restricted financial responsibility, the Committee shall have the sole and absolute right to either pay such benefits to such person or to pay such benefits to a custodial parent or guardian or guardian ad litem of such minor or other person or to the trustee of a medicare support trust for such person, or to such other person or persons as the Committee shall determine.

IX.

TIME AND MANNER OF PAYMENT OF BENEFITS

9.01 Time of Payment. Subject to the provisions of Section 5.04 relating to withdrawals, and Section 14.02 relating to termination of the Plan, a Participant's Savings Account and Company Matching Account shall be distributed on his Benefit Disbursement Date.

9.02 Form of Benefits for Participants. For purposes of Article VI or VII, Plan benefits shall be paid in cash; except for any portion of such benefits which was treated as invested in Company Common Stock at the time the Participant became entitled thereto, which portion shall be distributed in Common Stock, with the value of any fractional shares to be paid in cash, provided, however, that the Participant may elect to receive the portion of his benefit which was considered to be invested in Common Stock in cash in lieu of Common Stock in accordance with applicable procedures established by the Committee. Notwithstanding the foregoing, any distributions made after the adoption of any resolution to terminate the Plan in accordance with Section 14.02 shall be made solely in cash to the extent possible.

9.03 Death Benefits. For purposes of Article VIII, the death benefit for a deceased Participant shall be paid to his designated beneficiary in a lump sum in cash; provided, however, that the beneficiary may elect to receive the portion of the benefit which was considered to be invested in Common Stock as of the date of the Participant's death in shares of Common Stock (with the value of any fractional shares being paid in cash) but only if such distribution becomes payable before the adoption of any resolution to terminate the Plan in accordance with Section 14.02.

X.

ADMINISTRATION OF FUNDS

10.01 Payment of Expenses. All expenses incident to the administration of the Plan and any related Trust may be paid by the Company or Employing Company and, if not paid by the Company or any Employing Company, shall be paid by the Trustee from the Trust Fund and, until paid, shall constitute a claim against the Trust Fund which is paramount to the claims of Participants, beneficiaries and creditors.

10.02 Participants' Accounts. The Committee shall maintain accounts in the name of each Participant, but the maintenance of an account designated as the account of a Participant shall not

mean that such Participant shall have a greater or lesser interest than that due him by operation of the Plan and shall not be considered as segregating any funds or property from any other funds or property contained in the commingled funds. In the case of any Participant who works for more than one (1) Employing Company, the Accounts shall be maintained in such a manner as to enable the Committee to determine that portion of the Accounts attributable to Contributions and Savings Deferrals from each such Employing Company.

10.03 Distributions from Participants' Accounts. Distributions from a Participant's Accounts shall be made only if, when, and in the amount and manner directed in writing by the Committee. Any distribution made to a Participant or for his benefit shall be debited to such Participant's Accounts.

XI.

TRUST FUND AND INSURANCE CONTRACTS

11.01 Trust Must Be Grantor Trust. As a means of administering the amounts credited to Participants and anticipating the liability each Employing Company will incur under the terms of this Plan, the Company may enter into one or more Trust Agreements with one or more Trustees and the Employing Companies may contribute to the Trust(s) assets that shall be held therein subject to the claims of each Employing Company's creditors in the event of the Employing Company's insolvency until paid to Participants and their Beneficiaries in such manner and at such times as specified in this Plan; provided, however, that any such Trust Agreement and any assets held by the Trustee to assist it in meeting its obligations shall conform to the terms of the Internal Revenue Service model grantor trust agreement as set forth in Revenue Procedure 92-64 or its successor. The Trust Agreement may be amended from time to time as the Company deems advisable, and as the Internal Revenue Service may require or permit, in order to effectuate the purpose of the Plan. In the event of the merger, acquisition, or reorganization of the Trustee, the surviving entity, if still empowered with trust powers, shall continue as Trustee unless and until removed as otherwise provided in the Trust Agreement.

11.02 Insurance Contracts. As a means of administering the amounts credited to Participants and anticipating the liability each Employing Company will incur under the terms of this Plan, the Company or the Trustee may purchase insurance contracts, including life insurance contracts on the lives of some or all of the Plan Participants; provided, however, that in any case in which the owner and/or beneficiary of any such insurance contract is a person other than an Employing Company and/or the Trustee, the Company shall prepare, or cause to be prepared, appropriate Federal tax reports.

XII.

FIDUCIARY PROVISIONS

12.01 Article Controls. This Article shall control over any contrary, inconsistent or ambiguous provisions contained in the Plan.

12.02 General Allocation of Duties. Each fiduciary with respect to the Plan shall have only those specific powers, duties, responsibilities and obligations as are specifically given him under the Plan. The Directors shall have the sole responsibility for authorizing contributions under the Plan and shall have the sole authority to appoint and remove members of the Committee and to amend or terminate this Plan in whole or in part. The Directors shall also have the authority to appoint and remove the Trustee and to override the authority of the Committee in this regard. Except as otherwise specifically provided, the Committee shall have the sole responsibility for the administration of the Plan, which responsibility is specifically described herein. Except as otherwise specifically provided, the Trustee shall have the sole responsibility for holding and administering the assets under the Trust. It is intended under the Plan that each fiduciary shall be responsible for the proper exercise of his own powers, duties, responsibilities and obligations hereunder and shall not be responsible for any act or failure to act of another fiduciary except to the extent provided by law or as specifically provided herein.

12.03 Fiduciary Liability. A fiduciary shall not be liable in any way for any acts or omissions constituting a breach of fiduciary responsibility and occurring prior to the date he

becomes a fiduciary or after the date he ceases to be a fiduciary.

12.04 Delegation and Allocation. The Committee may appoint subcommittees, individuals or any other agents as it deems advisable and may delegate to any of such appointees any or all of the powers and duties of the Committee. Such appointment and delegation must be in writing, specifying the powers or duties being delegated, and must be accepted in writing by the delegatee. Upon such appointment, delegation and acceptance, the delegating Committee members shall have no liability for the acts or omissions of any such delegatee, as long as the delegating Committee members do not violate their fiduciary responsibility in making or continuing such delegation.

XIII.

AMENDMENTS

No amendment of the Plan may be made which would reduce any then nonforfeitable interest of a Participant. Subject to these limitations, the Directors may make any amendment to the Plan including, but not limited to, an increase or decrease of deferrals or contributions, a change or modification of the method of allocation of contributions or forfeitures, or a change of the provisions relating to the administration of the Plan.

If the Plan's vesting schedule is amended, or if the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage each Participant with at least three (3) years of Vesting Service, as described in Section 6.02, with the Company and/or any other Employing Companies may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change. The period during which the election may be made shall begin no later than the date upon which the amendment is adopted or deemed to be made and shall end no later than the latest of the following dates: (i) the date which is sixty (60) days after the day the amendment is adopted or deemed to be made; (ii) the date which is sixty (60) days after the day the amendment becomes effective; or (iii) the date which is sixty (60) days after the day the Participant is issued written notice of the amendment by the Company.

In the event of an amendment, each Employing Company will be deemed to have consented to and adopted the amendment unless the Employing Company notifies Brinker International, Inc., the Committee and the Trustee to the contrary in writing within thirty (30) days after receipt of a copy of the amendment, in which case the rejection will constitute a withdrawal from this Plan and Trust by that Employing Company.

XIV.

DISCONTINUATION OF CONTRIBUTIONS AND TERMINATION

14.01 Declaration of Intent. The Company has established the Plan with the bona fide intention and expectation that from year to year it will be able to, and will deem it advisable to, maintain the Plan as herein provided. However, the Company realizes that circumstances not now foreseen, or circumstances beyond its control, may make it either impossible or inadvisable to continue the Plan. Therefore, the Company shall have the power, through resolution duly adopted by the Directors, to discontinue credits under the Plan, terminate the Plan or partially terminate the Plan at any time hereafter. Each member of the Committee and the Trustee shall be notified of such discontinuance, termination or partial termination.

14.02 Administration of Plan in Case of Discontinuance of Contributions or Termination.

(a) If the Plan is amended so as to permanently discontinue Company contributions, or if Company contributions are in fact permanently discontinued, the Vested Interest of each Participant shall be one hundred percent (100%), effective as of the date of discontinuance. In case of discontinuance, the Committee shall remain in existence and all other provisions of the Plan which are necessary, in the opinion of the Committee, for equitable operation of the Plan shall remain in force.

(b) If the Plan is terminated or partially terminated, the amounts credited to the Accounts of each affected Participant as

of the time of such termination or partial termination shall be one hundred percent (100%) vested. Unless the Plan is otherwise amended prior to dissolution of the Company, the Plan shall terminate as of the date of dissolution of the Company.

(c) Upon discontinuance or termination, any previously unallocated contributions, forfeitures, credits and net increment (or net decrement) shall be allocated among the accounts of the Participants on such date of discontinuance or termination according to the provisions of Article V, as if such date of discontinuance or termination were a Valuation Date. In the event of termination, distribution of all Participants' Accounts shall be made within thirty (30) days after the end of the Plan Quarter in which the termination occurs, and the date of the final distribution shall be treated as a Valuation Date.

XV.

MISCELLANEOUS

15.01 Not Contract of Employment. The adoption and maintenance of this Plan shall not be deemed to be a contract between any Employing Company and any person or to be consideration for the employment of any person. Nothing herein contained shall be deemed to give any person the right to be retained in the employ of any Employing Company or to restrict the right of any Employing Company to discharge any person at any time nor shall the Plan be deemed to give any Employing Company the right to require any person to remain in the employ of the Employing Company or to restrict any person's right to terminate his employment at any time.

15.02 Rights to Payments of a Claim Against General Assets of the Company. This Plan is intended to be an unfunded plan for purposes of the Code and Title I of the Act. A Participant's status to enforce his rights under the Plan is that of a general unsecured creditor of his Employing Company and the Plan constitutes a mere promise by the Company or other Employing Company to make benefit payments in the future.

15.03 Alienation of Interest Forbidden. No right or interest of any kind in any benefit shall be transferable or assignable by any Participant or any beneficiary or be subject to anticipation, adjustment, alienation, sale, pledge, encumbrance, garnishment, attachment, execution or levy or any other legal or equitable process.

15.04 Severability. If any provision of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof; instead, each provision shall be fully severable and the Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.

15.05 Jurisdiction. The situs of the Plan hereby created is Dallas County, Texas. All provisions of the Plan shall be construed in accordance with the laws of Texas except to the extent pre-empted by federal law.

IN WITNESS WHEREOF, Brinker International, Inc. has caused this Plan to be executed this 12th day of October, 1993.

BRINKER INTERNATIONAL, INC.

ATTEST: By: /S/ Ronald A. McDougall
Name: Ronald A. McDougall
/S/ J. L. Tobin Title: President
Asst. Secretary

CERTIFICATE OF THE SECRETARY

I, ROGER F. THOMSON, Secretary of Brinker International, Inc., a Delaware corporation (the "Company"), hereby certify that attached hereto is a true, correct, and complete copy of the currently effective Unanimous Written Consent of the Executive Committee of the Board of Directors of the Company, dated September 9, 1994, which resolutions relate to the amendment of the Savings Plan II of the Company.

IN WITNESS WHEREOF, I have hereunto affixed my signature and seal of the corporation this 12th day of September, 1994.

[S E A L]

/S/ Roger F. Thomson
Roger F. Thomson, Secretary

SUBSCRIBED AND SWORN to before me, a Notary Public, this
12th day of September, 1994.

[S E A L]

/S/ Rebecca E. Keck
Notary Public, State of Texas

My Commission Expires:
July 27, 1997

Printed or Stamped Name:
Rebecca E. Keck

UNANIMOUS WRITTEN CONSENT OF THE
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS OF
BRINKER INTERNATIONAL, INC., A DELAWARE CORPORATION

September 9, 1994

Pursuant to the provisions of the Bylaws of Brinker International, Inc., a Delaware corporation (the "Company"), the undersigned, being all the members of the Executive Committee of the Board of Directors of the Company hereby declare that, when all of us have signed this Consent or a counterpart hereof, the following resolutions shall have been consented to, approved of, and adopted to the same extent and to have the same force and effect as if adopted at a meeting of the Executive Committee of the Board of Directors duly called and held for the purpose of acting upon proposals to adopt such resolutions:

WHEREAS, the Company established and adopted a Savings Plan II for the exclusive benefit of employees of the company who become participants, effective January 1, 1993 (the "Plan II");

WHEREAS, Plan II may be amended further pursuant to the terms and provision of Article XIII thereof;

NOW THEREFORE BE IT RESOLVED, that Amendment Number One to Plan II, a copy of which has been circulated with this Consent, be and hereby is, approved and adopted and the proper officers of the Company be, and hereby are, authorized and directed to execute and attest Amendment Number One to Plan II for and on behalf of the Company;

FURTHER RESOLVED, that the Company and any of its officers hereby are, jointly and severally, authorized to take, or cause to be taken, any and all actions deemed, in their judgment, necessary, desirable or appropriate in connection therewith, to execute, acknowledge, verify, deliver, file, certify or record any and all instruments and documents which may be required to effect the foregoing resolutions; and

FURTHER RESOLVED, that all acts of the officers of the Company which are consistent with the intent of these resolutions shall be and hereby are, in all respects, approved, confirmed and adopted as acts of the Company.
Executed as of the date first above written.

/S/ Norman E. Brinker
NORMAN E. BRINKER

/S/ Ronald A McDougall
RONALD A. McDOUGALL

/S/ Creed L. Ford, III
CREED L. FORD, III

/S/ Debra L. Smithart
DEBRA L. SMITHART

/S/ F. Lane Cardwell, Jr.
F. LANE CARDWELL, JR.

BRINKER INTERNATIONAL, INC.

SAVINGS PLAN IX

Amendment Number One

Brinker International Inc. (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having established the Brinker International, Inc. Savings Plan II (the "Plan") pursuant to an instrument effective January 1, 1993, and having reserved the power in Article XIII of the Plan to amend the Plan further from time to time, hereby amends the Plan as set forth below, effective as of January 1, 1994.

1. Section 1.01(18) Enrollment Form: shall be deleted in its entirety and replaced with the following in lieu thereof:

(18) Salary Deferral Agreement: That agreement provided by the Committee pursuant to which the Participant authorizes the Company to reduce his future compensation in the elected amount and in consideration of which the Company agrees to stake a Company Matching Credit on his behalf.

2. The Plan shall be amended throughout by deleting the word "form" and or "enrollment form" and inserting in lieu thereof the word "agreement" and or "salary deferral agreement", respectively, unless the purpose is specifically intended otherwise.

3. Section 1.01 Definitions. shall be amended by adding at the conclusion thereof the following Subsection:

(34) Summary Plan Description (SPD): A written booklet, folder or binder describing the Plan in a manner calculated to be understood by the average Plan Participant and shall be sufficiently accurate and comprehensive to inform, the Plan's Participants and beneficiaries of their rights and obligations under the Plan.

The SPD shall be given to new Employees within 90 days after an Employee becomes a Participant or first receives benefits as a beneficiary.

4. Section 4.02 Company Matching Credits. is amended by deleting the following phrase from the first sentence of such Section:

"...or a participant in the Chili's Managers Deferred Bonus Plan,."

5. Section 4.02 Company Matching Credits. is amended further by deleting in its entirety the last sentence of this Section and inserting in lieu thereof the following:

Company Matching Credits on behalf of Participants who are officers of an Employing Company shall be treated as though made in cash and invested by the Participant in one or more of the mutual funds previously designated by the Participant and described in Section 5.03(a).

6. Section 5.03(a) Investment Options. is amended by deleting in its entirety the third sentence of this Subsection and inserting in lieu thereof the following:

The options available for selection by the Participant shall always include one or more mutual funds designed to permit a diversified selection of risks.

7. Except as hereinabove amended, the provisions of the Plan, as previously established, shall remain in full force and effect.

IN WITNESS WHEREOF, the Company has caused this Amendment Number One to the Plan to be executed on this 12th day of September, 1994.

BRINKER INTERNATIONAL, INC.

By:/S/ Roger F. Thomson

CERTIFICATE OF THE SECRETARY

I, ROGER F. THOMSON, Secretary of Brinker International, Inc., a Delaware corporation (the "Company"), hereby certify that attached hereto is a true, correct, and complete copy of the currently effective Unanimous Written Consent of the Executive Committee of the Board of Directors of the Company, dated June 14, 1995, which resolutions relate to the amendment of the Savings Plan II of the Company.

IN WITNESS WHEREOF, I have hereunto affixed my signature and seal of the corporation this 26th day of June, 1995.

[S E A L]

/S/ Roger F. Thomson
Roger F. Thomson, Secretary

SUBSCRIBED AND SWORN to before me, a Notary Public, this 26th day of June, 1995.

[S E A L]

/S/ Rebecca E. Keck
Notary Public, State of Texas

My Commission Expires: Printed or Stamped Name:
July 27, 1997 Rebecca E. Keck

UNANIMOUS WRITTEN CONSENT OF THE
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
OF BRINKER INTERNATIONAL, INC., A DELAWARE CORPORATION

June 14, 1995

Pursuant to the provisions of the Bylaws of Brinker International, Inc., a Delaware corporation (the "Company"), the undersigned, being all the members of the Executive Committee of the Board of Directors of the Company hereby declare that, when all of us have signed this Consent or a counterpart hereof, the following resolutions shall have been consented to, approved of, and adopted to the same extent and to have the same force and effect as if adopted at a meeting of the Executive Committee of the Board of Directors duly called and held for the purpose of acting upon proposals to adopt such resolutions:

WHEREAS, the Company established and adopted a Savings Plan II for the exclusive benefit of employees of the Company who become participants, effective January 1, 1993 (the "Plan II");

WHEREAS, Plan II may be amended further pursuant to the terms and provision of Article XIII thereof

NOW THEREFORE BE IT RESOLVED, that Amendment Number Two to Plan II, a copy of which has been circulated with this Consent, be and hereby is,

approved and adopted and the proper officers of the Company be, and hereby are, authorized and directed to execute and attest Amendment Number Two to Plan II for and on behalf of the Company;

FURTHER RESOLVED, that the Company and any of its officers hereby are, jointly and severally, authorized to take, or cause to be taken, any and all actions deemed, in their judgment, necessary, desirable or appropriate in connection therewith, to execute, acknowledge, verify, deliver, file, certify or record any and all instruments and documents which may be required to effect the foregoing resolutions; and

FURTHER RESOLVED, that all acts of the officers of the Company which are consistent with the intent of these resolutions shall be and hereby are, in all respects, approved, confirmed and adopted as acts of the Company.

Executed as of the date first above written.

/S/ Norman E. Brinker
NORMAN E. BRINKER

/S/ Ronald A. McDougall
RONALD A. McDOUGALL

/S/ Creed L. Ford, III
CREED L. FORD, III

/S/ Debra L. Smithart
DEBRA L. SMITHART

/S/ F. Lane Cardwell, Jr.
F. LANE CARDWELL, JR.

BRINKER INTERNATIONAL, INC.
SAVINGS PLAN II

Amendment Number Two

Brinker International, Inc. (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having established the Brinker International, Inc. Savings Plan II (the "Plan") pursuant to an instrument effective January 1, 1993, and having reserved the power in Article XIII of the Plan to amend the Plan further from time to time, hereby amends the Plan as set forth below, effective as of January 1, 1995.

1. Section 1.01 (15) Eligible Employee: shall be deleted in its entirety and replaced with the following in lieu thereof:

"(15) Eligible Employee: Any individual on the payroll of an Employing Company (i) whose wages from the Employing Company are subject to withholding for Federal income tax and FICA purposes; (ii) who is included within a 'select group of management or highly compensated employees,' within the meaning of ERISA, and (iii) who is designated by the Committee as eligible to participate in the Plan."

2. Section 11.02 Insurance Contracts: is amended by deleting the following phrase therefrom:

"; provided, however, that in any case in which the owner and/or beneficiary of any such insurance contract is a person other than an Employing Company and/or the Trustee, the Company shall prepare, or cause to be prepared, appropriate Federal tax reports."

3. Except as hereinabove amended, the provisions of the Plan, as previously established, shall remain in full force and effect.

IN WITNESS WHEREOF, the Company has caused this Amendment Number Two to the Plan to be executed on this 14th day of June, 1995.

BRINKER INTERNATIONAL, INC.

By: /S/ Roger F. Thomson