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NIKKO

**The Nikko Securities Co.
International, Inc.**

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Vito V. Soranno
Senior Vice President and
Director of Human Resources

August 14, 1989

Office of Employee Benefits Security
Labor Management-Services Administration
U.S. Department of Labor
Washington, D.C. 20216

Re: The Nikko Securities Co. Int'l., Inc.
Employee Identification Number 94-1302123

To Whom It May Concern:

This document constitutes the statement required by Department of Labor Regulation 2520.104-23 to be filed with the Secretary of Labor in respect to Non-qualified Deferred Compensation Plans maintained by the above employer.

The employer currently maintains one Non-qualified Deferred Compensation Plan for executives who are members of a select group of management or who are highly compensated.

There are 20 participants in the plan.

Respectfully,

V. V. Soranno

Vito V. Soranno
Senior Vice President and
Director of Human Resources

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FOR REVIEW BY COUNSEL

94-1302123

NIKKO SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

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NIKKO SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

Section 1

Name

The plan set forth herein shall be known as the Nikko Supplemental Executive Retirement Plan.

Section 2

Purpose

The purpose of the Plan is to acknowledge and reward certain key employees of the Company for their efforts on behalf of the Company by providing such key employees with (a) a means of deferring current income on a before tax basis and (b) those Company contributions that would have been available under the Nikko Retirement Plan but have been curtailed by the administrative committee of the Qualified Plan to comply with the following limitations:

- (i) the \$200,000 maximum on compensation taken into account for all purposes under a qualified plan; and
- (ii) the limitation on annual additions to qualified retirement plans,
in accordance with Sections 401(a)(17) and 415(c), respectively, of the Internal Revenue Code (the "Code"), which limitations shall be adjusted annually for increases in the cost-of-living in accordance with Section 415(d) of the Code; and
- (iii) the nondiscrimination testing requirements under Sections 401(k)(3) and 401(m)(2) of the Code.

The plan is intended to constitute an unfunded nonqualified deferred retirement plan maintained primarily for the purpose of providing deferred compensation for a select group of highly compensated employees.

Section 3

Definitions

For purposes of the Plan, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context. Wherever used, the masculine pronoun shall include the feminine pronoun and the feminine pronoun shall include the masculine and the singular shall include the plural and the plural shall include the singular.

- 3.1 "Account" shall mean the interest of a Member in the Plan as represented by his Accounts A and B.
- (a) "Account A" - Balance attributable to Member contributions in accordance with the provisions of Section 6.1.
- (b) "Account B" - Balance attributable to Company allocations in accordance with the provisions of Section 7.1.
- 3.2 "Beneficiary" shall mean the person or persons designated in accordance with Section 14 to receive any benefits under the Plan in the event of a Member's death.
- 3.3 "Board of Directors" shall mean the full Board of Directors of The Nikko Securities Co. International, Inc.
- 3.4 "Committee" shall mean the person or persons appointed by the Board of Directors to administer the Plan.
- 3.5 "Company" shall mean The Nikko Securities Co. International, Inc., or any affiliate, subsidiary or associate company, which shall adopt the Plan for its employees, with the approval of The Nikko Securities Co. International, Inc. including any successor to the Company as a result of a statutory merger, purchase of assets or any other form of reorganization of the business of the Company.
- 3.6 "Compensation" shall mean
- (a) for purposes of Section 6, the total calendar year pay of a Member, including any before tax deferrals under the Qualified Plan; and
- (b) for purposes of Subsection 7.1(a)(ii), the pay of a Member in a Plan Year as defined in the Qualified Plan.
- (c) for all other purposes, the pay of a Member in a Plan Year as defined in the Qualified Plan, but (i) inclusive of any amounts deferred under a nonqualified plan and (ii) not limited by the maximum specified in Section 401(a)(17) of the Code.
- 3.7 "Deferred Retirement Date" shall mean the first day of any month subsequent to the Member's Normal Retirement Date.

- 3.8 "Designated Account" shall mean the account established by the Company, in the name of the Company, with Daiwa Bank Trust Company for the purpose of valuing Member Accounts in accordance with Section 9. Such account shall remain a part of the general assets of the Company, available for any and all corporate purposes. The account shall not be maintained for the benefit of plan beneficiaries and shall not constitute funding for the obligations incurred by the Company under this Plan.
- 3.9 "Disability" or "Disabled" shall mean any physical or mental condition for which a Member shall be eligible to receive benefits under the disability insurance provisions of the Social Security Act.
- 3.10 "Disability Retirement Date" shall mean the first day of any month in which a Member is Disabled.
- 3.11 "Effective Date" shall mean August 1, 1989.
- 3.12 "Employee" shall mean a person who is employed by the Company and falls under the usual common law rules applicable in determining the employer-employee relationship.
- 3.13 "Key Employee" shall mean an Employee who is designated for eligibility in the Plan by the Committee.
- 3.14 "Member" shall mean any Employee who is participating in the Plan in accordance with the provisions herein set forth.
- 3.15 "Normal Retirement Date" shall mean the date on which a Member attains age 65.
- 3.16 "Plan" shall mean the Nikko Supplemental Executive Retirement Plan as it may be amended from time to time.
- 3.17 "Plan Year" shall mean the 12 consecutive month period beginning on January 1, 1990 and ending on December 31, 1990 and each 12 month period thereafter.
- However, "Plan Year" prior to January 1, 1990 shall mean the five consecutive month period beginning on the Effective Date and ending on December 31, 1989.
- 3.18 "Qualified Plan" shall mean the Nikko Retirement Plan as it may be amended from time to time.
- 3.19 "Qualified Plan Year" shall mean the 12 consecutive month period beginning on the October 1 immediately preceding the Plan Year of reference.
- 3.20 "Retirement" shall mean the termination of employment of a Member on his Normal, Deferred or Disability Retirement Date.

- 3.21 "Valuation Date" shall mean the last day of each March, June, September and December and such other dates as the Committee may determine from time to time.
- 3.22 "Year of Service" shall mean a year of service determined in accordance with the Qualified Plan.

Section 4

Operation and Administration of the Plan

4.1 Organization of the Committee

- (a) The Board of Directors shall appoint a Committee to administer the Plan, who, upon acceptance of such appointment, shall serve at the pleasure of the Board of Directors. Any member may resign by delivering his written resignation to the Board of Directors and to the Committee. Vacancies in the Committee arising from resignation, death, or removal shall be filled by the Board of Directors.
- (b) The Committee shall act by a majority of its members unless unanimous consent is required by the Plan or by unanimous approval of its members if there are two or less members in office at the time. In the event of a Committee deadlock, the Committee shall determine the method for resolving such deadlock. No Committee member shall act upon any question pertaining solely to himself, and the other member or members shall make any determination required by the Plan in respect to such member.
- (c) The Committee may, by unanimous consent, delegate specific authority and responsibilities to one or more of its members. The member or members so designated shall be solely liable, jointly and severally, for their acts or omissions with respect to such delegated authority and responsibilities. Committee members not so designated shall be relieved from liability for any act or omission resulting from such delegation.

4.2 Committee Discretion

- (a) The Committee shall, by written action prior to the first day of each Plan Year and at such other times as it shall determine with respect to a new Employee, designate those Employees, if any, who are to be Key Employees for purposes of Section 5 for that Plan Year. The Committee shall designate Key Employees from those Employees whose Compensation exceeds a specified level to be determined by the Committee prior to each Plan Year.
- (b) The administrative committee of the Qualified Plan shall determine the extent to which a Member's benefits under the Qualified Plan will be curtailed for any Qualified Plan Year based on the application of the limits described in Section 2 and the \$7,627 limitation placed on elective employee contributions in accordance with Section 402(g) of the Code (which limitation shall be adjusted annually for increases in

the cost-of-living in accordance with Section 415(d) of the Code), for the Qualified Plan Year of reference. The Committee shall use such determinations as the basis for the amount of the Company's allocations under Section 7.1 of the Plan.

4.3 Authority and Responsibility

The Committee shall have full authority and responsibility to interpret and construe the Plan and determine all questions of the status and rights of the Members and the amounts of their contributions. Its interpretation, construction or determination, as the case may be, shall be final and conclusive on both the Company and the Members and their respective successors, assigns, personal representatives and Beneficiaries. Such authority and responsibility shall include, but shall not be limited to, the following:

- (a) appointment of qualified accountants, consultants, administrators, counsel, appraisers, or other persons it deems necessary or advisable, who shall serve the Committee as advisors only and shall not exercise any discretionary authority, responsibility or control with respect to the management or administration of the Plan;
- (b) determination of all benefits, and resolution of all questions arising from the administration, interpretation and application of the Plan;
- (c) adoption of forms and regulations for the administration of the Plan;
- (d) remedy of all inequity resulting from incorrect information received or communicated, or of administrative error;
- (e) settlement or compromise of any claims or debts arising from the operation of the Plan and the commencement of any legal actions or administrative proceeding.

4.4 Records and Reports

The Committee shall keep a record of its proceedings and acts and shall keep books of account, records and other data necessary for the proper administration of the Plan.

Following the end of each Plan Year, the Committee shall provide each Member with a detailed statement of his Account, including all transactions affecting his Account during the year, and reflecting the most recent valuation of his Account.

4.5 Required Information

The Company, Members or Beneficiaries entitled to benefits shall furnish forms and any information or evidence as requested by the Committee for the proper administration of the Plan. Failure on the part of any Member or Beneficiary to comply with such request within

a reasonable period of time shall be sufficient grounds for delay in the payment of benefits until the information or evidence requested is received.

4.6 Payment of Expenses of Plan

The expenses of the Committee in connection with the administration of the Plan shall be the responsibility of the Company.

4.7 Indemnification

The Company shall indemnify and hold the members of the Committee harmless against liability incurred in the administration of the Plan, except for the gross negligence or willful misconduct of any member.

Section 5

Eligibility for Participation

5.1 Each Key Employee on the Effective Date will be eligible to participate in the Plan as of such date or as of such other date during the month of August 1989 as the Committee shall determine.

5.2 Each other Key Employee shall be eligible to participate in the Plan as of the January 1 following the attainment of his status as a Key Employee in accordance with Section 4.2.

In addition, a new Employee who is designated a Key Employee upon his employment by the Company shall be eligible to participate in the Plan as of such other date specified by the Committee in accordance with Subsection 4.2(a).

5.3 Participation in the Plan by Key Employees is entirely voluntary. A Key Employee must sign an election form and submit the signed form to the Committee at least 30 days, or such other time as the Committee shall determine, before the date he elects to become a Member of the Plan.

5.4 The Committee shall, through the adoption of a set of rules and regulations, provide for methods used in advising a Key Employee of his eligibility in the Plan, and all forms necessary for the Key Employee to elect to participate.

Section 6

Member Contributions

- 6.1 (a) At least 30 days prior to the date a Key Employee is eligible to enter the Plan, he may elect to contribute up to 50%, in whole percentages, of his Compensation to his Account A. For purposes of this Subsection, only Compensation during the period from the Key Employee's entry into the Plan to the following December 31 shall be used.
- (b) At least 30 days prior to the first day of each subsequent Plan Year for which he is eligible to participate, a Member may elect to contribute to his Account A up to 50%, in whole percentages, of his Compensation.
- 6.2 A Member's contributions to the Plan shall take the form of before tax deferrals by proportionately reducing his Compensation to be paid for the period of deferral. In the event that a Member's Compensation should increase or decrease during the Plan Year, his contributions shall automatically be adjusted to reflect such change.
- 6.3 A Member shall elect to contribute on forms and in the manner prescribed by the Committee. A new election must be made prior to each Plan Year for which the Member is eligible to participate in the Plan, even if the Member does not elect to contribute for such Plan Year. Failure to file an election form with the Committee shall be deemed an election not to participate for the coming Plan Year.
- 6.4 A Member may not modify or discontinue his contributions for a Plan Year after the first day thereof or the date he makes his initial election to participate, if later.

Section 7

Company Allocations

7.1 (a) Matching Allocations

- (i) The Company shall allocate each Plan Year, to the Account B of each Eligible Matching Member, 100% of that portion, if any, of the Member's Contributions in accordance with Section 6.1 that does not exceed the lesser of (A) 3% of such Member's Compensation and (B) the limit on elective deferrals set forth in Section 402(g) of the Code, reduced by the amount of Company matching contributions he receives during the Qualified Plan Year from the Qualified Plan.
- (ii) For purposes of this Subsection, "Eligible Matching Member" shall mean a Member who is contributing to the Qualified Plan on a before tax basis at a rate of no less than the lesser of (A) 3% of such Member's Compensation and (B) the limit on elective deferrals set forth in Section 402(g) of the Code.

(b) Regular Allocations

For those Members eligible to receive a regular contribution under the Qualified Plan for the Qualified Plan Year, the Company shall allocate with respect to such Plan Year, to the Account B of each such Member, 3% of the difference between (A) the Member's Compensation and (B) the regular contribution, excluding forfeitures, he receives under the Qualified Plan.

For purposes of this Section, only Compensation during the period for which the Member is eligible to participate in the Qualified Plan shall be used.

7.3 The Company shall credit allocations to Member Accounts at such times after the end of the Plan Year as it shall determine.

Section 8

Benefits

8.1 Normal, Deferred or Disability Retirement or Death

A Member who retires on his Normal, Deferred or Disability Retirement Date, or the Beneficiary of a Member who dies prior to his termination of employment, shall be entitled to the value of such Member's Account as of the next following Valuation Date.

8.2 Termination of Employment

In the event that a Member's employment is terminated prior to his Normal, Deferred or Disability Retirement Date, or death, he shall be entitled to the value of his vested interest in his Account in accordance with Section 11.3 as of the next following Valuation Date.

Section 9

Maintenance and Valuation of Accounts

9.1 Maintenance of Accounts

The Committee shall establish and maintain a separate accounting in the name of each Member, to which it shall credit all amounts allocated in accordance with Sections 6 and 7.

9.2 Fund Election

- (a) Fund Election - Each Member shall designate, in multiples of 25%, one or more of the funds established in accordance with Subsection (b) for the purpose of attributing earnings to his Account.
- (b) Subsequent Election - A Member may, by written notice to the Committee at least 30 days prior to the January or July 1 as of which such election is to be effective, change his fund election with respect to subsequent allocations but, until changed, a fund election, once made, shall remain in effect for all subsequent Plan Years.
- (c) Transfer Election - A Member may, by written notice to the Committee at least 30 days prior to the January or July 1 as of which such election is to be effective, elect a change in funds applicable to his then existing Account, provided such change (i) results in multiples of 25% in any one fund and (ii) is applied to the ending balance determined as of the applicable Valuation Date. Such change shall become effective within such period of time as may be administratively required following the applicable Valuation Date.
- (d) Such elections shall be the basis for the valuation of a Member's Account in accordance with Section 9.3 but shall not require the Company to actually place assets in such fund(s) or purchase any specific assets for purposes of the Plan.

9.3 Funds

Within the Designated Account, the Committee shall establish funds for the purpose of determining the value of each Member's Account. Such funds may include, but shall not be limited to, the following:

- (a) Money Market Fund - follows the performance of direct and indirect government obligations, the average maturity of which will normally not exceed one year.
- (b) Fixed Income Fund - follows the performance of high grade bonds. Maturity periods may be extended beyond the short and intermediate term to maintain a longer maturity profile.

- (c) Balanced Fund - follows the performance of a mix of both equities and fixed income instruments.
- (d) Equity Fund - follows the performance of common and preferred stocks and convertible bonds.

9.4 Valuation of Accounts

The Account of each Member shall be valued by the Company as of each Valuation Date on the basis of its fair market value.

9.5 Allocation of Earnings and Expenses

- (a) On the basis of the valuation as of a Valuation Date, the Accounts of all Members shall be (i) proportionately adjusted to reflect deemed investment earnings such as interest, dividends, realized and unrealized investment profits and losses and (ii) directly adjusted to reflect all other applicable transactions during the Plan Year attributable to such Accounts including, but not limited to, any allocations or distributions.
- (b) In addition to its allocations, the Company shall pay all the administrative expenses of the Plan and all fees and retainers of the Plan's accountant, counsel, consultant, administrator or other specialist so long as the Plan remains in effect.

Section 10

Funding

10.1 Unfunded Obligation

- (a) All benefits under the Plan are intended to be in the form of an unfunded obligation of the Company.
- (b) Nothing contained herein shall create an obligation on the part of the Company to set aside or earmark any monies or other assets specifically for payments under the plan. At no time shall a Member or the Member's estate have any right, title or interest in or to any specific fund or assets of the Company. As to any claim for benefits under the Plan, the Member or the Member's estate shall be a creditor of the Company in the same manner as any other creditor having a general claim for unpaid compensation.

Section 11

Vesting

11.1 Upon Retirement

Upon eligibility for Retirement, a Member shall have a 100% vested interest in his Account.

11.2 Upon Death

Upon the death of a Member, such Member's Beneficiary shall be entitled to a 100% vested interest in the Member's Account.

11.3 Upon Other Termination of Employment

Upon termination of a Member's employment prior to his Retirement or death, he shall be entitled to a 100% vested interest in his Account A.

The Member's vested interest in his Account B shall be determined in accordance with the following schedule on the basis of such Member's Years of Service.

<u>Number of Years</u>	<u>Percentage of Account</u>
Less than 2 years	0%
2 full years	20%
3 full years	40%
4 full year	60%
5 full years	80%
6 or more full years	100%

That portion of a terminated Member's Account B in which he does not have a vested interest shall be forfeited.

Section 12

Withdrawals

- (a) The Committee, solely in its discretion and in accordance with the provisions of this Article, may permit Members to withdraw funds from the Plan to the extent of the Member's vested interest in his Account.
- (b) A withdrawal may be made only if it is on account of an unanticipated emergency caused by an event beyond the Member's control that results in a severe and immediate financial need, known hereafter as a "Financial Hardship".

The following unanticipated emergencies shall be recognized as causing a Financial Hardship:

- (i) medical expenses of the Member, the Member's spouse or the Member's dependents,
 - (ii) the need to prevent eviction from or foreclosure on the mortgage of the Member's principal residence,
 - (iii) any other unforeseen financial stress the satisfaction of which is necessary for the safety, well-being, livelihood or health of the Member or his immediate family, as approved by the Committee.
- (c) The Member shall provide the Committee with a signed written statement certifying that the Financial Hardship cannot be relieved
 - (i) through reimbursement of compensation by insurance or otherwise,
 - (ii) by reasonable liquidation of such Member's assets, including those of his spouse and minor children if they are reasonably available to him,
 - (iii) by discontinuance of contributions to this Plan or the Qualified Plan, or
 - (iv) by other distributions or loans from the Qualified Plan or loans from commercial sources on reasonable commercial terms.
 - (d) The amount of such Financial Hardship withdrawal may not exceed the amount required to meet the specified need.
 - (e) Only one withdrawal will be permitted during any Plan Year.
 - (f) A written request for a withdrawal must be submitted to the Committee at least 30 days prior to the withdrawal date, or at such other time as the Committee shall determine.

(g) If a withdrawal is requested as of any date other than the day after a Valuation Date, no investment earnings will be credited on the amount withdrawn for the period from the last Valuation Date to the date specified for the withdrawal.

Section 13

Regulations Governing Distribution of Benefits

13.1 Benefit Commencement Date

All benefits payable under the Plan shall commence as soon as administratively possible following the Valuation Date next subsequent to the date on which the Member's termination of employment occurs.

13.2 Method of Distribution

(a) Member Election

Distribution of benefits payable to a Member or Beneficiary shall be in one of the forms found in Subsection (b), at the Member's election. A separate election shall be made for each of the following events: voluntary termination (including Retirement); involuntary termination (excluding Disability and death); Disability; and death. Such election must be made when the Member elects to participate in the Plan in accordance with Section 5.

(b) Forms of Benefit Payment

(i) Annual installments over a period of five or ten years.

During the distribution period, a Member's Account balance will continue to be credited with investment earnings in accordance with Section 9.5.

If either of these options is elected, upon the death of the Member, the amount to which the Member's Beneficiary is entitled will be payable in a lump sum.

(ii) A single lump sum.

(c) Any election made pursuant to this Section shall be made on forms and in the manner prescribed by the Committee and shall be irrevocable.

13.3 Claim Procedure For Benefits

(a) Any request for specific information with respect to benefits under the Plan must be made to the Committee in writing by a Member or his Beneficiary. Oral communications will not be recognized as a formal request or claim for benefits.

- (b) The Committee shall provide adequate notice in writing to any Member or Beneficiary whose claim for benefits under the Plan has been denied, (i) setting forth the specific reasons for such denial; specific references to pertinent plan provisions; a description of any material and information which had been requested but not received by the Committee; and, (ii) advising such Member or Beneficiary that any appeal of such adverse determination must be in writing to the Committee, within such period of time designated by the Committee but, until changed, not more than 60 days after receipt of such notification, and must include a full description of the pertinent issues and basis of such claim.
- (c) If the Member or Beneficiary fails to appeal such action to the Committee in writing within the prescribed period of time, the Committee's adverse determination shall be final.
- (d) If an appeal is filed with the Committee, the Member or Beneficiary shall submit such issues he feels are pertinent and the Committee shall reexamine all facts, make a final determination as to whether the denial of benefits is justified under the circumstances, and advise the Member or Beneficiary in writing of its decision and the specific reasons on which such decision was based, within 60 days of receipt of such written request, unless special circumstances require a reasonable extension of such 60-day period.

13.4 Substitute Payee

If a Member or Beneficiary entitled to receive any benefits hereunder is in his minority, or is, in the judgment of the Committee, legally, physically, or mentally incapable of personally receiving and receipting any distribution, the Committee may make distributions to a legally appointed guardian or to such other person or institution as, in the judgment of the Committee, is then maintaining or has custody of the payee.

13.5 Satisfaction of Liability

After all benefits have been distributed in full to a Member or to his Beneficiary, all liability to such Member or to his Beneficiary shall cease.

13.6 Nonassignability

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any such action shall be void for all purposes of the Plan. No benefit shall in any manner be subject to the debts, contracts, liabilities, engagements or torts of any person, nor shall it be subject to attachments or other legal process for or against any person, except to such extent as may be required by law.

Section 14

Beneficiary Designation

- 14.1 Each Member, upon becoming eligible for participation in the Plan, may designate a Beneficiary to receive the benefits payable in the event of his death, and designate a successor Beneficiary to receive any benefits payable in the event of the death of any other Beneficiary.
- 14.2 A Member may change his Beneficiary at any time. All Beneficiary designations and changes shall be made on an appropriate form as designated by the Committee and filed with the Committee.
- 14.3 If no person shall be designated by the Member, or if the designated Beneficiary shall not survive the Member, payment of his interest shall be made to the Member's estate.

Section 15

Amendment and Termination

15.1 Amendment

The Plan may be amended or otherwise modified by the Board of Directors, in whole or in part, either retroactively or prospectively, provided that no amendment or modification shall, with respect to allocations already credited, change the amount of allocations under Section 6 or Section 7 or increase the vesting requirements under Section 11.

15.2 Termination

The Plan may be terminated at any time at the discretion of the Board of Directors. Written notification of such action shall be given to each Member and the Committee. Thereafter, no further contributions or allocations shall be made to the Plan. As soon as administratively feasible following termination of the Plan, the Committee shall distribute the amount in each Account to or on behalf of the Member or Beneficiary entitled thereto.

Section 16

General Provisions

16.1 Limitation of Rights

Neither the establishment of the Plan, nor any modification thereof, nor the creation of an account, nor the payment of any benefits shall be construed as giving any Member, Beneficiary, or any other person whosoever, any legal or equitable right against the Company or the Committee unless such right shall be specifically provided for in the Plan or conferred by affirmative action of the Committee in accordance with the terms and provisions of the Plan; or as giving any Member the right to be retained in the service of the Company, and all Members and other employees shall remain subject to discharge to the same extent as if the Plan had never been adopted.

16.2 Construction of Agreement

The Plan shall be construed according to the laws of the State of New York, and all provisions hereof shall be administered according to, and its validity shall be determined under, the laws of New York except where preempted by Federal law.

16.3 Severability

Should any provision of the Plan or any regulations adopted thereunder be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the other provisions or regulations unless such invalidity shall render impossible or impractical the functioning of the Plan and, in such case, the appropriate parties shall immediately adopt a new provision or regulation to take the place of the one held illegal or invalid.

16.4 Titles and Headings

The titles and headings of the Sections in this instrument are for convenience of reference only and, in the event of any conflict, the text rather than such titles or headings shall control.

16.5 Binding Upon Successors

The liabilities under the Plan shall be binding upon any successor or assign of the Company and any purchaser of the Company or substantially all of the assets of the Company.