

SECURITIES AND EXCHANGE COMMISSION  
 Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT  
 Under  
 THE SECURITIES ACT OF 1933

Houston Lighting & Power Company  
 (Exact name of issuer as specified in its charter)

TEXAS 74-0694415  
 (State or other jurisdiction of (I.R.S. Employer  
 incorporation or organization) Identification No.)

1111 LOUISIANA 77002  
 HOUSTON, TEXAS (Zip Code)  
 (Address of principal executive offices)

NORAM EMPLOYEE SAVINGS  
 AND INVESTMENT PLAN

(Full title of the plan)

Hugh Rice Kelly  
 Executive Vice President, General Counsel, and Corporate Secretary  
 1111 Louisiana  
 Houston, Texas 77002  
 (Name and address of agent for service)

Telephone number, including area code, of agent for service: (713) 207-1111

CALCULATION OF REGISTRATION FEE

TITLE OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	PROPOSED MAXIMUM OFFERING PRICE PER SHARE (2)	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE (2)	AMOUNT OF REGISTRATION FEE (3)
Common Stock, without par value (1)	361,540 shares	\$20.97	\$7,581,494	\$2,297.42

(1) Includes preference stock purchase rights of one Right per share associated with the Common Stock.

(2) Estimated in accordance with Rule 457(c) solely for the purpose of calculating the registration fee and based upon the average of the high and low sales prices of the Common Stock of Houston Industries Incorporated reported on the New York Stock Exchange Composite Tape on July 28, 1997.

(3) Because no separate consideration is payable for the Rights, the registration fee for such securities is included in the fee for the Common Stock.

BENEFIT PLAN DESCRIBED HEREIN.

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## INTRODUCTORY STATEMENT

Houston Lighting & Power Company (to be renamed Houston Industries Incorporated) (the "Registrant" or the "Company") is filing this Registration Statement on Form S-8 relating to its Common Stock, without par value, and associated Rights to purchase its Series A Preference Stock, without par value (such Common Stock and associated Rights collectively, the "Common Stock"), issuable pursuant to the terms of the NorAm Employee Savings and Investment Plan (the "Plan").

Pursuant to an Agreement and Plan of Merger dated as of August 11, 1996, as amended, by and among Houston Industries Incorporated, a Texas corporation ("HII"), the Registrant (a wholly owned subsidiary of HII), HI Merger, Inc., a Delaware corporation and a direct wholly owned subsidiary of HII ("Merger Sub"), and NorAm Energy Corp., a Delaware corporation ("NorAm"), among other things, (a) HII will be merged into the Company, (b) each outstanding share of Common Stock, without par value, of HII ("HII Common Stock") will be converted into one share of Common Stock, without par value, of the Company, and the Company will be renamed "Houston Industries Incorporated", (c) NorAm will be merged into Merger Sub (the "NorAm Merger"), as a result of which NorAm will become a wholly owned subsidiary of the Company, and (d) each share of common stock, par value \$0.625 per share, of NorAm ("NorAm Common Stock") outstanding immediately prior to the effective time of the NorAm Merger will be converted into either cash or Common Stock, in accordance with the elections of the holders of NorAm Common Stock, subject to proration. As a result of the NorAm Merger, the NorAm Energy Corp. Pooled Common Stock Fund (substantially all of the assets of which have been invested in NorAm Common Stock) will no longer be available as an investment alternative for contributions pursuant to the Plan. Instead, there will be substituted as an investment alternative a similar fund substantially all of the assets of which constitute Common Stock.

This Registration Statement relates only to the Common Stock purchaseable after the NorAm Merger with contributions pursuant to the terms of the Plan and related participation interests in the Plan.

### PART I

#### INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Note: The document(s) containing the plan information required by Item 1 of Form S-8 and the statement of availability of registrant information and any other information required by Item 2 of Form S-8 will be sent or given to participants as specified by Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"). In accordance with Rule 428 and the requirements of Part I of Form S-8, such documents are not being filed with the Securities and Exchange Commission (the "Commission") either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. The Registrant shall maintain a file of such documents in accordance with the provisions of Rule 428. Upon request, the Registrant shall furnish to the Commission or its staff a copy or copies of all of the documents included in such file.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed with the Securities and Exchange Commission (the "Commission") by the Company (File No. 1-3187), by HII (File No. 1-7629) or by the Plan pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or as otherwise indicated, are hereby incorporated in this Registration Statement by reference:

(1) the combined Annual Report on Form 10-K of the Company and HII for the year ended December 31, 1996;

(2) the combined Quarterly Report on Form 10-Q of the Company and HII for the quarter ended March 31, 1997;

(3) the Current Report on Form 8-K of the Company dated February 4, 1997;

(4) the combined Current Report on Form 8-K of the Company and HII dated February 5, 1997;

(5) the description of the Common Stock contained in Item 4 of the Company's Registration Statement on Form 8-B, as filed with the Commission on July 30, 1997; and

(6) the Annual Report on Form 11-K of the Plan for the year ended December 31, 1996, filed as an exhibit to NorAm's Form 10-K/A for the year ended December 31, 1996, dated June 12, 1997.

All documents filed with the Commission by the Company, HII and the Plan pursuant to sections 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold, or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

Any statement contained herein or incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Article 2.02.A.(16) and Article 2.02-1 of the Texas Business Corporation Act and Article V of the Company's Amended and Restated Bylaws provide the Company with broad powers and authority to indemnify its directors and officers and to purchase and maintain insurance for such purposes. Pursuant to such statutory and Bylaw

provisions, the Company has purchased insurance against certain costs of indemnification that may be incurred by it and by its officers and directors.

Additionally, Article IX of the Company's Restated Articles of Incorporation provides that a director of the Company is not liable to the Company or its shareholders for monetary damages for any act or omission in the director's capacity as director, except that Article IX does not eliminate or limit the liability of a director for (i) breaches of such Director's duty of loyalty to the Company and its shareholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, (iii) transactions from which a director receives an improper benefit, irrespective of whether the benefit resulted from an action taken within the scope of the director's office, (iv) acts or omissions for which liability is specifically provided by statute and (v) acts relating to unlawful stock repurchases or payments of dividends.

Article IX also provides that any subsequent amendments to Texas statutes that further limit the liability of directors will inure to the benefit of the directors, without any further action by shareholders. Any repeal or modification of Article IX shall not adversely affect any right of protection of a director of the Company existing at the time of the repeal or modification.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not Applicable.

ITEM 8. EXHIBITS.

The following documents are filed as a part of this Registration Statement or incorporated by reference herein:

Exhibit Number -----	Document Description -----	Report or Registration Statement -----	SEC File or Registration Number -----	Exhibit Reference -----
4.1*	- Restated Articles of Incorporation of the Company (Restated as of May 1993)	Combined Form 10-Q for the quarter ended June 30, 1993	1-3187 1-7629	3
4.2*	- Articles of Amendment to Restated Articles of Incorporation of the Company (dated August 9, 1996)	Registration Statement on Form S-4	333-11329	3(b)
4.3*	- Articles of Amendment to Restated Articles of Incorporation of the Company (dated December 3, 1996)	Combined Form 10-K for the year ended December 31, 1996	1-3187 1-7629	3(c)
4.4*	- Amendments to Restated Articles of Incorporation of Houston Lighting & Power Company to be effective as of the effective time of the merger of HII with and into the Company (included as Exhibit A to Exhibit 4.7)			
4.5*	- Amended and Restated Bylaws of the Company (as of June 5, 1996)	Combined Form 10-Q for the quarter ended June 30, 1996	1-3187 1-7629	3
4.6*	- Amended and Restated Bylaws of HII (as of May 22, 1996), to become the Bylaws of the Company as of the effective time of the merger of HII with and into the Company	Combined Form 10-Q for the quarter ended June 30, 1996	1-3187 1-7629	3
4.7*	- Agreement and Plan of Merger among HII, the Company, HI Merger, Inc. and NorAm dated as of August 11, 1996	Combined Form 8-K dated August 11, 1996	1-3187 1-7629	2

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4.8*	Amendment to Agreement and Plan of Merger among HII, the Company, Merger Sub and NorAm dated as of October 23, 1996	Registration Statement on Form S-4	333-11329	2(c)
4.9*	Form of Amended and Restated Rights Agreement between the Company and Texas Commerce Bank National Association, as Rights Agent, to be executed upon the closing of the merger of HII with and into the Company, including form of Statement of Resolution Establishing Series of Shares designated Series A Preference Stock and Form of Rights Certificate	Registration Statement on Form S-4	333-11329	4(b)(1)
4.10	NorAm Employee Savings and Investment Plan			
4.11	First Amendment to NorAm Employee Savings and Investment Plan			
4.12	Second Amendment to NorAm Employee Savings and Investment Plan			
4.13	Third Amendment to NorAm Employee Savings and Investment Plan			
4.14	Fourth Amendment to NorAm Employee Savings and Investment Plan			
4.15	NorAm Employee Savings and Investment Plan Trust Agreement			
5	The registrant undertakes that (following the NorAm Merger) the Plan and any amendment thereto has been or will be submitted to the Internal Revenue Service ("IRS") in a timely manner and all changes required by the IRS for the Plan to be qualified under Section 401 of the Internal Revenue Code have been or will be made.			
23.1	Consent of Deloitte & Touche LLP			
23.2	Consent of Coopers & Lybrand L.L.P.			

\* Incorporated herein by reference as indicated.

#### ITEM 9. UNDERTAKINGS.

(a) The undersigned registrant hereby undertakes:

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

(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 the 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 the registration statement;

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

Provided, however, that the undertakings set forth in paragraphs (i) and (ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant 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) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant'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 the registrant pursuant to the provisions described under Item 6 above, or otherwise, the registrant 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 the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, 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 or Amendment to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on July 28, 1997.

HOUSTON LIGHTING & POWER COMPANY  
(Registrant)

By: /s/ Don D. Jordan  
-----  
(Don D. Jordan, Chairman and Chief Executive Officer)

PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT OF 1933, THIS REGISTRATION STATEMENT OR AMENDMENT HAS BEEN SIGNED BY THE FOLLOWING PERSONS IN THE CAPACITIES AND ON THE DATES INDICATED.

Signature -----	Title -----	Date ----
/s/ Don D. Jordan ----- (Don D. Jordan)	Chairman, Chief Executive Officer and Director Principal Executive Officer and Principal Financial Officer)	July 28, 1997
/s/ Mary P. Ricciardello ----- (Mary P. Ricciardello)	Vice President and Comptroller (Principal Accounting Officer)	July 28, 1997
----- (William T. Cottle)	Director	July 28, 1997
/s/ Charles R. Crisp ----- (Charles R. Crisp)	Director	July 28, 1997
----- (Jack D. Greenwade)	Director	July 28, 1997
/s/ Lee W. Hogan ----- (Lee W. Hogan)	Director	July 28, 1997
/s/ Hugh Rice Kelly ----- (Hugh Rice Kelly)	Director	July 28, 1997

Signature

Title

Date

-----

-----

-----

Director

July 28, 1997

-----  
(R. Steve Letbetter)

Director

July 28, 1997

-----  
(David M. McClanahan)

Director

July 28, 1997

/s/ Stephen W. Naeve  
-----  
(Stephen W. Naeve)

Director

July 28, 1997

/s/ S. C. Schaeffer  
-----  
(S. C. Schaeffer)

Director

July 28, 1997

-----  
(R. L. Waldrop)

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THE PLAN. Pursuant to the requirements of the Securities Act of 1933, the Benefits Committee has duly caused this Registration Statement or Amendment to be signed on behalf of the NorAm Employee Savings and Investment Plan by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on July 30, 1997.

NORAM EMPLOYEE SAVINGS AND INVESTMENT PLAN

By: /s/ Ricky L. Spurlock

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(Ricky L. Spurlock)

Benefits Administrative Committee

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INDEX TO EXHIBITS

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4.13	- Third Amendment to NorAm Employee Savings and Investment Plan			
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4.15	- NorAm Employee Savings and Investment Plan Trust Agreement			
5	- The registrant undertakes that (following the NorAm Merger) the Plan and any amendment thereto has been or will be submitted to the Internal Revenue Service ("IRS") in a timely manner and all changes required by the IRS for the Plan to be qualified under Section 401 of the Internal Revenue Code have been or will be made.			
23.1	- Consent of Deloitte & Touche LLP			
23.2	- Consent of Coopers & Lybrand L.L.P.			

\* Incorporated herein by reference as indicated.

ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN

(Generally effective January 1, 1989)

Conformed copy incorporating all  
amendments through December 31, 1993

ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN

Arkla, Inc., a Delaware corporation, adopts the Arkla Employee Savings & Investment Plan (the "Plan") as an amendment and restatement of the Thrift Plan for Employees of Arkla, Inc., the Entex StockPlus Plan and of the Entex Hourly Employees' StockPlus Plan, all of which will be merged into a single plan as of April 1, 1993. The Plan is effective as of January 1, 1989, except as otherwise expressly provided. As amended and restated, the Plan is a profit sharing plan with a cash or deferred arrangement intended to qualify under Code section 401(a) and to meet the requirements of Code section 401(k). The Trust Agreement established pursuant to the Plan is an employees' trust intended to constitute a tax-exempt organization under Code section 501(a).

Words and phrases with initial capital letters used throughout the Plan are defined in Article 1.

(i)

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## ARTICLE 1

### DEFINITIONS

1.1 "Account" means the records, including subaccounts, maintained by the Committee in the manner provided in Article 4 to determine the interest of each Participant in the assets of the Plan and may refer to any or all of the Participant's Deferral Contribution Account, After Tax Contribution Account, Matching Contribution Account, Transfer Account and ESOP Account.

1.2 "After Tax Contribution Account" means the Account established for each applicable Participant, the balance of which is attributable to the balance in the Participant's after tax contribution account under the StockPlus Plan or the Thrift Plan and earnings and losses of the Trust Fund with respect to such amounts.

1.3 "Beneficiary" means the one or more persons or entities entitled to receive a distribution of a Participant's interest in the Plan in the event of his death as provided in Article 7.

1.4 "Board of Directors" or "Board" means the Board of Directors of the Company.

1.5 "Code" means the Internal Revenue Code of 1986, as amended from time to time. References to "regulations" are to regulations published by the Secretary of the Treasury under applicable provisions of the Code, unless otherwise expressly indicated.

1.6 "Committee" or "Employee Benefits Committee" means the Committee appointed under Article 9.

1.7 "Company" means Arkla, Inc., a Delaware corporation.

1.8 "Company Stock" means the common stock, par value \$.625 per share, of the Company.

1.9 "Compensation" means the total payments (excluding expense reimbursements) actually made to an Employee for personal services rendered to a Participating Employer, including salary, wages, overtime, commissions, incentive payments, shift differential payments, bonus payments, back payment awards, and other compensation of a similar bonus nature, but excluding deferred compensation paid, stock options, stock appreciation rights, stock awards and cash bonus awards under the Company's long-term incentive plan, salary continuation payments payable upon the death of an Employee, and all other extraordinary compensation. For purposes of calculating the amount of a Participant's Deferral Contributions, but not for purposes of calculating or allocating the amount of any Matching Contribution, Compensation includes severance pay. In addition, Compensation includes any contributions made by the Participating Employers on behalf of an Employee pursuant to a deferral election

under the Plan or under any other employee benefit plan that are not includable in income under Code section 402(a)(8) and any contributions made by the Participating Employers on behalf of an Employee to a cafeteria plan that are not includable in income under Code section 125. The Compensation of an Employee taken into account for any purpose for any Plan Year ending before January 1, 1994 will not exceed \$200,000, and will not exceed \$150,000 for any Plan Year beginning after December 31, 1993, as such amounts may be adjusted by the Secretary of the Treasury. For purposes of applying the applicable dollar limit set forth in the preceding sentence, if an Employee is a Highly Compensated Employee (as defined in Section 10.2(n)) who is either (i) a 5-percent owner, determined in accordance with Code section 414(q) and the Treasury Regulations promulgated thereunder, or (ii) one of the ten most highly compensated Employees ranked on the basis of Compensation paid by the Controlled Group during the year, such Highly Compensated Employee and the members of his family (as hereafter defined) will be treated as a single employee and the Compensation of each member of the family will be aggregated with the Compensation of the Highly Compensated Employee. The limitation on Compensation will be allocated among such Highly Compensated Employee and his family members in proportion to each individual's Compensation. For purposes of this Section, the term "family" means an Employee's spouse and any lineal descendants who are under age 19 at the end of the Plan Year in question.

1.10 "Controlled Group" means the Company and all other corporations, trades and businesses, the employees of which, together with employees of the Company, are required by the first sentence of subsection (b), by subsection (c), by subsection (m) or by subsection (o) of Code section 414 to be treated as if they were employed by a single employer.

1.11 "Controlled Group Member" means each corporation or unincorporated trade or business that is or was a member of the Controlled Group, but only during such period as it is or was such a member.

1.12 "Deferral Contribution" means the amount of a Participant's Compensation that he elects to have contributed to the Plan by the Participating Employers rather than paid to him directly in cash.

1.13 "Deferral Contribution Account" means the Account established for each Participant, the balance of which is attributable to (i) the Participant's Deferral Contributions, (ii) salary deferral contributions made to the Thrift Plan and (iii) pre tax contributions made to the StockPlus Plan, and earnings and losses of the Trust Fund with respect to such contributions.

1.14 "Disability" or "Disabled" means a physical or mental condition which, in the opinion of the Committee, causes a Participant to be both (a) totally and presumably permanently disabled, due to sickness or injury, so as to be unable to perform the usual duties pertaining to his occupation and (b) eligible for disability benefits under any insured or uninsured long-term disability program maintained by the Employer under which the Participant is covered.

1.15 "Effective Date" means January 1, 1989, except as otherwise expressly provided.

1.16 "Eligibility Computation Period" means the period of 12 consecutive months beginning on the date an Employee first performs an Hour of Service and on each anniversary of that date.

1.17 "Employee" means any person who is: (i) employed by any Controlled Group Member if their relationship is, for federal income tax purposes, that of employer and employee, or (ii) a "leased employee" of a Controlled Group Member within the meaning of Code section 414(n)(2) but only for purposes of the requirements of Code section 414(n)(3).

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

1.19 "ESOP Account" means the Account established for each applicable Participant, the balance of which is attributable to the balance of the Participant's ESOP account under the StockPlus Plan and earnings and losses of the Trust Fund with respect to such amounts.

1.20 "Hour of Service" means each hour credited in accordance with the following rules:

(a) Credit for Services Performed. An Employee will be credited with one Hour of Service for each hour for which he is paid, or entitled to payment, by one or more Controlled Group Members for the performance of duties.

(b) Credit for Periods in Which No Services Are Performed. An Employee will be credited with one Hour of Service for each hour for which he is paid, or entitled to payment, by one or more Controlled Group Members on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated); except that (i) no more than 501 Hours of Service will be credited under this subsection (b) to an Employee on account of any single continuous period during which he performs no duties (whether or not such period occurs in a single Plan Year), (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed will not be credited to the Employee if the payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation or unemployment compensation or disability insurance laws, and (iii) Hours of Service will not be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. For purposes of this subsection (b), an Employee will be credited with Hours of Service on the basis of his regularly scheduled working hours per week (or per day if he is paid on a daily basis) or, in the case of an Employee without a regular work schedule, on the basis of 40 Hours of Service per week (or 8 Hours of Service per day if he is paid on a daily basis) for each week (or day) during the period of time during which no duties are performed; except that an Employee will not be credited with a greater number of Hours of Service for a period during which no duties are performed than the number of hours for which he is regularly scheduled for the performance of duties during the period or, in the case of an Employee without a regular work schedule, on the basis of 40 Hours of Service per week (or 8 Hours of Service per day if he is paid on a daily basis).

(c) Credit for Back Pay. An Employee will be credited with one Hour of Service for each hour for which back pay, irrespective of mitigation of damages, has been either awarded or agreed to by one or more Controlled Group Members; except that an hour will not be credited under both subsection (a) or (b), as the case may be, and this subsection (c), and Hours of Service credited under this subsection (c) with respect to periods described in subsection (b) will be subject to the limitations and provisions under subsection (b).

(d) Credit for Certain Absences. If an Employee is absent from work on or after the Effective Date for any period by reason of the pregnancy of the Employee, by reason of the birth of a child of the Employee, by reason of the placement of a child with the Employee, or for purposes of caring for a child for a period beginning immediately following the birth or placement of that child, the Employee will be credited with Hours of Service (solely for the purpose of determining whether he has a One Year Break in Service under the Plan) equal to (i) the number of Hours of Service which otherwise would normally have been credited to him but for his absence, or (ii) if the number of Hours of Service under clause (i) is not determinable, 8 Hours of Service per normal workday of the absence, provided, however, that the total number of Hours of Service credited to an Employee under this subsection (d) by reason of any pregnancy, birth or placement will not exceed 501 Hours of Service. Hours of Service will not be credited to an Employee under this subsection (d) unless the Employee furnishes to the Committee such timely information as the Committee may reasonably require to establish that the Employee's absence from work is for a reason specified in this subsection (d) and the number of days for which there was such an absence.

(e) Manner of Counting Hours. No hour will be counted more than once or be counted as more than one Hour of Service even though the Employee may receive more than straight-time pay for it. With respect to Employees whose compensation is not determined on the basis of certain amounts for each hour worked during a given period and for whom hours are not required to be counted and recorded by any federal law (other than ERISA), Hours of Service will be credited on the basis of 10 Hours of Service daily, 45 Hours of Service weekly, 95 Hours of Service semi-monthly, or 190 Hours of Service monthly, if the Employee's compensation is determined on a daily, weekly, semi-monthly or monthly basis, respectively, for each period in which the Employee would be credited with at least one Hour of Service under this Section. Except as otherwise provided in subsection (d), Hours of Service will be credited to Eligibility Computation Periods and Plan Years in accordance with the provisions of 29 C.F.R. (S) 2530.200b-2, which provisions are incorporated in this Plan by reference.

1.21 "Matching Contribution" means the Participating Employer Matching Contribution made to the Plan on behalf of a Participant pursuant to Article 3.

1.22 "Matching Contribution Account" means the Account established for each Participant, the balance of which is attributable to (i) Matching Contributions made pursuant to Article 3, (ii) employer's contributions made to the Thrift Plan and (iii) employer matching contributions made to the StockPlus Plan, and earnings and losses of the Trust Fund with respect to such contributions.

1.23 "Merger Date" means April 1, 1993, the effective date of the merger of the StockPlus Plan into the Thrift Plan.

1.24 "One Year Break in Service" means an absence from service determined in accordance with the following rules:

(a) Participation. For purposes of determining an Employee's eligibility to participate under Section 2.1, a One Year Break in Service is an Eligibility Computation Period in which the Employee fails to complete more than 500 Hours of Service.

(b) Vesting. For purposes of determining the forfeiture of nonvested amounts in a Participant's Matching Contribution Account under Article 5, a One Year Break in Service is a period of at least 12 consecutive months in which an Employee is absent from service. A One Year Break in Service will begin on the Employee's termination date (as defined in Section 1.37) and will end on the day on which the Employee again performs an Hour of Service for a Controlled Group Member. If, however, an Employee who is absent from work with a Controlled Group Member 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 Employee's adoption of the child, or (iv) caring for such child immediately following such birth or placement, will be absent for such reason beyond the first anniversary of the first date of his absence, his period of absence, solely for purposes of preventing a One Year Break in Service, will commence on the second anniversary of the first day of his absence from work. The period of absence from work between the first and second anniversaries of the first date of his absence from work will not be taken into account in determining whether the Employee has completed a Year of Service. The provisions of this paragraph will not apply to an Employee unless the Employee furnishes to the Committee such timely information that the Committee may reasonably require to establish (i) that the absence from work is for one of the reasons specified in this paragraph and (ii) the number of days for which there was such an absence.

1.25 "Participant" means an Employee or former Employee who has met the applicable eligibility requirements of Article 2 and who has not yet received a distribution of the entire amount of his vested interest in the Plan.

1.26 "Participating Employer" means the Company (excluding, however, the Minnegasco Division of the Company) and each other Controlled Group Member set forth on Appendix A and any other Controlled Group Member or organizational unit of the Company or a Controlled Group Member which is designated as a Participating Employer under the Plan by the Board of Directors.

1.27 "Plan" means the plan set forth herein, as amended from time to time.

1.28 "Plan Year" means the period with respect to which the records of the Plan are maintained, which will be the 12-month period beginning on January 1 and ending on December 31.

1.29 "Qualified Plan" means an employee benefit plan that is qualified under Code section 401(a).

1.30 "StockPlus Plan" means the Entex StockPlus Plan or the Entex Hourly Employees' StockPlus Plan, as the case may be, as is in effect immediately prior to the adoption of this Plan.

1.31 "Thrift Plan" means the Thrift Plan for Employees of Arkla, Inc., as in effect immediately prior to the adoption of this Plan.

1.32 "Transfer Account" means the Account established for each Participant, the balance of which is attributable to (i) amounts transferred to the Trust Fund pursuant to Section 3.5 and (ii) rollover contributions made to the Thrift Plan, and the earnings and losses of the Trust Fund with respect to such amounts.

1.33 "Trust Agreement" means the agreement or agreements executed by the Company and the Trustee which establishes a trust fund to provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon, as amended from time to time.

1.34 "Trust Fund" means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

1.35 "Trustee" means the one or more individuals or organizations who have entered into the Trust Agreement as Trustee, and any duly appointed successor.

1.36 "Valuation Date" means the date with respect to which the Trustee determines the fair market value of the assets comprising the Trust Fund or any portion thereof. The regular Valuation Date will be each business day during the Plan Year.

1.37 "Year of Service" means each period of 365 days of service (determined by aggregating days of service that are not consecutive) beginning on the later of the date an Employee is first credited with an Hour of Service or is again credited with an Hour of Service following his reemployment and ending on the earlier of (i) the date on which the Employee quits, retires, is discharged or dies or (ii) the first anniversary of the date on which the Employee is absent from service with a Controlled Group Member for any other reason, such as vacation, holiday, sickness, disability, leave of absence or layoff (the earlier of such dates is hereafter referred to as the Employee's "termination date"). An Employee's period of service for purposes of determining a Year of Service will include each period in which the Employee is absent from service for less than 12 months (measured from the Employee's termination date) and any periods during which he is in the service of the armed forces of the United States and his reemployment rights are guaranteed by law, provided he returns to employment with a Controlled Group Member within the time such rights are guaranteed.

## ARTICLE 2

### PARTICIPATION

2.1 Eligibility to Participate. Each Employee who was a Participant in the Thrift Plan or the StockPlus Plan immediately prior to the Merger Date will be a Participant on the Merger Date. Each Employee not referred to in the preceding sentence will become a Participant on the first day of the calendar quarter coinciding with or immediately following the date that is one month and one day after he completes an Hour of Service. Notwithstanding the foregoing, if an Employee is classified as a temporary or part-time Employee in accordance with standard personnel practices of his Participating Employer and was not eligible to participate in the Thrift Plan or the StockPlus Plan on the Merger Date, such Employee will become a Participant upon completion of at least 1,000 Hours of Service during an Eligibility Computation Period.

#### 2.2 Exclusions from Participation.

(a) Ineligible Employees. An Employee who is otherwise eligible to participate in the Plan will not become or continue as an active Participant if (i) he is a nonresident alien who receives no earned income (within the meaning of Code section 911(d)(2)) from a Participating Employer which constitutes income from sources within the United States (within the meaning of Code section 861(a)(3)); (ii) he is an Employee (other than an hourly paid Employee of the Entex Division of the Company) who is covered by a collective bargaining agreement that does not expressly provide for participation in the Plan, provided that the representative of the Employees with whom the collective bargaining agreement is executed has had an opportunity to bargain concerning retirement benefits for those Employees; (iii) he is employed by a Controlled Group Member or an organizational unit thereof that has not been designated as a Participating Employer by the Board; (iv) he is a leased employee required to be treated as an Employee under Code section 414(n); or (v) he is then on an approved leave of absence without pay or in the service of the armed forces of the United States.

(b) Exclusion after Participation. A Participant who becomes ineligible under subsection (a) may not elect to have Deferral Contributions made or continued to the Plan.

(c) Participation after Exclusion. An Employee or Participant who is excluded from active participation is eligible to participate in the Plan and will become a Participant on the first day he is no longer described in subsection (a) and is credited with one or more Hours of Service by a Participating Employer, provided that he has otherwise met the requirements of Section 2.1. This subsection will apply to an Employee who returns from an approved leave of absence or from military leave and who would otherwise be treated as a new Employee under Section 2.3 only if he returns to employment with a Controlled Group Member immediately following the expiration of the leave of absence or, in the case of an Employee on military leave, during the period in which reemployment rights are guaranteed by law.

2.3 Reemployment Provisions. All service and Hours of Service are counted in determining eligibility to participate, except as otherwise provided in this Section.

(a) Termination of Employment before Participation. If an Employee terminates employment before becoming a Participant and is reemployed by a Controlled Group Member before incurring a number of consecutive One Year Breaks in Service at least equal to the greater of five or his aggregate Years of Service, he will receive credit for his service and Hours of Service completed before his termination of employment and will become a Participant on the later of the date initially determined under Section 2.1 or the date of his reemployment by a Participating Employer; but if he is reemployed by a Controlled Group Member after incurring a number of consecutive One Year Breaks in Service at least equal to the greater of five or his aggregate Years of Service, he will be treated as a new Employee for purposes of the Plan, in which case his service and Hours of Service completed before his reemployment will be disregarded in determining when he will become a Participant.

(b) Termination of Employment after Participation. A Participant who terminates employment will again become a Participant immediately upon his reemployment by a Participating Employer.

2.4 Special Effective Date. The provisions of this Article are effective as of the Merger Date with respect to each Employee who completes an Hour of Service on or after such date. Prior to the Merger Date, eligibility was determined under the respective provisions of the Thrift Plan and StockPlus Plan.

## ARTICLE 3

### CONTRIBUTIONS

#### 3.1 Participant Deferral Contributions.

(a) Amount of Deferral Contributions. A Participant may elect, in accordance with procedures established by the Committee from time to time, to defer from 1% to 12% (in whole percent increments) of his Compensation for each payroll period and to have the amount deferred contributed to the Plan by the Participating Employers as a Deferral Contribution.

(b) Modification and Suspension of Deferral Contributions. A Participant may increase or decrease the amount of his Deferral Contributions during the Plan Year, not more frequently than once each calendar month, effective as soon as practicable. A Participant may suspend his Deferral Contributions at any time, effective as soon as practicable, and a suspension of his Deferral Contributions will not be considered a modification for purposes of this subsection (b). A Participant who suspends his Deferral Contributions may resume Deferral Contributions to the Plan at any time following the calendar month in which the suspension occurred, effective as soon as practicable. The Committee will adopt from time to time procedures for administering the rules contained in this subsection, which will apply in a uniform and nondiscriminatory manner to all Participants.

(c) Limitations on Deferral Contributions. The sum of a Participant's Deferral Contributions and his elective deferrals (within the meaning of Code section 402(g)(3)) under any other plans, contracts or arrangements of any Controlled Group Member will not exceed \$7,000 (as adjusted for cost of living increases in the manner described in Code section 415(d)) for any taxable year of the Participant. A Participant's Deferral Contributions also will be subject to the deferral percentage limitation set forth in Section 10.6. In the event a Participant's Deferral Contributions and other elective deferrals (whether or not under a plan, contract or arrangement of a Controlled Group Member) for any taxable year exceed the foregoing \$7,000 limitation, the excess allocated by the Participant to Deferral Contributions (adjusted for Trust Fund earnings and losses in the manner described in Section 10.6(d)) may, in the discretion of the Committee, be distributed to the Participant no later than April 15 following the close of such taxable year. The amount of Deferral Contributions distributed pursuant to this Section with respect to a Participant for a Plan Year will be reduced by any excess Deferral Contributions previously distributed to the Participant pursuant to Section 10.6(c) for the same Plan Year.

#### 3.2 Matching Contributions.

(a) Amount of Matching Contributions. The Participating Employers will pay to the Trustee as a Matching Contribution for each calendar month during the Plan Year an amount equal to 100% of the Deferral Contributions made in accordance with Section 3.1 by each Participant who was a Participant at any time during the month, up to a maximum Matching

Contribution for the month of 6% of the Participant's Compensation for the month. If for any Plan Year the Deferral Contributions of a Participant who is employed by a Participating Employer on the last day of the Plan Year are limited by the dollar limitation of Section 3.1(c) and the aggregate amount of Matching Contributions required to be made with respect to each calendar month are less than 100% of the Participant's total Deferral Contributions for the Plan Year not in excess of 6% of his Compensation, the Participating Employers will pay to the Trustee, as an additional Matching Contribution, an amount equal to the difference between (i) 100% of the Participant's Deferral Contributions for the Plan Year not in excess of 6% of Compensation and (ii) the amount of Matching Contributions required to be made with respect to each calendar month.

(b) Limitation on Matching Contributions. Matching Contributions will be subject to the contribution percentage limitation set forth in Section 10.7. In addition, no Matching Contribution will be made with respect to Deferral Contributions made from a Participant's severance pay.

3.3 Time of Payment. Deferral Contributions and Matching Contributions will be paid to the Trustee as soon as practicable following the close of each calendar month during the Plan Year, but may be paid more frequently if administratively desirable.

3.4 Investment of Contributions. Each Participant may direct the Trustee to invest the balance of his Accounts in the investment funds designated by the Committee from time to time in accordance with the provisions of the Trust Agreement. When a Participant terminates employment, any portion of the Participant's Matching Contribution Account which was not vested upon his termination of employment will be invested in the money market fund established under the Trust Agreement, or as the Committee otherwise directs. If the Participant is reemployed before the nonvested portion of his Matching Contribution Account is forfeited, he will again be entitled to direct the investment of the entire balance of his Accounts, subject to the terms of the Trust Agreement. The Committee from time to time will establish rules and procedures regarding Participant investment directions, including, without limitation, rules and procedures with respect to the manner in which such directions may be furnished, the frequency with which such directions may be changed during the Plan Year and the minimum portion of a Participant's Accounts that may be invested in any one investment fund.

3.5 Rollover and Transfer Contributions. The Committee, in its sole discretion, may authorize the Trustee to accept (i) any part of the cash or other assets distributed to a Participant from a Qualified Plan or from an individual retirement account or annuity described in Code section 408 which have been liquidated and reduced to cash, or (ii) a direct transfer of assets to the Plan on behalf of a Participant from the trustee or other funding agent of a Qualified Plan. The Participant will make application for the rollover or transfer in writing according to rules and procedures prescribed by the Committee with the concurrence of the Trustee. Any amounts contributed to the Plan pursuant to this Section will be allocated to the Participant's Transfer Account.

3.6 Special Effective Date. The provisions of this Article (other than Section 3.1(c) and the first sentence of Section 3.2(b)) are effective as of the first pay day on or

after the Merger Date with respect to each Employee who completes an Hour of Service on or after the Merger Date. Prior to the Merger Date, contributions were determined under the respective provisions of the Thrift Plan and StockPlus Plan.

## ARTICLE 4

### ALLOCATIONS TO PARTICIPANTS' ACCOUNTS

4.1 Establishment of Accounts. The Committee will establish a Deferral Contribution Account, a Matching Contribution Account and a Transfer Account for each Participant. The Committee will also establish an After Tax Contribution Account and an ESOP Account for the applicable Participants. The Committee may establish one or more subaccounts of a Participant's Accounts, if the Committee determines that subaccounts are necessary or desirable in administering the Plan.

#### 4.2 Allocation of Contributions.

(a) Deferral Contributions and Matching Contributions. Deferral Contributions made by a Participating Employer on behalf of a Participant will be allocated by the Committee to the Participant's Deferral Contribution Account. Matching Contributions made by a Participating Employer with respect to a calendar month during the Plan Year will be allocated by the Committee to the Matching Contribution Accounts of Participants who were Participants in the Plan at any time during such month, in the ratio that the Deferral Contributions made on behalf of each such Participant for the month bear to the total Deferral Contributions made on behalf of all such Participants for the month, taking into account for purposes of this ratio only Deferral Contributions that do not exceed 6% of each Participant's Compensation for the month. Any additional Matching Contribution required to be made by the last sentence of Section 3.2(a) with respect to a Participant will also be allocated to the Participant's Matching Contribution Account.

4.3 Limitation on Allocations. Article 10 sets forth certain rules under Code sections 401(k), 401(m) and 415 that limit the amount of contributions and forfeitures that may be allocated to a Participant's Accounts for a Plan Year.

#### 4.4 Allocation of Trust Fund Income and Loss.

(a) Accounting Records. The Committee, through its accounting records, will clearly segregate each Account and subaccount and will maintain a separate and distinct record of all income and losses of the Trust Fund attributable to each Account or subaccount. Income or loss of the Trust Fund will include any unrealized increase or decrease in the fair market value of the assets of the Trust Fund.

(b) Method of Allocation. The share of net income or net loss of the Trust Fund to be credited to, or deducted from, each Account will be determined by applying the closing market price of each investment fund in which each Account is invested on each Valuation Date to the share/unit balance of each investment fund in the Account as of the close of business on the Valuation Date. Each Account will be further adjusted for withdrawals, distributions and other additions or subtractions that may be appropriate. The share of net income or net loss to be credited to, or deducted from, any subaccount will be an allocable

portion of the net income or net loss credited to or deducted from the Account under which the subaccount is established.

4.5 Valuation of Trust Fund. The fair market value of the total net assets comprising the Trust Fund will be determined by the Trustee as of each Valuation Date.

4.6 No Guarantee. The Participating Employers, the Committee and the Trustee do not guarantee the Participants or their Beneficiaries against loss or depreciation or fluctuation of the value of the assets of the Trust Fund.

4.7 Quarterly Statement of Accounts. The Committee will furnish each Participant and each Beneficiary of a deceased Participant, at least quarterly, a statement showing (i) the value of his Accounts at the end of each calendar quarter, (ii) the allocations to and distributions from his Accounts during the calendar quarter, and (iii) his vested and nonforfeitable interest in his Accounts at the end of the calendar quarter. No statement will be provided to a Participant or Beneficiary after the Participant's entire vested and nonforfeitable interest in his Accounts has been distributed.

ARTICLE 5

VESTING

5.1 Determination of Vested Interest.

(a) Deferral Contribution, ESOP, After Tax Contribution and Transfer Accounts. Except as provided in Section 5.3, the interest of each Participant in his Deferral Contribution Account, his ESOP Account, his After Tax Contribution Account and his Transfer Account will be 100% vested and nonforfeitable at all times.

(b) Matching Contribution Account. The interest of each Participant in his Matching Contribution Account will become vested and nonforfeitable in accordance with the following schedule:

Years of Service -----	Percent Vested and Nonforfeitable -----
Less than 2	0
2 but less than 3	20
3 but less than 4	40
4 but less than 5	60
5 but less than 6	80
6 or more	100

(c) Accelerated Vesting. A Participant's interest in his Matching Contribution Account will become 100% vested and nonforfeitable without regard to his Years of Service (i) on his 65th birthday if he is then an Employee, (ii) upon his death while he is an Employee, (iii) upon his Disability while he is an Employee or (iv) he is part of a group of Participants that the Committee determines, in its sole discretion, will become 100% vested in connection with a disposition, sale, merger, reorganization or similar transaction which causes such Participants to cease to participate in the Plan.

5.2 Forfeiture of Nonvested Amounts. Any nonvested portion of a Participant's Matching Contribution Account will be forfeited on the last day of the Plan Year in which the Participant incurs five consecutive One Year Breaks in Service. If a distribution is made to a Participant when the Participant's vested interest in his Matching Contribution Account is less than 100% and he is reemployed prior to incurring a forfeiture, the portion of his Matching Contribution Account which was not vested will be maintained in a separate subaccount until he becomes 100% vested. His vested interest in such subaccount, at any relevant time prior to the time he is fully vested in his Matching Contribution Account, will be equal to an amount determined by the formula  $X = P(AB \& D) - D$ , where P is the vested percentage at the relevant time, AB is the subaccount balance at the relevant time and D is the amount of the distribution.

5.3 Unclaimed Distribution. If the Committee cannot locate a person entitled to receive a benefit under the Plan within a reasonable period (as determined by the Committee in its discretion), the amount of the benefit will be treated as a forfeiture during the Plan Year in which the period ends. If, before final distributions are made from the Trust Fund following termination of the Plan, a person who was entitled to a benefit which has been forfeited under this Section makes a claim to the Committee or the Trustee for his benefit, he will be entitled to receive, as soon as administratively feasible, a benefit in an amount equal to the value of the forfeited benefit on the date of forfeiture. This benefit will be reinstated from Participating Employer contributions made to the Plan for this purpose.

5.4 Application of Forfeited Amounts. The amount of a Participant's Matching Contribution Account which is forfeited will be applied as soon as practicable after the close of each Plan Year to reduce Participating Employer contributions pursuant to Article 3.

5.5 Reemployment Provisions. If a Participant terminates employment and again becomes an Employee, his Years of Service completed before his reemployment will be included in determining his vested and nonforfeitable interest after he again becomes an Employee.

## ARTICLE 6

### DISTRIBUTIONS TO PARTICIPANTS

#### 6.1 Basic Rules Governing Distributions.

(a) Timing of Distributions. Except as set forth in Sections 6.2 and 6.3, distribution of a Participant's vested Account balances will be made as soon as practicable following the Participant's termination of employment. If a loan is outstanding from the Trust Fund to the Participant on the date of a distribution, the amount distributed will be reduced by any security interest in the Participant's Accounts held by the Plan by reason of the loan.

(b) Form of Distributions. Distributions will be made, at the Participant's election, in the form of either a single lump sum payment or, in the case of distributions upon termination of employment, by payments in a series of equal cash installments spread over a fixed period of years. Shares of Company Stock allocated to a Participant's Accounts will be distributed in cash or in the form of whole shares plus cash for any fractional share, according to a Participant's election.

(c) Participant's Consent to Certain Payments. If the amount of a Participant's vested Account balances exceeds \$3,500, the Committee will not distribute the Participant's vested Account balances to him prior to his attainment of age 70-1/2 unless he consents to the distribution. The foregoing provision will not apply to any distributions required under Sections 10.6 and 10.7.

(d) Source of Installment Distributions. Installment distributions will be made first from a Participant's After Tax Contribution Account, if any, next from his Deferral Contribution Account, next from his Matching Contribution Account, next from his Transfer Account, and last from his ESOP Account.

#### 6.2 Hardship Distributions.

(a) General Rule. A Participant who has not terminated employment may request a distribution from his Deferral Contribution Account in the event of the Participant's hardship. A distribution will be on account of hardship only if the distribution is necessary to satisfy an immediate and heavy financial need of the Participant, as defined below, and satisfies all other requirements of this Section.

(b) Deemed Financial Need. For purposes of this subsection, a distribution is made on account of an immediate and heavy financial need of the Participant only if the distribution is for (i) the payment of medical expenses described in Code section 213(d) previously incurred by the Participant, the Participant's spouse or any dependents of the Participant (as defined in Code section 152) or necessary for those persons to obtain medical care described in section 213(d); (ii) the purchase (excluding mortgage payments) of a principal residence for the Participant; (iii) the payment of tuition and related educational fees for the next

12 months of post-secondary education for the Participant, his or her spouse, children, or dependents; (iv) the need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence; or (v) the payment of funeral expenses of a family member.

(c) Reliance on Participant Representation. A distribution will be considered necessary to satisfy an immediate and heavy financial need of the Participant only if (i) the Participant represents in writing, on forms provided by the Committee, (A) that the distribution is not in excess of the amount required to relieve the immediate and heavy financial need of the Participant (which may include federal, state or local income taxes or penalties reasonably anticipated to result from the distribution), and (B) that the need cannot be relieved through reimbursement or compensation by insurance or otherwise, by reasonable liquidation of the Participant's assets, to the extent such liquidation would not itself cause an immediate and heavy financial need, by cessation of Deferral Contributions under the Plan, or by distributions other than hardship distributions or nontaxable (at the time of the loan) loans from plans maintained by any Controlled Group Member or any other entity by which the Participant is employed, or by borrowing from commercial sources on reasonable commercial terms, and (ii) the Committee does not have actual knowledge contrary to the Participant's representation.

(d) Source of Hardship Distributions. The cumulative amount distributed to a Participant on account of hardship will not exceed the balance of the Participant's Deferral Contribution Account (or similar account under the Thrift Plan or StockPlus Plan) as of December 31, 1988, plus the amount of Deferral Contributions (or elective deferrals under the Thrift Plan or StockPlus Plan) made after that date (but not earnings on such contributions).

### 6.3 Other Withdrawals.

(a) ESOP Accounts. A Participant may elect to withdraw all or any part of his interest in his ESOP Account at any time, and the full shares of Company Stock withdrawn, together with the cash value of any fractional share of Company Stock withdrawn, will be delivered to the Participant as soon as practicable.

(b) Withdrawal Before Age 59-1/2. A Participant who has not attained age 59-1/2 may apply to the Committee for a withdrawal from his Accounts, other than his Deferral Contribution Account, without regard to whether the Participant has suffered a hardship as described in section 6.2; provided, however, that a Participant must be fully vested to make such a withdrawal from his Matching Contribution Account. A Participant may not make more than one withdrawal under this subsection (b) in any Plan Year.

(c) After Age 59-1/2. A Participant who has attained age 59-1/2 may apply to the Committee for a withdrawal from the vested portion of his Accounts without regard to whether the Participant has suffered a hardship as described in Section 6.2. A Participant may not make more than one application for a withdrawal under this subsection (c) in any Plan Year.

6.4 Distribution Procedures. Distributions pursuant to Sections 6.2 and 6.3 will be made as soon as practicable following the Committee's approval of the Participant's

written request for withdrawal and will be made in the form described in Section 6.1(b). No distribution under this Section will be made in an amount that is greater than the excess of the Participant's vested interest in the Accounts from which the distributions are made over the aggregate amount of outstanding loans, plus accrued interest, secured by such Accounts.

#### 6.5 Loans to Participants.

(a) General Provisions. A Participant may, subject to the provisions of this Section, borrow from the vested interest in his Accounts. All such loans will be subject to the requirements of this Section and such other rules as the Committee may from time to time prescribe, including without limitation any rules restricting the purposes for which loans will be approved. The Committee will have complete discretion as to approval of a loan hereunder and as to the terms thereof, provided that its decisions will be made on a uniform and nondiscriminatory basis and in accordance with this Section. If the Committee approves a loan, the Committee will direct the Trustee to make the loan and will advise the Participant and the Trustee of the terms and conditions of the loan. Nothing in this Section will require the Committee to make loans available to Participants.

(b) Terms and Conditions. Loans to Participants will be made according to the following terms and conditions and such additional terms and conditions as the Committee may from time to time establish: (i) no loan will be for a term of longer than five years; (ii) all loans will become due and payable in full upon termination (by death or otherwise) of the Participant's employment with the Controlled Group and upon the occurrence of such other events as the Committee may from time to time specify; (iii) all loans will bear a reasonable rate of interest as determined by the Committee from time to time; (iv) all loans will be made only upon receipt of adequate security (the security for a loan will be the Participant's interest in the separate investment fund established under subsection (f) for that loan in an amount that does not exceed 50% of the Participant's vested interest under the Plan); (v) payments of principal and interest will be made through payroll deductions sufficient to provide for substantially level amortization of principal and interest with payments not less frequently than quarterly, which will be irrevocably authorized by the Participant in writing on a form provided by the Committee at the time the loan is made; (vi) the amount of any indebtedness (including accrued and unpaid interest) under any loan will be deducted from a Participant's interest in the Trust Fund if and only if such indebtedness or any installment thereof is not paid when due (including amounts due by acceleration); (vii) no more than one outstanding loan will be permitted with respect to a Participant at any time; and (viii) all loans will be evidenced by a note containing such additional terms and conditions as the Committee will determine.

(c) Maximum Amount of Loans. The amount of any loan made pursuant to this Section, when added to the outstanding balance of all other loans to the Participant from all qualified employer plans (as defined in Code section 72(p)(4)) of the Controlled Group, will not exceed the lesser of (i) 50% of the nonforfeitable interest in his Accounts, or (ii) \$50,000 reduced by the excess, if any, of (A) the highest outstanding balance of all other loans from qualified employer plans of the Controlled Group to the Participant during the 1-year period ending on the date on which such loan was made, over (B) the outstanding

balance of all loans from qualified employer plans of the Controlled Group to the Participant on the date on which such loan was made.

(d) Minimum Loan. The minimum loan permitted under this Section is \$1,000.00. If such minimum amount exceeds the limitations of subsection (c), no loan will be made.

(e) Source of Loans. All loans will be made first from a Participant's Deferral Contribution Account, next from his Matching Contribution Account, next from his Transfer Account, next from his After Tax Contribution Account, and last from his ESOP Account. Loans made from an Account will be made pro rata from the investment funds within such Account unless the Committee adopts a different ordering rule.

(f) Investment of Loan Payments. All loans will be treated as a separate investment fund of the borrowing Participant. All payments with respect to a loan will be credited to the borrowing Participant's Accounts and will be invested in accordance with the Participant's investment directions in effect under Section 3.4, or if none, as directed by the Committee.

6.6 Reemployment of Participant. If a Participant who terminated employment again becomes an Employee before receiving a distribution of his Account balances, no distribution from the Trust Fund will be made while he is an Employee, and amounts distributable to him on account of his prior termination will be held in the Trust Fund until he is again entitled to a distribution under the Plan.

6.7 Valuation of Accounts. A Participant's distributable Account balances will be valued as of the latest Valuation Date prior to distribution of the Accounts.

6.8 Restrictions on Distributions. Article 11 sets forth certain rules under various provisions of the Code relating to restrictions on distributions to Participants, to which all distributions under this Article 6 are subject.

#### 6.9 Direct Rollovers.

(a) Direct Rollover Option. Notwithstanding any other provision of the Plan, for distributions made on or after January 1, 1993 a Distributee (as hereinafter defined) may elect, at any time and in the manner prescribed by the Committee, to have any portion of an Eligible Rollover Distribution (as hereinafter defined) paid directly to an Eligible Retirement Plan (as hereinafter defined) specified by the Distributee.

(b) Defined Terms. (i) An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include (A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life of life expectancy of the

Distributee or the joint lives or life expectancies of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more, (B) any distribution to the extent such distribution is required by Code section 401(a)(9), and (C) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(ii) An Eligible Retirement Plan is 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 is a Defined Contribution Plan within the meaning of Section 10.2(1), that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to a Participant's surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

(iii) A Distributee includes a Participant, the Participant's spouse, or a Participant's former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code section 414(p).

6.10 Special Effective Date. The provisions of this Article (other than Sections 6.8 and 6.9) are effective with respect to distributions made on or after the Merger Date. Prior to the Merger Date, distributions were governed under the respective provisions of the Thrift Plan and StockPlus Plan.

## ARTICLE 7

### DISTRIBUTIONS TO BENEFICIARIES

7.1 Designation of Beneficiary. Each Participant will have the right to designate a Beneficiary or Beneficiaries to receive his vested Account balances upon his death. The designation will be made on forms prescribed by the Committee and will be effective upon receipt by the Committee. A Participant will have the right to change or revoke any designation by filing a new designation or notice of revocation with the Committee, but the revised designation or revocation will be effective only upon receipt by the Committee.

7.2 Consent of Spouse Required. A Participant who is married may not designate a Beneficiary other than, or in addition to, his spouse unless his spouse consents to the designation by means of a written instrument that is signed by the spouse, identifies the specific Beneficiary (including any class of Beneficiaries or any contingent Beneficiaries) elected, contains an acknowledgment by the spouse of the effect of the consent, and is witnessed by a member of the Committee (other than the Participant) or by a notary public. The designation will be effective only with respect to the consenting spouse, whose consent will be irrevocable. A Beneficiary designation to which a spouse has consented under this Section will be effective only if it states that it may not be changed by the Participant, other than to designate the spouse as the Beneficiary, without spousal consent, unless the spouse's prior consent expressly permits Beneficiary designations by the Participant without any further consent of the spouse, in which case the prior consent will be effective as to subsequent changes only if it acknowledges that the spouse has the right to limit consent to a specific Beneficiary, and states that the spouse voluntarily elects to relinquish such right.

7.3 Failure to Designate Beneficiary. In the event a Participant has not designated a Beneficiary, or in the event no Beneficiary survives a Participant, the distribution of the Participant's vested Account balances upon his death will be made (i) to the Participant's spouse, if living, (ii) if his spouse is not then living, to his then living issue by right of representation, (iii) if neither his spouse nor his issue are then living, to his then living parents, and (iv) if none of the above are then living, to his estate.

7.4 Distributions to Beneficiaries. Distribution of a Participant's vested Account balances to the Participant's Beneficiary will be made as soon as practicable after the Participant's death. A Participant's surviving spouse (but no other Beneficiary) may elect to defer distribution until the date the Participant would have attained age 70-1/2. The Participant's vested Account balances will be distributed to the Beneficiary in a single lump sum payment, or if elected by the Beneficiary, in a series of equal cash installments over a fixed period of years, and will be in the same form as provided for Participant distributions in Section 6.1(b). The Participant's Account balances will be valued as of the latest Valuation Date prior to distribution of the Accounts. If a loan is outstanding from the Trust Fund to the Participant on the date of his death, the amount distributed to his Beneficiary will be reduced by any security interest in the Participant's Accounts held by the Plan by reason of the loan.

7.5 Restrictions on Distributions. Article 11 sets forth certain rules under various provisions of the Code relating to restrictions on distributions to Beneficiaries, to which distributions under this Article 7 are subject.

7.6 Special Effective Date. The provisions of this Article (other than Section 7.5) are effective with respect to distributions made on or after the Merger Date. Prior to the Merger Date, distributions were governed under the respective provisions of the Thrift Plan and StockPlus Plan.

## ARTICLE 8

### PROVISIONS REGARDING COMPANY STOCK AND OTHER SECURITIES

#### 8.1 Named Fiduciaries.

(a) Committee as Named Fiduciary. The Committee will be the named fiduciary within the meaning of ERISA section 402(a)(2) for purposes of directing the Trustee (i) with respect to the voting of all shares of Company Stock for which voting instructions are not timely furnished by Participants and Beneficiaries pursuant to the provisions of Section 8.2 or which have not been allocated to Participant Accounts; (ii) exercising any options, warrants or other rights in connection with shares of Company Stock held in the Trust Fund; and (iii) exercising any appraisal rights, dissenters' rights or similar rights granted by applicable law to the registered or beneficial holders of Company Stock. The Committee will adopt from time to time whatever procedures it determines to be appropriate in order to exercise its powers and duties under this subsection (a) and may retain advisors and consultants (including, without limitation, legal counsel and financial advisors) who are independent of the Company, the Board and the Trustee to the extent the Committee determines such independent advice to be necessary or appropriate.

(b) Delegation of Powers and Duties. The Committee may, in its discretion, delegate any power or duty allocated to it pursuant to subsection (a) above to another person or entity, who will act as an independent fiduciary and will exercise such power or duty to the same extent as it could have been exercised by the Committee. The persons or entities to which such powers and duties may be delegated will include, without limitation, the Board or any committee of the Board, the Trustee, any other person or entity that meets the requirements of an investment manager under ERISA section 3(38), or any other person or entity that the Committee determines in good faith has the requisite knowledge and experience concerning the matter with respect to which the delegation is made. The Committee may also remove any fiduciary to whom it has delegated any power or duty and exercise such power or duty itself or appoint a successor fiduciary. For purposes of Sections 8.2 and 8.3, the term "Committee" will also mean any fiduciary to which the Committee has delegated any power or duty pursuant to this subsection (b).

(c) Participants and Beneficiaries as Named Fiduciaries. Each Participant and Beneficiary who furnishes instructions to the Trustee on any matter relating to Company Stock held in the Trust Fund in accordance with the provisions of Section 8.2 or Section 8.3 will be a named fiduciary within the meaning of ERISA section 402(a)(2) with respect to such matter.

#### 8.2 Voting of Company Stock by Participants and Beneficiaries.

Before each annual or special meeting of the Company's shareholders, the Committee will cause to be sent to each Participant and Beneficiary who has Company Stock allocated to his Accounts on the record date of such meeting a copy of the proxy solicitation material for the meeting, together with a form requesting confidential instructions to the Trustee on how to vote the shares of

Company Stock allocated to his Accounts. Upon receipt of such instructions, the Trustee will vote the shares allocated to such Participant's or Beneficiary's Accounts as instructed. The Trustee will vote allocated shares of Company Stock for which it does not receive timely instructions from Participants or Beneficiaries and any shares of Company Stock that have not been allocated to Participants' Accounts in accordance with the Committee's instructions. A Participant's or Beneficiary's right to instruct the Trustee with respect to voting shares of Company Stock will not include rights concerning the exercise of any appraisal rights, dissenters' rights or similar rights granted by applicable law to the registered or beneficial holders of Company Stock. These matters will be exercised by the Trustee in accordance with the Committee's instructions.

8.3 Tender Offer for Company Stock. In the event of a tender offer for shares of Company 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 or replaced by successor provisions of federal securities laws), the Committee will advise each Participant and Beneficiary who has shares of Company Stock allocated to his Accounts in writing of the terms of the tender offer as soon as practicable after its commencement and will furnish each Participant and Beneficiary with a form by which he may instruct the Trustee confidentially to tender shares allocated to his Accounts. The Trustee will tender those shares it has been properly instructed to tender, and will not tender those shares which it has been properly instructed not to tender or for which it has not received timely instructions. The Committee will also advise Participants and Beneficiaries that the terms of the Plan provide that the Trustee will not tender allocated shares for which no instructions are received from Participants and Beneficiaries and will furnish 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 Committee may also provide Participants with such other material concerning the tender offer as the Committee in its discretion determines to be appropriate. The number of shares to which a Participant's instructions apply will be the total number of shares allocated to his Accounts as of the latest date for which Participant statements were prepared, or as of any later date for which Account information is available in the normal course of Plan administration. The Committee will advise the Trustee of the commencement date of any tender offer and, until receipt of that advice, the Trustee will not be obligated to take any action under this Section. Funds received in exchange for tendered stock will be credited to the Accounts of the Participant or Beneficiary whose stock was tendered and will be invested as directed by the Participant or Beneficiary in investment funds permitted under the Trust Agreement, or if no investment directions are furnished to the Trustee, as directed by the Committee.

8.4 Voting and Tender Decisions for Other Securities. Voting, tender and similar decisions which are incidental to a Participant's or Beneficiary's ownership interest in any investment fund under the Plan (other than the Company Stock fund) will be exercised by the Trustee only in accordance with instructions received from the Participant or Beneficiary, who are named fiduciaries for such purposes within the meaning of ERISA section 402(a)(2). The Trustee will not exercise any such voting, tender or similar rights for which no instructions are received from the Participant or Beneficiary. The Committee will cause to be sent to each such

Participant and Beneficiary any materials provided to the Plan with respect to such voting, tender and similar rights within a reasonable time before such rights must be exercised.

## ARTICLE 9

### ADMINISTRATION OF THE PLAN AND TRUST AGREEMENT

9.1 Appointment of Committee Members. The Employee Benefits Committee appointed by the Board will administer the Plan in accordance with the provisions of this Article 9. The Committee will consist of at least three members, who will hold office at the pleasure of the Board. Members of the Committee are not required to be Employees or Participants. Any member may resign by giving notice, in writing, filed with the Board.

9.2 Officers and Employees of the Committee. The Committee will choose from its members a Chairman and a Secretary. The Secretary will keep a record of the Committee's proceedings and all dates, records and documents pertaining to the Committee's administration of the Plan. The Committee may employ and suitably compensate such persons or organizations to render advice with respect to the duties of the Committee under the Plan as the Committee determines to be necessary or desirable.

9.3 Action of the Committee. Action of the Committee may be taken with or without a meeting of Committee members, provided that action will be taken only upon the vote or other affirmative expression of a majority of the Committee's members qualified to vote with respect to such action. The Chairman or the Secretary of the Committee may execute any certificate or other written direction on behalf of the Committee. In the event the Committee members qualified to vote on any question are unable to determine such question by a majority vote or other affirmative expression of a majority of the Committee members qualified to vote on such question, such question will be determined by the Board. A member of the Committee who is a Participant may not vote on any question relating specifically to himself unless he is the sole member of the Committee.

9.4 Expenses and Compensation. The expenses of administering the Plan, including without limitation the expenses of the Committee properly incurred in the performance of its duties under the Plan, will be paid from the Trust Fund, and all such expenses paid by the Participating Employers on behalf of the Plan will be reimbursed from the Trust Fund, unless the Participating Employers in their own discretion elect not to submit such expenses to the Trustee for reimbursement. In addition, all fees charged by the Trustee or any administrator that are directly related to a Participant's loan pursuant to Section 6.5 will be paid from the Accounts of the Participant requesting the loan. Notwithstanding the foregoing, the members of the Committee will not be compensated by the Plan for their services as Committee members.

9.5 General Powers and Duties of the Committee. The Committee will have the full power and responsibility to administer the Plan and the Trust Agreement and to construe and apply their provisions. For purposes of ERISA, the Committee will be the named fiduciary with respect to the operation and administration of the Plan and the Trust Agreement. In addition, the Committee will have the powers and duties granted by the terms of the Trust Agreement. The Committee, and all other persons with discretionary control respecting the operation, administration, control, and/or management of the Plan, the Trust Agreement, and/or

the Trust Fund, will perform their duties under the Plan and the Trust Agreement solely in the interests of Participants and their Beneficiaries.

#### 9.6 Specific Powers and Duties of the Committee.

(a) Administrative Discretion. The Committee will administer the Plan and the Trust Agreement and have all powers necessary to accomplish that purpose, including without limitation the authority and discretion to (i) resolve all questions relating to the eligibility of Employees to become Participants, (ii) determine the amount of benefits payable to Participants or their Beneficiaries, and determine the time and manner in which such benefits are to be paid, (iii) authorize and direct all disbursements by the Trustee from the Trust Fund, (iv) construe and interpret the Plan and the Trust Agreement, supply omissions from, correct deficiencies in, and resolve ambiguities in the language of the Plan and the Trust Agreement and adopt rules for the administration of the Plan and the Trust Agreement which are not inconsistent with the terms of such documents, (v) compile and maintain all records it determines to be necessary, appropriate or convenient in connection with the administration of the Plan and the Trust Agreement, (vi) determine the disposition of assets in the Trust Fund in the event the Plan is terminated, (vii) review the performance of the Trustee with respect to the Trustee's administrative duties, responsibilities and obligations under the Plan and the Trust Agreement, report to the Board regarding such administrative performance of the Trustee, and recommend to the Board, if necessary, the removal of the Trustee and the appointment of a successor Trustee, and (viii) resolve all questions of fact relating to any matter for which it has administrative responsibility.

(b) Appointment of Administrative Delegate. The Committee will also have the authority and discretion to engage any administrative, legal, medical, accounting, clerical, or other services it deems appropriate, including the appointment of one or more persons or institutions to whom the Committee has delegated certain administrative functions pursuant to a written agreement (hereinafter referred to as an "Administrative Delegate"). The Administrative Delegate will perform, without discretionary authority or control, administrative functions within the framework of policies, interpretations, rules, practices and procedures made by the Committee. Any action taken by the Administrative Delegate may be appealed by an affected Participant to the Committee in accordance with the claims review procedures provided in Section 9.10. Any decisions which call for interpretations of Plan provisions not previously made by the Committee will be made only by the Committee. The Administrative Delegate will not be considered a named fiduciary with respect to the services it provides.

9.7 Allocation of Fiduciary Responsibility. The Committee from time to time may allocate to one or more of its members and may delegate to any other persons or organizations any of its rights, powers, duties and responsibilities with respect to the operation and administration of the Plan and the Trust Agreement that are permitted to be delegated under ERISA. Any such allocation or delegation will be made in writing, will be reviewed periodically by the Committee, and will be terminable upon such notice as the Committee in its discretion deems reasonable and proper under the circumstances. Whenever a person or organization has the power and authority under the Plan or the Trust Agreement to delegate discretionary authority respecting the administration of the Plan or the Trust Fund to another person or

organization, the delegating party's responsibility with respect to such delegation is limited to the selection of the person to whom authority is delegated and the periodic review of such person's performance and compliance with applicable law and regulations. Any breach of fiduciary responsibility by the person to whom authority has been delegated which is not proximately caused by the delegating party's failure to properly select or supervise, and in which breach the delegating party does not otherwise participate, will not be considered a breach by the delegating party.

9.8 Information to be Submitted to the Committee. To enable the Committee to perform its functions, the Participating Employers will supply full and timely information to the Committee on all matters relating to Employees and Participants as the Committee may require and will maintain such other records required by the Committee to determine the benefits due to Participants or their Beneficiaries under the Plan.

9.9 Notices, Statements and Reports. The Company will be the "administrator" of the Plan as defined in ERISA section 3(16)(A) for purposes of the reporting and disclosure requirements imposed by ERISA and the Code. The Committee will assist the Company, as requested, in complying with such reporting and disclosure requirements.

#### 9.10 Claims Procedure.

(a) Filing Claim for Benefits. If a Participant or Beneficiary does not receive the benefits which he believes he is entitled to receive under the Plan, he may file a claim for benefits with the Committee. All claims will be made in writing and will be signed by the claimant. If the claimant does not furnish sufficient information to determine the validity of the claim, the Committee will indicate to the claimant any additional information which is required.

(b) Notification by the Committee. Each claim will be approved or disapproved by the Committee within 90 days following the receipt of the information necessary to process the claim. In the event the Committee denies a claim for benefits in whole or in part, the Committee will notify the claimant in writing of the denial of the claim. Such notice by the Committee will also set forth, in a manner calculated to be understood by the claimant, the specific reason for such denial, the specific Plan provisions on which the denial is based, a description of any additional material or information necessary to perfect the claim with an explanation of why such material or information is necessary, and an explanation of the Plan's claim review procedure as set forth in subsection (c). If no action is taken by the Committee on a claim within 90 days, the claim will be deemed to be denied for purposes of the review procedure.

(c) Review Procedure. A claimant may appeal a denial of his claim by requesting a review of the decision by the Committee or a person designated by the Committee, which person will be a named fiduciary under ERISA section 402(a)(2) for purposes of this Section. An appeal must be submitted in writing within 90 days after the denial and must (i) request a review of the claim for benefits under the Plan, (ii) set forth all of the grounds upon which the claimant's request for review is based and any facts in support thereof, and (iii) set

forth any issues or comments which the claimant deems pertinent to the appeal. The Committee or the named fiduciary designated by the Committee will make a full and fair review of each appeal and any written materials submitted in connection with the appeal. The Committee or the named fiduciary designated by the Committee will act upon each appeal within 60 days after receipt thereof unless special circumstances require an extension of the time for processing, in which case a decision will be rendered as soon as possible but not later than 120 days after the appeal is received. The claimant will be given the opportunity to review pertinent documents or materials upon submission of a written request to the Committee or named fiduciary, provided the Committee or named fiduciary finds the requested documents or materials are pertinent to the appeal. On the basis of its review, the Committee or named fiduciary will make an independent determination of the claimant's eligibility for benefits under the Plan. The decision of the Committee or named fiduciary on any claim for benefits will be final and conclusive upon all parties thereto. In the event the Committee or named fiduciary denies an appeal in whole or in part, it will give written notice of the decision to the claimant, which notice will set forth in a manner calculated to be understood by the claimant the specific reasons for such denial and which will make specific reference to the pertinent Plan provisions on which the decision was based.

9.11 Service of Process. The Committee may from time to time designate an agent of the Plan for the service of legal process. The Committee will cause such agent to be identified in materials it distributes or causes to be distributed when such identification is required under applicable law. In the absence of such a designation, the Company will be the agent of the Plan for the service of legal process.

9.12 Correction of Participants' Accounts. If an error or omission is discovered in the Accounts of a Participant, or in the amount distributed to a Participant, the Committee will make such equitable adjustments in the records of the Plan as may be necessary or appropriate to correct such error or omission as of the Plan Year in which such error or omission is discovered. Further, a Participating Employer may, in its discretion, make a special contribution to the Plan which will be allocated by the Committee only to the Account of one or more Participants to correct such error or omission.

9.13 Payment to Minors or Persons Under Legal Disability. If any benefit becomes payable to a minor or to a person under a legal disability, payment of such benefit will be made only to the guardian of the person or the estate of such minor, provided the guardian acknowledges in writing, in a form acceptable to the Committee, receipt of the payment on behalf of the minor. If any benefit becomes payable to any other person under a legal disability, payment of such benefit will be made only to the conservator or the guardian of the estate of such person appointed by a court of competent jurisdiction. Any payment made in accordance with the provisions of this Section on behalf of a minor or other person under a legal disability will fully discharge the Plan's obligation to such person.

9.14 Uniform Application of Rules and Policies. The Committee in exercising its discretion granted under any of the provisions of the Plan or the Trust Agreement will do so only in

accordance with rules and policies established by it which will be uniformly applicable to all Participants and Beneficiaries.

9.15 Funding Policy. The Plan is to be funded through Participating Employer contributions and earnings on such contributions; and benefits will be paid to Participants and Beneficiaries as provided in the Plan.

9.16 The Trust Fund. The Trust Fund will be held by the Trustee for the exclusive benefit of Participants and Beneficiaries. The assets held in the Trust Fund will be invested and reinvested in accordance with the terms of the Trust Agreement, which is hereby incorporated into and made a part of the Plan. All benefits will be paid solely out of the Trust Fund, and no Participating Employer will be otherwise liable for benefits payable under the Plan.

ARTICLE 10

LIMITATIONS ON CONTRIBUTIONS AND ALLOCATIONS TO  
PARTICIPANTS' ACCOUNTS

10.1 Priority over Other Contribution and Allocation Provisions. The provisions set forth in this Article will supersede any conflicting provisions of Articles 3 and 4.

10.2 Definitions Used in this Article. The following words and phrases, when used with initial capital letters, will have the meanings set forth below.

(a) "Annual Addition" means the sum of the following amounts with respect to all Qualified Plans and Welfare Benefit Funds maintained by the Controlled Group Members:

(i) the amount of Controlled Group Member contributions with respect to the Limitation Year allocated to the Participant's account;

(ii) the amount of any forfeitures for the Limitation Year allocated to the Participant's account;

(iii) the amount, if any, carried forward pursuant to Section 10.4 or a similar provision in another Qualified Plan and allocated to the Participant's account;

(iv) the amount of a Participant's voluntary nondeductible contributions for the Limitation Year, provided, however, that the Annual Addition for any Limitation Year beginning before January 1, 1987 will not be recomputed to treat all of the Participant's nondeductible voluntary contributions as part of the Annual Addition;

(v) the amount allocated after March 31, 1984 to an individual medical benefit account (as defined in Code section 415(1)(2)) which is part of a Defined Benefit Plan or an annuity plan; and

(vi) the amount derived from contributions paid or accrued after December 31, 1985 in taxable years ending after such date that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code section 419A(d)(3)) under a Welfare Benefit Fund. A Participant's Annual Addition will not include any nonvested amounts restored to his account following his reemployment before incurring five consecutive One Year Breaks in Service, and a corrective allocation pursuant to Section 9.12 will be considered an Annual Addition for the Limitation Year to which it relates.

(b) "Average Contribution Percentage" means the average of the Contribution Percentages of each Participant in a group of Participants.

(c) "Average Deferral Percentage" means the average of the Deferral Percentages of each Participant in a group of Participants.

(d) "Compensation" means the wages (as defined in Code section 3401(a) for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed) paid to an Employee by the Participating Employers during the Plan Year. In addition, Compensation includes any contributions made by the Participating Employers on behalf of an Employee pursuant to a deferral election under the Plan or under any other employee benefit plan that are not includable in income under Code section 402(a)(8) and any contributions made by the Participating Employers on behalf of an Employee to a cafeteria plan that are not includable in income under Code section 125. The Compensation of an Employee taken into account for any purpose for any Plan Year will not exceed \$200,000, as that amount may be adjusted by the Secretary of the Treasury. For purposes of applying the \$200,000 limit set forth in the preceding sentence, if an Employee is a Highly Compensated Employee (as defined in Section 10.2(n)) who is either (i) a 5-percent owner, determined in accordance with Code section 414(q) and the Treasury Regulations promulgated thereunder, or (ii) one of the ten most highly compensated Employees ranked on the basis of Compensation paid by the Controlled Group during the year, such Highly Compensated Employee and the members of his family (as hereafter defined) will be treated as a single employee and the Compensation of each member of the family will be aggregated with the Compensation of the Highly Compensated Employee. The limitation on Compensation will be allocated among such Highly Compensated Employee and his family members in proportion to each individual's Compensation. For purposes of this Section, the term "family" means an Employee's spouse and any lineal descendants who are under age 19 at the end of the Plan Year in question.

(e) "Contribution Percentage" means the ratio (expressed as a percentage) determined by dividing the Matching Contributions made to the Plan on behalf of a Participant who is eligible to receive Matching Contributions for a Plan Year (but only to the extent such Matching Contributions are not taken into account in determining the Participant's Deferral Percentage for the Plan Year) by the Participant's Compensation for the Plan Year. A Participant is eligible for purposes of determining his Contribution Percentage even though no Matching Contributions are made to the Plan on his behalf because of the suspension of his Deferral Contributions under the terms of the Plan, because of an election not to participate, or because of the limitations contained in Sections 10.3 through 10.5 of the Plan.

(f) "Deferral Percentage" means the ratio (expressed as a percentage) determined by dividing the Deferral Contributions made to the Plan on behalf of a Participant who is eligible to make Deferral Contributions for all or a portion of a Plan Year by the Participant's Compensation for the Plan Year. In addition, if the Matching Contributions to the Plan for any Plan Year satisfy the requirements of Code section 401(k)(2)(B) and (C), a Participant's Deferral Percentage will be determined by aggregating the Deferral Contributions and Matching Contributions made to the Plan on his behalf for such Plan Year. A Participant is eligible to make Deferral Contributions for purposes of determining his Deferral Percentage even though he may not make Deferral Contributions because of the suspension of his Deferral Contributions under the terms of the Plan, because of an election not to participate, or because of

the limitations contained in Sections 10.3 through 10.5 of the Plan. A Deferral Contribution will be taken into account for a Plan Year only if (i) the allocation of such contribution is not contingent on participation in the Plan or the performance of services after the Plan Year, (ii) such contribution is paid to the Trustee within 12 months after the end of the Plan Year, and (iii) such contribution relates to Compensation that either would have been received by the Participant in the Plan Year, or that is attributable to services performed during the Plan Year and that would have been received within two and one-half months after the Plan Year, but for the election to defer.

(g) "Defined Benefit Dollar Limitation" means for any Limitation Year, \$90,000 or such amount as determined by the Commissioner of Internal Revenue under Code section 415(d)(1) as of the January 1 falling within such Limitation Year.

(h) "Defined Benefit Fraction" means a fraction, the numerator of which is the Projected Annual Benefit of a Participant under all Defined Benefit Plans maintained by a Controlled Group Member determined as of the close of the Limitation Year and the denominator of which is the lesser of (i) 140% of the Participant's average Includable Compensation that may be taken into account for the Limitation Year under Code section 415(b)(1)(B), or (ii) 125% of the Defined Benefit Dollar Limitation, determined as of the close of the Limitation Year. If the Participant was a participant in a Defined Benefit Plan maintained by a Controlled Group Member in existence on July 1, 1982, or on May 6, 1986, the denominator of the Defined Benefit Fraction will not be less than 125% of the greater of the Participant's accrued Projected Annual Benefit under such plan as of the end of the last Limitation Year beginning before January 1, 1983, or his accrued Projected Annual Benefit of the end of the last Limitation Year beginning January 1, 1987. The preceding sentence applies only if the Defined Benefit Plan satisfied the requirements of Code section 415 as in effect at the end of such Limitation Year.

(i) "Defined Benefit Plan" means a Qualified Plan other than a Defined Contribution Plan.

(j) "Defined Contribution Dollar Limitation" means for any Limitation Year, \$30,000 or, if greater, 25% of the Defined Benefit Dollar Limitation for the same Limitation Year. If a short Limitation Year is created because of a Plan amendment changing the Limitation Year to a different 12-consecutive month period, the Defined Contribution Dollar Limitation for the short Limitation Year will not exceed the amount determined in the preceding sentences multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

(k) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the Annual Additions allocated to the Participant's accounts for the applicable Limitation Year and each prior Limitation Year, and the denominator of which is the sum of the lesser of the following products for each Limitation Year in which the Participant was an Employee (regardless of whether a Defined Contribution Plan was in existence for such Limitation Year) (i) the Defined Contribution Dollar Limitation (determined for this purpose without regard to the provisions of Code section 415(c)(6)) effective for the Limitation Year

multiplied by 125%, or (ii) 35% of the Participant's Includable Compensation for such Limitation Year.

(l) "Defined Contribution Plan" means a Qualified Plan described in Code section 414(i).

(m) "Family Member" means, with respect to an Employee, the Employee's spouse and lineal ascendants or descendants and the spouses of such lineal ascendants or descendants.

(n) "Highly Compensated Employee" means any Employee who performs services for a Controlled Group Member during the determination year (as hereinafter defined) and who, during the look-back year (as hereinafter defined): (i) received Compensation from a Controlled Group Member in excess of \$75,000 (as adjusted pursuant to Code section 415(d)); (ii) received Compensation from a Controlled Group Member in excess of \$50,000 (as adjusted pursuant to Code section 415(d)) and was a member of the top-paid group (as hereinafter defined) for such year; or (iii) was an officer of a Controlled Group Member and received Compensation during such year that is greater than 50% of the dollar limitation in effect under Code section 415(b)(1)(A) (but limited to no more than 50 Employee or, if lesser, the greater of three Employees or 10% of the Employees). The term Highly Compensated Employee also includes: (i) an Employee who is both described in the preceding sentence if the term "determination year" is substituted for the term "look-back year" and the Employee is one of the 100 Employees who received the most Compensation from the Controlled Group during the determination year; and (ii) an Employee who is a 5-percent owner at any time during the look-back year or determination year. If no officer has satisfied the Compensation requirement of (ii) above during either a determination year or look-back year, the officer with the highest Compensation for such year will be treated as a Highly Compensated Employee. For purposes of this definition, the determination year is the Plan Year. The look-back year is the 12-month period immediately preceding the determination year. A Highly Compensated Employee also includes any Employee who separated from service (or was deemed to have separated) prior to the determination year, performs no services for a Controlled Group Member during the determination year, and was a Highly Compensated Employee for either the separation year or any determination year ending on or after the Employee's 55th birthday. The term "top-paid group" means that group of Employees consisting of the top 20% of such Employees ranked on the basis of Compensation received during the Plan Year. All determinations under this definition will be made in accordance with Code section 414(q) and the regulations thereunder.

(o) "Includable Compensation" means the wages paid to an Employee (as defined in Code section 3401(a) for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed) by the Participating Employers during the Plan Year.

(p) "Limitation Year" means the 12-consecutive-month period used by a Qualified Plan for purposes of computing the limitations on benefits and annual additions under Code section 415. The Limitation Year for this Plan is the Plan Year.

(q) "Maximum Annual Addition" means with respect to a Participant for any Limitation Year an amount equal to the lesser of (i) the Defined Contribution Dollar Limitation or (ii) 25% of the Participant's Includable Compensation.

(r) "Nonhighly Compensated Employee" means an Employee who is neither a Highly Compensated Employee nor a Family Member of a Highly Compensated Employee.

(s) "Projected Annual Benefit" means the annual benefit (as defined in Code section 415(b)(2)) to which a Participant would be entitled under the terms of a Defined Benefit Plan maintained by a Controlled Group Member, assuming that the Participant will continue employment until his normal retirement age under the Defined Benefit Plan (or current age, if later) and that the Participant's Includable Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Defined Benefit Plan will remain constant for all future Limitation Years.

(t) "Welfare Benefit Fund" means an organization described in paragraph (7), (9), (17) or (20) of Code section 501(c), a trust, corporation or other organization not exempt from federal income tax, or to the extent provided in regulations, any account held for an employer by any person, which is part of a plan of an employer through which the employer provides benefits to employees or their beneficiaries, other than a benefit to which Code sections 83(h), 404 (determined without regard to Section 404(b)(2)) or 404A applies, or to which an election under Code section 463 applies.

10.3 General Allocation Limitation. The Annual Addition of a Participant for any Limitation Year will not exceed the Maximum Annual Addition. If, except for the application of this Section, the Annual Addition of a Participant for any Limitation Year would exceed the Maximum Annual Addition, the excess Annual Addition attributable to this Plan will not be allocated to the Participant's Account for the Plan Year included in such Limitation Year, but will be subject to the provisions of Section 10.4. The limitations contained in this Article will apply on an aggregate basis to all Defined Contribution Plans and all Defined Benefit Plans (whether or not any of such plans have terminated) established by the Controlled Group Members.

#### 10.4 Excess Allocations.

(a) Participants Covered by One Defined Contribution Plan. If the Participant is not covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by a Controlled Group Member during the Limitation Year and the amount otherwise allocable to his Account would exceed the Maximum Annual Addition, the Participating Employer contributions and forfeitures which would cause the Participant's Annual Addition to exceed the Maximum Annual Addition will be successively allocated in the manner described in Section 4.2 among the Accounts of eligible Participants whose Annual Additions do not exceed the Maximum Annual Addition. If, after such allocations have been made, there remain Participating Employer contributions or forfeitures which cannot be allocated without causing the Annual Addition of a Participant to exceed the Maximum Annual Addition, the forfeitures

which cause the Annual Addition to exceed the Maximum Annual Addition and the Participating Employer contributions which result from a reasonable error in estimating the Participant's Includable Compensation or from any other limited facts and circumstances which the Commissioner of Internal Revenue finds justifiable under Section 1.415-6(b)(6) of the regulations and which cause the Participant's Annual Addition to exceed the Maximum Annual Addition will be held in a suspense account in the Trust Fund to be carried forward and used in subsequent Limitation Years to reduce Participating Employer contributions to the Plan. If a suspense account is in existence at any time during a Limitation Year, all amounts in the suspense account must be allocated before any contributions which would constitute Annual Additions will be made to the Plan for that Limitation Year.

(b) Participants Covered by Two or More Defined Contribution Plans. If, in addition to this Plan, the Participant is covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by a Controlled Group Member during the Limitation Year, the following provisions will apply. The Annual Addition which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Annual Addition reduced by the Annual Addition credited to a Participant's accounts under the other Defined Contribution Plans and Welfare Benefit Funds for the same Limitation Year. If the Annual Addition with respect to the Participant under the other Defined Contribution Plans and Welfare Benefit Funds maintained by a Controlled Group Member is less than the Maximum Annual Addition and the Participating Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Addition for the Limitation Year to exceed the Maximum Annual Addition, the amount to be contributed or allocated to the Participant's Account under this Plan will be reduced so that the Annual Addition under all such Defined Contribution Plans and Welfare Benefit Funds for the Limitation Year will equal the Maximum Annual Addition. If the aggregate Annual Addition with respect to the Participant under such other Defined Contribution Plans and Welfare Benefit Funds is equal to or greater than the Maximum Annual Addition, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year. An excess Annual Addition will be reduced in the manner described in subsection (c).

(c) Reduction of Excess Allocations. As soon as is administratively feasible after the end of the Limitation Year, the Maximum Annual Addition for the Limitation Year will be determined on the basis of the Participant's Includable Compensation for the Limitation Year. If a Participant's Annual Addition under this Plan and the other Defined Contribution Plans and Welfare Benefit Funds maintained by Controlled Group Members would result in the Annual Addition exceeding the Maximum Annual Addition for the Limitation Year, the excess amount will be deemed to consist of the Annual Addition last allocated. In making this determination, the Annual Addition attributable to a Welfare Benefit Fund will be deemed to have been allocated first regardless of the actual date of allocation. If an excess amount was allocated to a Participant on an allocation date of this Plan that coincides with an allocation date of another plan, the excess amount attributed to this Plan will be the product of (i) the total excess amount allocated as of such date and (ii) the ratio of the Annual Addition allocated to the Participant for the Limitation Year as of such date under this Plan to the total Annual Addition allocated to the Participant for the Limitation Year as of such date under this and all the other

Defined Contribution Plans. Any excess amount attributed to this Plan will be disposed of in the manner described in subsection (a).

10.5 Aggregate Benefit Limitation. If a Controlled Group Member maintains, or at any time maintained, one or more Defined Benefit Plans covering any Participant in this Plan, the sum of the Defined Benefit Fraction and the Defined Contribution Fraction for any Limitation Year will equal no more than one (1.0). The provisions of the Defined Benefit Plans will govern the order of reduction of Annual Additions or benefit accruals necessary to meet this limitation. If the provisions of the Defined Benefit Plans are silent, the current Annual Addition under this Plan will be reduced first, and then the rate of accrual under the Defined Benefit Plans will be reduced, if necessary to meet this limitation. If the Defined Contribution Plans taken into account in determining the Participant's Annual Addition under this Article satisfied the requirements of Code section 415 as in effect for all Limitation Years beginning before January 1, 1987, an amount will be subtracted from the numerator of the Defined Contribution Fraction (not exceeding such numerator) as prescribed in regulations so that the sum of the Defined Contribution Fraction and the Defined Benefit Fraction does not exceed 1.0. For purposes of this Section, a Participant's voluntary nondeductible contributions to a Defined Benefit Plan will be treated as being part of a separate Defined Contribution Plan.

#### 10.6 Limitation on Deferral Contributions.

(a) Average Deferral Percentage Test. Notwithstanding any other provision of the Plan, the Average Deferral Percentage for a Plan Year for Participants who are Highly Compensated Employees will not exceed the greater of: (i) the Average Deferral Percentage for Participants who are Nonhighly Compensated Employees multiplied by 1.25; or (ii) the lesser of (A) the Average Deferral Percentage for Participants who are Nonhighly Compensated Employees plus two percentage points or (B) the Average Deferral Percentage for Participants who are Nonhighly Compensated Employees multiplied by 2.0. The multiple use of the alternative test contained in clause (ii) of this subsection will be restricted as provided in regulations.

(b) Suspension of Deferral Contributions. If at any time during a Plan Year the Committee determines, on the basis of estimates made from information then available, that the limitation described in subsection (a) above will not be met for the Plan Year, the Committee in its discretion may reduce or suspend the Deferral Contributions of one or more Participants who are Highly Compensated Employees to the extent necessary (i) to enable the Plan to meet such limitation or (ii) to reduce the amount of excess Deferral Contributions that would otherwise be distributed pursuant to subsection (c) below.

(c) Reduction of Excess Deferral Contributions. If, for any Plan Year, the Average Deferral Percentage for Participants who are Highly Compensated Employees exceeds the limitation described in subsection (a) above, the Deferral Percentage for each such Participant will be reduced (in the order of Deferral Percentages, beginning with the highest of such percentages as provided below) until the limitation in subsection (a) is satisfied. The highest Deferral Percentage will be reduced first until the limitation in subsection (a) is satisfied or the percentage equals the next highest percentage, and the process will be repeated until such

limitation is satisfied. In order to reduce a Participant's Deferral Percentage, the Participant's excess Deferral Contributions will be distributed to him. If Matching Contributions are taken into account in determining Deferral Percentages, a Participant's Deferral Percentage will be reduced by distributing first Deferral Contributions in excess of 6% of Compensation and by distributing next the remaining Deferral Contributions and Matching Contributions, in proportion to the amount of such contributions for the Plan Year. All distributions under this subsection will be increased by Trust Fund earnings and decreased by Trust Fund losses for the Plan Year and for the period between the end of the Plan Year and the date of distribution and will be made within two and one-half months following the close of the Plan Year, if practicable, but in no event later than the last day of the immediately following Plan Year. The amount of excess Deferral Contributions distributed pursuant to this Section with respect to a Participant for the Plan Year will be reduced by any Deferral Contributions previously distributed to the Participant for the same Plan Year pursuant to Section 3.1(c). The excess Deferral Contributions of participants who are subject to the family aggregation rules of Section 10.8(d) will be allocated among the family members in proportion to the Deferral Contributions (and amounts treated as Deferral Contributions) of the family members.

(d) Determination of Earnings and Losses. The earnings and losses of the Trust Fund for the Plan Year allocable to the portion of a Participant's Deferral Contributions that are distributed pursuant to subsection (c) above will be determined by multiplying the Trust Fund earnings or losses for the Plan Year allocable to the Participant's Deferral Contribution Account by a fraction, the numerator of which is the amount of Deferral Contributions to be distributed to the Participant and the denominator of which is the balance of the Participant's Deferral Contribution Account on the last day of the Plan Year, reduced by the earnings and increased by the losses allocable to such Account for the Plan Year. The earnings and losses of the Trust Fund allocable to the Participant's Deferral Contributions that are distributed pursuant to subsection (c) for the period between the end of the Plan Year and the date of such distribution will be determined in accordance with regulations under Code section 401(k). The earnings and losses of the Trust Fund allocable to the portion of a Participant's Matching Contributions that are distributed pursuant to subsection (c) above will be determined in the manner described in Section 10.7(c).

#### 10.7 Limitation on Matching Contributions.

(a) Average Contribution Percentage Test. Notwithstanding any other provision of the Plan, the Average Contribution Percentage for a Plan Year for Participants who are Highly Compensated Employees will not exceed the greater of: (i) the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees multiplied by 1.25; or (ii) the lesser of (A) the Average Contribution Percentage Test for Participants who are Nonhighly Compensated Employees plus two percentage points or (B) the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees multiplied by 2.0. The multiple use of the alternative test contained in clause (ii) of this subsection will be restricted as provided in regulations.

(b) Reduction of Excess Matching Contributions. If, for any Plan Year, the Average Contribution Percentage for Participants who are Highly Compensated Employees

exceeds the limitation described in subsection (a) above, the Contribution Percentage for each such Participant will be reduced (in the order of Contribution Percentages, beginning with the highest of such percentages as provided below) until the limitation in subsection (a) is satisfied. The highest Contribution Percentage will be reduced first until the limitation in subsection (a) is satisfied or the percentage equals the next highest percentage, and the process will be repeated if necessary until such limitation is satisfied. The excess Matching Contributions of participants who are subject to the family aggregation rules of Section 10.8(d) will be allocated among the family members in proportion to the Matching Contributions made on behalf of the family members.

(c) Determination of Earnings and Losses. The earnings and losses of the Trust Fund for the Plan Year allocable to the portion of a Participant's Matching Contributions that are distributed pursuant to Section 10.6 or subsection (b) above will be determined by multiplying the Trust Fund earnings or losses for the Plan Year allocable to the Participant's Matching Contribution Account by a fraction, the numerator of which is the amount of Matching Contributions to be distributed and the denominator of which is the balance of the Participant's Matching Contribution Account on the last day of the Plan Year, reduced by the earnings and increased by the losses allocable to such Account for the Plan Year. The earnings and losses of the Trust Fund allocable to a Participant's Matching Contributions that are distributed pursuant to Section 10.6 or subsection (b) above for the period between the end of the Plan Year and the date of such distribution will be determined in accordance with regulations under Code sections 401(k) and 401(m).

#### 10.8 Aggregation Rules.

(a) Code Section 415. For purposes of the allocation limitations under Code section 415 set forth in this Article, (i) all Defined Benefit Plans ever maintained by a Controlled Group Member will be treated as one Defined Benefit Plan, and all Defined Contribution Plans ever maintained by a Controlled Group Member will be treated as one Defined Contribution Plan, and (ii) Controlled Group Members will be determined in accordance with the 50% control rule of Code section 415(h).

(b) Code Section 401(k). For purposes of the limitation on Deferral Contributions set forth in this Article, the Average Deferral Percentage for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have deferral contributions allocated to his account under two or more plans or arrangements described in Code section 401(k) that are maintained by the Company or any Controlled Group Member will be determined as if all such deferral contributions were made under a single arrangement (unless such plans or arrangements may not be permissively aggregated under applicable regulations). Plans that are aggregated for purposes of satisfying the minimum coverage rules of Code section 410(b) (other than for purposes of the average benefits percentage test) will be treated as a single plan for such purposes.

(c) Code Section 401(m). The Contribution Percentage of a Participant who is a Highly Compensated Employee for a Plan Year and who is eligible to make voluntary Employee contributions or receive deferral contributions or matching employer contributions

allocated to his account under two or more Defined Contribution Plans maintained by the Company or a Controlled Group Member will be determined as if all such contributions were made to a single plan (unless such plans may not be permissively aggregated under applicable regulations). Plans that are aggregated for purposes of satisfying the minimum coverage rules of Code section 410(b) (other than for purposes of the average benefits percentage test) will be treated as a single plan for such purposes.

(d) Family Members. For purposes of determining the Contribution Percentage or the Deferral Percentage of a Participant who is both a Highly Compensated Employee and either (i) a 5-percent owner, determined in accordance with Code section 414(q) and the regulations thereunder or (ii) one of the 10 most highly compensated Employees ranked on the basis of Compensation paid by the Controlled Group during the year, determined in accordance with Code section 414(q) and the regulations thereunder, the Matching Contributions, Deferral Contributions, and Compensation of such Participant will include the Matching Contributions, Deferral Contributions and Compensation of Family Members, and Family Members will be disregarded in determining the Contribution Percentage or the Deferral Percentage of all other Participants.

## ARTICLE 11

### RESTRICTIONS ON DISTRIBUTIONS TO PARTICIPANTS AND BENEFICIARIES

11.1 Priority over Other Distribution Provisions. The provisions set forth in this Article will supersede any conflicting provisions of Article 6 or Article 7.

#### 11.2 General Restrictions.

(a) Distributions Prior to a Separation from Service. Except for distributions permitted under Sections 6.2 and 6.3, a Participant's interest in the Plan will not be distributed before the Participant's separation from service, disability or death unless: (i) the Plan is terminated without the establishment or maintenance by the Participating Employers of another defined contribution plan (other than an employee stock ownership plan as defined in Code section 4975(e)(7)) (ii) a Participating Employer that is a corporation disposes of all or substantially all of the assets used by the Participating Employer in a trade or business to a person other than a Controlled Group Member but only if the Participant continues employment with the acquiring employer; or (iii) a Participating Employer that is a corporation disposes of its interest in a subsidiary to a person other than a Controlled Group Member but only if the Participant continues employment with the subsidiary. An event will not be treated as described in clause (ii) or (iii) above unless the Participating Employer continues to maintain the Plan after the disposition.

(b) Lump Sum Distribution Required. An event described in subparagraph (a) that would otherwise permit distribution of a Participant's interest in the Plan will not be treated as described in subparagraph (a) unless the Participant receives a lump sum distribution by reason of the event. A lump sum distribution for this purpose will be a distribution described in Code section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

11.3 Restrictions on Commencement of Distributions. The provisions of this Section will apply to restrict the Committee's ability to delay the commencement of distributions. Unless a Participant elects otherwise in writing, distribution of the Participant's vested interest in his Account will begin no later than the 60th day after the close of the Plan Year in which occurs the latest of (i) the date on which the Participant attains age 65, (ii) the tenth anniversary of the Plan Year in which the Participant began participation in the Plan, or (iii) the Participant's termination of employment.

11.4 Restrictions on Delay of Distributions. The distribution of a Participant's entire vested and nonforfeitable interest in the Plan will be made in a lump sum not later than April 1 following the calendar year in which he attains age 70-1/2 unless the Participant makes a withdrawal under Section 6.3(c) that is sufficient to satisfy the minimum distribution requirements of Code section 401(a)(9) and the regulations thereunder. On or before December 31 of such calendar year and of each

succeeding calendar year, distribution of the entire amount of any additional balances in the Participant's Accounts (determined as of the latest Valuation Date prior to the date of distribution) will be made in a lump sum unless the Participant makes a withdrawal under Section 6.3(c) that is sufficient to satisfy the minimum distribution requirements of Code section 401(a)(9) and the regulations thereunder.

11.5 Limitation to Assure Benefits Payable to Beneficiaries are Incidental. In the event that any payments under this Plan are to be made to someone other than the Participant or jointly to the Participant and his spouse or other payee, such payments must conform to the "incidental benefit" rules of Code section 401(a)(9)(G) and the regulations thereunder.

11.6 Restrictions in the Event of Death. Upon the death of a Participant, the following distribution provisions will apply to limit the Beneficiary's ability to delay distributions. If the Participant dies after distribution of his benefit has begun, the remaining portion of his benefit will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death; but if he dies before distribution of his benefit commences, his entire benefit will be distributed no later than five years after his death, unless an individual who is a designated Beneficiary elects to receive distributions in substantially equal installments over the Beneficiary's life or life expectancy beginning no later than one year after the Participant's death. If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin will not be earlier than the date on which the Participant would have attained age 70-1/2, and, if the spouse dies before payments begin, subsequent distributions will be made as if the spouse had been the Participant. Any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

11.7 Compliance with Regulations. Distributions under the Plan to Participants or Beneficiaries will be made in accordance with the regulations issued under Code section 401(a)(9).

11.8 Delayed Payments. If the amount of a distribution required to begin on a date determined under the applicable provisions of the Plan cannot be ascertained by such date, or if it is not possible to make such payment on such date because the Committee has been unable to locate a Participant or Beneficiary after making reasonable efforts to do so, a payment retroactive to such date may be made no later than 60 days after the earliest date on which the amount of such payment can be ascertained or the date on which the Participant or Beneficiary is located (whichever is applicable).

ARTICLE 12

TOP-HEAVY PROVISIONS

12.1 Priority over Other Plan Provisions. If the Plan is or becomes a Top-Heavy Plan in any Plan Year, the provisions of this Article will supersede any conflicting provisions of the Plan. However, the provisions of this Article will not operate to increase the rights or benefits of Participants under the Plan except to the extent required by Code section 416 and other provisions of law applicable to Top-Heavy Plans.

12.2 Definitions Used in this Article. The following words and phrases, when used with initial capital letters, will have the meanings set forth below.

(a) "Defined Benefit Dollar Limitation" means the limitation described in Section 10.2(g).

(b) "Defined Benefit Plan" means the Qualified Plan described in Section 10.2(i).

(c) "Defined Contribution Dollar Limitation" means the limitation described in Section 10.2(j).

(d) "Defined Contribution Plan" means the Qualified Plan described in Section 10.2(l).

(e) "Determination Date" means for the first Plan Year of the Plan the last day of the Plan Year and for any subsequent Plan Year the last day of the preceding Plan Year.

(f) "Determination Period" means the Plan Year containing the Determination Date and the four preceding Plan Years.

(g) "Includable Compensation" means the compensation described in Section 10.2(o).

(h) "Key Employee" means any Employee or former Employee (and the Beneficiary of a deceased Employee) who at any time during the Determination Period was (i) an officer of a Controlled Group Member, if such individual's Includable Compensation (modified as described below) exceeds 50% of the Defined Benefit Dollar Limitation, (ii) an owner (or considered an owner under Code section 318) of one of the ten largest interests in a Controlled Group Member, if such individual's Includable Compensation exceeds the Defined Contribution Dollar Limitation, (iii) a 5-percent owner of a Controlled Group Member, or (iv) a 1-percent owner of a Controlled Group Member who has annual Includable Compensation of more than \$150,000. The determination of who is a Key Employee will be made in accordance with Code section 416(i). For purposes of this subsection only, Includable Compensation will include

salary reduction contributions pursuant to a cash or deferred arrangement under Code section 401(k) or a cafeteria plan meeting the requirements of Code section 125.

(i) "Minimum Allocation" means the allocation described in the first sentence of Section 12.3(a).

(j) "Permissive Aggregation Group" means the Required Aggregation Group of Qualified Plans plus any other Qualified Plan or Qualified Plans of a Controlled Group Member which, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of Code sections 401(a)(4) and 410 (including simplified employee pension plans).

(k) "Present Value" means present value based only on the interest and mortality rates specified in a Defined Benefit Plan.

(l) "Required Aggregation Group" means the group of plans consisting of (i) each Qualified Plan (including simplified employee pension plans) of a Controlled Group Member in which at least one Key Employee participates, and (ii) any other Qualified Plan (including simplified employee pension plans) of a Controlled Group Member which enables a Qualified Plan to meet the requirements of Code sections 401(a)(4) or 410.

(m) "Top-Heavy Plan" means the Plan for any Plan Year in which any of the following conditions exists: (i) if the Top-Heavy Ratio for the Plan exceeds 60% and the Plan is not a part of any Required Aggregation Group or Permissive Aggregation Group of Qualified Plans; (ii) if the Plan is a part of a Required Aggregation Group but not part of a Permissive Aggregation Group of Qualified Plans and the Top-Heavy Ratio for the Required Aggregation Group exceeds 60%; or (iii) if the Plan is a part of a Required Aggregation Group and part of a Permissive Aggregation Group of Qualified Plans and the Top-Heavy Ratio for the Permissive Aggregation Group exceeds 60%.

(n) "Top-Heavy Ratio" means a fraction, the numerator of which is the sum of the Present Value of accrued benefits and the account balances (as required by Code section 416)) of all Key Employees with respect to such Qualified Plans as of the Determination Date (including any part of any accrued benefit or account balance distributed during the five-year period ending on the Determination Date), and the denominator of which is the sum of the Present Value of the accrued benefits and the account balances (including any part of any accrued benefit or account balance distributed in the five-year period ending on the Determination Date) of all Employees with respect to such Qualified Plans as of the Determination Date. The value of account balances and the Present Value of accrued benefits will be determined as of the most recent Top-Heavy Valuation Date that falls within or ends with the 12-month period ending on the Determination Date, except as provided in Code section 416 for the first and second Plan Years of a Defined Benefit Plan. The account balances and accrued benefits of a participant who is not a Key Employee but who was a Key Employee in a prior year will be disregarded. The calculation of the Top-Heavy Ratio, and the extent to which distributions, rollovers, transfers and contributions unpaid as of the Determination Date are taken into account will be made in accordance with Code section 416. Employee contributions

described in Code section 219(e)(2) will not be taken into account for purposes of computing the Top-Heavy Ratio. When aggregating plans, the value of account balances and accrued benefits will be calculated with reference to the Determination Dates that fall within the same calendar year. The accrued benefit of any Employee other than a Key Employee will be determined under the method, if any, that uniformly applies for accrual purposes under all Qualified Plans maintained by all Controlled Group Members and included in a Required Aggregation Group or a Permissive Aggregation Group or, if there is no such method, as if the benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Code section 411(b)(1)(C). Notwithstanding the foregoing, the account balances and accrued benefits of any Employee who has not performed services for an employer maintaining any of the aggregated plans during the five-year period ending on the Determination Date will not be taken into account for purposes of this subsection.

(o) "Top-Heavy Valuation Date" means the last day of each Plan Year.

### 12.3 Minimum Allocation.

(a) Calculation of Minimum Allocation. For any Plan Year in which the Plan is a Top-Heavy Plan, each Participant who is not a Key Employee will receive an allocation of Participating Employer contributions and forfeitures of not less than the lesser of 3% of his Includable Compensation for such Plan Year or the percentage of Includable Compensation that equals the largest percentage of Participating Employer contributions (including Deferral Contributions) and forfeitures allocated to a Key Employee. The Minimum Allocation is determined without regard to any Social Security contribution. Deferral Contributions made on behalf of Participants who are not Key Employees will not be treated as Participating Employer contributions for purposes of the Minimum Allocation in Plan Years beginning after December 31, 1988. Matching Contributions that are allocated to Participants who are not Key Employees and that are taken into account in determining a Participant's Deferral Percentage or Contribution Percentage for a Plan Year beginning after December 31, 1988 will not be treated as Participating Employer contributions for such Plan Year for purposes of the Minimum Allocation. The Minimum Allocation applies even though under other Plan provisions the Participant would not otherwise be entitled to receive an allocation, or would have received a lesser allocation for the Plan Year because (i) the non-Key Employee fails to make mandatory contributions to the Plan, (ii) the non-Key Employee's Includable Compensation is less than a stated amount, or (iii) the non-Key Employee fails to complete 1,000 Hours of Service in the Plan Year.

(b) Limitation on Minimum Allocation. No Minimum Allocation will be provided pursuant to subsection (a) to a Participant who is not employed by a Controlled Group Member on the last day of the Plan Year.

(c) Minimum Allocation When Participant is Covered by Another Qualified Plan. If a Controlled Group Member maintains one or more other Defined Contribution Plans covering Employees who are Participants in this Plan, the Minimum Allocation will be provided

under this Plan, unless such other Defined Contribution Plans make explicit reference to this Plan and provide that the Minimum Allocation will not be provided under this Plan, in which case the provisions of subsection (a) will not apply to any Participant covered under such other Defined Contribution Plans. If a Controlled Group Member maintains one or more Defined Benefit Plans covering Employees who are Participants in this Plan, and such Defined Benefit Plans provide that Employees who are participants therein will accrue the minimum benefit applicable to top-heavy Defined Benefit Plans notwithstanding their participation in this Plan then the provisions of subsection (a) will not apply to any Participant covered under such Defined Benefit Plans. If a Controlled Group Member maintains one or more Defined Benefit Plans covering Employees who are Participants in this Plan, and the provisions of the preceding sentence do not apply, then each Participant who is not a Key Employee and who is covered by such Defined Benefit Plans will receive a Minimum Allocation determined by applying the provisions of subsection (a) with the substitution of "5%" in each place that "3%" occurs therein.

(d) Nonforfeitability. The Participant's Minimum Allocation, to the extent required to be nonforfeitable under Code section 416(b) and the special vesting schedule provided in this Article, may not be forfeited under Code section 411(a)(3)(B) (relating to suspension of benefits on reemployment) or 411(a)(3)(D) (relating to withdrawal of mandatory contributions).

#### 12.4 Modification of Aggregate Benefit Limit.

(a) Modification. Subject to the provisions of subsection (b), in any Plan Year in which the Top-Heavy Ratio exceeds 60%, the aggregate benefit limit described in Article 10 will be modified by substituting "100%" for "125%" in Sections 10.2(h) and (k).

(b) Exception. The modification of the aggregate benefit limit described in subsection (a) will not be required if the Top-Heavy Ratio does not exceed 90% and one of the following conditions is met: (i) Employees who are not Key Employees do not participate in both a Defined Benefit Plan and a Defined Contribution Plan which are in the Required Aggregation Group, and the Minimum Allocation requirements of Section 12.3(a) are met when such requirements are applied with the substitution of "4%" for "3%"; (ii) the Minimum Allocation requirements of Section 12.3(c) are met when such requirements are applied with the substitution of "7 1/2%" for "5%"; or (iii) Employees who are not Key Employees have an accrued benefit of not less than 3% of their average Includable Compensation for the five consecutive Plan Years in which they had the highest Includable Compensation multiplied by their Years of Service in the which the Plan is a Top-Heavy Plan (not to exceed a total such benefit of 30%), expressed as a life annuity commencing at the Participant's normal retirement age in a Defined Benefit Plan which is in the Required Aggregation Group.

#### 12.5 Minimum Vesting.

(a) Required Vesting. For any Plan Year in which this Plan is a Top-Heavy Plan, the minimum vesting schedule set forth in subsection (b) will automatically apply to the Plan to the extent it provides a higher vested percentage than the vesting provisions of Article 5. The minimum vesting schedule applies to all Account balances including amounts attributable to Plan Years before the effective date of Code section 416 and amounts attributable

to Plan Years before the Plan became a Top-Heavy Plan. Further, no reduction in vested Account balances may occur in the event the Plan's status as a Top-Heavy Plan changes for any Plan Year, and any change in the effective vesting schedule from the schedule set forth in subsection (b) to the regular schedule set forth in Article 5 will be treated as an amendment subject to Section 14.1(iii). However, this subsection does not apply to the Account balances of any Employee who does not have an Hour of Service after the Plan has initially become a Top-Heavy Plan, and such Employee's Account balances will be determined without regard to this Section.

(b) Minimum Vesting Schedule.

Years of Service -----	Percentage Vested and Nonforfeitable -----
Less than 2	0
2 but less than 3	20
3 but less than 4	40
4 but less than 5	60
5 but less than 6	80
6 or more	100

ARTICLE 13

ADOPTION OF PLAN BY CONTROLLED GROUP MEMBERS

13.1 Adoption Procedure. Any Controlled Group Member may become a Participating Employer under the Plan provided that (i) the Board approves the adoption of the Plan by the Controlled Group Member and designates the Controlled Group Member as a Participating Employer; (ii) the Controlled Group Member adopts the Plan and Trust Agreement together with all amendments then in effect by appropriate resolutions of the board of directors of the Controlled Group Member; and (iii) the Controlled Group Member by appropriate resolutions of its board of directors agrees to be bound by any other terms and conditions which may be required by the Board, provided that such terms and conditions are not inconsistent with the purposes of the Plan.

13.2 Effect of Adoption by Controlled Group Member. A Controlled Group Member that adopts the Plan pursuant to this Article will be deemed to be a Participating Employer for all purposes hereunder, unless otherwise specified in the resolutions of the Board designating the Controlled Group Member as a Participating Employer. In addition, the Board may provide, in its discretion and by appropriate resolutions, that the Employees of the Controlled Group Member will receive credit for their employment with the Controlled Group Member prior to the date it became a Controlled Group Member for purposes of determining either or both the eligibility of such Employees to participate in the Plan and the vested and nonforfeitable interest of such Employees in their Account balances, provided that such credit will be applied in a uniform and nondiscriminatory manner with respect to all such Employees.

ARTICLE 14

AMENDMENT OF THE PLAN

14.1 Right of Company to Amend Plan. The Company reserves the right to amend the Plan at any time and from time to time to the extent it may deem advisable or appropriate, provided that (i) no amendment will increase the duties or liabilities of the Trustee without its written consent; (ii) no amendment will cause a reversion of Plan assets to the Participating Employers not otherwise permitted under the Plan; (iii) no amendment will have the effect of reducing the percentage of the vested and nonforfeitable interest of any Participant in his Account nor will the vesting provisions of the Plan be amended unless each Participant with at least three Years of Service (including Years of Service disregarded pursuant to the reemployment provisions (if any) of Article 5) is permitted to elect to continue to have the prior vesting provisions apply to him, within 60 days after the latest of the date on which the amendment is adopted, the date on which the amendment is effective, or the date on which the Participant is issued written notice of the amendment; and (iv) no amendment will be effective to the extent that it has the effect of decreasing a Participant's Account balance or eliminating an optional form of distribution as it applies to an existing Account balance.

14.2 Amendment Procedure. Any amendment to the Plan will be made only pursuant to action of the Board. A certified copy of the resolutions adopting any amendment and a copy of the adopted amendment as executed by the Company will be delivered to the Committee and to the Trustee. Upon such action by the Board, the Plan will be deemed amended as of the date specified as the effective date by such Board action or in the instrument of amendment. The effective date of any amendment may be before, on or after the date of such action by the Board.

14.3 Effect on Participating Employers. Unless an amendment expressly provides otherwise, all Participating Employers will be bound by any amendment to the Plan.

## ARTICLE 15

### TERMINATION, PARTIAL TERMINATION AND COMPLETE DISCONTINUANCE OF CONTRIBUTIONS

15.1 Continuation of Plan. The Participating Employers expect to continue the Plan indefinitely, but they do not assume an individual or collective contractual obligation to do so, and the right is reserved to the Company, by action of the Board, to terminate the Plan or to completely discontinue contributions thereto at any time. In addition, subject to remaining provisions of this Article, any Participating Employer at any time may discontinue its participation in the Plan with respect to its Employees.

15.2 Complete Vesting. If the Plan is terminated, or if there is a complete discontinuance of contributions to the Plan by the Participating Employers, the amounts allocated or to be allocated to the Accounts of all affected Participants will become 100% vested and nonforfeitable without regard to their Years of Service. For purposes of this Section, a Participant who has terminated employment and is not again an Employee at the time the Plan is terminated or there is a complete discontinuance of Participating Employer contributions will not be an affected Participant entitled to full vesting if the Participant had no vested interest in his Account balance attributable to Participating Employer contributions at his termination of employment. In the event of a partial termination of the Plan, the amounts allocable to the Accounts of those Participants who cease to participate on account of the facts and circumstances which result in the partial termination will become 100% vested and nonforfeitable without regard to their Years of Service.

15.3 Disposition of the Trust Fund. If the Plan is terminated, or if there is a complete discontinuance of contributions to the Plan, the Committee will instruct the Trustee either (i) to continue to administer the Plan and pay benefits in accordance with the Plan until the Trust Fund has been depleted, or (ii) to distribute the assets remaining in the Trust Fund, unless distribution is prohibited by Section 11.2. If the Trust Fund is to be distributed, the Committee will make, after deducting estimated expenses for termination of the Trust Fund and distribution of its assets, the allocations required under the Plan as though the date of completion of the Trust Fund termination were a Valuation Date. The Trustee will distribute to each Participant the amount credited to his Account as of the date of completion of the Trust Fund termination.

15.4 Withdrawal by a Participating Employer. A Participating Employer may withdraw from participation in the Plan or completely discontinue contributions to the Plan only with the approval of the Board. If any Participating Employer withdraws from the Plan or completely discontinues contributions to the Plan, a copy of the resolutions of the board of directors of the Participating Employer adopting such action, certified by the secretary of such board of directors and reflecting approval by the Board, will be delivered to the Retirement Committee as soon as it is administratively feasible to do so, and the Retirement Committee will communicate such action to the Trustee and to the Employees of the Participating Employer.

ARTICLE 16

MISCELLANEOUS

16.1 Reversion Prohibited.

(a) General Rule. Except as provided in subsections (b), (c) and (d), it will be impossible for any part of the Trust Fund either (i) to be used for or diverted to purposes other than those which are for the exclusive benefit of Participants and their Beneficiaries (except for the payment of taxes and administrative expenses), or (ii) to revert to a Controlled Group Member.

(b) Disallowed Contributions. Each contribution of the Participating Employers under the Plan is expressly conditioned upon the deductibility of the contribution under Code section 404. If all or part of a Participating Employer's contribution is disallowed as a deduction under Code section 404, such disallowed amount (reduced by any Trust Fund losses attributable thereto) may be returned by the Trustee to the Participating Employer with respect to which the deduction was disallowed (upon the direction of the Committee) within one year after the disallowance.

(c) Mistaken Contributions. If a contribution is made by a Participating Employer by reason of a mistake of fact, then so much of the contribution as was made as a result of the mistake (reduced by any Trust Fund losses attributable thereto) may be returned by the Trustee to the Participating Employer (upon direction of the Committee) within one year after the mistaken contribution was made.

(d) Failure to Qualify. In the event the Internal Revenue Service determines that the Plan and the Trust Agreement, as amended by amendment acceptable to the Company, initially fail to constitute a qualified plan and establish a tax-exempt trust under the Code, then notwithstanding any other provisions of the Plan or the Trust Agreement, the contributions made by the Participating Employers prior to the date of such determination will be returned to the Participating Employers within one year after such determination and the Plan and Trust Agreement will terminate, but only if the application for determination is made within the time prescribed by law for filing the Company's income tax return for the taxable year in which the Plan and the Trust Agreement were adopted, or such later date as the Secretary of the Treasury may prescribe.

16.2 Bonding, Insurance and Indemnity.

(a) Bonding. To the extent required under ERISA, the Participating Employers will obtain, pay for and keep current a bond or bonds with respect to each Committee member and each Employee who receives, handles, disburses, or otherwise exercises custody or control of, any of the assets of the Plan.

(b) Insurance. The Participating Employers, in their discretion, may obtain, pay for and keep current a policy or policies of insurance, insuring the Committee members, the members of the board of directors of each Participating Employer and other Employees to whom any fiduciary responsibility with respect to the administration of the Plan has been delegated against any and all costs, expenses and liabilities (including attorneys' fees) incurred by such persons as a result of any act, or omission to act, in connection with the performance of their duties, responsibilities and obligations under the Plan and any applicable law.

(c) Indemnity. If the Participating Employers do not obtain, pay for and keep current the type of insurance policy or policies referred to in subsection (b), or if such insurance is provided but any of the parties referred to in subsection (b) incur any costs or expenses which are not covered under such policies, then the Participating Employers will indemnify and hold harmless, to the extent permitted by law, such parties against any and all costs, expenses and liabilities (including attorneys' fees) incurred by such parties in performing their duties and responsibilities under this Plan, provided that such party or parties were acting in good faith within what was reasonably believed to have been the best interests of the Plan and its Participants.

16.3 Merger, Consolidation or Transfer of Assets. There will be no merger or consolidation of all or any part of the Plan with, or transfer of the assets or liabilities of all or any part of the Plan to, any other Qualified Plan unless each Participant who remains a Participant hereunder and each Participant who becomes a participant in the other Qualified Plan would receive a benefit immediately after the merger, consolidation or transfer (determined as if the other Qualified Plan and the Plan were then terminated) which is equal to or greater than the benefit they would have been entitled to receive under the Plan immediately before the merger, consolidation or transfer if the Plan had then terminated.

16.4 Spendthrift Clause. The rights of any Participant or Beneficiary to and in any benefits under the Plan will not be subject to assignment or alienation, and no Participant or Beneficiary will have the power to assign, transfer or dispose of such rights, nor will any such rights to benefits be subject to attachment, execution, garnishment, sequestration, the laws of bankruptcy or any other legal or equitable process. This Section will not apply to a "qualified domestic relations order". A "qualified domestic relations order" means a judgment, decree or order made pursuant to a state domestic relations law which satisfies the requirements of Code section 414(p). Payment to an alternate payee pursuant to a qualified domestic relations order will be made in an immediate lump sum payment, if the order so provides.

16.5 Rights of Participants. Participation in the Plan will not give any Participant the right to be retained in the employ of a Controlled Group Member or any right or interest in the Plan or the Trust Fund except as expressly provided herein.

16.6 Gender, Tense and Headings. Whenever any words are used herein in the masculine gender, they will be construed as though they were also used in the feminine gender in all cases where they would so apply. Whenever any words used herein are in the singular form, they will be construed as though they were also used in the plural form in all cases where they

would so apply. Headings of Articles, Sections and subsections as used herein are inserted solely for convenience and reference and constitute no part of the Plan.

16.7 GOVERNING LAW. THE PLAN WILL BE CONSTRUED AND GOVERNED IN ALL RESPECTS IN ACCORDANCE WITH APPLICABLE FEDERAL LAW AND, TO THE EXTENT NOT PREEMPTED BY SUCH FEDERAL LAW, IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA.

Executed this 30th day of March, 1993.

ARKLA, INC.

By /s/ Rick L. Spurlock

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APPENDIX A

PARTICIPATING EMPLOYERS

ARKLA, INC.  
(other than the Minnegasco Division)

ARKLA ENERGY RESOURCES COMPANY

LOUISIANA INTRASTATE GAS CORPORATION  
(and its subsidiaries)

AER - ARKANSAS GAS TRANSIT COMPANY  
(and its subsidiaries)

ARKLA CHEMICAL CORPORATION

ARKLA ENERGY MARKETING COMPANY

MISSISSIPPI RIVER TRANSMISSION CORPORATION  
(and its subsidiaries)

FIRST AMENDMENT  
TO  
ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN

NorAm Energy Corp., a Delaware corporation, adopts the following amendment to the Arkla Employee Savings & Investment Plan (the "Plan").

1. Section 5.2 of the Plan is amended in its entirety to read as follows:

5.2 Forfeiture of Nonvested Amounts.

(a) Break in Service. Any nonvested portion of a Participant's Matching Contribution Account will be forfeited on the last day of the Plan Year in which the Participant incurs five consecutive One Year Breaks in Service. If a distribution is made to a Participant when the Participant's vested interest in his Matching Contribution Account is less than 100% and he is reemployed prior to incurring a forfeiture, the portion of his Matching Contribution Account which was not vested will be maintained in a separate subaccount until he becomes 100% vested. His vested interest in such subaccount, at any relevant time prior to the time he is fully vested in his Matching Contribution Account, will be equal to an amount determined by the formula  $X = P(AB \& D) - D$ , where P is the vested percentage at the relevant time, AB is the subaccount balance at the relevant time and D is the amount of the distribution.

(b) Discriminatory Matching Contributions. If the allocation of a Participating Employer matching contribution to a Participant's Matching Contribution Account results in a discriminatory matching contribution (as determined under regulations under Code Section 401(a)(4) or Code Section 401(m)) for such Participant because the matching contribution relates to a Deferral Contribution that exceeds the limitations described in Section 3.2 or Section 10.6, or because of any other reason, and such discriminatory matching contribution cannot be distributed as an excess Matching Contribution pursuant to Section 10.7, such matching contribution, or the portion thereof that results in prohibited discrimination, will be forfeited notwithstanding any other provision of the Plan to the contrary.

2. Section 10.2(d) of the Plan is amended in its entirety to read as follows:

(d) "Compensation" means the wages (as defined in Code section 3401(a) for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed) paid to an Employee by the Participating Employers during the Plan Year. In addition, Compensation includes any contributions made by the Participating Employers on behalf of an Employee pursuant to a deferral election under the Plan or under any other employee benefit plan that are not includable in income under Code section 402(a)(8) and any contributions made by the Participating Employers on behalf of an Employee to a cafeteria plan that are not includable in income under Code section 125. The Compensation of an Employee taken into account for any purpose for any Plan Year ending before January 1, 1994, will not exceed \$200,000, and will not exceed \$150,000 for any Plan Year beginning after December 31, 1993, as such amounts may be adjusted by the Secretary of the Treasury. For purposes of applying the applicable dollar limit set forth in the preceding sentence, if an Employee is a Highly Compensated Employee (as defined in Section 10.2(n)) who is either (i) a 5-percent owner, determined in accordance with Code section 414(q) and the Treasury Regulations promulgated thereunder, or (ii) one of the ten most highly compensated Employees ranked on the basis of Compensation paid by the Controlled Group during the year, such Highly Compensated Employee and the members of his family (as hereafter defined) will be treated as a single employee and the Compensation of each member of the family will be aggregated with the Compensation of the Highly Compensated Employee. The limitation on Compensation will be allocated among such Highly Compensated Employee and his family members in proportion to each individual's Compensation. For purposes of this Section, the term "family" means an Employee's spouse and any lineal descendants who are under age 19 at the end of the Plan Year in question.

3. Sections 10.7(b) and (c) are amended in their entirety to read as follows:

(b) Reduction of Excess Matching Contributions. If, for any Plan Year, the Average Contribution Percentage for Participants who are Highly Compensated Employees exceeds the limitation described in subsection (a) above, the Contribution Percentage for each such Participant will be reduced (in the order of Contribution Percentages, beginning with the highest of such percentages as provided below) until the limitation in subsection (a) is satisfied. The highest Contribution Percentage will be reduced first until the limitation in subsection (a) is satisfied or the percentage equals the next highest percentage, and the process will be repeated if necessary until such limitation is satisfied. In order to reduce a Participant's Contribution Percentage, the Participant's excess Matching Contributions (increased by Trust Fund earnings and decreased by Trust Fund losses for the Plan Year and for the period between the end of the Plan Year and the date of correction) will be forfeited, to the extent such Matching Contributions are not vested, and to the extent vested, will be distributed to the Participant within two and

one-half months following the close of the Plan Year, if practicable, but in no event later than the last day of the immediately following Plan Year. The excess Matching Contributions of Participants who are subject to the family aggregation rules of Section 10.8(d) will be allocated among the family members in proportion to the Matching Contributions made on behalf of the family members.

(c) Determination of Earnings and Losses. The earnings and losses of the Trust Fund for the Plan Year allocable to the portion of a Participant's Matching Contributions that are distributed pursuant to Section 10.6 or forfeited or distributed pursuant to subsection (b) above will be determined by multiplying the Trust Fund earnings or losses for the Plan Year allocable to the Participant's Matching Contribution Account by a fraction, the numerator of which is the amount of Matching Contributions to be forfeited or distributed and the denominator of which is the balance of the Participant's Matching Contribution Account on the last day of the Plan Year, reduced by the earnings and increased by the losses allocable to such Account for the Plan Year. The earnings and losses of the Trust Fund allocable to a Participant's Matching Contributions that are distributed pursuant to Section 10.6 or forfeited or distributed pursuant to subsection (b) above for the period between the end of the Plan Year and the date of such forfeiture or distribution will be determined in accordance with regulations prescribed by the Secretary of the Treasury interpreting Code sections 401(k) and 401(m).

4. The foregoing amendments will be effective as of January 1, 1989.

Executed at Houston, Texas, this 28th of June, 1995.

NORAM ENERGY CORP.

By /s/ Rick L. Spurlock

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Rick L. Spurlock, Senior Vice  
President, Human Resources

SECOND AMENDMENT  
TO  
ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN

NorAm Energy Corp., a Delaware corporation, pursuant to authorization of its Board of Directors, adopts the following amendments to the Arkla Employee Savings & Investment Plan (the "Plan").

1. The Plan is hereby redesignated as the "NorAm Employee Savings & Investment Plan".
2. All references in the Plan to "Arkla, Inc., a Delaware corporation," and "Arkla" are hereby amended to refer to "NorAm Energy Corp., a Delaware corporation," and "NorAm", respectively.
3. The foregoing amendments will be effective as of September 13, 1995.

Executed at Houston, Texas, this 30th of September, 1995.

NORAM ENERGY CORP.

By /s/ Rick L. Spurlock

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Rick L. Spurlock, Senior Vice  
President, Human Resources

THIRD AMENDMENT  
TO  
NORAM EMPLOYEE SAVINGS & INVESTMENT PLAN

NorAm Energy Corp., a Delaware corporation (the "Company"), pursuant to authorization of the Company's Employee Benefits Administrative Committee, adopts the following amendments to the Arkla Employee Savings & Investment Plan (the "Plan").

1. Section 3.5 of the Plan ("Rollover and Transfer Contributions") is amended by the addition of the following sentence:

Notwithstanding any other provision of the Plan, if an Employee participating in the Minnegasco Division Employees' Retirement Savings Plan (the "Minnegasco Plan") transfers employment to a Participating Employer, (i) the Employee's interest in employer matching contributions that are transferred to the Plan from the Minnegasco Plan will continue to vest at the same rate as under the terms of the Minnegasco Plan in effect on the date of his benefits are transferred to the Plan and (ii) the Plan will provide to such Employee all optional forms of benefit and other benefits that were available to him under the Minnegasco Plan and that may not be reduced or eliminated under Code section 411(d)(6) and the regulations thereunder.

2. The foregoing amendments will be effective as of April 1, 1996.

Executed at Houston, Texas, this \_\_\_ of May, 1996.

NORAM ENERGY CORP.

By /s/ Rick L. Spurlock

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Rick L. Spurlock, Senior Vice  
President, Human Resources

FOURTH AMENDMENT  
TO  
NORAM EMPLOYEE SAVINGS & INVESTMENT PLAN

NorAm Energy Corp., a Delaware corporation (the "Company"), hereby amends the NorAm Employee Savings & Investment Plan, effective as of November 1, 1996, as follows:

1. Section 8.2 of the Plan is hereby amended to read as follows:

"8.2 Voting of Company Stock by Participants and Beneficiaries.

Before each annual or special meeting of the Company's shareholders, the Committee will cause to be sent to each Participant and Beneficiary who has Company Stock allocated to his Accounts on the record date of such meeting a copy of the proxy solicitation material for the meeting, as well as a form requesting confidential instructions to the Trustee on how to vote the shares of Company Stock allocated to his Accounts. Upon receipt of such instructions, the Trustee will vote the shares allocated to such Participant's or Beneficiary's Accounts as instructed. The Trustee will vote allocated shares of Company Stock for which it does not receive timely instructions from Participants or Beneficiaries and any shares of Company Stock that have not been allocated to Participants' Accounts in the same proportion as it votes the shares for which it receives timely instructions under this Plan. A Participant's or Beneficiary's right to instruct the Trustee with respect to voting shares of Company Stock will not include rights concerning the exercise of any appraisal rights, dissenters' rights or similar rights granted by applicable law to the registered or beneficial holders of Company Stock. These matters will be exercised by the Trustee in accordance with the Committee's instructions."

2. Article 8 of the Plan is hereby amended to add the following Section 8.5 to the end thereof:

"8.5 Merger Transaction. By Agreement and Plan of Merger, dated as of August 11, 1996, as amended, by and among the Company, Houston Industries Incorporated ("HI"), Houston Lighting & Power Company (HL&P), and HI Merger, Inc. (the "Merger Agreement"), the Company has agreed to merge into HI Merger, Inc. and become a wholly owned subsidiary of Houston (the corporation to be formed by the merger of HI and HL&P) (the "Transaction"). The Merger Agreement provides that each record holder of shares of Company Stock outstanding immediately prior to the effective time of the Transaction shall be entitled to elect to receive in respect of each such share either cash consideration or shares of HI common stock. The Trustee will, in accordance with the procedures established by the Committee for that purpose request each Participant and Beneficiary who has Company Stock allocated to his Accounts as of the date established by the Committee to instruct the Trustee as to the percentage of his interest in the Common

Stock fund for which he wishes to receive cash and the percentage for which he wishes to receive HI common stock. The Trustee will make elections as to shares of Company Stock for which instructions are not timely received in the same proportion as the elections it makes for shares for which it receives timely instructions under this Plan. Elections shall be subject to adjustment as provided in the Merger Agreement.

Cash consideration received in the Transaction by a Participant or Beneficiary will be invested as soon as administratively practicable in the investment funds (including the Company Stock fund) in which the Participant has elected to invest contributions to the Plan on the date the cash consideration is received by the Trustee or, in the case of a Participant or Beneficiary for whom contributions are not being made on such date, in the investment funds in which the Participant's or Beneficiary's account balances are invested on such date. The cash consideration will be allocated among the investment funds in the same proportion as contributions or account balances, as the case may be, are allocated. Notwithstanding the foregoing, any amounts that would be invested in the NorAm Pooled GIC Fund pursuant to the provisions of this paragraph shall instead be invested in the IDS Trust U.S. Government Securities Fund.

The Committee may adopt such other rules and procedures with respect to the administration of the Plan as are necessary or appropriate, in its sole discretion, as a consequence of the pending Transaction, notwithstanding any provision of this Plan to the contrary. Such rules and procedures shall be applied on a uniform and nondiscriminatory basis."

Executed at Houston, Texas, this 17 of December, 1996.

NORAM ENERGY CORP.

By /s/ Rick L. Spurlock

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Rick L. Spurlock, Senior Vice President  
Human Resources

ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN  
TRUST AGREEMENT

ARKLA EMPLOYEE SAVINGS & INVESTMENT PLAN  
TRUST AGREEMENT

Arkla, Inc., a Delaware corporation (hereinafter referred to as the "Company"), and IDS Trust, a Division of IDS Bank & Trust (hereinafter referred to as the "Trustee") by execution of this Trust Agreement establish a trust fund for the purpose of holding and investing assets of the Arkla Employee Savings & Investment Plan (hereinafter referred to as the "Plan"), effective as of April 1, 1993. The Plan and this Trust Agreement will be deemed to be and will be construed as a single document.

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(ii)

## ARTICLE 1

### DEFINITIONS

1.1 Incorporation of Definitions Used in Plan. The definitions stated in Article 1 of the Plan are hereby incorporated by reference into this Trust Agreement.

1.2 Definitions of Terms Used Exclusively in Trust Agreement.

(a) "Bank" means (i) a banking institution organized under the laws of the United States; (ii) a member bank of the Federal Reserve System; or (iii) any other banking institution, whether or not incorporated, doing business under the laws of any state or the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks.

(b) "Fiduciary" means a person or organization that is a fiduciary with respect to the Plan or the Trust Fund within the meaning of Section 3(21) of ERISA.

(c) "Guaranteed Benefit Policy" means a guaranteed benefit policy as defined in Section 401(b)(2)(B) of ERISA.

(d) "Investment Manager" means a person or organization (other than the Committee or the Trustee) (i) which the Committee has appointed to manage, invest and reinvest all or a portion of the assets of the Trust Fund pursuant to Section 3.2; (ii) which is (A) registered as an investment adviser under the Investment Advisers Act of 1940, (B) a bank as defined in said Act, or (C) an insurance company qualified to manage, acquire or dispose of the assets of a pension plan under the laws of more than one state; and (iii) which has acknowledged in writing to the Committee and the Trustee that such person or organization is a Fiduciary with respect to the assets of the Trust Fund under its management and control.

## ARTICLE 2

### ESTABLISHMENT OF TRUST AND CERTAIN PRIMARY CONDITIONS OF ITS OPERATIONS

2.1 Establishment of Trust. This Trust Agreement establishes an employees' trust pursuant to the Plan that is intended to be a tax-exempt organization under Section 501(a) of the Code. The Company and the Trustee hereby agree that the Trust Fund will be held in trust and administered, invested and distributed for the benefit of Participants and their Beneficiaries under the terms and conditions of this Trust Agreement.

2.2 Designation of Trust. The employees' trust established hereunder will be known as the Arkla Employee Savings & Investment Plan Trust.

2.3 Trust Fund. The Trust Fund will consist of the contributions made by the Participants and Participating Employers under the provisions of the Plan, as such contributions are invested and reinvested by the Trustee in accordance with the provisions of this Trust Agreement, plus the earnings and less the losses thereupon, without distinction between principal and income, less the payments and distributions which at the time of reference have been made by the Trustee as authorized herein.

2.4 Exclusive Benefit Rule. The employees' trust established by this Trust Agreement is expressly declared to be irrevocable, subject to the provisions of Article 8. It will be impossible, at any time prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the principal or income of the Trust Fund to be used for, or diverted to, any purpose which is not for the exclusive benefit of Participants and their Beneficiaries. The preceding sentence will not be construed in such a way as to prohibit the use of assets of the Trust Fund to pay fees and other expenses incurred in the maintenance, administration and investment of the Trust Fund in accordance with the provisions of this Trust Agreement.

2.5 Reversion Prohibited. Except as permitted in the Plan, it will be impossible for any part of the Trust Fund to revert to a Controlled Group Member.

2.6 Spendthrift Clause. The rights of any Participant or Beneficiary to and in any benefits under the Plan will not be subject to assignment or alienation, and no Participant or Beneficiary will have the power to assign, transfer or dispose of such rights, nor will any such rights to benefits be subject to attachment, execution, garnishment, sequestration, the laws of bankruptcy or any other legal or equitable process. This Section will not apply with respect to qualified domestic relations orders as defined in Section 414(p) of the Code and Section 206(d)(3) of ERISA.

## ARTICLE 3

### INVESTMENT OF THE TRUST FUND

3.1 Administrator and Participant Direction. The assets of the Trust Fund will be invested and reinvested by the Trustee as directed by the Committee or Participants in accordance with the provisions of the Plan, unless the Committee delegates investment responsibility and authority for all or a portion of the Trust Fund to an Investment Manager pursuant to the provisions of Section 3.2 or to the Trustee. The Committee will direct the Trustee as to the investment funds to be established for investment of Trust Fund assets in accordance with the provisions of the Plan. All directions by the Committee or Participants to the Trustee concerning the investment, reinvestment or management of assets of the Trust Fund will be made in writing or in such other manner as is acceptable to the Trustee. Directions by the Committee to the Trustee will be made by the member or members of the Committee that have been designated by the Committee in writing to the Trustee from time to time. Directions given by Participants pursuant to the Plan directly to an Investment Manager or to an insurance company that has issued an insurance contract to the Trustee will be deemed to be directions to the Trustee for purposes of this Section.

3.2 Investment Managers. (a) The Committee has the power and authority to appoint one or more Investment Managers. Each Investment Manager so appointed will have the power and authority to invest, acquire, manage or dispose of the assets of the Trust Fund under its management and control, and to direct the Trustee with respect to the investment and reinvestment of such assets.

(b) If the Committee elects to delegate investment authority for the assets of all or any portion of the Trust Fund to an Investment Manager pursuant to subsection (a), the Committee will deliver a written resolution to such effect to the Trustee, which resolution will specify the portion of the Trust Fund affected. Upon receipt of such resolution, the Trustee will be obligated to follow the investment directions of the Investment Manager with respect to the assets of the specified portion of the Trust Fund until such Investment Manager resigns or is removed or replaced by the Committee. The Trustee will not be a party to any agreement between the Committee and an Investment Manager, and will have no responsibility respecting the terms and conditions of such agreement.

(c) In exercising its authority to delegate investment authority to an Investment Manager, the Committee has the duty, responsibility and power to (i) examine and analyze the performance of prospective Investment Managers; (ii) select an Investment Manager or Managers; (iii) determine the portion of the Trust Fund that will be under the management and control of each Investment Manager; (iv) issue appropriate instructions to the Trustee and to each Investment Manager regarding the allocation of investment authority; (v) review the performance of each Investment Manager at periodic intervals; and (vi) remove any Investment Manager when the Committee deems such removal to be necessary or appropriate.

(d) All directions by an Investment Manager to the Trustee concerning the investment, reinvestment or management of assets of the Trust Fund will be made, in writing or in such other manner as is acceptable to the Trustee, by such person or persons as the Investment Manager designates in writing to the Trustee from time to time.

(e) An Investment Manager may engage any investment adviser or investment counselor that it deems necessary or appropriate, and may provide for directions concerning the investment and reinvestment of the assets of the Trust Fund under its management and control to be made directly to the Trustee by such adviser or counselor as its agent, provided however that the Investment Manager acknowledges in writing to the Trustee that the directions of such agent will be considered the directions of the Investment Manager and that the Investment Manager will be responsible for the directions of such agent.

(f) If an Investment Manager resigns or is removed by the Committee, the Committee will notify the Trustee in writing of such resignation or removal. Upon receipt of such notice, the power and authority to invest and reinvest the assets of the Trust Fund formerly under the control and management of the Investment Manager will return to the Committee unless the Committee indicates that a successor Investment Manager has been appointed.

(g) Each Investment Manager will receive for its services reasonable compensation as agreed upon in writing between the Committee and the Investment Manager from time to time.

3.3 Fiduciary Responsibility. (a) For purposes of ERISA, the Board, the Committee, and each Participant will be the "Named Fiduciaries" with respect to the Plan and the Trust Fund, but only to the extent that the Board, Committee, or Participant exercises any discretionary authority or discretionary control with respect to the management or disposition of assets of the Trust Fund, or otherwise is a Fiduciary.

(b) The Board's responsibilities as a Named Fiduciary are to appoint the Trustee and the Committee and to establish a funding policy and method for the Plan, in accordance with the provisions of the Plan.

(c) Except as provided in Sections 3.2(e) and 4.3(c), whenever a person or organization (the "Delegating Party") has the power and authority under the Plan or this Trust Agreement to delegate discretionary power and authority respecting the control, management, operation or administration of the Plan or any portion of the Trust Fund to another person or organization (the "Appointee"), the Delegating Party's responsibility with respect to such delegation is limited to the selection of the Appointee and a periodic review of the Appointee's performance and compliance with applicable law or regulations. Any breach of fiduciary responsibility by the Appointee which is not proximately caused by the Delegating Party's failure to properly select or supervise the Appointee, and in which breach the Delegating Party does not otherwise participate, will not be considered to be a breach of fiduciary responsibility by the Delegating Party.

(d) Where the Committee, a Participant or an Investment Manager has the power and authority to direct the investment of any assets of the Trust Fund, the Trustee does not have any duty to question any direction, to review any securities or other property, or to make any suggestions in connection therewith. The Trustee will as promptly as possible comply with any direction given by the Committee, a Participant or Investment Manager. The Trustee will neither be liable in any manner and for any reason for any losses or other unfavorable investment results arising from its compliance with such direction, nor be liable for failing to invest any assets of the Trust Fund under the management and control of the Committee, a Participant or an Investment Manager in the absence of written investment directions regarding such assets.

(e) Subject to the provisions of Sections 3.3(c), 3.6(a) and 7.2, neither the Company nor the Committee will have any discretion, direction or control over the investment decisions of a Participant, the Trustee or any Investment Manager with respect to the assets of the Trust Fund for which a Participant, the Trustee or Investment Manager has investment responsibility.

(f) Subject only to the provision of Section 3.3(c), neither the Participating Employers nor the Committee will be responsible or liable for any losses or other unfavorable investment results arising from the Investment, reinvestment and management of any assets of the Trust Fund by any Investment Manager.

(g) In the event that a Fiduciary succeeds to the management and control of assets of the Trust Fund which were previously under the management and control of another Fiduciary, the successor Fiduciary (i) will not be liable for losses of the Trust Fund which result from the disposition of an investment made by the other Fiduciary or from the holding of any illiquid or unmarketable investment made by the other Fiduciary, and (ii) will not be liable for any failure to adequately diversify Trust Fund investments under its management and control if the lack of diversification stems from the investments made by the other Fiduciary. The provisions of this subsection (g) will not be deemed to relieve the successor Fiduciary in any way of its own fiduciary responsibility with respect to the Plan or the Trust Fund. In addition, with respect to the assets transferred to the Trustee from a prior trustee upon the initial establishment of the Trust Fund, the Trustee will not be responsible for any actions or inactions of any prior trustee or other fiduciary, including the review of the propriety of any investment under any prior trust agreement, and the Trustee will not be required to examine or question in any way the administration of the assets of the Trust Fund prior to its appointment.

(h) It is the intent of the parties to this Trust Agreement that each Fiduciary will be solely responsible for his or its own acts or omissions. Except to the extent imposed by ERISA, no Fiduciary has a duty to question whether any other Fiduciary is fulfilling all of the responsibilities imposed upon such other Fiduciary by ERISA or any regulations, rulings or other administrative promulgations thereunder, and no Fiduciary will have any liability for another Fiduciary's breach of fiduciary responsibility with respect to the Plan or the Trust Fund unless such Fiduciary (i) participates knowingly in such breach, (ii) has actual knowledge of such breach and fails to make efforts reasonable under the circumstances to remedy such breach, or (iii) through his or its failure to comply with Section 404(a)(1) of ERISA in performing his or its own specific fiduciary responsibilities with respect to the Plan or the Trust Fund, has enabled

such other Fiduciary to commit a breach of the latter's fiduciary responsibilities with respect to the Plan or the Trust Fund.

3.4 ERISA Requirements. (a) In investing and managing the assets of the Trust Fund, each Fiduciary who has investment responsibility and authority will exercise the care, skill, prudence and diligence, under the circumstances then prevailing, which prudent men, acting in like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims.

(b) The investment of the assets of the Trust Fund will be diversified so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. In the event that the responsibility and authority for the investment of said assets is held by one person or entity, that person or entity will be responsible for determining the proper diversification policy with respect to such assets. In the event that the responsibility and authority for the investment of said assets is allocated among more than one person or entity (other than the Participants), the Committee will be responsible for determining the proper diversification policy with respect to such assets, and will advise each such party with investment responsibility and authority of such policy. Each Participant who directs the investment of his Accounts pursuant to the provisions of the Plan will be solely responsible for the diversification of the investments of his Accounts.

(c) Except as authorized by regulations promulgated by the Department of Labor, no Fiduciary may maintain the indicia of ownership of any assets of the Trust Fund outside the jurisdiction of the district courts of the United States.

(d) In investing and managing the assets of the Trust Fund, each Fiduciary who has investment responsibility and authority will take into consideration any funding policy and method adopted by the Board with respect to the Plan, and will be subject to any specific written instructions from the Board relating to the implementation of any such funding policy and method.

3.5 Generally Permitted Investments. (a) Subject to the other provisions of this Article 3 and the limitations of ERISA, the Trustee may invest assets of the Trust Fund in any property, real or personal, tangible or intangible, and without regard to the law of any state regarding permissible investments of trust fund assets, including (but not limited to) (i) investments providing a return which is fixed, limited or determinable in advance by the terms of the contract or instrument creating or evidencing such investment, including without limitation obligations of the United States Government or any instrumentality thereof, obligations of any State, city, municipality or any instrumentality thereof, corporate bonds, corporate notes or corporate debentures, and commercial paper, banker's acceptances and certificates of deposit available through, and savings or other interest-bearing accounts in, a Bank (including the Trustee, if the Trustee is a Bank, or any Bank affiliated with the Trustee); (ii) common and preferred stock; other securities, rights, obligations or property (real or personal, and including certificates of participation) issued by investment companies or investment trusts; equipment trust certificates; mutual funds; and limited partnership interests; (iii) bonds, notes, debentures, or preferred stock which are convertible into common or preferred stock; (iv) mortgages, deeds of

trust and leaseholds with respect to real property; and (v) any other similar securities or evidences of indebtedness, whether domestic or foreign.

(b) The Trustee may purchase from an insurance company (including, to the extent permitted by law, an insurance company which is an Investment Manager) an interest in a pooled investment fund or an annuity or similar contract (including, but not limited to, any individual annuity contract, deposit administration contract, group annuity contract, guaranteed interest contract, immediate participation contract or any similar contract), or, subject to the provisions of Section 3.3, a Guaranteed Benefit Policy.

(c) The Trustee may sell any securities or other property at any time held by it for cash or on credit; transfer, dispose of or convert any securities or other property at any time held by it; or exchange such securities or property for other securities or property in which the Trustee has the power to invest assets of the Trust Fund. Any such sale, transfer, disposition, conversion or exchange may be made publicly or by private arrangement and no person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity, expediency or propriety of any such sale or other disposition.

(d) The Trustee may exercise any conversion privilege or subscription right available in connection with any securities or property constituting a part of the Trust Fund; may consent to the reorganization, consolidation, merger or readjustment of the finances of any corporation, company or association of which any of the securities are at any time held hereunder, and exercise any option or options and make any agreement or subscription and pay expenses, assessments or subscriptions in connection therewith; and hold and retain any property so acquired.

(e) The Trustee may lease property to third parties (other than "parties-in-interest," as defined in Section 3(14) of ERISA, unless such property is "qualifying employer real property," as defined in Section 407(d)(4) of ERISA).

(f) The Trustee may buy put and call options for the purchase or sale of securities, or sell such put and call options when the Trust Fund holds securities which are the subject of such options, if such options are traded on a recognized exchange or are otherwise reasonably liquid.

(g) The Trustee may acquire and dispose of promissory notes of individuals or corporations, including promissory notes secured by first or junior liens of trust deeds upon real property.

(h) Any declaration of trust executed by the Trustee (if the Trustee is a Bank or a trust company supervised by the United States or any State) creating a common or collective trust fund for investment by qualified employee benefit plans is hereby made, in its entirety, a part of this Trust Agreement. The Trustee may cause all or any portion of the assets of this Trust Fund to be commingled with the assets of similar trust funds created by others by causing such assets to be invested as a part of any such common or collective trust fund, provided that such assets will be subject to all the provisions of the applicable declaration of

trust, as amended, and provided that the Trustee receives not more than reasonable compensation from such transaction. The Trustee may also purchase for or sell from the Trust Fund interests in any such common or collective trust fund maintained by the Trustee (if the Trustee is a Bank or a trust company described above), a pooled investment fund maintained by the Trustee (if the Trustee is an insurance company qualified to do business in any state), or any other investment vehicle sponsored by the Trustee if permitted under ERISA or an exemption issued by the Department of Labor, provided that the Trustee receives not more than reasonable compensation from such transaction. Without limiting the generality of the foregoing provisions, the Trustee may cause any part or all of the moneys of the Trust Fund, without limitation as to amount, to be commingled with the moneys of employee benefit trusts of other employers, by causing such moneys to be invested as a part of any one or more of the collective funds established and maintained under the 1992 Amended and Restated Declaration of Trust - IDS Trust Collective Investment Funds for Employee Benefit Trusts. Moneys of the Trust Fund so invested in any of said collective funds at any time will be subject to all of the provisions of said Declaration of Trust as it is amended from time to time, and said Declaration of Trust is hereby made a part of this Agreement.

(i) The Trustee may hold any portion of the Trust Fund in cash, uninvested and nonproductive of income to the extent necessary to satisfy current expenses of the Plan or the Trust Fund. The Trustee will not be required to pay interest on any cash so held uninvested. The Trustee may deposit cash in an interest-bearing account in any Bank (including the Trustee, if the Trustee is a Bank, or any Bank affiliated with the Trustee).

(j) The Trustee may invest and reinvest all or any portion of the Trust Fund in mutual funds, annuities and insurance contracts, including those managed and distributed by IDS Financial Corporation and its affiliated companies.

(k) The Trustee may invest and reinvest all or any portion of the Trust Fund pursuant to an agreement between the Company and the Trustee that authorizes the Trustee to establish a special designated pooled investment fund primarily for the purpose of valuing certain assets of the Trust Fund. The terms and conditions of such an agreement specifically creating such a pooled investment fund will be incorporated by reference into this Trust Agreement.

(l) For purposes of this Section, reference to the Trustee means (i) the Trustee acting in its own discretion, with respect to the assets of the Trust Fund for which it has investment management and control, and (ii) the Trustee acting pursuant to the direction of the Committee or an Investment Manager, with respect to the assets of the Trust Fund for which the Committee or Investment Manager has investment management and control.

3.6 Investment in Insurance. (a) At the direction of the Committee, the Trustee will apply for, purchase and/or hold life insurance contracts from an insurance company. The purchase of life insurance contracts with assets of the Trust Fund pursuant to this Section 3.4 will be in accordance with the terms of the Plan and rules and policies established by the Committee, uniformly applicable to all Participants, respecting the form, value, optional methods of settlement and other provisions of such contracts.

(b) The Trustee will be the sole owner of any life insurance contract purchased; will have the sole option to exercise all rights, privileges and options thereunder; and will pay the premiums thereon when due, provided that it holds funds which are available and sufficient for such purpose.

(c) If a beneficiary of a Participant's death benefit is to be designated under any life insurance contract, the Trustee will designate the Beneficiary designated by the Participant pursuant to the Plan.

3.7 Investment in Qualifying Employer Securities or Qualifying Employer Real Property. Subject to the rules for investment set forth in this Article, the Trust Fund may be invested in qualifying employer securities (as defined in Section 407(d)(5) of ERISA) or qualifying employer real property (as defined in Section 407(d)(4) of ERISA), not to exceed the limits stated with respect to such investments in Section 407 of ERISA.

3.8 Segregation of Trust Fund Assets. (a) Subject to the other provisions of this Section and any funding policy and method for the Plan which is transmitted in writing by the Committee to the Trustee and each Investment Manager, the assets of the Trust Fund will be managed, invested and reinvested as a single fund without distinction between principal and income, and the Trustee will not be required to earmark or keep separate the assets specifically attributable to contributions by or on behalf of each Participating Employer.

(b) If requested to do so by the Committee, the Trustee will establish a separate subtrust segregating the assets of the Trust Fund that are attributable to each Participating Employer.

(c) The Trustee, in its own discretion with respect to assets of the Trust Fund for which it has been delegated investment responsibility and authority or upon the direction of the Committee or an Investment Manager with respect to assets of the Trust Fund for which the Committee or Investment Manager has investment responsibility and authority, may establish one or more subtrusts segregating the assets of the Trust Fund that are attributable to each Participating Employer.

3.9 Commingling of Trusts. If the Trustee is trustee of one or more other trusts forming part of other qualified employee benefit plans maintained by a Controlled Group Member, the Trustee may, at the request of the Committee, commingle all or a portion of the assets of the Trust Fund with assets of such other trusts for investment purposes, provided that the Trustee will maintain records enabling it to account separately for the assets of this Trust Fund and the assets of such other trusts.

## ARTICLE 4

### POWERS OF THE TRUSTEE

4.1 Scope of Powers. The Trustee has whatever powers are required to discharge its obligations and exercise its rights under this Trust Agreement, including (but not limited to) the powers specified in the following Sections of this Article, and the powers and authority granted to the Trustee under other provisions of this Trust Agreement.

4.2 Powers Exercisable by the Trustee In Its Sole Discretion. The Trustee is authorized and empowered to exercise the following powers in its sole discretion:

(a) To register any investment held in the Trust Fund in its own name or in the name of a nominee and to hold any investment in bearer form. The books and records of the Trustee will show that all such investments are part of the Trust Fund. The Trustee will be liable for all acts of its nominee.

(b) To employ suitable agents and depositories (domestic or foreign), public accountants, enrolled actuaries, and legal counsel (which may be counsel for a Controlled Group Member) as will be necessary and appropriate, and to pay their reasonable expenses and compensation.

(c) To execute all necessary receipts and releases to any insurance companies with respect to any life insurance contracts held in the Trust Fund.

(d) To organize corporations under the laws of any state for the purpose of acquiring or holding title to any property for the Trust Fund, or to request the Company to appoint another Trustee for such purpose.

(e) To participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable.

4.3 Powers Exercisable by the Trustee, Subject to the Direction of the Administrator, a Participant or an Investment Manager. The Trustee is authorized and empowered to exercise the following powers in its sole discretion with respect to the assets of the Trust Fund for which it has investment management and control. With respect to assets of the Trust Fund for which the Committee, a Participant or an Investment Manager has investment management and control, the Trustee will exercise the following powers upon the direction of the Committee, a Participant or Investment Manager.

(a) To receive, hold, invest and reinvest Trust Fund assets and income under provisions of law from time to time existing.

(b) To manage, control, sell, convey, exchange, partition, divide, subdivide, improve or repair; to grant options and to sell upon deferred payments; to lease for terms within or extending beyond the duration of this Trust Agreement for any purpose (including exploration for and removal of gas, oil or other minerals); to enter into community oil leases; and to create restrictions, easements and other servitudes.

(c) To delegate, to a manager or the holder or holders of a majority interest therein, the management and operation of any real property in which the Trust Fund has an interest and the authority to sell or otherwise carry out decisions with respect to such real property or mortgage (provided however that for purposes of determining the fiduciary responsibility of the parties to this Trust Agreement, and notwithstanding the provisions of Section 3.3(c), the delegating party will be responsible for the acts of such manager or holder(s)).

(d) To borrow or loan money upon such terms and conditions as may be deemed proper, and to obligate the Trust Fund for repayment; to encumber the Trust Fund or any of its property by mortgage, deed of trust, pledge or otherwise; and to use such procedure to consummate the transaction as may be deemed advisable.

(e) To sell, exchange, convey, transfer or otherwise dispose of any assets of the Trust Fund, by private contract or at public auction.

(f) To make commitments either alone or in company with others to purchase at any future date any property, investments or securities authorized by this Agreement.

(g) To purchase part interests in real property in mortgages on real property, wherever such real property may be situated, with the right to take title in its name individually or as Trustee or in the name of a nominee either alone or jointly with the holders of other part interests therein or their nominees.

(h) Subject to the provisions of Article 8 of the Plan, to vote upon any stocks, bonds or other securities in the Trust Fund and to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities; and to delegate discretionary powers and to pay any assessments or charges in connection with the foregoing.

(i) To exercise any withdrawal option, termination provisions or other rights of a contract holder with respect to any Guaranteed Benefit Policy held in the Trust Fund.

(j) To exercise all right of ownership in connection with any life insurance contract covering a Participant held in the Trust Fund, including the right to borrow on or surrender such contract, in whole or in part, and to receive any monies due thereunder.

4.4 Powers Exercisable by the Trustee Only Upon the Direction of the Administrator. The Trustee will exercise the following power only upon the direction of the

Committee: to accept, compromise or otherwise settle any claims by or against the Trust Fund or disputed liabilities due to or from the Trustee with respect to the Trust Fund, including any claim that may be asserted for taxes under present or future laws, or to enforce or contest the same by appropriate legal proceedings.

4.5 Provisions Relating to Company Stock and Other Securities. The provisions of Article 8 of the Plan are incorporated into this Trust Agreement by reference and supersede any conflicting provision of this Trust Agreement with respect to the voting or tender of shares of Company Stock or other securities held in the Plan's investment funds.

4.6 Documents, Instruments and Facilities. (a) In order to effectuate the specific powers and authority herein granted to the Trustee, 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.

(b) 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.

4.7 Co-Trustees. When the Trustee consists of two or more co-trustees, any one co-trustee may exercise the powers of the Trustee described herein.

## ARTICLE 5

### DUTIES AND OBLIGATIONS OF THE TRUSTEE

5.1 Scope of Duties and Obligations. The Trustee agrees to perform the duties and obligations imposed by this Trust Agreement. No duties or obligations will be imposed upon the Trustee with respect to the Trust Fund unless undertaken by the Trustee under the express terms of this Trust Agreement or unless imposed upon the Trustee by statute or at common law.

5.2 General Duties and Obligations. (a) The Trustee will hold all property received by it and any income and gains thereupon. The Trustee will manage, invest and reinvest the Trust Fund, following the directions of the Committee, the Participants or an Investment Manager with respect to assets of the Trust Fund which the Committee, the Participants or Investment Manager has responsibility for the investment thereof, will collect the income therefrom, and will make payments as provided in the Plan and in this Trust Agreement. The Trustee may utilize depositories to hold assets of the Trust Fund, provided however that the Trustee will not be relieved of any fiduciary responsibilities with respect to the assets so held.

(b) The Trustee is responsible only for money or assets that it actually receives. The Trustee has no duty to compute amounts to be paid to it by a Participating Employer or to enforce collection of any contribution due from a Participating Employer. The Trustee is not responsible for the correctness of the computation of the amount of any contribution made or to be made by a Participating Employer. The Trustee may, but will not be required to, accept contributions of property.

(c) If Participating Employer contributions paid to the Trustee would in turn be paid by the Trustee pursuant to directions of the Committee to an Investment Manager or to an insurance company that has issued an insurance contract to the Trustee, such contributions may be paid directly by the Participating Employers to the Investment Manager or the insurance company and will be treated as if paid to the Trustee and then disbursed from the Trust Fund to the Investment Manager or insurance company pursuant to directions of the Committee.

(d) The Trustee will make payments and disbursements from the Trust Fund to or on the order of the Committee, including, when the Committee will so order, distributions to Participants or their Beneficiaries as provided in the Plan. Orders of the Committee with respect to disbursements from the Trust Fund will specify the application to be made of such funds, and the Trustee may (to the extent permitted by law) rely on the Committee's instructions regarding disbursements from the Trust Fund.

(e) Subject to the provisions of Section 8.2(c), the Trustee will comply with any directive issued by the Committee to withdraw and transfer all or any part of the Trust Fund to another trustee or another successor funding agent.

(f) The Trustee will use ordinary care and reasonable diligence in the exercise of its powers and the performance of its duties and obligations under this Trust Agreement.

5.3 Valuation. (a) The Trustee will determine, and report to the Committee, the current fair market value of the assets and liabilities of the Trust Fund as of the regular Valuation Date and as of any interim Valuation Date that may be fixed by the Committee.

(b) The fair market value of assets of the Trust Fund will be determined by the Trustee on the basis of such sources of information as it may deem reliable, including (but not limited to) information reported in (i) newspapers of general circulation, (ii) standard financial periodicals or publications, (iii) statistical and valuation services, (iv) records of securities exchanges, (v) reports of any Investment Manager, insurance company that has issued an insurance contract to the Trustee or brokerage firm deemed reliable by the Trustee, or (vi) any combination of the foregoing. If the Trustee is unable to value assets from such sources, it may rely on information from any Participating Employer, the Committee, appraisers or other sources, and will not be liable for inaccurate valuation based in good faith on such information. The Committee may retain an independent appraiser to value employer securities held in the Trust Fund if such appraiser is acceptable to the Trustee, and the Trustee may retain an independent appraiser to value employer securities held in the Trust Fund if the Committee does not retain an appraiser acceptable to the Trustee.

(c) Reasonable costs incurred in valuing the Trust Fund will be a charge against the Trust Fund.

5.4 Records. The Trustee will keep complete accounts of all investments, receipts and disbursements, other transactions hereunder, and gains and losses resulting from same. Such accounts will be sufficiently detailed to meet the Trustee's duties of reporting and disclosure required under applicable federal or state law as will exist from time to time. All accounts, books, contracts and records relating to the Trust Fund will be open to inspection and audit at all reasonable times by any person designated by the Board.

5.5 Reports. (a) Within 90 days following the close of each Plan Year, and as otherwise directed by the Committee, and within 30 days following the Trustee's resignation or removal under Article 7 of this Trust Agreement, the Trustee will furnish the Committee with a written report setting forth the transactions effected by the Trustee during the period since it last furnished such a report and any gains or losses resulting from same, any payments or disbursements made by the Trustee during such period, the assets of the Trust Fund as of the last day of such period (at cost and at fair market value), and any other information about the Trust Fund that the Committee may request. The Trustee will certify the accuracy of the report if such certification is required by any applicable federal or state law or regulation.

(b) Each report submitted pursuant to subsection (a) will be promptly examined by the Committee. If the Committee approves of such report, the Trustee will be forever released from any liability of accountability with respect to the propriety of any of its accounts or transactions so reported, as if such account had been settled by judgment or decree of

a court of competent jurisdiction in which the Trustee, the Committee, the Company, and all persons having or claiming any interest in the Trust Fund were made parties. The foregoing, however, is not to be construed to deprive the Trustee of the right to have its account judicially settled if it so desires.

(c) The Committee may approve of any report furnished by the Trustee under subsection (a) either by written statement of approval furnished to the Trustee or by failure to file a written objection to the report with the Trustee within 90 days of the date on which the Committee receives such report. The Committee will not be liable to any person for its approval, disapproval or failure to approve any such report rendered by the Trustee.

## ARTICLE 6

### COMPENSATION, RIGHTS AND INDEMNITIES OF THE TRUSTEE

6.1 Compensation and Reimbursement. (a) The Trustee will receive for its services reasonable compensation as agreed upon in writing from time to time between the Committee and the Trustee, unless the Trustee is an Employee, in which case the Trustee will serve without compensation.

(b) The Trustee will be reimbursed for all reasonable expenses it incurs in the performance of its duties as under this Trust Agreement. In this regard, reasonable expenses include (but are not limited to) accounting, consulting, actuarial and, subject to Section 6.3, legal fees for professional services related to the administration of the Plan and this Trust Agreement, and the compensation of any Investment Manager as agreed upon in writing between the Investment Manager and the Committee.

(c) Compensation and expenses payable under this Section 6.1 will be paid from the Trust Fund (and may be charged, if applicable, to an appropriate subaccount or subtrust), unless the Participating Employers pay such compensation and expenses. In addition, the Participating Employers in their discretion may reimburse the Trust Fund for any such compensation and expenses paid from the Trust Fund.

6.2 Rights of the Trustee. (a) Whenever in the administration of the Plan a certification or direction is required to be given to the Trustee, or the Trustee deems it necessary that a matter be proved prior to taking, suffering or omitting any action hereunder, such certification or direction will be fully made, or such matter may be deemed to be conclusively proved, by delivery to the Trustee of an instrument signed either (i) in the name of a Participating Employer, under its corporate seal and by its Secretary or Assistant Secretary if the Participating Employer is a corporation; or (ii) unless the matter concerns the authority of the Committee, in the name of the Committee by the Chairman or Secretary of the Committee; and the Trustee may rely upon such instrument to the extent permitted by law. Notwithstanding the foregoing, the Trustee may in its sole discretion accept such other evidence of a matter or require such further evidence as may seem reasonable to it, in lieu of such instrument. Generally, the Trustee will be protected in acting upon any notice, resolution, order, certificate, opinion, telegram, letter or other document believed by the Trustee to be genuine and to have been signed by the proper party or parties, and may act thereon without notice to a Participant or Beneficiary and without considering the rights of any Participant or Beneficiary.

(b) The Trustee may make any payment which it is required to make hereunder by mailing a check for the amount of such payment and any other necessary papers by first class mail in a sealed envelope addressed to the person to whom such payment is to be made, according to the certification of the Committee. In this respect, the Trustee will recognize only instructions given to it by the Committee and has the right to act thereon without notice to

any person and without considering the rights of any Participant or Beneficiary. The Trustee is not required to determine or to make any investigation to determine, the identity or mailing address of any person entitled to benefits under the Plan, and is entitled to withhold payment of benefits or directions to issuing companies with respect to such payment until the identity and mailing address of the Participant or Beneficiary entitled to receive such benefits is certified by the Committee. The Trustee will not be responsible for the determination or computation of any benefit due to a Participant or Beneficiary.

(c) In the event that any dispute arises as to the identity or rights of any person or persons to whom the Trustee is to make payment or delivery of any funds or property, the Trustee may withhold payment or delivery of such funds or property without liability until the dispute is resolved by arbitration, adjudicated by a court of competent jurisdiction, or settled by written stipulation of the parties concerned. The Trustee will not be liable for the payment of and interest on the cash or other property held by it under such circumstances.

(d) The Trustee may consult with legal counsel (who may be counsel for a Controlled Group Member) with respect to the construction of the Plan or this Trust Agreement or its duties thereunder, or with respect to any legal proceeding or any question of law, and will be fully protected (to the extent permitted by law) with respect to any action it takes or omits in good faith upon the advice of such counsel.

(e) The Trustee will be provided with specimen signatures of the current members of the Committee and the current authorized signers of each Investment Manager. The Trustee will be entitled to rely in good faith upon any directions signed by the Committee or its appointed delegate, or by any authorized signer of an Investment Manager, and will incur no liability for following such directions.

(f) The Trustee may accept communications by photostatic teletransmissions with duplicate or facsimile signatures as a delivery of such communications in writing until notified in writing by the Committee or the Investment manager that the use of such devices is no longer authorized.

(g) Notwithstanding any other provision of this Section, the Trustee may settle securities trades effected by the Committee or an Investment Manager, with respect to assets of the Trust Fund for which the Committee or Investment Manager has investment responsibility and authority, through a securities depository that utilizes an institutional delivery system, in which event the Trustee may deliver or receive securities in accordance with appropriate trade reports or statements given to the Trustee by such depository without having received direct communication or instructions from the Committee or Investment Manager.

(h) In the event that the Committee or an Investment Manager directs the Trustee to invest any assets of the Trust Fund in real property, the Trustee has the right to request, as a condition precedent to its execution of any documents or payment of any amounts in connection with such transaction, (i) a certified appraisal in writing, from a qualified appraiser selected by the Trustee, which indicates that the value of the property is equal to or greater than the transaction price and that the condition of the property conforms to the condition described in

such documents, and (ii) an opinion of counsel (who may be counsel for the Committee or Investment Manager) that the documents either have been or will be properly recorded under all applicable recording acts, and that appropriate policies adequately insuring the Trust Fund against loss for any reason (including a defect in title) have been procured in the name of the Trustee. In addition, the Committee or Investment Manager will, upon request, provide the Trustee with current written appraisals of such property by a qualified appraiser selected by the Trustee which will be relied upon by the Trustee for all valuation and accounting purposes under the Trust Agreement. The provisions of this subsection will not be deemed to relieve the Trustee of any fiduciary responsibility under Section 3.3.

(i) In the event that the Committee or an Investment Manager directs the Trustee to purchase any contract or Guaranteed Benefit Policy issued by an insurance company, the Committee or Investment Manager will notify the Trustee in writing of any premium due on such contract or policy at least five business days before the date on which such premium is due. In the absence of such notification, the Trustee will have no duty or liability with respect to the payment of such premiums.

(j) In the event that the Committee or an Investment Manager directs the Trustee to purchase or acquire any securities or other obligations of a foreign government or agency thereof or of a corporation domiciled outside of the United States, the Committee or Investment Manager will notify the Trustee in writing of any laws or regulations of any foreign country or of the United States, its territories or its possessions which will apply to such securities or obligations (including, but not limited to, the receipt of dividends or interest from such securities or obligations).

(k) If the whole or any part of the Trust Fund, or the proceeds thereof, becomes liable for the payment of any estate, inheritance, income or other tax, charge or assessment which the Trustee is required to pay, the Trustee will have full power and authority to pay such tax, charge or assessment out of any money or other property in its hand for the account of the person whose interests hereunder are so liable, but at least ten days prior to the making of any such payment the Trustee must mail notice to the Committee of its intention to make such payment. Prior to making any transfers or distributions of any of the proceeds of the Trust Fund, the Trustee may require such releases or other documents from any lawful taxing authority as it deems necessary.

(l) If it is determined by a final judicial decision or by agreement with the Internal Revenue Service that the equitable share of the Trust Fund attributable to a Participating Employer fails to satisfy the requirements of Section 501(a) of the Code, the Trustee will be so notified by the Committee or the Participating Employer. If such failure has not been corrected to the satisfaction of the Internal Revenue Service within 30 days of such determination, or within such longer time as the Internal Revenue Service may allow, the Trustee, in its discretion, may segregate the assets allocable to the equitable share of the Trust Fund attributable to such Participating Employer and may distribute such assets to a successor trustee or funding agent.

6.3 Indemnification. The Company will indemnify and hold harmless the Trustee from all loss or liability (including expenses and reasonable attorneys' fees) to which the Trustee

may be subject by reason of its execution of its duties under this Trust Agreement, or by reason of any acts taken in good faith in accordance with directions, or acts omitted in good faith due to absence of directions, from the Board, the Committee or an Investment Manager unless such loss or liability is due to the Trustee's negligence or willful misconduct. The Trustee is entitled to collect on the indemnity provided by Section 6.3 only from the Company, and is not entitled to any direct or indirect indemnity payment from assets of the Trust Fund.

6.4 Limitation of Liability of Trustee. (a) If the Trustee makes a written request for directions from the Board, the Committee or an Investment Manager, the Trustee may await such directions without incurring liability. The Trustee has no duty to act in the absence of such requested directions, but may in its discretion take such action as it deems appropriate to carry out the purposes of this Trust Agreement.

(b) The Trustee will not be liable to any person for making any distribution, failing to make any distribution, or discontinuing any distribution on the direction of the Committee, or for failing to make any distribution by reason of the Committee's failure to direct that such distribution be made. The Trustee has no duty to inquire whether any direction or absence of direction is in conformity with the provisions of the Plan.

(c) The Trustee is not responsible for determining the adequacy of the Trust Fund to meet liabilities under the Plan, and is not liable for any obligations of the Plan or the Trust Fund in excess of the assets of the Trust Fund.

(d) The Trustee will not be liable for the acts or omissions of any other fiduciary or person with respect to the Plan or the Trust Fund except to the extent required under Section 405(a) of ERISA.

(e) The Trustee is not responsible for any matter affecting the administration of the Plan by the Company, the Committee, or any other person or persons to whom responsibility for administration of the Plan is delegated pursuant to the terms of the Plan.

6.5 Necessary Parties to Legal Actions. Except as required by Section 502(h) of ERISA, only the Company, the Committee and the Trustee will be considered necessary parties in any legal action or proceeding with respect to the Trust Fund, and no Participant, Beneficiary or other person having an interest in the Trust Fund will be entitled to notice. Any judgment entered on any such action or proceeding will be binding on all persons claiming under the Trustee. Nothing in this Section 6.5 is intended to preclude a Participant or Beneficiary from enforcing his legal rights.

## ARTICLE 7

### RESIGNATION OR REMOVAL OF THE TRUSTEE

7.1 Resignation. The Trustee may resign at any time by delivering to the Chairman of the Committee, or to the Secretary of the Board, a written notice of resignation, to take effect not less than 60 days after delivery, unless such notice is waived.

7.2 Removal. The Company may remove the Trustee at any time by delivering to the Trustee a certified resolution by the Board to such effect and a written notice of removal. Such removal will take effect no less than 60 days after delivery of such notice to the Trustee, unless such notice is waived.

7.3 Successor Trustee. Upon the resignation or removal of the Trustee, the Board will appoint a successor Trustee, which may accept such appointment by execution of this Trust Agreement. In the event that no successor Trustee is appointed, or accepts appointment, by the time that the resignation or removal of the Trustee is effective, the Board will be the successor Trustee until another successor trustee is appointed and accepts such appointment. In addition, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee or for instructions. Any expenses incurred by the Trustee in connection with said application will be paid from the Trust Fund as an expense of administration.

7.4 Settlement. After delivery of notice of the Trustee's resignation or removal, the Trustee is entitled to a settlement of its account, which may be made at the option of the Trustee either: (a) by judicial settlement in an action instituted by the Trustee in a court of competent jurisdiction, or (b) by agreement of settlement between the Trustee, the Company and the Committee.

7.5 Transfer to Successor Trustee. Upon settlement of the Trustee's account, the Trustee will transfer to the successor Trustee the Trust Fund as it is then constituted and true copies of its records relating to the Trust Fund. Upon the completion of this transfer, the Trustee's responsibilities under this Trust Agreement will cease and the Trustee will be discharged from further accountability for all matters embraced in its settlement, provided, however, that the Trustee executes and delivers all documents and written instruments which are necessary to transfer and convey the right, title and interest in the Trust Fund assets, to the successor Trustee. Notwithstanding the foregoing, the Trustee is authorized to reserve such amount as it may deem advisable for payment of its fees and expenses in connection with the settlement of its account. Any balance of such reserve remaining after the payment of such fees and expenses will be paid over to the successor Trustee. Notwithstanding any provision of Trust Agreement to the contrary, the Trustee may invest and reinvest such reserves in any investment or investment vehicle appropriate for the temporary investment of cash reserves of trusts.

7.6 Duties of the Trustee Prior to Transfer to Successor Trustee. The Trustee's powers, duties, rights and responsibilities under this Trust Agreement will continue until the date

on which the transfer of the Trust Fund assets and delivery of the related documents to the successor Trustee under Section 7.5 is completed. Nothing contained herein will relieve the Trustee of its duties under Section 5.5. The successor Trustee will neither be liable or responsible for any act or omission to act with respect to the operation or administration of the Trust Fund under this Trust Agreement prior to such date, nor be under any duty or obligation to audit or otherwise inquire into or take any action concerning the acts or omissions of the Trustee or any predecessor Trustee.

7.7 Powers, Duties and Rights of the Successor Trustee. Upon its receipt of all the assets of the Trust Fund and all of the documents related thereto, the successor Trustee will become vested with all the estate, powers, duties, rights and discretion of the Trustee under this Trust Agreement with the same effect as though the successor Trustee were originally named as Trustee hereunder.

7.8 Merger or Consolidation Involving Corporate Trustee. Any corporation into which a corporation acting as Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger, reorganization or consolidation to which such Trustee may be a party, will be the successor of the Trustee hereunder without the necessity of any appointment or other action, provided it does not resign and is not removed.

ARTICLE 8

AMENDMENT OF THE TRUST AGREEMENT  
OR TERMINATION OF THE PLAN

8.1 Amendment of the Trust Agreement. (a) The Company reserves the right to amend this Trust Agreement in the manner set forth in subsection (b) at any time and to any extent that it may deem advisable or appropriate, provided however that (i) no amendment may affect the duties, rights, responsibilities or liabilities of the Trustee or the Committee without their respective written consent; (ii) no amendment may have the effect of vesting in a Controlled Group Member any interest in or control over any property subject to the terms of this Trust Agreement; and (iii) no amendment may contravene the provisions of Section 2.4.

(b) Any amendment to this Trust Agreement will be made only pursuant to action of the Board. A certified copy of the resolutions adopting any amendment and a copy of the adopted amendment as executed by the Company will be delivered to the Committee and the Trustee. Upon such action by the Board, the Trust Agreement will be deemed amended as of the date specified as the effective date by such Board action or in the instrument of the amendment. The effective date of any amendment may be before, on or after the date of such Board action.

(c) Unless an amendment expressly provides otherwise, each Participating Employer will be bound by any amendment adopted pursuant to this Article 8.

8.2 Termination of the Plan. (a) In the event that the Plan is terminated, the Committee will notify the Trustee as to whether the Trust Fund is to be liquidated or is to be maintained by the Trustee in accordance with the provisions of the Plan and this Trust Agreement. If the Committee directs that the Trust Fund is to be liquidated, the Trustee will establish the fair market value of the Trust Fund as of such interim Valuation Date as is designated by the Committee, and, after paying the reasonable expenses involved in the termination of the Plan, will dispose of all or a part of the assets of the Trust Fund (converting the Trust Fund into cash, if necessary) in accordance with the written directions of the Committee (including, without limitation, a direct distribution to a Participating Employer of any excess assets of the Trust Fund remaining after all liabilities of the Plan and the Trust Fund to the Participants and Beneficiaries have been satisfied).

(b) In the event of the withdrawal of a Participating Employer from the Plan, the Trustee will dispose of the assets of the Trust Fund attributable to the Participants employed by the Participating Employer, and their Beneficiaries, in accordance with the written directions of the Committee.

(c) Notwithstanding the provisions of subsections (a) and (b), (i) the Trustee may pay from the assets of the Trust Fund the reasonable expenses involved in the termination of the Trust Fund prior to disposing of the assets of the Trust Fund as directed by the Committee; (ii) the Trustee will not comply with any instruction to transfer assets of the Trust

Fund to the funding agent of any other employee benefit plan unless the Trustee determines that such transfer of assets will comply with the requirements of the Code, and that any required actuarial statement of valuation has been properly filed; and (iii) the Trustee may condition the delivery, transfer or distribution of any or all assets of the Trust Fund upon its receipt of assurance satisfactory to it that the approval of appropriate governmental or other authorities has been secured (including, if the Trustee so requests, a favorable determination letter issued by the Internal Revenue Service to the effect that the termination of the Plan will not adversely affect the Plan's qualified status, and, if applicable, a statement of sufficiency of assets from the Pension Benefit Guaranty Corporation) and that there has been proper compliance with all notices and other procedures required by applicable law.

ARTICLE 9

MISCELLANEOUS

9.1 Gender, Tense and Headings. Whenever any words are used herein in the masculine gender, they will be construed as though they were also used in the feminine gender in all cases where they would so apply. Whenever any words used herein are in the singular form, they will be construed as though they were also used in the plural form in all cases where they would so apply.

Headings of Articles, Sections and subsections as used herein are inserted solely for convenience and reference and constitute no part of this Trust Agreement.

9.2 GOVERNING LAW. THIS TRUST AGREEMENT WILL BE CONSTRUED AND GOVERNED IN ALL RESPECTS IN ACCORDANCE WITH APPLICABLE FEDERAL LAW, AND, TO THE EXTENT NOT PREEMPTED BY SUCH FEDERAL LAW, IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA.

IN WITNESS WHEREOF, the Company and the Trustee have executed this Trust Agreement on March 30 , 1993.

"Company"

ARKLA, INC.

By /s/ Rick L. Spurlock

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"Trustee"

IDS TRUST, A DIVISION OF  
IDS BANK & TRUST

By /s/ IDS Trust

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INDEPENDENT AUDITORS' CONSENT

We hereby consent to the incorporation by reference in the Registration Statement of Houston Lighting & Power Company (the "Company") on Form S-8 of our report dated February 21, 1997, appearing in the combined Annual Report on Form 10-K of Houston Industries Incorporated and the Company for the year ended December 31, 1996.

/s/ DELOITTE & TOUCHE LLP

DELOITTE & TOUCHE LLP  
Houston, Texas

July 30, 1997

CONSENT OF INDEPENDENT ACCOUNTANTS

We consent to the incorporation by reference in the registration statement of Houston Lighting & Power Company on Form S-8 (File No. 333- ) of our report dated June 6, 1997, on our audits of the financial statements of the NorAm Energy Corp. Employee Savings and Investment Plan as of December 31, 1996 and 1995, and for the years ended December 31, 1996 and 1995, which report is included in the NorAm Energy Corp. Employee Savings and Investment Plan Annual Report on Form 11-K.

COOPERS & LYBRAND L.L.P.

Houston, Texas  
July 30, 1997