

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

---

**FORM 10-Q**

---

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2012  
OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission file number: 001-34249

---

**FARMER BROS. CO.**

(exact name of registrant as specified in its charter)

---

**Delaware**  
(State of Incorporation)

**95-0725980**  
(I.R.S. Employer Identification No.)

**20333 South Normandie Avenue, Torrance, California 90502**  
(address of principal executive offices, Zip code)

Registrant's telephone number, including area code: **(310) 787-5200**

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES  NO

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES  NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act (Check one):

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES  NO

On November 2, 2012, the registrant had 16,314,154 shares outstanding of its common stock, par value \$1.00 per share, which is the registrant's only class of common stock.

## TABLE OF CONTENTS

	<b>Page</b>
<u>PART I – FINANCIAL INFORMATION</u>	
<u>Item 1. Financial Statements</u>	
<u>Consolidated Balance Sheets at September 30, 2012 (unaudited) and June 30, 2012</u>	<u>3</u>
<u>Consolidated Statements of Operations for the Three Months Ended September 30, 2012 and 2011 (unaudited)</u>	<u>4</u>
<u>Consolidated Statements of Comprehensive Income (Loss) for the Three Months Ended September 30, 2012 and 2011 (unaudited)</u>	<u>5</u>
<u>Consolidated Statements of Cash Flows for the Three Months Ended September 30, 2012 and 2011 (unaudited)</u>	<u>6</u>
<u>Notes to Consolidated Financial Statements (unaudited)</u>	<u>7</u>
<u>Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>19</u>
<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u>	<u>21</u>
<u>Item 4. Controls and Procedures</u>	<u>23</u>
<u>PART II – OTHER INFORMATION</u>	
<u>Item 1. Legal Proceedings</u>	<u>24</u>
<u>Item 1A. Risk Factors</u>	<u>24</u>
<u>Item 6. Exhibits</u>	<u>32</u>
<u>SIGNATURES</u>	<u>33</u>
<u>EXHIBIT INDEX</u>	<u>34</u>

**PART I - FINANCIAL INFORMATION**  
**Item 1. Financial Statements**

**FARMER BROS. CO.**  
**CONSOLIDATED BALANCE SHEETS**  
(In thousands, except share and per share data)

	September 30, 2012	June 30, 2012
	(Unaudited)	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 2,545	\$ 3,906
Short-term investments	20,591	21,021
Accounts and notes receivable, net	43,139	40,736
Inventories	69,924	65,981
Income tax receivable	388	762
Prepaid expenses	3,091	3,445
Total current assets	<u>139,678</u>	<u>135,851</u>
Property, plant and equipment, net	103,315	108,135
Intangible assets, net	7,272	7,615
Other assets	3,138	2,904
Deferred income taxes	854	854
Total assets	<u>\$ 254,257</u>	<u>\$ 255,359</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 29,201	\$ 27,676
Accrued payroll expenses	19,704	20,494
Short-term borrowings under revolving credit facility	24,996	29,126
Short-term obligations under capital leases	3,683	3,737
Deferred income taxes	1,480	1,480
Other current liabilities	10,148	10,176
Total current liabilities	<u>89,212</u>	<u>92,689</u>
Accrued postretirement benefits	34,970	34,557
Other long-term liabilities—capital leases	11,368	12,130
Accrued pension liabilities	41,539	42,513
Accrued workers' compensation liabilities	4,131	4,131
Deferred income taxes	607	607
Total liabilities	<u>\$ 181,827</u>	<u>\$ 186,627</u>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$1.00 par value, 500,000 shares authorized and none issued	\$ —	\$ —
Common stock, \$1.00 par value, 25,000,000 shares authorized; 16,314,154 and 16,308,859 issued and outstanding at September 30, 2012 and June 30, 2012, respectively	16,314	16,309
Additional paid-in capital	35,653	34,834
Retained earnings	103,329	100,455
Unearned ESOP shares	(25,637)	(25,637)
Less accumulated other comprehensive loss	(57,229)	(57,229)
Total stockholders' equity	<u>\$ 72,430</u>	<u>\$ 68,732</u>
Total liabilities and stockholders' equity	<u>\$ 254,257</u>	<u>\$ 255,359</u>

The accompanying notes are an integral part of these financial statements.

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(In thousands, except share and per share data)  
(Unaudited)

	Three Months Ended September 30,	
	2012	2011
Net sales	\$ 119,153	\$ 121,197
Cost of goods sold	74,532	81,512
Gross profit	44,621	39,685
Selling expenses	37,271	35,681
General and administrative expenses	8,893	8,634
Operating expenses	46,164	44,315
Loss from operations	(1,543)	(4,630)
Other income (expense):		
Dividend income	259	359
Interest income	92	15
Interest expense	(457)	(575)
Other, net	4,945	(2,407)
Total other income (expense)	4,839	(2,608)
Income (loss) before taxes	3,296	(7,238)
Income tax expense	422	346
Net income (loss)	\$ 2,874	\$ (7,584)
Net income (loss) per common share—basic and diluted	\$ 0.19	\$ (0.50)
Weighted average common shares outstanding—basic and diluted	15,490,365	15,182,147
Cash dividends declared per common share	\$ —	\$ —

The accompanying notes are an integral part of these financial statements.

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**  
(In thousands)  
(Unaudited)

	Three Months Ended September 30,	
	2012	2011
Net income (loss)	\$ 2,874	\$ (7,584)
Other comprehensive income (loss), net of tax:		
Retiree benefits, net of income taxes	—	—
Total comprehensive income (loss)	\$ 2,874	\$ (7,584)

The accompanying notes are an integral part of these financial statements.

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands)  
(Unaudited)

	Three Months Ended September 30,	
	2012	2011
Cash flows from operating activities:		
Net income (loss)	\$ 2,874	\$ (7,584)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	8,340	7,923
Provision for doubtful accounts	(922)	590
(Gain) loss on sales of assets	(3,213)	98
ESOP and share-based compensation expense	823	790
Net (gain) loss on investments	(802)	2,621
Change in operating assets and liabilities:		
Short-term investments	1,232	6,059
Accounts and notes receivable	(1,481)	(1,643)
Inventories	(3,943)	(3,192)
Income tax receivable	374	287
Prepaid expenses and other assets	120	543
Accounts payable	1,863	(3,650)
Accrued payroll, expenses and other liabilities	(834)	(147)
Accrued postretirement benefits	412	327
Other long-term liabilities	(1,191)	(3,055)
Net cash provided by (used in) operating activities	<u>\$ 3,652</u>	<u>\$ (33)</u>
Cash flows from investing activities:		
Purchases of property, plant and equipment	(3,572)	(2,910)
Proceeds from sales of property, plant and equipment	3,786	198
Net cash provided by (used in) investing activities	<u>\$ 214</u>	<u>\$ (2,712)</u>
Cash flows from financing activities:		
Proceeds from revolving credit facility	4,800	8,400
Repayments on revolving credit facility	(9,250)	(6,800)
Payments of capital lease obligations	(777)	(384)
Net cash (used in) provided by financing activities	<u>\$ (5,227)</u>	<u>\$ 1,216</u>
Net decrease in cash and cash equivalents	<u>\$ (1,361)</u>	<u>\$ (1,529)</u>
Cash and cash equivalents at beginning of period	3,906	6,081
Cash and cash equivalents at end of period	<u>\$ 2,545</u>	<u>\$ 4,552</u>

The accompanying notes are an integral part of these financial statements.

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**Note 1. Farmer Bros. Co. and Summary of Significant Accounting Policies**

***The Company***

Farmer Bros. Co., a Delaware corporation (including its consolidated subsidiaries, unless the context otherwise requires, herein referred to as the “Company,” “we,” “our” or “Farmer Bros.”), is a manufacturer, wholesaler and distributor of coffee, tea and culinary products. The Company is a direct distributor of coffee to restaurants, hotels, casinos, hospitals and other food service providers, and is a provider of private brand coffee programs to Quick Service Restaurants (“QSR’s”), grocery retailers, national drug store chains, restaurant chains, convenience stores, and independent coffee houses, nationwide. The Company was founded in 1912, was incorporated in California in 1923, and reincorporated in Delaware in 2004. The Company operates in one business segment.

***Basis of Presentation***

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States (“GAAP”) for complete consolidated financial statements. In the opinion of management, all adjustments (consisting only of normal recurring accruals, unless otherwise indicated) considered necessary for a fair presentation of the interim financial data have been included. Operating results for the three months ended September, 2012 are not necessarily indicative of the results that may be expected for the fiscal year ending June 30, 2013. Events occurring subsequent to September 30, 2012 have been evaluated for potential recognition or disclosure in the unaudited consolidated financial statements for the three months ended September 30, 2012.

The accompanying unaudited consolidated financial statements should be read in conjunction with the consolidated financial statements and related notes included in the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2012, filed with the Securities and Exchange Commission (the “SEC”) on September 10, 2012.

***Use of Estimates***

The preparation of financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We review our estimates on an ongoing basis using currently available information. Changes in facts and circumstances may result in revised estimates and actual results may differ from those estimates.

***Fair Value Measurements***

Fair value is the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants. The Company maximizes the use of observable market inputs, minimizes the use of unobservable market inputs and discloses in the form of an outlined hierarchy the details of such fair value measurements. See Note 2 for additional information.

### ***Coffee Brewing Equipment and Service***

The Company classifies certain expenses related to coffee brewing equipment provided to customers as cost of goods sold. These costs include the cost of equipment as well as the cost of servicing that equipment (including service employees' salaries, cost of transportation and the cost of supplies and parts) and are considered directly attributable to the generation of revenues from the Company's customers. Accordingly, such costs included in cost of goods sold in the accompanying unaudited consolidated financial statements for the three months ended September 30, 2012 and 2011 are \$5.8 million and \$6.0 million, respectively. The Company capitalized coffee brewing equipment in the amounts of \$1.9 million and \$2.4 million in the three months ended September 30, 2012 and 2011, respectively. Depreciation expense related to capitalized coffee brewing equipment reported as cost of goods sold was \$3.3 million and \$2.8 million in the three months ended September 30, 2012 and 2011, respectively.

### ***Revenue Recognition***

Most product sales are made "off-truck" to the Company's customers at their places of business by the Company's sales representatives. Revenue is recognized at the time the Company's sales representatives physically deliver products to customers and title passes or upon acceptance by the customer when shipped by third party delivery.

The Company sells roast and ground coffee and tea to The J.M. Smucker Company ("J.M. Smucker") pursuant to a co-packing agreement, as J.M. Smucker's agent. The co-packing agreement was assigned by Sara Lee Corporation ("Sara Lee") to J.M. Smucker on February 17, 2012, as part of J.M. Smucker's acquisition of Sara Lee's coffee business. The Company recognizes revenue from this arrangement on a net basis, net of direct costs of revenue. As of September 30, 2012 and June 30, 2012, the Company had \$0.4 million and \$0.8 million, respectively, of receivables related to this arrangement, which are included in "Other receivables" in the consolidated balance sheets (see Note 3).

### ***Earnings (Loss) Per Common Share***

Basic earnings (loss) per share ("EPS") represents net earnings attributable to common stockholders divided by the weighted-average number of common shares outstanding for the period, excluding unallocated shares held by the Company's Employee Stock Ownership Plan. Diluted EPS represents net earnings attributable to common stockholders divided by the weighted-average number of common shares outstanding, inclusive of the dilutive impact of common equivalent shares outstanding during the period. However, nonvested restricted stock awards (referred to as participating securities) are excluded from the dilutive impact of common equivalent shares outstanding in accordance with authoritative guidance under the two-class method. The nonvested restricted stockholders are entitled to participate in dividends declared on common stock as if the shares were fully vested and hence are deemed to be participating securities. Under the two-class method, earnings (loss) attributable to nonvested restricted stockholders are excluded from net earnings (loss) attributable to common stockholders for purposes of calculating basic and diluted EPS.

Computation of EPS for the three months ended September 30, 2012 does not include the dilutive effect of 206,600 shares issuable under stock options since none of their exercise prices exceeded the average closing price of the Company's common stock for the three months ended September 30, 2012 and their inclusion would be anti-dilutive. Computation of EPS for the three months ended September 30, 2011 does not include the dilutive effect of 403,429 shares issuable under stock options since their inclusion would be anti-dilutive. Accordingly, the unaudited consolidated financial statements present only basic net income (loss) per common share for all periods presented (see Note 9).

### ***Dividends Declared***

Although historically the Company has paid a dividend to stockholders, in light of the Company's current financial position, the Company's Board of Directors has omitted the payment of a quarterly dividend since the third quarter of fiscal 2011. The amount, if any, of dividends to be paid in the future will depend upon the Company's then available cash,

anticipated cash needs, overall financial condition, loan agreement restrictions, future prospects for earnings and cash flows, as well as other relevant factors.

#### ***Impairment of Indefinite-lived Intangible Assets***

The Company performs its annual indefinite-lived intangible assets impairment test as of June 30 of each fiscal year. Indefinite-lived intangible assets are not amortized but instead are reviewed for impairment annually by comparing their fair values to their carrying values.

In addition to an annual test, indefinite-lived intangible assets must also be tested on an interim basis if events or circumstances indicate that the estimated fair value of such assets has decreased below their carrying value. There were no such events or circumstances during the three months ended September 30, 2012.

#### ***Long-lived Assets, Excluding Indefinite-lived Intangible Assets***

The Company reviews the recoverability of its long-lived assets whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Long-lived assets evaluated for impairment are grouped with other assets to the lowest level for which identifiable cash flows are largely independent of the cash flows of other groups of assets and liabilities. The estimated future cash flows are based upon, among other things, assumptions about expected future operating performance, and may differ from actual cash flows. If the sum of the projected undiscounted cash flows (excluding interest) is less than the carrying value of the assets, the assets will be written down to the estimated fair value in the period in which the determination is made. There were no such events or circumstances during the three months ended September 30, 2012.

#### ***Recently Adopted Accounting Standards***

In September 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-08, "Goodwill and Other (Topic 350), Testing Goodwill for Impairment" ("ASU 2011-08"). Pursuant to ASU 2011-08 companies have the option to first assess qualitative factors to determine whether it is more likely than not (a likelihood of more than 50%) that the fair value of a reporting unit is less than its carrying amount. If, after considering the totality of events and circumstances, an entity determines it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, performing the two-step impairment test is unnecessary. The amendments include examples of events and circumstances that an entity should consider. ASU 2011-08 is effective for annual and interim impairment tests performed for fiscal years beginning after June 15, 2012 and is effective for the Company for fiscal 2013 beginning July 1, 2012. Adoption of ASU 2011-08 did not have a material effect on the results of operations, financial position or cash flows of the Company.

On July 1, 2012, the Company adopted ASU No. 2011-05, "Comprehensive Income (Topic 220): Presentation of Comprehensive Income" ("ASU 2011-05"), except for the provisions of ASU 2011-05 which were deferred by ASU No. 2011-12, "Comprehensive Income (Topic 220): Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income" in ASU No. 2011-05 ("ASU 2011-12"). The new guidance eliminates the current option to report other comprehensive income and its components in the statement of changes in equity. Instead, the Company presents other comprehensive income in a separate statement following the consolidated statements of operations. The new guidance also requires entities to present reclassification adjustments out of accumulated other comprehensive income by component in both the consolidated statement of operations and the consolidated statement of comprehensive income. ASU 2011-12 indefinitely defers the guidance related to the presentation of reclassification adjustments. ASU 2011-05 only relates to disclosure requirements and its adoption did not have a material effect on the results of operations, financial position or cash flows of the Company.

In May 2011, the FASB issued ASU No. 2011-04, "Fair Value Measurement (Topic 820), Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs" ("ASU 2011-04"). ASU 2011-04 amends the fair value measurement and disclosure guidance in Accounting Standards

Codification ("ASC") 820, "Fair Value Measurements and Disclosures" ("ASC 820"), of the FASB for financial assets and liabilities to converge GAAP and International Financial Reporting Standards requirements for measuring amounts at fair value as well as disclosures about these measurements. Many of the amendments clarify existing concepts and are generally not expected to result in significant changes to how many companies currently apply the fair value principles. In certain instances, however, the FASB changed a principle to achieve convergence, and while limited, these amendments have the potential to significantly change practice for some companies. For public entities, the amendments are effective during interim and annual periods beginning after December 15, 2011. The Company adopted the amendments beginning July 1, 2012. The adoption of ASU 2011-04 did not have a material effect on the results of operations, financial position or cash flows of the Company.

**New Accounting Pronouncements**

As of September 30, 2012, there were no new accounting pronouncements anticipated to be adopted by the Company.

**Note 2. Investments and Derivative Instruments**

The Company purchases various derivative instruments as investments or to create economic hedges of its interest rate risk and commodity price risk. At September 30, 2012 and 2011, derivative instruments were not designated as accounting hedges as defined by ASC 815, "Accounting for Derivative Instruments and Hedging Activities." The fair value of derivative instruments is based upon broker quotes. The Company records unrealized gains and losses on trading securities and changes in the market value of certain coffee contracts meeting the definition of derivatives in "Other, net" in the consolidated statements of operations.

The Company groups its assets and liabilities at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. These levels are:

- Level 1—Valuation is based upon quoted prices for identical instruments traded in active markets.
- Level 2—Valuation is based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market.
- Level 3—Valuation is generated from model-based techniques that use significant assumptions not observable in the market. These unobservable assumptions reflect estimates of assumptions that market participants would use in pricing the asset or liability. Valuation techniques include use of option pricing models, discounted cash flow models and similar techniques.

Assets and liabilities measured and recorded at fair value on a recurring basis were as follows (in thousands):

<u>As of September 30, 2012 (Unaudited)</u>	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Preferred stock(1)	\$ 20,214	\$ 14,856	\$ 5,358	\$ —
Futures, options and other derivative assets(1)	\$ 377	\$ —	\$ 377	\$ —
Derivative liabilities	\$ —	\$ —	\$ —	\$ —

<u>As of June 30, 2012</u>	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Preferred stock(1)	\$ 19,395	\$ 14,078	\$ 5,317	\$ —
Futures, options and other derivatives(1)	\$ 1,626	\$ —	\$ 1,626	\$ —
Derivative liabilities(2)	\$ 410	\$ —	\$ 410	\$ —

(1) Included in "Short-term investments" on the consolidated balance sheets.

(2) Included in "Accounts payable" on the consolidated balance sheet.

There were no significant transfers of securities between Level 1 and Level 2.

Gains and losses, both realized and unrealized, are included in "Other, net" on the statement of operations and in the "Net (gain) loss on investments" in the consolidated statements of cash flows. Net realized and unrealized gains and losses are as follows:

(In thousands)	Three Months Ended	
	September 30,	
	2012	2011
	(Unaudited)	
Coffee-related derivatives:		
Unrealized gains	\$ 1,157	\$ —
Unrealized losses	(10)	(2,740)
Realized gains	381	59
Realized losses	(825)	(1,012)
Net realized and unrealized gains (losses)	703	(3,693)
Net gains (losses) from sales of assets	3,213	(98)
Other gains, net	1,029	1,384
Other, net	\$ 4,945	\$ (2,407)

Preferred stock investments as of September 30, 2012 consisted of securities with a fair value of \$18.4 million in an unrealized gain position and securities with a fair value of \$1.8 million in an unrealized loss position. Preferred stock investments as of June 30, 2012 consisted of securities with a fair value of \$16.5 million in an unrealized gain position and securities with a fair value of \$2.9 million in an unrealized loss position.

The following tables show gross unrealized losses (although such losses have been recognized in the consolidated statements of operations) and fair value for those investments that were in an unrealized loss position as of September 30, 2012 and June 30, 2012, aggregated by the length of time those investments have been in a continuous loss position:

(In thousands)	September 30, 2012 (Unaudited)			
	Less than 12 Months		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Preferred stock	\$ 445	\$ (3)	\$ 1,806	\$ (46)

  

(In thousands)	June 30, 2012			
	Less than 12 Months		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Preferred stock	\$ 1,750	\$ (16)	\$ 2,891	\$ (40)

### Note 3. Accounts and Notes Receivable, net

(In thousands)	As of	
	September 30, 2012	June 30, 2012
	(Unaudited)	
Trade receivables	\$ 43,024	\$ 40,687
Other receivables	1,065	1,921
Allowance for doubtful accounts	(950)	(1,872)
Accounts and notes receivable, net	\$ 43,139	\$ 40,736

Allowance for doubtful accounts decreased in the three months ended September 30, 2012, due to \$0.8 million in recovery of an account previously deemed uncollectible.

#### Note 4. Inventories

The Company's inventories consisted of the following:

	Processed	Unprocessed	Total
<b>September 30, 2012 (Unaudited)</b>	(In thousands)		
Coffee	\$ 15,825	\$ 14,607	\$ 30,432
Tea and culinary products	24,621	4,580	29,201
Coffee brewing equipment	5,066	5,225	10,291
	<u>\$ 45,512</u>	<u>\$ 24,412</u>	<u>\$ 69,924</u>
	Processed	Unprocessed	Total
<b>June 30, 2012</b>	(In thousands)		
Coffee	\$ 15,485	\$ 11,836	\$ 27,321
Tea and culinary products	24,502	4,817	29,319
Coffee brewing equipment	3,977	5,364	9,341
	<u>\$ 43,964</u>	<u>\$ 22,017</u>	<u>\$ 65,981</u>

Inventories are valued at the lower of cost or market. The Company accounts for coffee, tea and culinary products on the last in, first out ("LIFO") basis and coffee brewing equipment manufactured on the first in, first out ("FIFO") basis. The Company regularly evaluates these inventories to determine whether market conditions are correctly reflected in the recorded carrying value. At the end of each quarter, the Company records the expected beneficial effect of the liquidation of LIFO inventory quantities, if any, and records the actual impact at fiscal year-end. An actual valuation of inventory under the LIFO method is made only at the end of each fiscal year based on the inventory levels and costs at that time. If inventory quantities decline at the end of the fiscal year compared to the beginning of the fiscal year, the reduction results in the liquidation of LIFO inventory quantities carried at the cost prevailing in prior years. This LIFO inventory liquidation may result in a decrease or increase in cost of goods sold depending on whether the cost prevailing in prior years was lower or higher, respectively, than the current year cost. Accordingly, interim LIFO calculations must necessarily be based on management's estimates of expected fiscal year-end inventory levels and costs. Because these estimates are subject to many forces beyond management's control, interim results are subject to the final fiscal year-end LIFO inventory valuation. The Company anticipates its inventory levels at June 30, 2013 to be same as of June 30, 2012 and, therefore, did not record an adjustment to cost of goods sold for the three months ended September 30, 2012. In the three months ended September 30, 2011, the Company recorded \$1.7 million in expected beneficial effect of LIFO inventory liquidation and reduced net loss for the three months ended September 30, 2011 by \$1.7 million.

The Company routinely enters into specialized hedging transactions to purchase future coffee contracts to enable it to lock in green coffee prices within a pre-established range, and holds a mix of futures contracts and options to help hedge against volatility in green coffee prices. None of these hedging transactions, futures contracts or options is designated as an accounting hedge. Gains and losses on these derivative instruments are realized immediately in "Other, net" in the consolidated statements of operations.

For the three months ended September 30, 2012 and 2011, the Company recorded \$0.4 million and \$(1.0) million, respectively, in coffee-related net realized derivative gains (losses). For the three months ended September 30, 2012 and 2011, the Company recorded \$1.1 million and \$(2.7) million, respectively, in coffee-related net unrealized derivative gains (losses).

#### Note 5. Employee Benefit Plans

The Company provides pension plans for most full time employees. Generally the plans provide benefits based on years of service and/or a combination of years of service and earnings. Certain retirees are also eligible for medical, dental and vision benefits.

The Company is required to recognize the funded status of a benefit plan in its balance sheet. The Company is also required to recognize in OCI certain gains and losses that arise during the period but are deferred under pension accounting rules.

### Single Employer Pension Plans

The Company has a defined benefit pension plan, the Farmer Bros. Salaried Employees Pension Plan (the “Farmer Bros. Plan”), for the majority of its employees who are not covered under a collective bargaining agreement. The Company amended the Farmer Bros. Plan, freezing the benefit for all participants effective June 30, 2011. After the plan freeze, participants do not accrue any benefits under the plan, and new hires are not eligible to participate in the plan. As all plan participants became inactive following this curtailment, net (gain) loss is now amortized based on the remaining life expectancy of these participants instead of the remaining service period of these participants.

The Company also has two defined benefit pension plans for certain hourly employees covered under a collective bargaining agreement (the “Brewmatic Plan” and the “Hourly Employees’ Plan”). All assets and benefit obligations were determined using a measurement date of June 30.

The net periodic benefit cost for the defined benefit pension plans is as follows:

	Three Months Ended September 30,	
	2012	2011
	(Unaudited)	
<b>(In thousands)</b>		
Service cost	\$ 119	\$ 124
Interest cost	1,449	1,525
Expected return on plan assets	(1,660)	(1,703)
Amortization of net (gain) loss*	387	342
Amortization of prior service cost (credit)*	5	5
Net periodic benefit cost	<u>\$ 300</u>	<u>\$ 293</u>

\* These amounts represent the estimated portion of the net (gain) loss and net prior service cost (credit) remaining in accumulated other comprehensive income that is expected to be recognized as a component of net periodic benefit cost over the current fiscal year.

### Weighted-average assumptions used to determine net periodic benefit cost

	Fiscal	
	2013	2012
Discount rate	4.55%	5.60%
Expected long-term rate of return	8.00%	8.25%
Rate of compensation increase *	—%	3.00%

\* For Hourly Employees Plan only.

### Basis used to determine expected long-term return on plan assets

Historical and future projected returns of multiple asset classes were analyzed to develop a risk-free real rate of return and risk premiums for each asset class. The overall rate for each asset class was developed by combining a long-term inflation component, the risk-free real rate of return, and the associated risk premium. A weighted-average rate of return was developed based on those overall rates and the target asset allocation of the plans.

### Multiemployer Pension Plans

The Company participates in a multiemployer defined benefit pension plan, the Western Conference of Teamsters Pension Plan (“WCTPP”), that is union sponsored and collectively bargained for the benefit of certain employees subject to collective bargaining agreements. The Company makes contributions to WCTPP generally based on the number of hours worked by the participants in accordance with the provisions of negotiated labor contracts.

Effective October 2011, the Company withdrew from the defined benefit pension plan, United Teamsters Pension Fund, and replaced it with the defined contribution pension plan, “United Teamsters Annuity Fund” (“Annuity Fund”), for its employees covered by a certain collective bargaining agreement with a term expiring in 2014. The Company incurred no

withdrawal liabilities related to the withdrawal from the United Teamsters Pension Fund. The Company's contributions to the Annuity Fund are based on the number of compensable hours worked by the Company's employees who participate in the Annuity Fund.

In fiscal 2012, the Company withdrew from the Labor Management Pension Fund and recorded a charge of \$4.3 million associated with withdrawal from this plan, representing the present value of the estimated withdrawal liability expected to be paid in quarterly installments of \$0.1 million over 80 quarters. Installment payments will commence once the final determination of the amount of withdrawal liability is established, which determination may take up to 24 months from the date of withdrawal from the pension plan. Upon withdrawal, the employees covered under this multiemployer pension plan were included in the Company's 401(k) plan (the "401(k) Plan").

Future collective bargaining negotiations may result in the Company withdrawing from the remaining multiemployer pension plans in which it participates and, if successful, the Company may incur a withdrawal liability, the amount of which could be material to the Company's results of operations and cash flows.

#### *Multiemployer Plans Other Than Pension Plans*

The Company participates in nine defined contribution multiemployer plans other than pension plans that provide medical, vision and dental healthcare and disability benefits for certain retirees subject to collective bargaining agreements who meet the eligibility rules in effect when they retire and/or qualified members of their families.

#### **401(k) Plan**

The Company's 401(k) Plan is available to all eligible employees who have worked more than 1,000 hours during a calendar year and were employed at the end of the calendar year. Participants in the 401(k) Plan may choose to contribute 1% to 15% of their annual pay subject to the maximum contribution allowed by the Internal Revenue Service. The Company's matching contribution is discretionary based on approval by the Company's Board of Directors. For the calendar years 2011 and 2012, the Company's Board of Directors approved a Company matching contribution of 50.0% of an employee's annual contribution to the 401(k) Plan, up to 6.0% of the employee's eligible income. The matching contributions (and any earnings thereon) vest at the rate of 20.0% for each of the participant's first 5 years of vesting service, so that a participant is fully vested in his or her matching contribution account after 5 years of vesting service. A participant is automatically vested in the event of death, disability or attainment of age 65 while employed by the Company. Employees are 100% vested in their contributions. For employees subject to a collective bargaining agreement, the match is only available if so provided in the labor agreement.

The Company recorded matching contributions of \$0.5 million and \$0.3 million in operating expenses for the three months ended September 30, 2012 and 2011.

#### **Postretirement Benefits**

The Company sponsors an unfunded postretirement medical, dental and vision plan that covers qualified non-union retirees and certain qualified union retirees. Under this postretirement plan, the Company's contributions toward premiums for retiree medical, dental and vision coverage for participants and dependents are scaled based on length of service, with greater Company contributions for retirees with greater length of service, but subject to a maximum monthly Company contribution.

The following table shows the components of net periodic postretirement benefit cost for the three months ended September 30, 2012 and 2011.

<b>(In thousands)</b>	<b>Three Months Ended September 30,</b>	
	<b>2012</b>	<b>2011</b>
<b>Components of Net Periodic Postretirement Benefit Cost</b>	<b>(Unaudited)</b>	
Service cost	\$ 409	\$ 409
Interest cost	330	330
Expected return on plan assets	—	—
Amortization of net gain	(199)	(199)
Amortization of unrecognized transition (asset) obligation	—	—
Amortization of prior service cost (credit)	(58)	(58)
<b>Net periodic postretirement benefit cost</b>	<b>\$ 482</b>	<b>\$ 482</b>

Weighted-average assumptions used to determine net periodic postretirement benefit cost

	Fiscal	
	2013	2012
Discount rate	5.46%	5.46%

The fiscal 2013 estimate of net periodic postretirement benefit cost is based on July 1, 2011 census data assuming there were no demographic actuarial gains or losses during the fiscal year ended June 30, 2012.

#### Note 6. Bank Loan

On September 12, 2011, the Company entered into an Amended and Restated Loan and Security Agreement (the "Loan Agreement") among the Company and Coffee Bean International, Inc. ("CBI"), as Borrowers, certain of the Company's other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association ("Wells Fargo"), as Agent.

The Loan Agreement provides for a senior secured revolving credit facility of up to \$85.0 million, with a letter of credit sublimit of \$20.0 million. The revolving credit facility provides for advances of 85% of eligible accounts receivable and 75% of eligible inventory (subject to a \$60.0 million inventory loan limit), as defined. The Loan Agreement provides for interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%. The Loan Agreement has an amendment fee of 0.375% and an unused line fee of 0.25%. Outstanding obligations under the Loan Agreement are collateralized by all of the Borrowers' assets, including the Company's preferred stock portfolio. The Loan Agreement expires on March 2, 2015.

The Loan Agreement contains a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including those relating to reporting requirements, maintenance of records, properties and corporate existence, compliance with laws, incurrence of other indebtedness and liens, limitations on certain payments, including the payment of dividends and capital expenditures, and transactions and extraordinary corporate events. The Loan Agreement allows the Company to pay dividends, subject to certain liquidity requirements. The Loan Agreement also contains financial covenants requiring the Borrowers to maintain minimum Excess Availability and Total Liquidity levels. The Loan Agreement allows the Lender to establish reserve requirements, which may reduce the amount of credit otherwise available to the Company, to reflect events, conditions, or risks that would have a reasonable likelihood of adversely affecting the Lender's collateral or the Company's assets, including the Company's green coffee inventory.

On January 9, 2012, the Loan Agreement was amended ("Amendment No. 1") in connection with JPMorgan Chase Bank, N.A. ("JPMorgan Chase"), becoming an additional Lender thereunder. Pursuant to Amendment No. 1, Wells Fargo will provide a commitment of \$60.0 million and JPMorgan Chase will provide a commitment of \$25.0 million.

On September 30, 2012, the Company was eligible to borrow up to a total of \$77.1 million under the credit facility. As of September 30, 2012, the Company had outstanding borrowings of \$25.0 million, excluding loan extension fees of \$0.2 million, utilized \$11.9 million of its letters of credit sublimit, and had excess availability under the credit facility of \$40.0 million. Due to the short-term nature of the credit facility and the variable interest rate, fair value of the balance outstanding approximates carrying value. As of September 30, 2012, the weighted average interest rate on the Company's outstanding borrowings under the credit facility was 2.73%. As of September 30, 2012, the Company was in compliance with all restrictive covenants under the credit facility. There can be no assurance that the Lender will issue a waiver or grant an amendment to the covenants in future periods, if the Company required one.

#### Note 7. Share-based Compensation

On August 23, 2007, the Company's Board of Directors approved the Farmer Bros. Co. 2007 Omnibus Plan (the "Omnibus Plan"), which was approved by stockholders on December 6, 2007. The maximum number of shares of common stock as to which awards may be granted under the Omnibus Plan is 1,000,000, subject to adjustment as provided in the Omnibus Plan. The Company has placed a proposal on the ballot for its upcoming Annual Meeting of Stockholders requesting stockholder approval to amend the Omnibus Plan to increase the authorized number of shares available for issuance thereunder to 1,125,000.

The Company measures and recognizes compensation expense for all share-based payment awards made under the Omnibus Plan based on estimated fair values. No stock options were granted during the three months ended September 30, 2012 or 2011.

### Stock Options

The Company estimates the fair value of share-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service period in the Company's consolidated statements of operations.

Share-based compensation expense recognized during the period is based on the value of the portion of share-based payment awards that is ultimately expected to vest during the period. Compensation expense recognized for all stock option awards granted is recognized using the straight-line method over the vesting period. The options generally vest ratably over a period of 3 years, however, fiscal 2012 grants included nonqualified stock option awards to executive officers with different vesting periods, in each case, subject to certain events of acceleration as provided in the applicable employment agreement or award agreement with the executive officer.

The share-based compensation expense recognized in the Company's consolidated statements of operations for the three months ended September 30, 2012 and 2011 is based on awards ultimately expected to vest. Currently, management estimates an annual forfeiture rate of 6.5% based on actual forfeiture experience from the inception of the Omnibus Plan. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

The Company uses the Black-Scholes option valuation model, which requires management to make certain assumptions for estimating the fair value of stock options at the date of the grant. The Company's assumption regarding expected stock price volatility is based on the historical volatility of the Company's stock price. The risk-free interest rate is based on U.S. Treasury zero-coupon issues at the date of grant with a remaining term equal to the expected life of the stock options. The average expected life is based on the midpoint between the vesting date and the end of the contractual term of the award.

The following table summarizes stock option activity for the three months ended September 30, 2012 (unaudited):

	Number of Stock Options	Weighted Average Exercise Price (\$)	Weighted Average Grant Date Fair Value (\$)	Weighted Average Remaining Life (Years)	Aggregate Intrinsic Value (Dollars in thousands)
<b>Outstanding Stock Options</b>					
Outstanding at June 30, 2012	667,235	12.84	4.78	4.8	143
Granted	—	—	—	0	—
Cancelled/forfeited	(122,455)	12.82	4.12	0	—
<b>Outstanding at September 30, 2012</b>	<b>544,780</b>	<b>12.84</b>	<b>4.93</b>	<b>5.4</b>	<b>404</b>
Vested and exercisable, September 30, 2012	206,600	16.28	6.14	4.5	—
Vested and expected to vest, September 30, 2012	524,744	12.84	4.96	5.4	367

The aggregate intrinsic values in the table above represent the total pretax intrinsic value, based on the Company's closing stock price of \$9.51 at September 28, 2012, representing the last trading day of the fiscal quarter ended September 30, 2012, which would have been received by award holders had all award holders exercised their awards that were in-the-money as of that date. Total fair value of options vested during three months ended September 30, 2012 was 0.

As of September 30, 2012 and 2011, there was approximately \$1.1 million and \$1.4 million, respectively, of unrecognized compensation cost related to stock options. Compensation expense recognized in general and administrative expenses was \$0.2 million and \$0.3 million for fiscal quarter ended September 30, 2012 and 2011, respectively.

### Restricted Stock

During the three months ended September 30, 2012, the Company granted a total of 6,830 shares of restricted stock, with a weighted average grant date fair value of \$9.06. No shares of restricted stock were granted during the three months ended September 30, 2011. Shares of restricted stock generally vest on the third anniversary of the date of grant for employees including officers. Shares of restricted stock generally vest ratably over a period of three years for directors and officers who are not employees. The fiscal 2012 grants included certain awards to executive officers with different vesting periods, in each case, subject to accelerated vesting as provided in the applicable employment agreement or award agreement with the executive officer.

Compensation expense is recognized on a straight-line basis over the service period based on the estimated fair value of the restricted stock. Compensation expense recognized in general and administrative expense was \$0.2 million and \$0.1 million, for the three months ended September 30, 2012 and 2011, respectively. As of September 30, 2012 and 2011, there was approximately \$1.1 million and \$1.0 million, respectively, of unrecognized compensation cost related to restricted stock.

The following table summarizes restricted stock activity for the three months ended September 30, 2012 (unaudited):

<b>Outstanding and Nonvested Restricted Stock Awards</b>	<b>Shares Awarded</b>	<b>Weighted Average Grant Date Fair Value (\$)</b>	<b>Weighted Average Remaining Life (Years)</b>	<b>Aggregate Intrinsic Value (\$ in thousands)</b>
Outstanding June 30, 2012	175,947	10.16	1.9	1,401
Granted	6,830	9.06		62
Vested	—	—	—	—
Cancelled/forfeited	(1,535)	10.56	—	
<b>Outstanding at September 30, 2012</b>	<b>181,242</b>	<b>10.12</b>	<b>1.7</b>	<b>1,724</b>
Expected to vest, September 30, 2012	181,242	10.12	1.7	1,724

#### Note 8. Income Taxes

The Company adjusts its effective tax rate each quarter based on its current estimated annual effective tax rate. The Company also records the tax impact of certain discrete items, unusual or infrequently occurring tax events and the effects of changes in tax laws or rates, in the interim period in which they occur. In addition, the Company evaluates its deferred tax assets quarterly to determine if a valuation allowance is required.

The Company considered whether a valuation allowance should be recorded against deferred tax assets based on the likelihood that the benefits of the deferred tax assets would or would not ultimately be realized in future periods. In making this assessment, significant weight was given to evidence that could be objectively verified such as recent operating results and less consideration was given to less objective indicators such as future earnings projections.

After consideration of positive and negative evidence, including the recent history of losses, the Company cannot conclude that it is more likely than not to generate future earnings sufficient to realize the Company's deferred tax assets. Accordingly, the Company decreased its valuation allowance by \$1.2 million in the three months ended September 30, 2012 to \$83.8 million. The valuation allowance at June 30, 2012 was \$85.0 million.

A summary of the income tax expense recorded for the three months ended September 30, 2012 and 2011 is as follows:

<b>(In thousands)</b>	<b>Three Months Ended</b>	
	<b>September 30, 2012</b>	<b>September 30, 2011</b>
	<b>(Unaudited)</b>	
Income (loss) before taxes	\$ 3,296	\$ (7,238)
Income tax expense (benefit) at statutory rate	\$ 1,121	\$ (2,461)
State income tax (net of federal tax benefit)	429	(280)
Dividend income exclusion	—	(50)
Valuation allowance	(1,235)	3,082
Other permanent items	107	55
Income tax expense	<u>\$ 422</u>	<u>\$ 346</u>

As of September 30, 2012 and June 30, 2012 the Company had not recognized the following tax benefits in its consolidated financial statements:

(In thousands)	As of	
	September 30, 2012	June 30, 2012
	(Unaudited)	
Total unrecognized tax benefits*	\$ 3,211	\$ 3,211
Unrecognized benefits that, if recognized, would affect the Company's effective tax rate, subject to the valuation allowance*	\$ 3,064	\$ 3,064

\* Excluding interest and penalties

The Company believes it is reasonably possible that approximately \$43,000 of its total unrecognized tax benefits could be released in the next 12 months.

The Company is currently appealing a decision reached by the Internal Revenue Service regarding its June 30, 2003 through June 30, 2008 tax returns. In January 2012, the appeals officer gave a preliminary indication that the audit results will be upheld.

### Note 9. Earnings (Loss) Per Common Share

The following table sets forth the calculation of basic and diluted net income (loss) per common share:

(In thousands, except share and per share amounts)	Three Months Ended September 30,	
	2012	2011
	(Unaudited)	
Net income (loss) attributable to common stockholders—basic	\$ 2,841	\$ (7,544)
Net income (loss) attributable to nonvested restricted stockholders	33	(40)
Total net income (loss)	\$ 2,874	\$ (7,584)
Weighted average shares outstanding—basic	15,490,365	15,182,147
Effect of dilutive securities:		
Shares issuable under stock options	—	—
Weighted average shares outstanding—diluted	15,490,365	15,182,147
Net income (loss) per common share—basic and diluted	\$ 0.19	\$ (0.50)

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

### ***Forward-Looking Statements***

The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of many factors. The results of operations for the three months ended September 30, 2012 and 2011 are not necessarily indicative of the results that may be expected for any future period. The following discussion should be read in combination with the consolidated financial statements and the notes thereto included in Part I, Item 1 of this report and with the "Risk Factors" described in Part II, Item 1A of this report.

### ***Liquidity and Capital Resources***

#### *Credit Facility*

On September 12, 2011, we entered into an Amended and Restated Loan and Security Agreement (the "Loan Agreement") among the Company and CBI, as Borrowers, certain of the Company's other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association ("Wells Fargo"), as Agent

The Loan Agreement provides for a senior secured revolving credit facility of up to \$85.0 million, with a letter of credit sublimit of \$20.0 million. The revolving credit facility provides for advances of 85% of eligible accounts receivable and 75% of eligible inventory (subject to a \$60.0 million inventory loan limit), as defined. The Loan Agreement provides for interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%. The Loan Agreement has an amendment fee of 0.375% and an unused line fee of 0.25%. Outstanding obligations under the Loan Agreement are collateralized by all of the Borrowers' assets, including the Company's preferred stock portfolio. The term of the Loan Agreement expires on March 2, 2015.

The Loan Agreement contains a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including those relating to reporting requirements, maintenance of records, properties and corporate existence, compliance with laws, incurrence of other indebtedness and liens, limitations on certain payments, including the payment of dividends and capital expenditures, and transactions and extraordinary corporate events. The Loan Agreement allows us to pay dividends, subject to certain liquidity requirements. The Loan Agreement also contains financial covenants requiring the Borrowers to maintain minimum Excess Availability and Total Liquidity levels. The Loan Agreement allows the Lender to establish reserve requirements, which may reduce the amount of credit otherwise available to us, to reflect events, conditions, or risks that would have a reasonable likelihood of adversely affecting the Lender's collateral or our assets, including our green coffee inventory.

The Loan Agreement provides that an event of default includes, among other things, subject to certain grace periods: (i) payment defaults; (ii) failure by any guarantor to perform any guarantee in favor of Lender; (iii) failure to abide by loan covenants; (iv) default with respect to other material indebtedness; (v) final judgment in a material amount not discharged or stayed; (vi) any change of control; (vii) bankruptcy or insolvency; and (viii) the failure of the Farmer Bros. Co. Employee Stock Ownership Benefit Trust, created by the Company to implement the Farmer Bros. Co. Employee Stock Ownership Plan ("ESOP"), to be duly qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended, or exempt from federal income taxation, or if the ESOP engages in a material non-exempt prohibited transaction.

On January 9, 2012, the Loan Agreement was amended ("Amendment No. 1") in connection with JPMorgan Chase Bank, N.A. ("JPMorgan Chase"), becoming an additional Lender thereunder. Pursuant to Amendment No. 1, Wells Fargo will provide a commitment of \$60.0 million and JPMorgan Chase will provide a commitment of \$25.0 million.

As of September 30, 2012, we had outstanding borrowings of \$25.0 million, excluding loan extension fees of \$0.2 million, utilized \$11.9 million of the letters of credit sublimit, and had excess availability under the credit facility of \$40.0 million. The weighted average interest rate on our outstanding borrowings under the Loan Agreement was 2.73% at September 30, 2012. Due to the short-term nature of the credit facility and the variable interest rate, fair value of the balance outstanding approximates carrying value. As of September 30, 2012, we were in compliance with all restrictive covenants under the Loan Agreement. There can be no assurance that the Lender will issue a waiver or grant an amendment to the covenants in future periods, if the Company required one. As of October 31, 2012, we had estimated outstanding borrowings of \$24.8 million, including loan extension fees of \$0.2 million, utilized \$10.2 million of the letters of credit sublimit, and had excess availability under the credit facility of \$41.7 million. As of October 31, 2012, the weighted average interest rate on the outstanding borrowings was 2.73%.

## Liquidity

We generally finance our operations through cash flow from operations and borrowings under our revolving credit facility described above. As of September 30, 2012, we had \$2.5 million in cash and cash equivalents and \$20.6 million in short-term investments. We believe our revolving credit facility, to the extent available, in addition to our cash flows from operations and other liquid assets, are sufficient to fund our working capital and capital expenditure requirements for the next 12 months.

We generate cash from operating activities primarily from cash collections related to the sale of our products. Net cash provided by operating activities was \$3.7 million in the three months ended September 30, 2012, compared with net cash used in operating activities of \$33,000 in the three months ended September 30, 2011. Net cash provided by operating activities in the first quarter of fiscal 2013 was primarily due to net income, proceeds from sale of short-term investments and increase in accounts payable offset, in part, by increase in inventories. Net cash used in operating activities in the first quarter of fiscal 2012 was primarily due to net loss incurred, increase in inventory levels and decrease in accounts payable and other long-term liabilities offset, in part, by proceeds from the sale of short-term investments.

Net cash provided by investing activities decreased to \$0.2 million in the first quarter of fiscal 2013, compared to net cash used in investing activities of \$2.7 million in the first quarter of fiscal 2012. In the first quarter of fiscal 2013, cash inflow of \$3.8 million in proceeds from sale of fixed assets offset capital expenditures of \$3.6 million. In the first quarter of the prior fiscal year cash inflow from sale of fixed assets was \$0.2 million and cash outflow for capital expenditures was \$2.9 million.

Net cash used in financing activities was \$5.2 million in fiscal 2012, compared to net cash provided by financing activities of \$1.2 million in the first quarter of fiscal 2012. Cash flows related to financing activities included net repayments on our revolving line of credit of \$4.5 million in the first quarter of fiscal 2013 compared to net borrowings of \$1.6 million in the first quarter of fiscal 2012.

In the first quarter of fiscal 2013, we capitalized \$3.6 million in property, plant and equipment purchases which included \$1.9 million in expenditures to replace normal wear and tear of coffee brewing equipment, \$1.5 million in expenditures for vehicles, and machinery and equipment.

Our expected capital expenditures for fiscal 2013 include expenditures to replace normal wear and tear of coffee brewing equipment, vehicles, and machinery and equipment, and are expected not to deviate significantly from fiscal 2012 levels.

Our working capital is comprised of the following:

	September 30, 2012	June 30, 2012
<u>(In thousands)</u>	<u>(Unaudited)</u>	
Current assets	\$ 139,678	\$ 135,851
Current liabilities	89,212	92,689
Working capital	<u>\$ 50,466</u>	<u>\$ 43,162</u>

Liquidity Information:

	Three Months Ended September 30,	
<u>(In thousands)</u>	2012	2011
	<u>(Unaudited)</u>	
Capital expenditures	\$ 3,572	\$ 2,910

## Results of Operations

Net sales in the fiscal quarter ended September 30, 2012 decreased \$2.0 million, or 2%, to \$119.2 million as compared to \$121.2 million in the fiscal quarter ended September 30, 2011. The decrease was primarily due to a decrease in sales of our coffee products. Although coffee product sales unit volume increased, net sales dollars decreased slightly because of increase in sales to our national account customers who buy our coffee products at prices that closely track the coffee prices in the commodity markets which decreased substantially in the current quarter compared to the same period in the prior fiscal year.

Gross profit in the three months ended September 30, 2012 increased \$4.9 million, or 12%, to \$44.6 million, as compared to \$39.7 million in the three months ended September 30, 2011 primarily due to lower average cost of coffee purchased. Gross margin increased to 37% in the fiscal quarter ended September 30, 2012 from 33% in the comparable period in the prior fiscal year.

Operating expenses in the fiscal quarter ended September 30, 2012 increased \$1.9 million, or 4%, to \$46.2 million, or 39% of sales, from \$44.3 million, or 37% of sales, in the first quarter of the prior fiscal year primarily due to higher payroll and related expenses resulting from our investments in additional sales and marketing personnel.

Total other income in the fiscal quarter ended September 30, 2012 was \$4.8 million compared to total other expense of \$2.6 million in the fiscal quarter ended September 30, 2011. Total other income in the fiscal quarter ended September 30, 2012 included \$3.2 million in gain on sales of real estate and \$0.8 million in recovery of an account previously deemed uncollectible. Additionally, total other income in the fiscal quarter ended September 30, 2012 included \$0.8 million in net derivative gains compared to \$2.6 million in net derivative losses in the comparable period of the prior fiscal year.

Income tax expense in the three months ended September 30, 2012 was \$0.4 million compared to \$0.3 million in the three months ended September 30, 2011.

As a result of the forgoing factors, net income in the fiscal quarter ended September 30, 2012 was \$2.9 million, or \$0.19 per common share, as compared to net loss of (\$7.6) million, or (\$0.50) per common share, during the same period in the prior fiscal year.

### **Non-GAAP Financial Measures**

In addition to net income (loss) determined in accordance with GAAP, the Company uses certain non-GAAP financial measures, such as “EBITDAE” in assessing its operating performance. The Company believes that this non-GAAP financial measure serves as an appropriate measure to be used in evaluating the performance of its business.

The Company defines EBITDAE as net income (loss) excluding the impact of income taxes, interest expense, depreciation and amortization expense, ESOP and share-based compensation expense, non-cash impairment losses and pension withdrawal expense, if any, and net gains and losses from derivatives and investments. EBITDAE as defined by the Company may not be comparable to similarly titled measures reported by other companies. The Company does not intend for non-GAAP financial measures to be considered in isolation or as a substitute for other measures prepared in accordance with GAAP.

Set forth below is a reconciliation of reported net income (loss) to EBITDAE:

<u>(In thousands)</u>	<b>Three Months Ended September 30,</b>	
	<b>2012</b>	<b>2011</b>
	<b>(Unaudited)</b>	
Net income (loss), as reported(1)	\$ 2,874	\$ (7,584)
Income tax expense	422	346
Interest expense	457	575
Depreciation and amortization expense	8,340	7,923
ESOP and share-based compensation expense	823	790
Net (gain) loss on derivatives and investments	(802)	2,621
<b>EBITDAE(1)</b>	<b>\$ 12,114</b>	<b>\$ 4,671</b>

(1) Three months ended September 30, 2012 and 2011, respectively, include \$3.2 million and \$0 in gain on sale of real estate.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

#### **Interest Rate Risk**

We are exposed to market value risk arising from changes in interest rates on our securities portfolio. Our portfolio of preferred securities has sometimes included investments in derivatives that provide a natural economic hedge of interest rate risk. We review the interest rate sensitivity of these securities and may enter into “short positions” in futures contracts on U.S. Treasury securities or hold put options on such futures contracts to reduce the impact of certain interest rate changes. Specifically, we attempt to manage the risk arising from changes in the general level of interest rates. We do not transact in futures contracts or put options for speculative purposes. The number and type of futures and options contracts entered into depends on, among other items, the specific maturity and issuer redemption provisions for each preferred stock held, the slope of the Treasury yield curve, the expected volatility of U.S. Treasury yields, and the costs of using futures and/or options.

The following table demonstrates the impact of varying interest rate changes based on our preferred securities holdings and market yield and price relationships at September 30, 2012. This table is predicated on an “instantaneous” change in the

general level of interest rates and assumes predictable relationships between the prices of our preferred securities holdings and the yields on U.S. Treasury securities. At September 30, 2012, we had no futures contracts or put options designated as interest rate risk hedges.

<u>(Unaudited)</u>	<u>Market Value of Preferred Securities at September 30, 2012</u>	<u>Change in Market Value</u>
	(In thousands)	
<b>Interest Rate Changes</b>		
-150 basis points	\$ 20,997	\$ 783
-100 basis points	\$ 20,792	\$ 578
Unchanged	\$ 20,214	\$ —
+100 basis points	\$ 19,444	\$ (770)
+150 basis points	\$ 19,081	\$ (1,133)

Our revolving credit facility with Wells Fargo is at a variable rate. The interest rate varies based upon line usage, borrowing base availability and market conditions. As of September 30, 2012, we had outstanding borrowings of \$25.0 million, excluding loan extension fees of \$0.2 million, utilized \$11.9 million of the letters of credit sublimit, and had excess availability under the credit facility of \$40.0 million. The weighted average interest rate on the outstanding borrowings at September 30, 2012 was 2.73%. The Loan Agreement provides for interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%.

The following table demonstrates the impact of interest rate changes on our annual interest expense under the revolving credit facility based on the outstanding balance and interest rate as of September 30, 2012:

<u>(Unaudited)</u>	<u>Interest Rate</u>	<u>Annual Interest Expense</u>
		(In thousands)
<b>Interest Rate Changes</b>		
-150 basis points	1.23%	\$ 310
-100 basis points	1.73%	\$ 436
Unchanged	2.73%	\$ 688
+100 basis points	3.73%	\$ 939
+150 basis points	4.23%	\$ 1,065

#### **Commodity Price Risk**

We are exposed to commodity price risk arising from changes in the market price of green coffee. We value green coffee inventory on the LIFO basis. In the normal course of business we hold a large green coffee inventory and enter into forward commodity purchase agreements with suppliers. We are subject to price risk resulting from the volatility of green coffee prices. Due to competition and market conditions, volatile price increases cannot always be passed on to our customers.

We routinely enter into specialized hedging transactions to purchase future coffee contracts to enable us to lock in green coffee prices within a pre-established range, and hold a mix of futures contracts and options to help hedge against volatility in green coffee prices. Gains and losses on these derivative instruments are realized immediately in "Other, net."

For the three months ended September 30, 2012 and 2011, we recorded \$0.4 million and \$(1.0) million, respectively, in coffee-related net realized derivative gains (losses). For the three months ended September 30, 2012 and 2011, we recorded \$1.1 million and \$(2.7) million, respectively, in coffee-related net unrealized derivative gains (losses).

The following table demonstrates the impact of changes in the market value of coffee cost on the market value of coffee inventory and forward purchase contracts:

<u>(Unaudited)</u>	Market Value			(Decrease) Increase in Market Value	
	Coffee Inventory	Futures & Options	Total	Derivatives	Inventory
<b>Coffee Cost (Decrease) Increase</b>					
	(In thousands)				
- 10%	\$ 27,000	\$ (40)	\$ 26,960	\$ (40)	\$ (3,432)
Unchanged	\$ 30,432	\$ 377	\$ 30,809	\$ —	\$ —
+10%	\$ 33,000	\$ 40	\$ 33,040	\$ 40	\$ 2,568

#### Item 4. Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information we are required to disclose in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosures. In January 2010, we adopted Disclosure Controls and Procedures that included the organization of a Disclosure Committee designed to enhance our process of documenting our compliance with Rule 13a-15(e) promulgated under the Exchange Act. The Disclosure Committee performed its duties as prescribed by our Disclosure Controls and Procedures in preparing this Quarterly Report on Form 10-Q for the fiscal period ended September 30, 2012.

As of September 30, 2012, our management, with the participation of our principal executive and principal financial officers, or persons performing similar functions, carried out an evaluation of the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15(e) promulgated under the Exchange Act. Based upon this evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that, as of September 30, 2012, our disclosure controls and procedures were effective.

#### *Changes in Internal Control over Financial Reporting*

Management has determined that there has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act) during our fiscal quarter ended September 30, 2012 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## **PART II – OTHER INFORMATION**

### **Item 1. Legal Proceedings**

On August 31, 2012, the Council for Education and Research on Toxics (“CERT”) filed an amendment to a private enforcement action adding a number of companies as defendants, including CBI, which sell coffee in California. The suit alleges that the defendants have failed to issue clear and reasonable warnings in accordance with Proposition 65 that the coffee they produce, distribute and sell contains acrylamide. This lawsuit was filed in Los Angeles Superior Court (the “Court”). CERT has requested that the alleged violators remove acrylamide from their coffee or provide Proposition 65 warnings on their products and pay \$2,500 per day for each and every violation while they are in violation of Proposition 65. The Company has joined a Joint Defense Group and filed with the Court requesting a Motion to Stay. The Court has set a date of November 15, 2012 to hear the motion. At this time, the Company is not able to predict the probability of the outcome or estimate of loss, if any, related to these matters.

### **Item 1A. Risk Factors**

Certain statements contained in this quarterly report on Form 10-Q are not based on historical fact and are forward-looking statements within the meaning of federal securities laws and regulations. These statements are based on management's current expectations, assumptions, estimates and observations of future events and include any statements that do not directly relate to any historical or current fact. These forward-looking statements can be identified by the use of words like “anticipates,” “estimates,” “projects,” “expects,” “plans,” “believes,” “intends,” “will,” “assumes” and other words of similar meaning. Owing to the uncertainties inherent in forward-looking statements, actual results could differ materially from those set forth in forward-looking statements. We intend these forward-looking statements to speak only at the time of this report and do not undertake to update or revise these statements as more information becomes available except as required under federal securities laws and the rules and regulations of the SEC. Factors that could cause actual results to differ materially from those in forward-looking statements include, but are not limited to, fluctuations in availability and cost of green coffee, competition, organizational changes, the impact of a weaker economy, business conditions in the coffee industry and food industry in general, our continued success in attracting new customers, variances from budgeted sales mix and growth rates, weather and special or unusual events, changes in the quality or dividend stream of third parties' securities and other investment vehicles in which we have invested our assets, as well as other risks described in this report and other factors described from time to time in our filings with the SEC.

You should consider each of the following factors as well as the other information in this report, including our consolidated financial statements and the related notes, in evaluating our business and our prospects. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also negatively affect our business operations. If any of the following risks actually occurs, our business and financial results could be harmed. In that case, the trading price of our common stock could decline.

#### **INCREASES IN THE COST OF GREEN COFFEE COULD REDUCE OUR GROSS MARGIN AND PROFIT.**

Our primary raw material is green coffee, an agricultural commodity. The bulk of the world's green coffee supply is mainly grown outside the United States and can be subject to volatile price fluctuations. Weather, real or perceived supply shortages, speculation in the commodity markets, political unrest, labor actions, currency fluctuations, armed conflict in coffee producing nations, and government actions, including treaties and trade controls between the U.S. and coffee producing nations, can affect the price of green coffee. In fiscal 2011, the market for green Arabica coffee increased approximately 80% per pound compared to the prior fiscal year. Additionally, green specialty coffees sell at a premium to other green coffees due to the inability of producers to increase supply in the short run to meet rising demand. As a result, the price spread between specialty coffee and non-specialty coffee is likely to widen as demand for specialty coffee continues to increase.

Green coffee prices can also be affected by the actions of producer organizations. The most prominent of these are the Colombian Coffee Federation, Inc. (CCF) and the International Coffee Organization (ICO). These organizations seek to increase green coffee prices largely by attempting to restrict supplies, thereby limiting the availability of green coffee to coffee consuming nations. As a result, these organizations or others may succeed in raising green coffee prices.

There can be no assurance that we will be successful in passing commodity price increases on to our customers without losses in sales volume or gross margin in the future. Additionally, if green coffee beans from a region become unavailable or prohibitively expensive, we could be forced to use alternative coffee beans or discontinue certain blends, which could adversely impact our sales.

**OUR EFFORTS TO SECURE AN ADEQUATE SUPPLY OF QUALITY COFFEES MAY BE UNSUCCESSFUL AND IMPACT OUR ABILITY TO SUPPLY OUR CUSTOMERS OR EXPOSE US TO COMMODITY PRICE RISK.**

Some of the Arabica coffee beans of the quality we purchase do not trade directly on the commodity markets. Rather, we purchase these coffee beans on a negotiated basis from coffee brokers, exporters and growers. If any of these supply relationships with coffee brokers, exporters or growers deteriorate, we may be unable to procure a sufficient quantity of high quality coffee beans at prices acceptable to us or at all. In such case, we may not be able to fulfill the demand of our existing customers, supply new customers or expand other channels of distribution.

Maintaining a steady supply of green coffee is essential to keep inventory levels low and secure sufficient stock to meet customer needs. To help ensure future supplies, we may purchase coffee for delivery, in some instances, up to 18 months in the future. Non-performance by suppliers could expose us to credit and supply risk. Additionally, entering into such future commitments exposes us to purchase price risk. Because we are not always able to pass price changes through to our customers due to competitive pressures, unpredictable price changes can have an immediate effect on operating results that cannot be corrected in the short run. To reduce our potential price risk exposure we have, from time to time, entered into futures contracts to hedge coffee purchase commitments. Open contracts associated with these hedging activities are described in Part I, Item 3, "Quantitative and Qualitative Disclosures About Market Risk" of this report.

**DECLINES IN OF GREEN COFFEE COMMODITY PRICES MAY NOT BE IMMEDIATELY REFLECTED IN OUR COST OF GOODS SOLD AND MAY INCREASE VOLATILITY IN OUR RESULTS.**

We routinely use futures contracts to lock-in green coffee market prices, in some instances, as much as 18 months prior to the actual delivery date. Accounting rules require that we value our open futures contracts by marking them to market price at the end of each reporting period and include in our financial results the unrealized gains or losses based on whether the market price is higher or lower than the price we locked-in. If green coffee commodity prices decline below our locked-in price, we will be required to recognize the resulting losses in our results. Although such losses are offset by future gains when we sell the coffee, such transactions could potentially cause volatility in our results because the recognition of losses and the offsetting gains may occur in different fiscal periods. Rapid, sharp decreases in the cost of green coffee could also force us to lower sales prices before realizing cost reductions in our green coffee inventory.

**WE FACE EXPOSURE TO OTHER COMMODITY COST FLUCTUATIONS, WHICH COULD IMPACT OUR MARGINS AND PROFITABILITY.**

We are exposed to cost fluctuations in other commodities, including milk, spices, natural gas and gasoline. In addition, an increase in the cost of fuel could indirectly lead to higher electricity costs, transportation costs and other commodity costs. Much like green coffee costs, the costs of these commodities depend on various factors beyond our control, including economic and political conditions, foreign currency fluctuations, and global weather patterns. To the extent we are unable to pass along such costs to our customers through price increases, our margins and profitability will decrease.

**IMPAIRMENT CHARGES RELATED TO OUR DEFINITE-LIVED AND INDEFINITE-LIVED INTANGIBLE ASSETS COULD ADVERSELY AFFECT OUR FUTURE OPERATING RESULTS.**

Indefinite-lived intangible assets (other than goodwill) are not amortized but instead are reviewed for impairment annually and on an interim basis if events or changes in circumstances between annual tests indicate that an asset might be impaired. A definite-lived intangible asset is only deemed to have become impaired if the sum of the projected undiscounted future cash flows related to the asset is less than the carrying value of the asset. If the sum of the projected cash flows is less than the carrying value, then we must write down the carrying value to its estimated fair value in the period in which the determination is made. An indefinite-lived intangible asset (other than goodwill) is deemed impaired if its estimated fair value is less than its carrying value.

In the fourth quarter of fiscal 2012, we determined that certain indefinite-lived intangible asset consisting of trademarks acquired in connection with the CBI acquisition were impaired and recorded an impairment charge of \$0.5 million in operating expenses. In the fourth quarter of fiscal 2011, we determined that definite-lived intangible assets consisting of the customer relationships acquired, and the distribution agreement and co-pack agreement entered into, in connection with the DSD Coffee Business acquisition were impaired and recorded an impairment charge of \$7.8 million in operating expenses. Failure to achieve our forecasted operating results, due to further weakness in the economic environment or other factors, and further declines in our market capitalization, among other things, could result in further impairment of our definite-lived and indefinite-lived intangible assets.

**OUR LEVEL OF INDEBTEDNESS COULD ADVERSELY AFFECT OUR ABILITY TO RAISE ADDITIONAL CAPITAL TO FUND OUR OPERATIONS, AND LIMIT OUR ABILITY TO REACT TO CHANGES IN THE ECONOMY OR OUR INDUSTRY.**

We have an \$85.0 million senior secured revolving credit facility. As of October 31, 2012, we had estimated outstanding borrowings of \$24.8 million, including \$0.2 million in loan extension fees, utilized \$10.2 million of the letters of credit sublimit, and had excess availability under the credit facility of \$41.7 million. Maintaining a large loan balance under our credit facility could adversely affect our business and limit our ability to plan for or respond to changes in our business. Additionally, our borrowings under the credit facility are at variable rates of interest, exposing us to the risk of interest rate volatility, which could lead to an increase in our net loss. Our debt obligations could also:

- increase our vulnerability to general adverse economic and industry conditions;
- require us to dedicate a portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow for other purposes, including funding daily operations, investing in future business opportunities and capital expenditures;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate thereby placing us at a competitive disadvantage compared to our competitors that may have less debt or debt with less restrictive debt covenants;
- limit, by the financial and other restrictive covenants in our loan agreement, our ability to borrow additional funds; and
- have a material adverse effect on us if we fail to comply with the covenants in our loan agreement because such failure could result in an event of default which, if not cured or waived, could result in our indebtedness becoming immediately due and payable.

**RESTRICTIVE COVENANTS IN OUR CREDIT FACILITY MAY RESTRICT OUR ABILITY TO PURSUE OUR BUSINESS STRATEGIES.**

Our revolving credit facility contains various covenants that limit our ability and/or our subsidiaries' ability to, among other things:

- incur additional indebtedness;
- pay dividends on or make distributions in respect of capital stock or make certain other restricted payments or investments;
- sell assets;
- create liens on certain assets to secure debt; and
- consolidate, merge, sell or otherwise dispose of all or substantially all of our assets.

Our credit facility also contains restrictive covenants that require the Company and its subsidiaries to satisfy financial condition and liquidity tests. Our ability to meet those tests may be affected by events beyond our control, and there can be no assurance that we will meet those tests. The breach of any of these covenants or our failure to meet the financial condition or liquidity tests could result in a default under the credit facility, and the lender could elect to declare all amounts borrowed thereunder, together with accrued interest, to be due and payable and could proceed against the collateral securing that indebtedness.

**OUR BUSINESS IS SUBJECT TO RISKS ASSOCIATED WITH THE CURRENT ECONOMIC CLIMATE.**

Our success depends to a significant extent on a number of factors that affect discretionary consumer spending, including economic conditions, disposable consumer income and consumer confidence, which have deteriorated due to current economic conditions. In a slow economy, businesses and individuals scale back their discretionary spending on travel and entertainment, including "dining out" as well as the purchase of high-end consumables like specialty coffee. Economic conditions may also cause businesses to reduce travel and entertainment expenses, and may even cause office coffee benefits to be eliminated. The current economic downturn and decrease in consumer spending may continue to adversely impact our revenues, and may affect our ability to market our products or otherwise implement our business strategy. Additionally, many of the effects and consequences of the global financial crisis and a broader global economic downturn are currently unknown; any one or all of them could potentially have a material adverse effect on our liquidity and capital resources, including our ability to sell third party securities in which we have invested some of our short-term assets or raise additional capital, if needed, or the ability of

our lender to honor draws on our credit facility, or otherwise negatively affect our business, financial condition, operating results and cash flows.

**WE RELY ON INFORMATION TECHNOLOGY AND ARE DEPENDENT ON ENTERPRISE RESOURCE PLANNING SOFTWARE IN OUR OPERATIONS. ANY MATERIAL FAILURE, INADEQUACY, INTERRUPTION OR SECURITY FAILURE OF THAT TECHNOLOGY COULD AFFECT OUR ABILITY TO EFFECTIVELY OPERATE OUR BUSINESS.**

We rely on information technology systems across our operations, including management of our supply chain, point-of-sale processing, and various other processes and transactions. Our ability to effectively manage our business and coordinate the production, distribution and sale of our products depends significantly on the reliability and capacity of these systems. The failure of these systems to operate effectively, problems with transitioning to upgraded or replacement systems, or a breach in security of these systems could result in delays in processing replenishment orders from our branch warehouses, our inability to record product sales and reduced operational efficiency. Significant capital investments could be required to remediate any potential problems.

**VOLATILITY IN THE EQUITY MARKETS COULD REDUCE THE VALUE OF OUR INVESTMENT PORTFOLIO.**

We maintain a portfolio of fixed-income based investments disclosed as cash equivalents and short-term investments on our consolidated balance sheets. The value of our investments may be adversely affected by interest rate fluctuations, downgrades in credit ratings, illiquidity in the capital markets and other factors which may result in other than temporary declines in the value of our investments. Any of these events could cause us to record impairment charges with respect to our investment portfolio or to realize losses on the sale of investments. If our operating losses continue, a portion or this entire investment portfolio may be liquidated to fund those losses.

**WE ARE LARGELY RELIANT ON MAJOR FACILITIES IN CALIFORNIA, TEXAS AND OREGON FOR PRODUCTION OF OUR PRODUCT LINE.**

A significant interruption in operations at our manufacturing facilities in Torrance, California (our largest facility); Houston, Texas; or Portland, Oregon, whether as a result of a natural disaster, terrorism or other causes, could significantly impair our ability to operate our business. The majority of our green coffee comes through the Ports of Los Angeles, Long Beach, Houston, San Francisco and Portland. Any interruption to port operations, highway arteries, gas mains or electrical service in these areas could restrict our ability to supply our branch warehouses with product and would adversely impact our business.

**INCREASED SEVERE WEATHER PATTERNS MAY INCREASE COMMODITY COSTS, DAMAGE OUR FACILITIES, AND IMPACT OR DISRUPT OUR PRODUCTION CAPABILITIES AND SUPPLY CHAIN.**

There is increasing concern that a gradual increase in global average temperatures due to increased concentration of carbon dioxide and other greenhouse gases in the atmosphere have caused and will continue to cause significant changes in weather patterns around the globe and an increase in the frequency and severity of extreme weather events. Major weather phenomena like El Niño and La Niña are dramatically affecting coffee growing countries. The wet and dry seasons are becoming unpredictable in timing and duration causing improper development of the coffee cherries. Decreased agricultural productivity in certain regions as a result of changing weather patterns may affect the quality, limit availability or increase the cost of key agricultural commodities, such as green coffee, sugar and tea, which are important ingredients for our products. Increased frequency or duration of extreme weather conditions could also damage our facilities, impair production capabilities, disrupt our supply chain or impact demand for our products. As a result, the effects of climate change could have a long-term adverse impact on our business and results of operations.

**OUR INDUSTRY IS HIGHLY COMPETITIVE AND WE MAY NOT HAVE THE RESOURCES TO COMPETE EFFECTIVELY.**

We primarily compete with other coffee companies, including multi-national firms with substantially greater financial, marketing and operating resources than the Company. We face competition from many sources including the institutional foodservice divisions of multi-national manufacturers of retail products such as J.M. Smucker (Folgers Coffee), Dunkin' Donuts and Kraft Foods Inc. (Maxwell House Coffee), wholesale foodservice distributors such as Sysco Corporation and U.S. Foods, regional institutional coffee roasters such as S & D Coffee, Inc. and Boyd Coffee Company, and specialty coffee suppliers such as Green Mountain Coffee Roasters, Inc., Rogers Family Company, Distant Lands Coffee, Mother Parkers Tea &

Coffee, Inc., and Peet's Coffee & Tea, Inc. As many of our customers are small foodservice operators, we also compete with club stores such as Costco and Restaurant Depot. If we do not succeed in differentiating ourselves from our competitors or our competitors adopt our strategies, then our competitive position may be weakened. In addition, from time to time, we may need to reduce our prices in response to competitive and customer pressures and to maintain our market share. Competition and customer pressures, however, also may restrict our ability to increase prices in response to commodity and other cost increases. Our results of operations will be adversely affected if our profit margins decrease, as a result of a reduction in prices or an increase in costs, and if we are unable to increase sales volumes to offset those profit margin decreases.

**VOLATILITY IN THE EQUITY MARKETS OR INTEREST RATE FLUCTUATIONS COULD SUBSTANTIALLY INCREASE OUR PENSION FUNDING REQUIREMENTS AND NEGATIVELY IMPACT OUR FINANCIAL POSITION.**

At June 30, 2012, the projected benefit obligation under our single employer defined benefit pension plans was \$130.4 million and the fair value of plan assets was \$85.8 million. The difference between plan obligations and assets, or the funded status of the plans, significantly affects the net periodic benefit cost and ongoing funding requirements of those plans. Among other factors, changes in interest rates, mortality rates, early retirement rates, investment returns and the market value of plan assets can affect the level of plan funding, cause volatility in the net periodic benefit cost and increase our future funding requirements. As of September 30, 2012, we have made \$1.3 million in contributions to these pension plans and accrued \$0.3 million in expense. We expect to make approximately \$4.3 million in contributions to our single employer defined benefit pension plans in fiscal 2013 and accrue expense of approximately \$1.2 million per year beginning in fiscal 2013. These pension payments are expected to continue at this level for several years, and the current economic environment increases the risk that we may be required to make even larger contributions in the future.

**OUR SALES AND DISTRIBUTION NETWORK IS COSTLY TO MAINTAIN.**

Our sales and distribution network requires a large investment to maintain and operate. Costs include the fluctuating cost of gasoline, diesel and oil, costs associated with managing, purchasing, leasing, maintaining and insuring a fleet of delivery vehicles, the cost of maintaining distribution centers and branch warehouses throughout the country, and the cost of hiring, training and managing our route sales professionals. Many of these costs are beyond our control, and many are fixed rather than variable. Some competitors use alternate methods of distribution that eliminate many of the costs associated with our method of distribution.

**EMPLOYEE STRIKES AND OTHER LABOR-RELATED DISRUPTIONS MAY ADVERSELY AFFECT OUR OPERATIONS.**

We have union contracts relating to a significant portion of our workforce. Although we believe union relations have been amicable in the past, there is no assurance that this will continue in the future. There are potential adverse effects of labor disputes with our own employees or by others who provide transportation (shipping lines, truck drivers) or cargo handling (longshoremen), both domestic and foreign, of our raw materials or other products. These actions could restrict our ability to obtain, process and/or distribute our products.

**GOVERNMENT MANDATORY HEALTHCARE REQUIREMENTS COULD ADVERSELY AFFECT OUR PROFITS.**

We offer healthcare benefits to all employees who work at least 40 hours a week and meet service eligibility requirements. In the past, some states, including California, have proposed legislation mandating that employers pay healthcare premiums into a state-run fund for all employees immediately upon hiring or pay a penalty for failing to do so. If legislation similar to this were to be enacted in California, or in the other states in which we do business, it could have an adverse effect on our results of operations. In addition, comprehensive health care legislation (the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010) was passed and signed into law in March 2010. Due to the breadth and complexity of this legislation, it is difficult to predict the financial and operational impacts this legislation will have on us. Our expenses may significantly increase over the long-term as a result of this legislation.

**POSSIBLE LEGISLATION OR REGULATION INTENDED TO ADDRESS CONCERNS ABOUT CLIMATE CHANGE COULD ADVERSELY AFFECT OUR RESULTS OF OPERATIONS, CASH FLOWS AND FINANCIAL CONDITION.**

Governmental agencies are evaluating changes in laws to address concerns about the possible effects of greenhouse gas emissions on climate. Increased public awareness and concern over climate change may increase the likelihood of more

proposals to reduce or mitigate the emission of greenhouse gases. Laws enacted that directly or indirectly affect our suppliers (through an increase in the cost of production or their ability to produce satisfactory products) or our business (through an impact on our inventory availability, cost of goods sold, operations or demand for the products we sell) could adversely affect our business, financial condition, results of operations and cash flows. Compliance with any new or more stringent laws or regulations, or stricter interpretations of existing laws, including increased government regulations to limit carbon dioxide and other greenhouse gas emissions as a result of concern over climate change, could require us to reduce emissions and to incur compliance costs which could affect our profitability or impede the production or distribution of our products, which could affect our results of operations, cash flows and financial condition. In addition, public expectations for reductions in greenhouse gas emissions could result in increased energy, transportation and raw material costs and may require us to make additional investments in facilities and equipment.

**CHANGES IN CONSUMER PREFERENCES COULD ADVERSELY AFFECT OUR BUSINESS.**

Our continued success depends, in part, upon the demand for coffee. We believe that competition from other beverages continues to dilute the demand for coffee. Consumers who choose soft drinks, juices, bottled water, teas and other beverages reduce spending on coffee. Consumer trends away from coffee could negatively impact our business.

**WE ARE SELF-INSURED. OUR RESERVES MAY NOT BE SUFFICIENT TO COVER FUTURE CLAIMS.**

We are self-insured for many risks up to significant deductible amounts. The premiums associated with our insurance continue to increase. General liability, fire, workers' compensation, directors and officers liability, life, employee medical, dental and vision and automobile risks present a large potential liability. While we accrue for this liability based on historical experience, future claims may exceed claims we have incurred in the past. Should a different number of claims occur compared to what was estimated or the cost of the claims increase beyond what was anticipated, reserves recorded may not be sufficient and the accruals may need to be adjusted accordingly in future periods. In May 2011, we did not meet the minimum credit rating criteria for participation in the alternative security program for California self-insurers. As a result we were required to post a \$5.9 million letter of credit as a security deposit to the State of California Department of Industrial Relations Self-Insurance Plans. As of September 30, 2012, this letter of credit continues to serve as a security deposit.

**COMPETITORS MAY BE ABLE TO DUPLICATE OUR ROASTING AND BLENDING METHODS, WHICH COULD HARM OUR COMPETITIVE POSITION.**

We consider our roasting and blending methods essential to the flavor and richness of our coffees and, therefore, essential to our brand. Because our roasting methods cannot be patented, we would be unable to prevent competitors from copying these methods if such methods became known. If our competitors copy our roasts or blends, the value of our brand may be diminished, and we may lose customers to our competitors. In addition, competitors may be able to develop roasting or blending methods that are more advanced than our production methods, which may also harm our competitive position.

**OUR OPERATING RESULTS MAY HAVE SIGNIFICANT FLUCTUATIONS FROM QUARTER TO QUARTER WHICH COULD HAVE A NEGATIVE EFFECT ON OUR STOCK PRICE.**

Our operating results may fluctuate from period to period or within certain periods as a result of a number of factors, including fluctuations in the price and supply of green coffee, fluctuations in the selling prices of our products, the success of our hedging strategy, competition from existing or new competitors in our industry, changes in consumer preferences, and our ability to manage inventory and fulfillment operations and maintain gross margins. At the end of each quarter, we record the expected effect of the liquidation of LIFO inventory quantities, if any, and record the actual impact at fiscal year end. Fluctuations in our operating results as a result of these factors or for any other reason, could cause our stock price to decline. Accordingly, we believe that period-to-period comparisons of our operating results are not necessarily meaningful, and such comparisons should not be relied upon as indicators of future performance.

**OPERATING LOSSES MAY CONTINUE AND, AS A RESULT, COULD LEAD TO INCREASED LEVERAGE WHICH MAY HARM OUR FINANCIAL CONDITION AND RESULTS OF OPERATIONS.**

We have recorded net income in the quarter ended September 30, 2012, but incurred operating losses and net losses for each of the prior three fiscal years. If our current strategies are unsuccessful we may not achieve the levels of sales and earnings we expect. As a result, we could suffer additional losses in future years and our stock price could decline leading to deterioration in our credit rating, which could limit the availability of additional financing and increase the cost of obtaining financing. In addition, an increase in leverage could raise the likelihood of a financial covenant breach which in turn could limit our access to existing funding under our revolving credit facility.

Our ability to satisfy our operating lease obligations and make payments of principal and interest on our indebtedness depends on our future performance. Should we experience deterioration in operating performance, we will have less cash flow available to meet these obligations. In addition, if such deterioration were to lead to the closure of branch warehouses or distribution centers, we would need to fund the costs of terminating those leases. If we are unable to generate sufficient cash flow from operations in the future to satisfy these financial obligations, we may be required to, among other things:

- seek additional financing in the debt or equity markets;
- refinance or restructure all or a portion of our indebtedness;
- sell selected assets; or
- reduce or delay planned capital or operating expenditures.

Such measures might not be sufficient to enable us to satisfy our financial obligations. In addition, any such financing, refinancing or sale of assets might not be available on economically favorable terms.

**WE COULD FACE SIGNIFICANT WITHDRAWAL LIABILITY IF WE WITHDRAW FROM PARTICIPATION IN THE MULTIEMPLOYER PENSION PLANS IN WHICH WE PARTICIPATE.**

We participate in a multiemployer defined benefit pension plan and a multiemployer defined contribution pension plan for certain union employees. We make periodic contributions to these plans to allow them to meet their pension benefit obligations to their participants. In the event we withdraw from participation in one or both of these plans, we could be required to make an additional lump-sum contribution to the plan, which would be reflected as an expense in our consolidated statement of operations and a liability on our consolidated balance sheet. Our withdrawal liability for any multiemployer plan would depend on the extent of the plan's funding of vested benefits. In fiscal 2012, in connection with the withdrawal from one of the multiemployer pension plans in which we participated, we recorded a charge of \$4.3 million, representing the present value of the estimated withdrawal liability expected to be paid in quarterly installments of \$0.1 million over 80 quarters. The installment payments will commence once the final amount of withdrawal liability is established, which determination may take up to 24 months from the date of withdrawal from the pension plan. Future collective bargaining negotiations may result in the Company withdrawing from the remaining multiemployer pension plans in which we participate and, if successful, may result in a withdrawal liability, the amount of which could be material to our results of operations and cash flows.

**WE DEPEND ON THE EXPERTISE OF KEY PERSONNEL. THE UNEXPECTED LOSS OF ONE OR MORE OF THESE KEY EMPLOYEES COULD HAVE A MATERIAL ADVERSE EFFECT ON OUR OPERATIONS AND COMPETITIVE POSITION.**

Our continued success largely depends on the efforts and abilities of our executive officers and other key personnel. There is limited management depth in certain key positions throughout the Company. We must continue to recruit, retain and motivate management and other employees to maintain our current business and support our projected growth. The loss of key employees could adversely affect our operations and competitive position. We do not maintain key person life insurance policies on any of our executive officers.

**CONCENTRATION OF OWNERSHIP AMONG OUR PRINCIPAL STOCKHOLDERS MAY PREVENT NEW INVESTORS FROM INFLUENCING SIGNIFICANT CORPORATE DECISIONS AND MAY RESULT IN A LOWER TRADING PRICE FOR OUR STOCK THAN IF OWNERSHIP OF OUR STOCK WAS LESS CONCENTRATED.**

As of November 2, 2012, members of the Farmer family or entities controlled by the Farmer family (including trusts) as a group beneficially owned approximately 39.3% of our outstanding common stock. As a result, these stockholders, acting together, may be able to influence the outcome of stockholder votes, including votes concerning the election and removal of directors and approval of significant corporate transactions. This level of concentrated ownership may have the effect of delaying or preventing a change in the management or voting control of the Company. In addition, this significant concentration of share ownership may adversely affect the trading price of our common stock if investors perceive disadvantages in owning stock in a company with such concentrated ownership.

**FUTURE SALES OF SHARES BY EXISTING STOCKHOLDERS COULD CAUSE OUR STOCK PRICE TO DECLINE.**

All of our outstanding shares are eligible for sale in the public market, subject in certain cases to limitations under Rule 144 of the Securities Act of 1933, as amended (the "Securities Act"). Also, shares subject to outstanding options and restricted stock under the Farmer Bros. Co. 2007 Omnibus Plan (the "Omnibus Plan") are eligible for sale in the public market

to the extent permitted by the provisions of various vesting agreements, our stock ownership guidelines, and Rule 144 under the Securities Act. If these shares are sold, or if it is perceived that they will be sold in the public market, the trading price of our common stock could decline.

#### **ANTI-TAKEOVER PROVISIONS COULD MAKE IT MORE DIFFICULT FOR A THIRD PARTY TO ACQUIRE US.**

We have adopted a stockholder rights plan (the “Rights Plan”) pursuant to which each share of our outstanding common stock is accompanied by one preferred share purchase right (a “Right”). Each Right, when exercisable, will entitle the registered holder to purchase from the Company one one-hundredth of a share of Series A Junior Participating Preferred Stock, \$1.00 par value per share, at a purchase price of \$112.50, subject to adjustment. The Rights expire on March 28, 2015, unless they are earlier redeemed, exchanged or terminated as provided in the Rights Plan. Because the Rights may substantially dilute the stock ownership of a person or group attempting to take us over without the approval of our Board of Directors, our Rights Plan could make it more difficult for a third party to acquire us (or a significant percentage of our outstanding capital stock) without first negotiating with our Board of Directors regarding such acquisition.

In addition, our Board of Directors has the authority to issue up to 500,000 shares of preferred stock (of which 200,000 shares have been designated as Series A Junior Participating Preferred Stock) and to determine the price, rights, preferences, privileges and restrictions, including voting rights, of those shares without any further vote or action by stockholders. The rights of the holders of our common stock may be subject to, and may be adversely affected by, the rights of the holders of any preferred stock that may be issued in the future. The issuance of preferred stock may have the effect of delaying, deterring or preventing a change in control of the Company without further action by stockholders and may adversely affect the voting and other rights of the holders of our common stock.

Further, certain provisions of our charter documents, including a classified board of directors, provisions eliminating the ability of stockholders to take action by written consent, and provisions limiting the ability of stockholders to raise matters at a meeting of stockholders without giving advance notice, may have the effect of delaying or preventing changes in control or management of the Company, which could have an adverse effect on the market price of our stock. In addition, our charter documents do not permit cumulative voting, which may make it more difficult for a third party to gain control of our Board of Directors. Further, we are subject to the anti-takeover provisions of Section 203 of the Delaware General Corporation Law, which will prohibit us from engaging in a “business combination” with an “interested stockholder” for a period of three years after the date of the transaction in which the person became an interested stockholder, even if such combination is favored by a majority of stockholders, unless the business combination is approved in a prescribed manner. The application of Section 203 also could have the effect of delaying or preventing a change in control or management.

#### **QUALITY CONTROL PROBLEMS MAY ADVERSELY AFFECT OUR BRANDS THEREBY NEGATIVELY IMPACTING OUR SALES.**

Our success depends on our ability to provide customers with high quality products and service. Although we take measures to ensure that we sell only fresh coffee, tea and culinary products, we have no control over our products once they are purchased by our customers. Accordingly, customers may store our products for longer periods of time, potentially affecting product quality. If consumers do not perceive our products and service to be of high quality, then the value of our brands may be diminished and, consequently, our operating results and sales may be adversely affected.

#### **ADVERSE PUBLIC OR MEDICAL OPINIONS ABOUT CAFFEINE AND REPORTS OF INCIDENTS INVOLVING FOOD BORNE ILLNESS AND TAMPERING MAY HARM OUR BUSINESS.**

Coffee contains significant amounts of caffeine and other active compounds, the health effects of some of which are not fully understood. A number of research studies conclude or suggest that excessive consumption of caffeine may lead to increased adverse health effects. An unfavorable report on the health effects of caffeine or other compounds present in coffee could significantly reduce the demand for coffee which could harm our business and reduce our sales.

Similarly, instances or reports, whether true or not, of unclean water supply, food-borne illnesses and food tampering have in the past severely injured the reputations of companies in the food processing sector and could in the future affect us as well. Any report linking us to the use of unclean water, food-borne illnesses or food tampering could damage the value of our brands, negatively impact sales of our products, and potentially lead to product liability claims. Clean water is critical to the preparation of coffee beverages. We have no ability to ensure that our customers use a clean water supply to prepare coffee beverages.

## **PRODUCT RECALLS AND INJURIES CAUSED BY PRODUCTS COULD REDUCE OUR SALES AND HARM OUR BUSINESS.**

Selling products for human consumption involves inherent legal risks. We could be required to recall products due to product contamination, spoilage or other adulteration, product misbranding or product tampering. We may also suffer losses if our products or operations violate applicable laws or regulations, or if our products cause injury, illness or death. A significant product liability claim against us, whether or not successful, or a widespread product recall may reduce our sales and harm our business.

## **GOVERNMENT REGULATIONS COULD INCREASE OUR OPERATING COSTS, REDUCE DEMAND FOR OUR PRODUCTS OR RESULT IN LITIGATION.**

The conduct of our business, including the production, distribution, sale, advertising, marketing, labeling, safety, transportation and use of many of our products, are subject to various federal, state and local laws and regulations. These laws and regulations and interpretations thereof are subject to change as a result of political, economic or social events. Such changes may include changes in: food and drug laws; laws relating to product labeling, advertising and marketing practices; laws regarding ingredients used in our products; and increased regulatory scrutiny of, and increased litigation involving, product claims and concerns regarding the effects on health of ingredients in, or attributes of, our products. For example, we are subject to the California Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”), a law which requires that a specific warning appear on any product sold in California that contains a substance listed by that State as having been found to cause cancer or birth defects. Proposition 65 exposes all food and beverage producers to the possibility of having to provide warnings on their products in California because it does not provide for any generally applicable quantitative threshold below which the presence of a listed substance is exempt from the warning requirement. Consequently, the detection of even a trace amount of a listed substance can subject an affected product to the requirement of a warning label. On June 21, 2012, the Council for Education and Research on Toxics, a public interest group, issued a pre-litigation notice of intent to sue a number of companies, including CBI, which sell coffee in California for allegedly failing to issue clear and reasonable warnings that the coffee they produce, distribute and/or sell contains acrylamide in accordance with Proposition 65, and on September 18, 2012, we were served with this lawsuit. We have joined a Joint Defense Group and filed with the Court requesting a Motion to Stay. The Court has set a date in November 2012 to hear this case. Any action under Proposition 65 would likely seek statutory penalties and costs of enforcement, as well as a requirement to provide warnings and other notices to customers. If we were required to add warning labels to any of our products or place warnings in certain locations where our products are sold, sales of those products could suffer not only in those locations but elsewhere. Any change in labeling requirements for our products also may lead to an increase in packaging costs or interruptions or delays in packaging deliveries. If we fail to comply with applicable laws and regulations, we may be subject to civil remedies, including fines, injunctions, recalls or seizures, as well as potential criminal sanctions, which could have a material adverse effect on our results of operations.

## **FAILURE TO MAINTAIN EFFECTIVE INTERNAL CONTROLS IN ACCORDANCE WITH SECTION 404 OF THE SARBANES OXLEY ACT OF 2002 COULD HAVE A MATERIAL ADVERSE EFFECT ON OUR BUSINESS AND STOCK PRICE.**

As directed by Section 404 of the Sarbanes Oxley Act of 2002 (“SOX”), the SEC adopted rules requiring us, as a public company, to include a report of management on our internal controls over financial reporting in our annual report on Form 10-K and quarterly reports on Form 10-Q that contains an assessment by management of the effectiveness of our internal controls over financial reporting. In addition, our independent auditors must attest to and report on management’s assessment of the effectiveness of our internal controls over financial reporting as of the end of the fiscal year. Compliance with SOX Section 404 has been a challenge for many companies. Our ability to continue to comply is uncertain as we expect that our internal controls will continue to evolve as our business activities change. If, during any year, our independent auditors are not satisfied with our internal controls over financial reporting or the level at which these controls are designed, documented, operated, tested or assessed, or if the independent auditors interpret the requirements, rules or regulations differently than we do, then they may decline to attest to management’s assessment or may issue a report that is qualified. In addition, if we fail to maintain the adequacy of our internal controls, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal controls over financial reporting in accordance with SOX Section 404. Failure to maintain an effective internal control environment could have a material adverse effect on our stock price. In addition, there can be no assurance that we will be able to remediate material weaknesses, if any, which may be identified in future periods.

### **Item 6. Exhibits**

See Exhibit Index.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**FARMER BROS. CO.**

By: \_\_\_\_\_ /s/ MICHAEL H. KEOWN

**Michael H. Keown  
President and Chief Executive Officer  
(chief executive officer)  
Date: November 5, 2012**

By: \_\_\_\_\_ /S/ JEFFREY A. WAHBA

**Jeffrey A. Wahba  
Treasurer and Chief Financial Officer  
(principal financial and accounting officer)  
Date: November 5, 2012**

## EXHIBIT INDEX

- 3.1 Certificate of Incorporation (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2009 filed with the SEC on May 11, 2009 and incorporated herein by reference).
- 3.2 Amended and Restated Bylaws (filed as Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the SEC on April 25, 2011 and incorporated herein by reference).
- 4.1 Certificate of Designation, Preferences and Rights of Series A Junior Participating Preferred Stock (filed as Exhibit 4.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed with the SEC on May 10, 2010 and incorporated herein by reference).
- 4.2 Rights Agreement, dated March 17, 2005, by and between Farmer Bros. Co. and Wells Fargo Bank, N.A., as Rights Agent (filed as Exhibit 4.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed with the SEC on May 10, 2010 and incorporated herein by reference).
- 4.3 Specimen Stock Certificate (filed as Exhibit 4.1 to the Company's Form 8-A/A filed with the SEC on February 6, 2009 and incorporated herein by reference).
- 10.1 Amended and Restated Loan and Security Agreement, dated September 12, 2011, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent (filed as Exhibit 10.12 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2011 filed with the SEC on September 12, 2011 and incorporated herein by reference).
- 10.2 Amendment No. 1 to Amended and Restated Loan and Security Agreement, effective January 9, 2012, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent (filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2011 filed with the SEC on February 8, 2012 and incorporated herein by reference).
- 10.3 Farmer Bros. Co. Pension Plan for Salaried Employees (filed herewith).\*
- 10.4 Amendment No. 1 to Farmer Bros. Co. Retirement Plan effective June 30, 2011 (filed as Exhibit 10.14 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2011 filed with the SEC on September 12, 2011 and incorporated herein by reference).\*
- 10.5 Farmer Bros. Co. 2005 Incentive Compensation Plan (Amended and Restated as of December 31, 2008) (filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2008 filed with the SEC on February 10, 2009 and incorporated herein by reference).\*
- 10.6 Farmer Bros. Co. Amended and Restated Employee Stock Ownership Plan, as adopted by the Board of Directors on December 9, 2010 and effective as of January 1, 2010 (filed as Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).\*
- 10.7 Action of the Administrative Committee of the Farmer Bros. Co. qualified Employee Retirement Plans amending the Farmer Bros. Co. Amended and Restated Employee Stock Ownership Plan, effective as of January 1, 2012 (filed herewith).
- 10.8 ESOP Loan Agreement including ESOP Pledge Agreement and Promissory Note, dated March 28, 2000, between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).

- 10.9 Amendment No. 1 to ESOP Loan Agreement, dated June 30, 2003, between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).
- 10.10 ESOP Loan Agreement No. 2 including ESOP Pledge Agreement and Promissory Note, dated July 21, 2003 between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.15 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).
- 10.11 Separation Agreement, dated as of April 1, 2011, by and between Farmer Bros. Co. and Roger M. Lavery III (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on April 6, 2011 and incorporated herein by reference).\*
- 10.12 Employment Agreement, dated March 9, 2012, by and between Farmer Bros. Co. and Michael H. Keown (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on March 13, 2012 and incorporated herein by reference).\*
- 10.13 Amended and Restated Employment Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.14 Amendment No. 1 to Amended and Restated Employment Agreement, dated as of August 30, 2011, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 2, 2011 and incorporated herein by reference).\*
- 10.15 Second Amended and Restated Employment Agreement, effective as of February 13, 2012, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 17, 2012 and incorporated herein by reference).\*
- 10.16 Letter Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Mark A. Harding (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.17 Employment Agreement, dated as of April 4, 2012, by and between Farmer Bros. Co. and Thomas W. Mortensen (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K/A filed with the SEC on April 10, 2012 and incorporated herein by reference).\*
- 10.18 Employment Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Patrick G. Criteser (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.19 Amended and Restated Employment Agreement, effective as of February 13, 2012, by and between Farmer Bros. Co. and Patrick G. Criteser (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on February 17, 2012 and incorporated herein by reference).\*
- 10.20 Employment Agreement, dated as of December 1, 2010, by and between Farmer Bros. Co. and Larry B. Garrett (filed as Exhibit 10.29 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2011 filed with the SEC on September 12, 2011 and incorporated herein by reference).\*
- 10.21 Resignation Agreement, dated as of July 20, 2012, by and between Farmer Bros. Co. and Larry B. Garrett (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K/A filed with the SEC on July 24, 2012 and incorporated herein by reference).\*
- 10.22 2007 Omnibus Plan (filed as Exhibit 10.22 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2012 filed with the SEC on September 10, 2012 and incorporated herein by reference).\*

- 10.23 Form of 2007 Omnibus Plan Stock Option Grant Notice and Stock Option Agreement (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).\*
- 10.24 Form of 2007 Omnibus Plan Restricted Stock Award Grant Notice and Restricted Stock Award Agreement (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).\*
- 10.25 Stock Ownership Guidelines for Directors and Executive Officers (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).\*
- 10.26 Form of Award Letter (Fiscal 2012) under Farmer Bros. Co. 2005 Incentive Compensation Plan (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 24, 2012 and incorporated herein by reference).\*
- 10.27 Form of Target Award Notification Letter (Fiscal 2013) under Farmer Bros. Co. 2005 Incentive Compensation Plan (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 28, 2012 and incorporated herein by reference).\*
- 10.28 Form of Target Award Notification Letter (Fiscal 2012) under Farmer Bros. Co. 2005 Incentive Compensation Plan (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 21, 2011 and incorporated herein by reference).\*
- 10.29 Form of Change in Control Severance Agreement for Executive Officers of the Company (with schedule of executive officers attached) (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K/A filed with the SEC on April 10, 2012 and incorporated herein by reference).\*
- 10.30 Form of Indemnification Agreement for Directors and Officers of the Company, as adopted on May 18, 2006 and as amended on December 31, 2008 (with schedule of indemnitees attached) (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K/A filed with the SEC on April 10, 2012 and incorporated herein by reference).\*
- 31.1 Principal Executive Officer Certification Pursuant to Securities Exchange Act Rules 13a-14 and 15d-14 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 31.2 Principal Financial and Accounting Officer Certification Pursuant to Securities Exchange Act Rules 13a-14 and 15d-14 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 32.1 Principal Executive Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
- 32.2 Principal Financial and Accounting Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
- 101 The following financial statements from the Company's Quarterly Report on Form 10-Q for the three months ended September 30, 2012, formatted in eXtensible Business Reporting Language: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Comprehensive Income (Loss), (iv) Consolidated Statements of Cash Flows, and (v) Notes to Consolidated Financial Statements (furnished herewith).

---

\* Management contract or compensatory plan or arrangement.

**FARMER BROS. CO.**

**PENSION PLAN FOR SALARIED EMPLOYEES**

FARMER BROS. CO. RETIREMENT PLAN

Amendment and Restatement

Effective January 1, 2001

TABLE OF CONTENTS

	<u>Page</u>
<b>Article 1. Definitions</b>	<b><u>6</u></b>
1.01 Accrued Pension	<u>6</u>
1.02 Accrued Pension Derived from Employer Contributions	<u>6</u>
1.03 Accrued Pension Derived from Participant Contributions	<u>6</u>
1.04 Accumulated Contributions	<u>6</u>
1.05 Actuarial Equivalent	<u>6</u>
1.06 Administrative Committee	<u>7</u>
1.07 Affiliated Employer	<u>7</u>
1.08 Alternate Accrued Pension Derived from Participant Contributions	<u>7</u>
1.09 Annuity Starting Date	<u>7</u>
1.10 Beneficiary	<u>7</u>
1.11 Benefit Service	<u>7</u>
1.12 Board of Directors	<u>8</u>
1.13 Break in Service	<u>8</u>
1.14 Code	<u>8</u>
1.15 Company	<u>8</u>
1.16 Compensation	<u>8</u>
1.17 Determination Date	<u>9</u>
1.18 Disability or Disabled	<u>9</u>
1.19 Early Retirement Date	<u>9</u>
1.20 Effective Date	<u>9</u>
1.21 Eligible Employee	<u>9</u>
1.22 Employee	<u>9</u>
1.23 Employer	<u>9</u>
1.24 Enrollment Date	<u>9</u>
1.25 ERISA	<u>9</u>
1.26 Final Average Compensation	<u>9</u>
1.27 Highly Compensated Employee	<u>10</u>
1.28 Hour of Service	<u>10</u>
1.29 IRS Interest Rate	<u>11</u>
1.30 IRS Mortality Table	<u>11</u>
1.31 Investment Manager	<u>11</u>
1.32 Leased Employee	<u>11</u>
1.33 Leave of Absence	<u>11</u>
1.34 Maximum Compensation Limitation	<u>11</u>
1.35 Normal Retirement Age	<u>11</u>
1.36 Normal Retirement Date	<u>12</u>
1.37 Parental Leave	<u>12</u>
1.38 Participant	<u>12</u>
1.39 Participant Contributions	<u>12</u>
1.40 Pension	<u>12</u>
1.41 Plan	<u>12</u>
1.42 Plan Year	<u>12</u>
1.43 Postponed Retirement Date	<u>12</u>
1.44 Qualified Domestic Relations Order	<u>12</u>

1.45	Qualified Joint and Survivor Annuity	<a href="#">12</a>
1.46	Residual Accrued Pension Derived from Participant Contributions	<a href="#">12</a>
1.47	Retirement Date	<a href="#">12</a>
1.48	Section 203(a)(3)(B) Service	<a href="#">12</a>
1.49	Section 417 Interest Rate	<a href="#">12</a>
1.50	Severance from Service Date	<a href="#">12</a>
1.51	Spousal Consent	<a href="#">12</a>
1.52	Spouse	<a href="#">13</a>
1.53	Stability Period	<a href="#">13</a>
1.54	Trust	<a href="#">13</a>
1.55	Trustee	<a href="#">13</a>
1.56	Year of Eligibility Service	<a href="#">13</a>
1.57	Year of Vesting Service	<a href="#">13</a>
1.58	Union Employee	<a href="#">13</a>
<b>Article 2. Eligibility and Participation</b>		<b><a href="#">13</a></b>
2.01	Eligibility	<a href="#">13</a>
2.02	Participation	<a href="#">13</a>
2.03	Reemployment of Former Employees and Former Participants	<a href="#">14</a>
2.04	Transferred Participants	<a href="#">14</a>
2.05	Termination of Participation	<a href="#">14</a>
<b>Article 3. Contributions</b>		<b><a href="#">14</a></b>
3.01	Participant Contributions	<a href="#">14</a>
3.02	Suspension of Participation	<a href="#">14</a>
3.03	In-Service Withdrawal of Accumulated Contributions	<a href="#">14</a>
3.04	Employer Contributions	<a href="#">14</a>
3.05	Plan-to-Plan Transfers / Rollover Contributions	<a href="#">14</a>
3.06	Return of Contributions	<a href="#">15</a>
3.07	Contributions during Period of Service in the Uniformed Services of the United States	<a href="#">15</a>
<b>Article 4. Termination of Employment Prior to Retirement</b>		<b><a href="#">15</a></b>
4.01	Amount of Vested Interest	<a href="#">15</a>
4.02	Distribution of Vested Interest	<a href="#">15</a>
4.03	Repayment of Participant Contributions	<a href="#">16</a>
<b>Article 5. Eligibility for and Amount of Pension Benefits</b>		<b><a href="#">17</a></b>
5.01	Normal Retirement	<a href="#">17</a>
5.02	Postponed Retirement	<a href="#">18</a>
5.03	Early Retirement	<a href="#">18</a>
5.04	Disability Retirement	<a href="#">19</a>
5.05	Termination With Vesting	<a href="#">19</a>
5.06	Adjustments to Pensions in Pay Status	<a href="#">19</a>
5.07	Suspension of Benefits	<a href="#">20</a>
5.08	Nonduplication of Benefits	<a href="#">20</a>
<b>Article 6. Restrictions on Benefits and Payments</b>		<b><a href="#">20</a></b>
6.01	Maximum Annual Benefit Limitation and Maximum Annual Additions Limitation	<a href="#">20</a>
6.02	Top-Heavy Provisions	<a href="#">21</a>

6.03	Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees	<a href="#">21</a>
<b>Article 7.</b>	<b>Form of Payment of Pension Benefits</b>	<a href="#">21</a>
7.01	Normal Form of Payment	<a href="#">21</a>
7.02	Automatic Form of Payment	<a href="#">21</a>
7.03	Optional Forms of Payment	<a href="#">22</a>
7.04	Election of Options	<a href="#">23</a>
7.05	Method of Payment for Eligible Rollover Distributions	<a href="#">24</a>
7.06	Commencement of Payments	<a href="#">25</a>
<b>Article 8.</b>	<b>Death Benefits</b>	<a href="#">25</a>
8.01	Spouse's Pension	<a href="#">25</a>
8.02	Children's Pension	<a href="#">26</a>
8.03	Death Benefits Payable to Participant's Estate	<a href="#">27</a>
8.04	Accumulated Contributions	<a href="#">27</a>
<b>Article 9.</b>	<b>Administration of the Plan</b>	<a href="#">27</a>
9.01	Appointment of Administrative Committee	<a href="#">27</a>
9.02	Duties of Administrative Committee	<a href="#">27</a>
9.03	Meetings	<a href="#">28</a>
9.04	Action of Majority	<a href="#">28</a>
9.05	Compensation and Bonding	<a href="#">28</a>
9.06	Establishment of Rules	<a href="#">28</a>
9.07	Manner of Administering	<a href="#">28</a>
9.08	Prudent Conduct	<a href="#">28</a>
9.09	Service In More Than One Fiduciary Capacity	<a href="#">28</a>
9.10	Limitation of Liability	<a href="#">28</a>
9.11	Indemnification	<a href="#">30</a>
9.12	Expenses of Administration	<a href="#">29</a>
9.13	Claims and Review Procedures	<a href="#">29</a>
<b>Article 10.</b>	<b>Management of Funds</b>	<a href="#">29</a>
10.01	The Trustee	<a href="#">29</a>
10.02	Exclusive Benefit Rule	<a href="#">29</a>
10.03	Appointment of Investment Manager	<a href="#">30</a>
<b>Article 11.</b>	<b>Amendment, Merger and Termination</b>	<a href="#">30</a>
11.01	Amendment of the Plan	<a href="#">30</a>
11.02	Merger or Consolidations	<a href="#">30</a>
11.03	Additional Participating Employees	<a href="#">30</a>
11.04	Termination of the Plan	<a href="#">30</a>
<b>Article 12.</b>	<b>General Provisions</b>	<a href="#">30</a>
12.01	Nonalienation; Qualified Domestic Relations Orders	<a href="#">31</a>
12.02	Conditions of Employment Not Affected by Plan	<a href="#">31</a>
12.03	Facility of Payment	<a href="#">31</a>
12.04	Information	<a href="#">31</a>
12.05	(Reserved)	<a href="#">31</a>
12.06	Proof of Death and Right of Beneficiary or Other Person	<a href="#">31</a>

12.07 Failure to Locate Recipient	<a href="#"><u>31</u></a>
12.08 Action by the Board of Directors	<a href="#"><u>32</u></a>
12.09 Coconstruction	<a href="#"><u>32</u></a>
Execution of the Plan	<a href="#"><u>32</u></a>
Appendix A. Maximum Annual Benefit Limitation and Maximum Annual Additions Limitation	<a href="#"><u>A-1</u></a>
Appendix B. Top-Heavy Provisions	<a href="#"><u>B-1</u></a>
Appendix C. Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees (Effective January 1, 1994)	<a href="#"><u>C-1</u></a>
Appendix D. Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees (Effective January 1, 1989, Through December 31, 1993)	<a href="#"><u>D-1</u></a>

**PREAMBLE TO  
FARMER BROS. CO. RETIREMENT PLAN**

The Farmer Bros. Co. Retirement Plan (the "Plan") was originally adopted, effective July 1, 1964, by Farmer Bros. Co. for the benefit of its employees. The Plan was subsequently amended on various occasions, and restated effective January 1, 1982 (the "Prior Plan").

This document constitutes the terms of the Plan, as amended and restated effective January 1, 1989, except as otherwise provided herein. This document incorporates Amendment 1 through Amendment 6 to the Prior Plan. In addition, it is intended that this document include all additional amendments necessary for the Plan to remain qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended by the Tax Reform Act of 1986, the Omnibus Budget Reconciliation Act of 1986, the Omnibus Budget Reconciliation Act of 1987, the Technical and Miscellaneous Revenue Act of 1988, the Omnibus Budget Reconciliation Act of 1989, the Unemployment Compensation Amendments of 1992, and the Omnibus Budget Reconciliation Act of 1993.

Effective January 1, 2001, except as stated herein, the Plan is hereby amended and restated in its entirety to comply with the following acts of legislation known collectively as GUST:

- General Agreement on Tariffs and Trade enacted in 1994  
[also known as The Uruguay Round Agreements Act] (GATT)
- Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
- Small Business Job Protection Act of 1996 (SBJPA '96)
- Taxpayer Relief Act of 1997 (TRA '97)

**Article 1. Definitions**

The following words and phrases, when used in the Plan with an initial capital letter, shall have the following meanings, unless the context clearly indicates otherwise:

1.01 "Accrued Pension" means, as of any Determination Date, the normal retirement Pension, payable commencing on the Participant's Normal Retirement Date, or immediately if the Participant has already attained his Normal Retirement Age, computed under Section 5.01(b) on the basis of the Participant's Final Average Compensation and Benefit Service to the Determination Date.

1.02 "Accrued Pension Derived from Employer Contributions" means, as of any Determination Date, the excess, if any, of a Participant's Accrued Pension over his Accrued Pension Derived from Participant Contributions.

1.03 "Accrued Pension Derived from Participant Contributions" means the portion of a Participant's Accrued Pension payable at age 65, or current age if later than age 65, funded with his Accumulated Contributions. The Accrued Pension Derived from Participant Contributions shall be equal to the Actuarial Equivalent of the Participant's Accumulated Contributions, credited with interest, compounded annually at the IRS Interest Rate (the Section 417 Interest Rate prior to January 1, 2000) for the period beginning on the Determination Date and ending on the later of the Participant's Normal Retirement Age or Annuity Starting Date, expressed as an annual benefit payable at age 65, or current age if later than age 65, in the form described in Section 7.01.

1.04 "Accumulated Contributions" means, with respect to a Participant, his Participant Contributions credited with interest, compounded annually at the rate of:

- (a) 3% per annum through December 31, 1975;
- (b) 5% per annum for the period beginning January 1, 1976, and ending December 31, 1987; and
- (c) 120% of the Federal mid-term rate (as in effect under Section 1274 of the Code for the first month of the applicable Plan Year) for the period beginning January 1, 1988, and ending on the Determination Date.

1.05 "Actuarial Equivalent" means the equivalent, payable in an alternate form or at an alternate time, of a benefit payable in a normal form under the Plan as described in Section 7.01. Such equivalent shall generally be calculated based on a rate of interest of 6.5, utilizing the 1971 Group Annuity Mortality Table for Males.

With respect to the calculation of lump sum payments in accordance with Section 4.02(e), 7.02(b), 7.03(a)(iii) and 12.01(b), the interest rate utilized prior to January 1, 2000 shall be the lesser of 6.5% or the Section 417 Interest Rate.

Notwithstanding the above, for the purpose of determining lump sums on and after January 1, 2000 and ending on the date this Plan is adopted, Actuarial Equivalent shall be based on one of the following assumptions, whichever produces the greater benefit:

- (a) The IRS Interest Rate and the IRS Mortality Table.
- (b) The 1971 Group Annuity Mortality Table for Males and an interest rate equal to the lesser of (a) 6.5% or (b) the Section 417 Interest Rate.

For lump sum payments determined after the date this Plan is adopted, Actuarial Equivalent shall be based on one of the following assumptions, whichever produces the greater benefit:

- (a) The IRS Interest Rate and the IRS Mortality Table.
- (b) The 1971 Group Annuity Mortality Table for Males and an interest rate equal to 6.5%.

1.06 "Administrative Committee" means the committee appointed pursuant to Article 9.

1.07 "Affiliated Employer" means any company not participating in the Plan which is a member of a controlled group of corporations (as defined in Section 414(b) of the Code) with the Employer; any trade or business under common control (as defined in Section 414(c) of the Code) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Section 414(m) of the Code) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) of the Code. Notwithstanding the foregoing, for purposes of Sections 1.30(b) and 6.01, the definitions in Sections 414(b) and 414(c) of the Code shall be modified as provided in Section 415(h) of the Code.

1.08 "Alternate Accrued Pension Derived from Participant Contributions" is equal to the Participant's Accumulated Contributions divided by 10, or an actuarially equivalent factor in the event the Participant's Annuity Starting Date is later than his Normal Retirement Age. Notwithstanding the foregoing, the Participant's Alternate Accrued Pension Derived from Participant Contributions shall not exceed his Accrued Pension Derived from Participant Contributions.

1.09 "Annuity Starting Date" means, with respect to a Participant, the applicable of:

- (a) The first day of the first period for which an amount is payable as an annuity under the Plan, or
- (b) Where the benefit is not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to his benefit under the Plan.

1.10 "Beneficiary" means any person, persons or entity named by a Participant by written designation filed with the Administrative Committee to receive benefits payable in the event of the Participant's death. However, if the Participant is married, his Spouse shall be deemed to be the Beneficiary unless or until he elects another Beneficiary by a written designation filed with the Administrative Committee. Any such designation shall not be effective without Spousal Consent. If no such designation is in effect at the time of death of the Participant, or if no person, persons or entity so designated shall survive the Participant, the Participant's estate shall be deemed to be the Beneficiary.

1.11 "Benefit Service" means, with respect to any Participant, the period beginning on the Participant's Enrollment Date and ending on his Severance from Service Date, subject to the following:

- (a) Prior to July 1, 1964, Benefit Service shall not be credited:
  - (i) Until the later of the date the Participant (A) attains age 35, or (B) completes one Year of Eligibility Service;
  - (ii) For any period credited for retirement benefits under any other pension plan to which the Employer contributes; and
  - (iii) Unless the Participant elects to become a participant as of the date he is first eligible to do so.

(b) If the Participant is absent from the service of the Employer or an Affiliated Employer because of service in the uniformed services of the United States and if the Participant returns to the service of the Employer or an Affiliated Employer, having applied to return while his reemployment rights were protected by law, and makes all Participant Contributions as required under Plan Section 3.07, that absence shall be included in his Benefit Service;

(c) If the Participant is on a Leave of Absence approved by the Employer under rules uniformly applicable to all Employees similarly situated, the Employer may authorize the inclusion in his Benefit Service of any portion of that period of leave;

(d) Service during a period in which a Participant fails to make the contributions required under Section 3.01 shall not count as Benefit Service hereunder;

(e) Service with any other company which has been or may later be acquired by the Employer or an Affiliated Employer shall count only as required by law or as may be determined by the Company;

(f) With respect to the month that includes the Participant's Enrollment Date, a Participant shall be credited with one full month of Benefit Service if the Participant's Enrollment Date is on or before the 15th day of the month; with respect to the month that includes the Participant's Severance from Service Date, a Participant shall be credited with one full month of Benefit Service if the Participant's Severance from Service Date is on or after the 15th day of the month; otherwise partial months of Benefit Service shall be disregarded; and

(g) Service with the Employer or an Affiliated Employer on and after July 1, 1964, while the Employee is a Union Employee shall count provided that:

- (i) The Employee is credited with an Hour of Service on or after January 1, 1995, or is on an approved Leave of Absence as of January 1, 1995;
- (ii) The Employee makes Participant Contributions during the 60 months required by Section 3.01;
- (iii) The Employee does not terminate his employment with the Employer and all Affiliated Employers prior to the date the Employee reaches his earliest Early Retirement Date; and
- (iv) The Employee provides the Administrative Committee with the information it deems necessary to determine the amount of any pension payable to the Employee under the terms of a defined benefit pension plan to which the Employer contributes, directly or indirectly, to the extent that such pension is based on a period of employment with the Employer for which the Employee receives credit for Pension benefits under this Section 1.11(g); and

(h) If the Participant incurs a Break in Service, and he is subsequently rehired, the Participant's Benefit Service accrued after reemployment shall be aggregated with his Benefit Service accrued prior to the Break in Service only if (i) the Participant was vested in his Accrued Pension Derived from Employer Contributions, or (ii) (A) the Participant's consecutive one-year Breaks in Service do not equal or exceed the greater of five years or his Years of Vesting Service before the Break in Service, and (B) the Participant is credited with at least one Year of Vesting Service after his Break in Service. If the Participant's Break in Service ended prior to January 1, 1985, or if he had a Break in Service on December 31, 1984, and the number of his consecutive one-year Breaks in Service as of that date exceeded his Years of Vesting Service under the Plan provisions then in effect, then his previously accrued Benefit Service shall be excluded.

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

1.13 "Break in Service" means any Plan Year in which an Employee completes less than 501 Hours of Service. A Break in Service shall not occur during a layoff that is less than one year in duration, or an approved Leave of Absence or a period of military service which is included in a Participant's Benefit Service pursuant to Sections 1.11(b) and (c).

1.14 "Code" means the Internal Revenue Code of 1986, as it may be amended from time to time.

1.15 "Company" means Farmer Bros. Co., and any successor by merger, purchase or otherwise, with respect to its employees.

1.16 "Compensation" means wages as defined in Section 3401(a) of the Code (for purposes of income tax withholding at the source), but determined without regard to any rules under Section 3401(a) of the Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (e.g., the exception for agricultural labor in Section 3401(a)(2)). However, for purposes of the Plan, Compensation shall:

(a) Include any salary deferral reductions pursuant to Section 401(k) of the Code or pursuant to a cafeteria plan as described in Section 125 of the Code;

(b) Exclude any imputed income for auto allowances or company-paid life insurance for the Participant (including amounts for which the Employer or Affiliated Employer is required to furnish a written statement pursuant to Section 6052 of the Code); and

(c) Not exceed the Maximum Compensation Limitation.

Prior to January 1, 1972, Compensation means the compensation paid to a Participant by the Employer for services performed, but excluding overtime pay, premium pay, commissions, bonuses, any benefits received under the Employer's salary continuation plans, and travel expense and other allowances.

1.17 "Determination Date" means the date as of which an Accrued Pension or other benefit is calculated.

1.18 "Disability" or "Disabled" means the total and permanent incapacity, as determined by the Administrative Committee based upon competent medical advice, of the Employee to engage in any occupation or perform any work for remuneration or profit by reason of any medically determinable injury, disease or mental impairment. In determining whether or not a Participant is and continues to be Disabled, the Administrative Committee may at any reasonable time require the Participant to submit to an examination by one or more physicians approved by the Administrative Committee. If the Participant refuses to submit to such examination, the Participant shall be deemed, for purposes of the Plan, to have recovered from his Disability.

Notwithstanding the foregoing, an Employee shall not be considered Disabled if the injury or disease (a) resulted from or consists of habitual drunkenness or addiction to narcotics, (b) was contracted, suffered or incurred while the Employee was engaged in, or resulted from his having engaged in, a criminal enterprise, (c) was intentionally self-inflicted, (d) arose while the Employee was absent without leave or layoff, (e) arose out of service in the armed forces of any country, or (f) arose as a result of or while engaged in his own business or in working for an employer other than the Employer.

1.19 "Early Retirement Date" means the first day of the calendar month on or immediately after the later of the date the Participant attains age 55 or completes five years of Benefit Service.

1.20 "Effective Date" means July 1, 1964.

1.21 "Eligible Employee" means an Employee other than:

- (a) An Employee who is included in a unit of employees covered by a collective bargaining agreement between employee representatives and the Employer if there is evidence that retirement benefits were the subject of good faith bargaining and the agreement does not provide for such Employee's participation in the Plan,
- (b) An Employee who is a nonresident alien and receives no United States source income,
- (c) A Leased Employee, and
- (d) An Employee who is employed in a division, unit, facility or class of Employees whom the Employer has determined in writing not to be covered by the terms of the Plan.

1.22 "Employee" means an individual employed by the Employer who meets the following requirements:

- (a) the Employer withholds income tax on any portion of his or her income and Social Security contributions are made for him or her by the Employer, and
- (b) such individual is determined by the Employer to be an Employee, for purposes of the Employer's payroll records.

"Employee" does not include a "Leased Employee," as defined in Code Section 414(n)(2). Only individuals who are paid as employees from an Employer payroll and are treated by the Employer as Employees will be considered Employees for purposes of the plan. Any individual who is treated as an independent contractor by the Employer is not an Employee. Also, an individual who renders services to the Employer pursuant to an agreement between the Employer and a leasing organization, temporary employment agency or any other organization is not an Employee. Any individual who is retroactively or in any other way held or found to be a "statutory" or "common law employee" of the Employer will not be eligible to participate in the Plan for any period he or she was not contemporaneously treated as an Employee by the Employer and considered by the Employer to be an Employee under this Section 1.22. In addition, such an individual will remain ineligible for participation in the Plan unless the Plan is amended to specifically render the individual eligible for Plan participation.

1.23 "Employer" means the Company, F.B.C. Finance Company, and any other company participating in the Plan as provided in Section 11.03 with respect to its employees.

1.24 "Enrollment Date" means the Effective Date and the first day of any pay period thereafter as of which an Employee who has met the Plan's eligibility requirements elects to commence participation in the Plan.

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

1.26 "Final Average Compensation" means the sixty (60) consecutive calendar months of Benefit Service during which the Participant's average monthly Compensation is the highest out of the one hundred twenty (120) consecutive

calendar months of Benefit Service immediately preceding the Participant's date of termination, retirement or Disability. If the Participant has less than sixty (60) consecutive months of Benefit Service, his Final Average Compensation shall be equal to the monthly average of his Compensation during the total calendar months of his Benefit Service. Compensation earned during partial months of Benefit Service shall be ignored.

For purposes of this Section 1.26, months of Benefit Service shall be considered consecutive if separated by (a) a Break in Service, (b) a period of layoff, (c) an unpaid leave of absence, (d) a period of non-covered service, or (e) a period during which no Participant Contributions are made.

1.27 "Highly Compensated Employee" means an Employee classified as a highly compensated employee as determined under Section 414(q) of the Code and any regulations issued thereunder. Notwithstanding the foregoing, for each Plan Year the Administrative Committee may elect to determine the status of Highly Compensated Employees under the simplified snapshot method described in IRS Revenue Procedure 93-42.

Effective for Plan Years beginning January 1, 1997, "Highly Compensated Employee" means an Employee who:

- (a) was a five percent (5%) owner during the current Plan Year or the preceding Plan Year; or
- (b) during the preceding Plan Year,
  - (1) received Section 414(s) Compensation of more than \$80,000 (or such larger amount as may be modified for cost-of-living adjustments by the Commissioner of the IRS); and
  - (2) if the Employer so elects, was a member of the top twenty percent (20%) of active Employees when ranked on the basis of Section 414(s) Compensation during the preceding Plan Year. Any election hereunder shall be made in accordance with regulations issued under section 414(q)(1) of the Code, as amended by section 1431(a) of the Small Business Job Protection Act of 1996. For purposes of determining the group with the highest twenty percent (20%) of Section 414(s) Compensation, employees described in Section 414(q)(8) of the Code and Q&A-9(b) of regulation section 1.414(q)-1T are excluded.

For purposes of determining Highly Compensated Employees, employers aggregated with the Employer under section 414(b), (c), (m) or (o) are treated as a single Employer.

1.28 "Hour of Service" means, for purposes of determining a Participant's Benefit Service, each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer or an Affiliated Employer.

For purposes of determining an Employee's Vesting and Eligibility Service, Hour of Service means, with respect to any applicable computation period-

- (a) Each hour for which the Employee is paid or entitled to payment for the performance of duties for the Employer or an Affiliated Employer,
- (b) Each hour for which the Employee is paid or entitled to payment by the Employer or an Affiliated Employer on account of a period during which no duties are performed, whether or not the employment relationship has terminated, due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty or Leave of Absence, but not more than 501 hours for any single continuous period,
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer or an Affiliated Employer, excluding any hour credited under (a) or (b), which shall be credited to the computation period or periods to which the award, agreement or payment pertains, rather than to the computation period in which the award, agreement or payment is made, and
- (d) Solely for purposes of determining whether the Employee has incurred a Break in Service under the Plan, each hour for which the Employee would normally be credited under paragraph (a) or (b) above during a period of Parental Leave but not more than 501 hours for any single continuous period. However, the number of hours credited to the Employee under this paragraph (d) during the computation period in which the Parental Leave began, when added to the hours credited to the Employee under paragraphs (a) through (c) above during that computation period, shall not exceed 501. If the number of hours credited under this paragraph (d) for the computation period in which the Parental Leave began is zero, the provisions of this paragraph (d) shall apply as though the Parental Leave began in the immediately following computation period.

No hours shall be credited on account of any period during which the Employee performs no duties and receives payment solely for the purpose of complying with unemployment compensation, workers' compensation or disability insurance laws. Hours of Service are also not required to be credited for a payment which solely reimburses an

Employee for medical or medically related expenses incurred by the Employee. The Hours of Service credited shall be determined as required by Title 29 of the Code of Federal Regulations, Section 2530.200b-2(b) and (c).

1.29 “IRS Interest Rate” means the annual rate of interest on 30-year Treasury Securities as specified by the Commissioner for the November (the look-back month) preceding the Stability Period.

1.30 “IRS Mortality Table” means the mortality table prescribed by the Secretary of the Treasury under Code Section 417(e)(3)(A)(ii)(I) as in effect on the first day of the applicable Stability Period.

1.31 “Investment Manager” means the person (or organization), if any, to whom the Company has, pursuant to Section 10.03, delegated the responsibility and authority to manage, acquire or dispose of all or a designated portion of the assets of the Plan. The Investment Manager shall be (a) registered in good standing as an investment adviser under the Investment Advisers Act of 1940 (the “Act”), (b) a bank, as defined in the Act, or (c) an insurance company qualified to perform investment management services under the laws of more than one state of the United States. In addition, the Investment Manager shall acknowledge in writing that it is a fiduciary with respect to the management, acquisition and control of all or the designated portion of the assets of the Plan.

1.32 “Leased Employee” means any person (other than a person described in Section 414(n)(5) of the Code) who is not otherwise an Employee of the Employer or an Affiliated Employer and who provides services to the Employer or an Affiliated Employer (the “Recipient”) if:

- (a) Such services are provided pursuant to an agreement between the Recipient and a “leasing organization”;
- (b) Such person has performed such services for the Recipient (or the Recipient and the Employer or an Affiliated Employer) on a substantially full-time basis for a period of at least one year; and
- (c) Effective for Plan Years beginning after December 31, 1996, such services are performed under the primary direction and control of the Employer.

1.33 “Leave of Absence” means an absence authorized by the Employer under its standard personnel practices as applied in a uniform and nondiscriminatory manner to all persons similarly situated.

1.34 “Maximum Compensation Limitation” means, effective on or after January 1, 1989, and before January 1, 1994, \$200,000 per year. As of January 1 of each calendar year on and after January 1, 1990, and before January 1, 1994, the Maximum Compensation Limitation as determined by the Commissioner of Internal Revenue for the calendar year shall become effective as the Maximum Compensation Limitation taken into account for Plan purposes for the Plan Year beginning within that calendar year in lieu of the \$200,000 limitation set forth above.

Commencing January 1, 1994, the Maximum Compensation Limitation means \$150,000 per year. If for any calendar year after 1994, the cost-of-living adjustment described in the following sentence is equal to or greater than \$10,000, then the Maximum Compensation Limitation (as previously adjusted hereunder) for any Plan Year beginning in any subsequent calendar year shall be increased by the amount of such cost-of-living adjustment, rounded to the next lowest multiple of \$10,000. The cost-of-living adjustment shall equal the excess of (i) \$150,000 increased by the adjustment made under Section 415(d) of the Code for the calendar year, except that the base period for purposes of Section 415(d)(1)(A) of the Code shall be the calendar quarter beginning October 1, 1993, over (ii) the Maximum Compensation Limitation in effect for the Plan Year beginning in the calendar year.

Prior to Plan Years beginning on January 1, 1997, in determining a Participant’s compensation for purposes of the Maximum Compensation Limitation, if any individual is a member of the family of a 5-percent owner or of a Highly Compensated Employee who is in the group consisting of the 10 individuals paid the greatest compensation during the year, then (i) such individual shall not be considered as a separate employee and (ii) any compensation paid to such individual (and any applicable benefit on behalf of such individual) shall be treated as if it were paid to (or on behalf of) the 5-percent owner or Highly Compensated Employee; provided, however, that for purposes of this Section 1.34, the term “family” shall include only the

Participant’s Spouse and any lineal descendants of the Participant who have not attained age 19 before the close of the year. If, as a result of the application of the foregoing family aggregation rules, the Maximum Compensation Limitation is exceeded, then the limit shall be prorated among the affected individuals in proportion to each such individual’s compensation as determined prior to the application of the Maximum Compensation Limitation. After December 31, 1996, the family aggregation rules are repealed.

1.35 “Normal Retirement Age” means the date the Participant attains age 65.

- 1.36 “Normal Retirement Date” means the first day of the calendar month on or immediately after an Employee’s Normal Retirement Age.
- 1.37 “Parental Leave” means a period in which the Employee is absent from work immediately following his or her active employment due to (a) the Employee’s pregnancy, (b) the birth of the Employee’s child, (c) the placement of a child with the Employee in connection with the adoption of that child by the Employee, or (d) the Employee’s caring for that child for a period beginning immediately following the birth or placement of such child. Such a leave shall be subject to verification by the Administrative Committee.
- 1.38 “Participant” means any person included for participation in the Plan as provided in Article 2 and who continues to be entitled to benefits under the Plan.
- 1.39 “Participant Contributions” means the mandatory contributions paid by Participants pursuant to Section 3.01.
- 1.40 “Pension” means a Participant’s benefit under the Plan, generally payable in the form of an annuity.
- 1.41 “Plan” means the Farmer Bros. Co. Retirement Plan as set forth in this document, or as amended from time to time.
- 1.42 “Plan Year” means the 12-month period beginning on any January 1.
- 1.43 “Postponed Retirement Date” means the first day of the calendar month on or immediately after the date that a Participant terminates his employment with the Employer or an Affiliated Employer after his Normal Retirement Date.
- 1.44 “Qualified Domestic Relations Order” means a judgment, decree, or order issued by a court of competent jurisdiction which:
- (a) Creates for, or assigns to, a Spouse, former Spouse, child or other dependent of a Participant the right to receive all or a portion of the Participant’s benefits under the Plan for the purpose of providing child support, alimony payments or marital property rights to that Spouse, former Spouse, child or dependent;
  - (b) Is made pursuant to a State domestic relations law;
  - (c) Does not require the Plan to provide any type of benefit, or any option, not otherwise provided under the Plan; and
  - (d) Otherwise meets the requirements of Section 206(d) of ERISA as determined by the Administrative Committee.
- 1.45 “Qualified Joint and Survivor Annuity” means an annuity described in Section 7.02(a).
- 1.46 “Residual Accrued Pension Derived from Participant Contributions” is equal to the excess, if any, of the Participant’s Accrued Pension Derived from Participant Contributions over the Participant’s Alternate Accrued Pension Derived from Participant Contributions.
- 1.47 “Retirement Date” means a Participant’s Early, Normal or Postponed Retirement Date, whichever is applicable.
- 1.48 “Section 203(a)(3)(B) Service” means the employment of an Employee by the Employer or an Affiliated Employer during a calendar month, subsequent to the time the payment of the Participant’s Pension commenced or would have commenced if the Employee had not remained in or returned to employment during such month, if the Employee is credited with at least 40 Hours of Service during such calendar month.
- 1.49 “Section 417 Interest Rate” means the interest rate or rates that would be used by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution upon termination of an insufficient trusteed single-employer plan as of the first day of the Plan Year in which the determination is made.
- 1.50 “Severance from Service Date” means the earlier of:
- (a) The date an Employee quits, retires, is discharged or dies, or
  - (b) The first anniversary of the date on which an Employee is first absent from service from the Employer or an Affiliated Employer, with or without pay, for any reason (other than resignation, retirement, discharge or death), such as vacation, sickness, Disability, layoff or Leave of Absence.
- 1.51 “Spousal Consent” means written consent given by a Participant’s Spouse to an election made by the

Participant of a specified form of benefit or a designation by the Participant of a specified Beneficiary other than the Spouse. That consent shall be duly witnessed by a Plan representative or notary public and shall acknowledge the effect on the Spouse of the Participant's election. The requirement for spousal consent may be waived by the Administrative Committee if it is established to its satisfaction that there is no spouse, or that the Spouse cannot be located, or because of such other circumstances as may be established by applicable law. Spousal Consent shall be applicable only to the particular Spouse who provides such consent.

1.52 "Spouse" means the person legally married to the Participant.

1.53 "Stability Period" means the calendar year in which the Annuity Starting Date occurs for the distribution.

1.54 "Trust" means the fund established by the Company to hold and invest the assets of the Plan.

1.55 "Trustee" means the bank, trust company or individuals selected by the Company to take custody of the assets of the Plan.

1.56 "Year of Eligibility Service" means, with respect to an Employee, the 12-month period beginning on the first date as of which the Employee is credited with an Hour of Service, or any Plan Year beginning after that date, in which the Employee first completes at least 1,000 Hours of Service.

1.57 "Year of Vesting Service" means, with respect to an Employee, any Plan Year in which the Employee completes at least 1,000 Hours of Service. If the Employee incurs a Break in Service, and he is subsequently rehired, the Employee's Years of Vesting Service accrued after reemployment shall be aggregated with his Years of Vesting Service accrued prior to the Break in Service only if (i) the Employee was vested in his Accrued Pension Derived from Employer Contributions, or (ii) (A) the Employee's consecutive one-year Breaks in Service do not equal or exceed the greater of five years or his Years of Vesting Service before the Break in Service, and (B) the Employee is credited with at least one Year of Vesting Service after his Break in Service. If the Employee's Break in Service ended prior to January 1, 1985, or if he had a Break in Service on December 31, 1984, and the number of his consecutive one-year Breaks in Service as of that date exceeded his Years of Vesting Service under the Plan provisions then in effect, then his previously accrued Years of Vesting Service shall be excluded.

If an Employee returns to employment after a period of service in the uniformed services of the United States within the time stipulated under Section 414(u) of the Code, he/she shall be credited for Years of Vesting Service during such period.

1.58 'Union Employee' means an Employee who is not eligible to participate in the Plan solely because he is a member of a unit of employees covered by a collective bargaining agreement between employee representatives and the Employer or Affiliated Employer and there is evidence that retirement benefits were the subject of good faith bargaining and the agreement does not provide for such Employee's participation in the Plan.

## **Article 2. Eligibility and Participation**

### **2.01 Eligibility**

(a) Each Employee who is a Participant in the Plan on December 31, 1988, shall continue to be a Participant in the Plan as of January 1, 1989. Former Employees who retired, died or terminated prior to January 1, 1989, shall continue to receive or be entitled to receive such benefits as they may have accrued pursuant to the terms of the Plan in effect on December 31, 1988.

(b) Each other Employee shall be eligible to become a Participant in the Plan provided that he is an Eligible Employee and:

(i) The Employee has completed one Year of Eligibility Service; or

(ii) The Employee was a participant under, and transferred from, another plan maintained by the Employer.

### **2.02 Participation**

An Employee who is eligible to become a Plan Participant in accordance with Section 2.01 shall become a Participant as of the first Enrollment Date after the date he files with the Employer, within the time period established by the Administrative Committee, an enrollment form as prescribed by the Administrative Committee which shall authorize the Employer to deduct from his Compensation the Participant Contributions required under Section 3.01.

## 2.03 Reemployment of Former Employees and Former Participants

(a) Any person reemployed by the Employer as an Eligible Employee who was previously a Participant or who was previously eligible to become a Participant, shall be immediately eligible to become a Participant in the Plan upon the filing of an enrollment form in accordance with Section 2.02.

(b) Each other person reemployed by the Employer as an Eligible Employee shall be eligible to become a Participant in the Plan upon satisfying the requirements of Section 2.01(b) and the filing of an enrollment form in accordance with Section 2.02.

## 2.04 Transferred Participants

A Participant who remains in the employ of the Employer or an Affiliated Employer, but ceases to be an Eligible Employee, shall continue to be a Participant in the Plan, but shall not be eligible to make Participant Contributions or otherwise accrue benefits under the Plan while his employment status is other than as an Eligible Employee.

## 2.05 Termination of Participation

An Eligible Employee's participation in the Plan shall terminate on the date he terminates employment with the Employer and all Affiliated Employers unless the Participant is entitled to benefits under the Plan, in which event his participation shall terminate when those benefits are distributed to him.

# Article 3. Contributions

## 3.01 Participant Contributions

Each Employee who meets the eligibility requirements for Plan participation described in Article 2, and who completes an enrollment form as described in Section 2.02, shall:

(a) Prior to April 1, 1995, contribute to the Plan, by payroll deduction, 2% of his Compensation for all periods that he is an active Plan Participant inclusive of a period of active Plan participation after he has reached Normal Retirement Age; and

(b) On and after April 1, 1995, contribute to the Plan, by payroll deduction, 2% of his Compensation for all periods that he is an active Plan Participant inclusive of a period of active Plan participation after he has reached Normal Retirement Age; provided, however, that such Participant Contributions shall not be required (or permitted):

(i) With respect to a Participant who is an Employee as of January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, after the Participant has been credited with 60 months of Benefit Service (before Section 1.11(g) is applied); and

(ii) With respect to a Participant who is not an Employee as of January 1, 1995, and who is not on an approved Leave of Absence as of January 1, 1995, after the Participant has been credited with 60 months of Benefit Service after January 1, 1995 (before Section 1.11(g) is applied).

## 3.02 Suspension of Participation

(a) Participation in the Plan by each Eligible Employee is voluntary. A Participant may suspend his participation as of the end of any pay period. To suspend participation the Participant must file a written notice with the Administrative Committee within the time period established by the Administrative Committee. A Participant who has suspended participation may resume participation on the first day of any pay period which is at least twelve calendar months after the effective date of his last suspension of participation.

(b) In no event shall a Participant be permitted to make up contributions he could have made during a period of suspension.

## 3.03 In-Service Withdrawal of Accumulated Contributions

On and after January 1, 1985, a Participant shall not be permitted to withdraw his Participant Contributions while he is employed by the Employer.

## 3.04 Employer Contributions

The Employer shall make the contributions that, in addition to the contributions made by Participants employed by the Employer, are necessary to maintain the Plan on a sound actuarial basis and to meet the minimum funding standards prescribed by law. Any forfeitures shall be used to reduce the contributions otherwise payable by the Employer.

## 3.05 Plan-to-Plan Transfers / Rollover Contributions

A Participant shall not be permitted to transfer to the Trust any portion of his distribution from any other qualified plan, nonqualified plan, or individual retirement annuity or account.

### 3.06 Return of Contributions

Except as provided below, at no time shall any contributions (or portions thereof) revert to the Employer prior to discharge of all liabilities under the Plan -

(a) The Employer's contributions to the Plan are conditioned upon Section 404 of the Code. If all or part of the Employer's deductions under Section 404 of the Code for contributions to the Plan are disallowed by the Internal Revenue Service, the portion of the contributions to which that disallowance applies shall be returned to the Employer without interest but reduced by any investment loss attributable to those contributions. The return shall be made within one year after the disallowance of the deduction.

(b) The Employer may recover, without interest, the amount of its contributions to the Plan made on account of a mistake of fact, reduced by any investment loss attributable to those contributions, if recovery is made within one year after the date of those contributions.

### 3.07 Contributions during Period of Service in the Uniformed Services of the United States

(a) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified service in the uniformed services of the United States will be provided in accordance with Section 414(u) of the Code. Without regard to any limitations on contributions set forth in this Article 3, a Participant who is reemployed on or after August 1, 1990 and is credited with benefit service under the provisions of Section 1.11 because of a period of service in the uniformed services of the United States, may elect to contribute to the Plan the Participant Contributions that could have been contributed to the Plan in accordance with the provisions of the Plan had he or she remained continuously employed by the Employer throughout such period of absence ("make-up contributions"). The amount of make-up contributions shall be determined on the basis of the Participant's Compensation in effect immediately prior to the period of absence, and the terms of the Plan at such time. Any contribution to the Plan described in this paragraph shall be made during the applicable repayment period. The repayment period shall equal three (3) times the period of absence, but not longer than five (5) years and shall begin on the latest of: (i) the Participant's date of reemployment, (ii) October 13, 1996, or (iii) the date the Employer notifies the Employee of his or her rights under this Section. Credited interest on make-up contributions is made in accordance with Section 1.04.

(b) Participant Contributions under this Section 3.07 are considered "Annual Additions," as defined in Section 415(c)(2) of the Code, and shall be limited in accordance with the provisions of Section 6.01 and Appendix A with respect to the Plan Year or Plan Years to which such contributions relate rather than the Plan Year in which payment is made.

## Article 4. Termination of Employment Prior to Retirement

### 4.01 Amount of Vested Interest

(a) A Participant shall at all times be fully vested in his Accrued Pension Derived from Participant Contributions and Residual Accrued Pension Derived from Participant Contributions, whichever is applicable.

(b) A Participant shall become fully vested in his Accrued Pension Derived from Employer Contributions on the date he (i) attains his Normal Retirement Age provided that the Participant is employed by an Employer or Affiliated Employer on that date, or (ii) completes 5 years of Vesting Service.

### 4.02 Distribution of Vested Interest

(a) If, on his Severance from Service Date, the Participant has no vested interest in his Accrued Pension, the Participant shall be deemed to have received a cash lump sum of \$0 (equal to the present value of his vested Accrued Pension as of such termination date) and such Accrued Pension shall be forfeited as of his Severance from Service Date.

(b) If, on his Severance from Service Date, the Participant has a vested interest only in his Accrued Pension Derived from Participant Contributions (i.e., he has no vested interest in his Accrued Pension Derived from Employer Contributions), the Participant may elect:

- (i) To receive a lump sum distribution of his Accumulated Contributions, with Spousal Consent if the present value of his vested Accrued Pension exceeds \$5,000 (prior to August 5, 1997 this amount was \$3,500), in which event he will forfeit his Accrued Pension Derived from Employer Contributions; however, if he later again becomes a Participant, he may repay such

Accumulated Contributions in accordance with the repayment provisions contained in Section 4.03 in order to restore his prior Accrued Pension;

- (ii) To receive his Accrued Pension Derived from Participant Contributions in the form of an immediate annuity, commencing as of the first day of the month immediately following the Participant's Severance from Service Date; the annuity shall be the Actuarial Equivalent (determined without regard to the early retirement factors described in Section 5.03(b)) of the Participant's Accrued Pension Derived from Participant Contributions and shall be payable only as a Qualified Joint and Survivor Annuity; or
- (iii) To receive his Accrued Pension Derived from Participant Contributions commencing as of his Retirement Date.

(c) If, on his Severance from Service Date, the Participant has a vested interest only in his Accrued Pension Derived from Employer Contributions (i.e., he has no Accumulated Contributions), he will receive a deferred Pension based on such interest commencing as of his Retirement Date.

(d) If, on his Severance from Service Date, the Participant has a vested interest in his Accrued Pension Derived from Participant Contributions and his Accrued Pension Derived from Employer Contributions, he may elect:

- (i) To receive his entire Accrued Pension commencing as of his Retirement Date;
- (ii) Prior to the date that he commences to receive the Pension described in Section 4.02(d)(i), to receive a lump sum distribution of his Accumulated Contributions, with Spousal Consent if the present value of his Accrued Pension exceeds \$5,000 (prior to August 5, 1997 this amount was \$3,500); if he later again becomes a Participant, he may repay such Accumulated Contributions in accordance with the repayment provisions contained in Section 4.03 in order to restore his prior Accrued Pension; in the event the Participant does not repay his Accumulated Contributions, the Pension payable to the Participant as of his Retirement Date shall be the sum of his (A) Accrued Pension Derived from Employer Contributions and (B) Residual Accrued Pension Derived from Participant Contributions; or
- (iii) Prior to the date that he commences to receive the Pension described in Section 4.02(d)(i), to receive his Accrued Pension Derived from Participant Contributions in the form of an immediate annuity; the annuity shall be the Actuarial Equivalent (determined without regard to the early retirement factors described in Section 5.03(b)) unless the Participant has attained age 55) of the Participant's Accrued Pension Derived from Participant Contributions and shall be payable only as a Qualified Joint and Survivor Annuity; in the event the Participant elects to receive his Accrued Pension Derived from Participant Contributions as an immediate annuity, the additional Pension payable to the Participant as of his Retirement Date shall be the sum of his (A) Accrued Pension Derived from Employer Contributions and (B) Residual Accrued Pension Derived from Participant Contributions.

(e) In any case, an immediate lump sum payment, which is the Actuarial Equivalent of the Participant's vested Accrued Pension, shall be made in lieu of all benefits if the value of the lump sum payment is \$5,000 (prior to August 5, 1997 this amount was \$3,500) or less. The lump sum payment may be made at any time on or after the date the Participant terminates employment. However, if a lump sum payment is to be made after a Participant's Annuity Starting Date, the Participant must consent in writing to such form of distribution and, if he is married,

Spousal Consent must also be obtained. If a Participant, who has a vested interest only in his Accrued Pension Derived from Participant Contributions (i.e., he has no vested interest in his Accrued Pension Derived from Employer Contributions), receives a lump sum distribution in accordance with this subparagraph (e) and later again becomes a participant, he may repay his Accumulated Contributions in accordance with the repayment provisions contained in Section 4.03 in order to restore his prior Accrued Pension.

#### 4.03 Repayment of Participant Contributions

A Participant who has received a prior distribution of his Accumulated Contributions shall have forfeited his Accrued Pension Derived from Participant Contributions to the extent of such distribution, and may have forfeited the related Accrued Pension Derived from Employer Contributions. A Participant may restore such benefits by repaying the amount of the prior distribution of Accumulated Contributions, plus interest at the rates described in Section 1.04 from the date of the prior distribution to the date of repayment. Such repayment must be made:

- (a) In the case of an in-service withdrawal as described in Section 3.03, within 5 years of the date of withdrawal, or

(b) In the case of a withdrawal after a Severance from Service Date as described in Section 4.02, before the earlier of (i) 5 years after the Participant is reemployed by the Employer or an Affiliated Employer following the withdrawal, or (ii) the date the Participant incurs 5 consecutive one-year Breaks in Service after the withdrawal.

## Article 5. Eligibility for and Amount of Pension Benefits

### 5.01 Normal Retirement

(a) The right of a Participant to his normal retirement Pension shall be nonforfeitable as of the date he attains his Normal Retirement Age provided that the Participant is employed by an Employer or Affiliated Employer on that date. A Participant who has attained Normal Retirement Age may retire and commence to receive a normal retirement Pension, upon providing written notification to the Administrative Committee, beginning as of his Normal Retirement Date, or he may postpone his retirement Pension in which event the provisions of Section 5.02 shall be applicable.

(b) Subject to Section 5.01(g), the normal retirement Pension payable upon retirement on a Participant's Normal Retirement Date shall be a monthly benefit payable for life, equal to (i) plus, where applicable (ii), as follows:

- (i) One and one-half percent (1.5%) of the Participant's Final Average Compensation multiplied by his Benefit Service accrued after December 31, 1978.
- (ii) For a Participant who participated in the Plan prior to January 1, 1979, the greater of:
  - (A) The Participant's accrued monthly benefit as of December 31, 1978, determined in accordance with the terms of the Plan in effect on that date; or
  - (B) One and one-half percent (1.5%) of the Participant's Final Average Compensation multiplied by his Benefit Service accrued prior to January 1, 1979.

(c) Notwithstanding Section 5.01(b), with respect to a Participant who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, the Participant's monthly normal retirement Pension shall not be less than the sum of:

- (i) \$60.00 multiplied by the Participant's Benefit Service not in excess of 20 years; and
- (ii) \$80.00 multiplied by the Participant's Benefit Service in excess of 20 years.

(d) Notwithstanding Section 5.01(b), a Participant's normal retirement Pension shall never be less than his Accrued Pension Derived from Participant Contributions calculated as of his Normal Retirement Age.

(e) Notwithstanding Section 5.01(b), a Participant's normal retirement Pension shall not be less than the sum of:

- (i) His OBRA 1993 Accrued Pension; and
- (ii) His Accrued Pension determined as of his Normal Retirement Date using Benefit Service and Compensation earned on and after January 1, 1994. For purposes of this subparagraph (ii), the Participant's Compensation in each of the relevant years shall not exceed the Maximum Compensation Limitation (as adjusted in accordance with Section 1.34) in effect for each of the relevant years on and after January 1, 1994.

(f) The following definitions apply to the terms used in this Section 5.01:

- (i) "OBRA 1988 Accrued Pension" means the Participant's Accrued Pension determined as if the Participant terminated employment on December 31, 1988 (or date of termination, if earlier).
- (ii) "OBRA 1993 Accrued Pension" means the greater of:
  - (A) The Participant's Accrued Pension, determined using all Benefit Service and Compensation earned prior to January 1, 1994. For purposes of this subparagraph (A), the Participant's Compensation in each of the relevant years shall not exceed the \$200,000 Maximum Compensation Limitation (as adjusted in accordance with Section 1.34) in effect prior to January 1, 1994; or
  - (B) The sum of (i) the Participant's OBRA 1988 Accrued Pension, and (ii) the Participant's Accrued Pension, determined using Years of Service and Compensation earned after December 31, 1988, and prior to January 1, 1994. For purposes of this subparagraph (B)(ii), the Participant's Compensation in each of the relevant years shall not exceed the \$200,000 Maximum Compensation Limitation (as adjusted in accordance with Section 1.34) in effect prior to January 1, 1994.

(g) Upon a Retirement Date, a Participant may elect to receive an immediate lump sum distribution of his Accumulated Contributions. In such event, the benefits payable to the Participant pursuant to this Section 5.01 shall be the sum of his (i) Accrued Pension Derived from Employer Contributions and (ii) Residual Accrued Pension Derived from Participant Contributions.

#### 5.02 Postponed Retirement

(a) If a Participant retires on a Postponed Retirement Date or otherwise postpones his retirement Pension, he shall commence to receive a late retirement Pension as of the earlier of (i) the first day of the calendar month after his actual Retirement Date; (ii) the date that he is required to commence receiving payment of his benefit in accordance with Section 7.06(b); or (iii) the first day of the calendar month after the calendar month in which the Participant is no longer employed in Section 203(a)(3)(B) Service.

(b) A late retirement Pension that commences after the Participant elects a Postponed Retirement Date shall, subject to the provisions of Section 7.02, be equal to:

- (i) With respect to any Participant who during any month after his Normal Retirement Date is not employed in Section 203(a)(3)(B) Service, the Accrued Pension accrued by the Participant as of his Normal Retirement Date determined in accordance with Section 5.01(b) above, plus, for each Plan Year ending after the Participant's Normal Retirement Date through the Participant's Postponed Retirement Date, the greater of:
  - (A) The additional Accrued Pension accrued by the Participant for each such Plan Year determined in accordance with Section 5.01(b) based on the Participant's Compensation and Benefit Service earned in such Plan Year, or
  - (B) The actuarial increase in the Accrued Pension accrued by the Participant as of the end of the Plan Year preceding the Plan Year in question to take into account the nonpayment of such benefits.
- (ii) With respect to all other Participants, the greater of:
  - (A) The Accrued Pension accrued by the Participant determined in accordance with Section 5.01(b) based on the Participant's Final Average Compensation and Benefit Service as of his Postponed Retirement Date, or
  - (B) The Participant's Accrued Pension as of his Normal Retirement Date determined in accordance with Section 5.01(b), actuarially increased to take into account the nonpayment of such benefits.

(c) If a Participant's Pension commences in accordance with the requirements of Section 7.06(b), but before the Participant elects a Postponed Retirement Date, the following provisions shall apply:

- (i) The Pension payable to the Participant as of the date required by Section 7.06(b) shall be calculated in accordance with Section 5.02(b) above through the date the Pension will commence in accordance with Section 7.06(b), rather than through the Participant's Postponed Retirement Date; and
- (ii) The amount of Pension to which a Participant is entitled under the Plan shall be recalculated annually in accordance with Section 5.02(b) above, during the period that the Participant is still employed by the Employer or an Affiliated Employer, as of the end of each Plan Year with the amount of the Pension being paid adjusted as of the first day of the following Plan Year. Any additional accrual during a Plan Year shall be reduced, however, by the Actuarial Equivalent of the employer-derived portion of any payments during the Plan Year to the Participant during any month in which the Participant is employed in Section 203(a)(3)(B) Service; provided, however, that such reduction shall not exceed 25% of the amount of the Pension due the Participant before application of the reduction provided for in this sentence.

(d) A Participant who continues employment past his Normal Retirement Date shall be given such notice with respect to the suspension of his retirement benefit payments as is required by applicable Department of Labor Regulations.

#### 5.03 Early Retirement

(a) A Participant who has not reached his Normal Retirement Date but who, prior to his termination of employment with the Employer and all Affiliated Employers, has reached an Early Retirement Date may elect to retire on an Early Retirement Date and commence to receive an early retirement Pension as of the first day of the calendar month after he submits to the Administrative Committee a written application for retirement benefits.

(b) Unless the Participant otherwise elects, the early retirement Pension shall be a deferred Pension beginning on the Participant's Normal Retirement Date and, subject to the provisions of Section 7.02, shall be equal to his Accrued Pension. However, the Participant may elect to receive an early retirement Pension beginning on the first day of any calendar month on or after his Early Retirement Date but before his Normal Retirement Date. The Participant's early retirement Pension shall be equal to the Participant's Accrued Pension reduced by one-third of one percent for each full calendar month by which the date the Participant's actual Early Retirement Date precedes the Participant's Normal Retirement Date; provided, however, that if the Participant is credited with an Hour of Service on or after January 1, 1995, or the Participant is on an approved Leave of Absence as of January 1, 1995, and the sum of Participant's age and Benefit Service as of his actual Early Retirement Date equals at least 82, the Participant's early retirement Pension shall be equal to the Participant's Accrued Pension reduced by one-third of one percent for each full calendar month, if any, by which the date the Participant's actual Early Retirement Date precedes the date that the Participant will attain age 62.

#### 5.04 Disability Retirement

(a) If a Participant ceases to be employed by the Employer while an Employee on account of Disability, and he has not reached his Normal Retirement Date, but (i) has attained age 45, (ii) has completed 10 years of Benefit Service, and (iii) is eligible for and continuously receiving disability insurance benefits under the Social Security Act, the Participant shall upon such termination of employment be eligible to receive a disability retirement Pension beginning on the first day of the calendar month immediately after the Administrative Committee receives written application for the disability retirement Pension made by or for the Participant.

(b) Subject to the provisions of Section 7.02, the disability retirement Pension shall be equal to the Participant's Accrued Pension determined in accordance with Section 5.03(b) as if the Participant had elected to retire as of the date disability benefits commence, but it shall only be payable subject to continuance of his Disability as provided in Section 5.04(c).

(c) As a condition of his continuing to receive a disability retirement Pension, a Participant who has not reached his Normal Retirement Date may be required by the Administrative Committee to provide satisfactory proof of his continued receipt of disability insurance benefits under the Social Security Act. If the Participant refuses to provide that proof, his disability retirement Pension shall cease until he no longer refuses to provide that proof. If his refusal continues for a year, all rights to the disability retirement Pension shall cease and the election of an optional benefit if one has been elected shall no longer be effective. If the Administrative Committee finds that the Participant has stopped receiving those disability insurance benefits, his disability retirement Pension shall cease. In that case, if the Participant is not restored to service with the Employer or an Affiliated Employer, he shall be entitled to (1) retire on an early retirement Pension as of the first day of the calendar month immediately after his disability retirement Pension ceases, if as of the date his disability retirement Pension ceases, he has attained the required age for early retirement, or (b) to receive a vested Pension payable in accordance with Section 5.05. In either case, the Pension shall be equal to the Participant's Accrued Pension determined in accordance with Section 5.03(b) as if the Participant had elected to retire as of the date disability benefits commenced.

#### 5.05 Termination With Vesting

(a) In accordance with Section 4.01, a Participant shall be 100 percent vested in, and have a nonforfeitable right to, his Accrued Pension on the date he (i) attains his Normal Retirement Age provided that the Participant is employed by an Employer or Affiliated Employer on that date, or (ii) completes 5 years of Vesting Service. If the Participant's employment with the Employer is subsequently terminated for reasons other than retirement or death, he shall be eligible for a deferred vested Pension to commence, as of a date described in Section 5.05(b) below, after the Participant has provided written notification to the Administrative Committee of his intention to commence receiving his Pension benefits.

(b) The deferred vested Pension shall generally commence to be paid as of the Participant's Normal Retirement Date and, subject to the provisions of Section 7.02, shall be equal to his Accrued Pension. However, if the Participant has completed five Years of Vesting Service on the date of his termination, the Participant may elect to have his vested Pension commence as of the first day of any calendar month after he attains age 55 and before his Normal Retirement Date. In that case, the Participant's Pension shall be equal to the Participant's vested Pension otherwise payable at his Normal Retirement Date reduced by one-third of one percent for each full calendar month by which the date the Participant's actual Retirement Date precedes the Participant's Normal Retirement Date.

#### 5.06 Adjustments to Pensions in Pay Status

(a) Effective September 1, 1980, the Pension payable to a Participant who is receiving a monthly annuity on that date shall be increased by 3% for each complete year of retirement, measured from the date benefits became payable and ending on September 1, 1980.

(b) Effective January 1, 1986, the Pension payable to a Participant who is receiving a monthly annuity on that date shall be increased by the lesser of:

- (i) 10%; or
- (ii) 2% multiplied by the excess, if any, of 1986 over the year benefits first became payable.

(c) Effective January 1, 1990, the Pension payable to a Participant who is receiving a monthly annuity on that date shall be increased 10%.

#### 5.07 Suspension of Benefits

(a) During any month in which a Participant who is receiving a Pension is employed in Section 203(a)(3)(B) Service as an Eligible Employee, the following provisions shall apply provided that the Participant is delivered a notice that complies with Department of Labor Regulations Section 2530.203-3:

(i) The Participant's Pension shall cease and any election of an optional benefit in effect shall be void.

(ii) Any Years of Vesting Service and Benefit Service to which the Participant was entitled when he retired or terminated service shall be restored to him.

(iii) Upon later retirement, termination, or failure to be employed in Section 203(a)(3)(B) Service, the Participant's Pension shall be calculated in accordance with the following:

(A) If his reemployment occurred prior to his Normal Retirement Date, his Pension shall be calculated under the benefit formula in effect upon his latest Retirement Date, based on his Compensation and Benefit Service before and after the period when he was not in the service of the Employer, reduced by the Actuarial Equivalent of the benefits, if any, he received before his return to service with the Employer; or

(B) If his reemployment occurred on or after his Normal Retirement Date, his Pension shall be equal to the benefit he was receiving as of his rehire date plus any additional benefits he accrued on account of his Compensation and Benefit Service after such rehire date. Any additional accrual during a Plan Year shall be reduced, however, by the Actuarial Equivalent of the employer-derived portion of any payments during the Plan Year to the Participant during any month in which the Participant is employed in Section 203(a)(3)(B) Service; provided, however, that such reduction shall not exceed 25% of the amount of the Pension due the Participant before application of the reduction provided for in this sentence.

(iv) The portion of the Participant's Pension upon later retirement payable with respect to Benefit Service rendered before his previous retirement or termination of service shall never be less than the amount of his previous Pension modified to reflect any option in effect on his later retirement.

(b) The Administrative Committee shall establish procedures consistent with Department of Labor Regulations Section 2530.203-3 regarding the suspension of benefits under this Section 5.07 including but not limited to procedures for resumption of benefits, offsetting benefit payments and notice regarding suspension of benefits.

#### 5.08 Nonduplication of Benefits

Any Pension payable under the Plan shall be reduced by any pension paid to a Participant under the terms of any other defined benefit pension plan to which the Employer contributes, directly or indirectly, other than by payment of taxes, to the extent that such pension is based on a period of employment with the Employer for which a Participant receives credit for Pension benefits under this Plan.

### Article 6. Restrictions on Benefits and Payments

#### 6.01 Maximum Annual Benefit Limitation and Maximum Annual Additions Limitation

(a) Subject to the adjustments described in Appendix A, the annual Accrued Pension Derived from Employer Contributions payable to a Participant under the Plan, when added to any pension attributable to contributions of the Employer or an Affiliated Employer provided to the Participant under any other qualified defined benefit plan, shall not exceed the lesser of:

- (i) \$90,000 (adjusted in accordance with Appendix A); or
- (ii) The Participant's average annual "Section 415 Compensation" (as defined in Appendix A) during three consecutive calendar years of his participation in the Plan affording the highest such average, or during all of the years in which he was a Participant in the Plan if less than three years.

(b) In accordance with the provisions of Appendix A attached hereto, a Participant's Participant Contributions for any Plan Year, when added to the Participant's "Annual Additions" (as defined in Appendix A) for that Plan Year under any other qualified plan of the Employer or an Affiliated Employer, shall not exceed an amount which is equal to the lesser of (i) 25% of his "Section 415 Compensation" (as defined in Appendix A) for that Plan Year or (ii) the greater of \$30,000 or one-quarter of the dollar limitation in effect under Section 415(b)(1)(A) of the Code.

#### 6.02 Top-Heavy Provisions

Notwithstanding anything else contained herein, for any Plan Year for which this Plan is "top-heavy", as defined in Section B.02 of Appendix B attached hereto, this Plan will be subject to the provisions of Appendix B.

#### 6.03 Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees

(a) Beginning January 1, 1994, the provisions of Appendix C shall apply (i) in the event the Plan is terminated, to any Participant who is a Highly Compensated Employee or former Highly Compensated Employee of the Employer or an Affiliated Employer, and (ii) in any other event, to any Participant who is one of the 25 highest compensated employees or former highest compensated employees of the Employer or Affiliated Employer with the greatest compensation in any Plan Year.

(b) For the period beginning January 1, 1989, and ending December 31, 1993, the provisions of Appendix D shall apply to any Participant who is one of the 25 highest paid Employees of the Employer on any "Commencement Date" and whose anticipated annual Pension provided under the Plan at Normal Retirement Date exceeds \$1,500. "Commencement Date", for purposes of this Section 6.03(b), shall mean the Effective Date of the Plan or the effective date of any amendment to the Plan which increases the benefits.

### Article 7. Form of Payment of Pension Benefits

#### 7.01 Normal Form of Payment

The normal form of payment payable under the Plan shall be a monthly benefit payable for the life of the Participant.

#### 7.02 Automatic Form of Payment

(a) Except as provided in Section 7.02(b), the automatic form of payment payable under the Plan shall be a Qualified Joint and Survivor Annuity, which is described in (i) and (ii) below:

- (i) If the Participant is not married on his Annuity Starting Date, the Qualified Joint and Survivor Annuity shall be equal to the normal form of payment described in Section 7.01; provided, however, that if the Participant is credited with an Hour of Service on or after January 1, 1995, or the Participant is on an approved Leave of Absence as of January 1, 1995, the Qualified Joint and Survivor Annuity shall be equal to the Five Year Certain and Life Annuity described in Section 7.03(a)(ii), but no actuarial adjustment shall be made to account for the five year certain period.
- (ii) If the Participant is married on his Annuity Starting Date, the Qualified Joint and Survivor Annuity shall be equal to the Actuarial Equivalent of the normal form of payment, which provides (A) for a reduced benefit payable to the Participant during his life, and (B) after the Participant's death, a benefit at the rate of 75% of the benefit paid to the Participant, payable during the life of and to the Participant's Spouse; provided, however, that if the Participant is credited with an Hour of Service on or after January 1, 1995, or the Participant is on an approved Leave of Absence as of January 1, 1995, the Qualified Joint and Survivor Annuity shall be equal to the 75% Joint and Survivor Annuity described in Section 7.03(a)(i), but no actuarial adjustment shall be made to account for the five year certain period.

(b) In any case, an immediate lump sum payment, which is the Actuarial Equivalent of the Participant's vested Accrued Pension, shall be made in lieu of all benefits if the value of the lump sum payment does not exceed \$5,000 (\$3,500 prior to August 5, 1997). The lump sum payment may be made at any time on or after the date the Participant terminates employment. However, if a lump sum payment is to be made after a Participant's Annuity Starting Date, the Participant must consent in writing to such form of distribution and, if he is married, Spousal Consent must also be obtained. If a Participant, who has a vested interest only in his Accrued Pension Derived from Participant Contributions (i.e., he has no vested interest in his Accrued Pension Derived from Employer Contributions), receives a lump sum distribution in accordance with this subparagraph (b) and later again becomes a participant, he may repay his Accumulated Contributions in accordance with the repayment provisions contained in Section 4.03 in order to restore his prior Accrued Pension.

### 7.03 Optional Forms of Payment

(a) A Participant who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, may, subject to the provisions of Section 7.04, elect to convert the automatic form of the Pension otherwise payable to him (other than a disability retirement Pension) into one of the following optional forms of benefit:

- (i) **Joint and Survivor Option** — a reduced Pension payable to the Participant during his life and, after his death, payable to his designated Beneficiary for the remainder of her life, in an amount equal to 50%, 75% or 100% (according to the election of the Participant) of the Pension the Participant was receiving; provided, however, that if the Participant's Beneficiary dies before the Participant, the Participant shall receive, commencing on the first day of the month after the Beneficiary dies, the benefit he would have received as of his Annuity Starting Date if he had elected the normal form of benefit described in Section 7.01(a) (referred to as the "Pop-Up Feature"); provided further that such Joint and Survivor Annuity shall be payable for a minimum of 60 months. If both the Participant and the Participant's Beneficiary die during the first 60 months of payment, a lump sum payment equal to the Actuarial Equivalent of the remaining payments shall be paid to the estate of the Participant unless the Participant's Beneficiary dies after the Participant, in which case, the lump sum payment shall be paid to the Beneficiary's estate. This Option shall not be available to a Participant whose Beneficiary is more than 30 years younger than the Participant, unless the Beneficiary is the Participant's Spouse.
- (ii) **Five Year Certain and Life Option** — a Pension payable to the Participant during his life; provided, however, that such annuity shall be payable for a minimum of 60 months. If the Participant dies during the first 60 months of payment, the Pension shall be payable for the balance of the 60 months to the Beneficiary designated by the Participant when he elected the option, or the Beneficiary may elect to receive a lump sum payment equal to the Actuarial Equivalent of the remaining payments. If both the Participant and the Participant's Beneficiary die during the first 60 months of payment, a lump sum payment equal to the Actuarial Equivalent of the remaining payments shall be paid to the estate of the Participant unless the Participant's Beneficiary dies after the Participant, in which case, the lump sum payment shall be paid to the Beneficiary's estate.
- (iii) **Ten Year Certain and Life Option** — a Pension payable to the Participant during his life; provided, however, that such annuity shall be payable for a minimum of 120 months. If the Participant dies during the first 120 months of payment, the Pension shall be payable for the balance of the 120 months to the Beneficiary designated by the Participant when he elected the option, or the Beneficiary may elect to receive a lump sum payment equal to the Actuarial Equivalent of the remaining payments. If both the Participant and the Participant's Beneficiary die during the first 120 months of payment, a lump sum payment equal to the Actuarial Equivalent of the remaining payments shall be paid to the estate of the Participant unless the Participant's Beneficiary dies after the Participant, in which case, the lump sum payment shall be paid to the Beneficiary's estate.
- (iv) **Level Income Option** — an increased Pension payable to the Participant before commencement of Social Security benefits and a correspondingly reduced Pension after commencement of Social Security benefits such that the total income (from the adjusted Pension payable pursuant to the Plan and the Social Security benefit to which the Participant is entitled) shall be as level as practicable both before and after commencement of Social Security benefits. Such Level Income Annuity shall be payable for a minimum of 60 months. If the Participant dies during the first 60 months of payment, the Pension (the amount of which is determined as if the Participant had lived for the 60 months) shall be payable for the balance of the 60 months to the Beneficiary designated by the Participant when he elected the option, or the Beneficiary may elect to receive a lump sum payment equal to the Actuarial Equivalent of the remaining payments. If both the Participant and the Participant's Beneficiary die during the first 60 months of payment, a lump sum payment equal to the Actuarial Equivalent of the remaining payments shall be paid to the estate of the Participant unless the Participant's Beneficiary dies after the Participant, in which case, the lump sum payment shall be paid to the Beneficiary's estate. Effective January 1, 1995, this Option shall not be available to a Participant who retires on or after the date that the Participant attains age 62.

(b) Except as otherwise provided in this Section 7.03(b), the benefit payable under options (i) through (iv) above shall be the Actuarial Equivalent of the normal form of payment described in Section 7.01. With respect to the Joint and Survivor Option, the Actuarial Equivalent shall be based on the percentage of the benefit to be continued to the surviving Beneficiary and the ages of both the Participant and his designated Beneficiary, but no actuarial adjustment shall be made to account for the Pop-Up Feature and the five year certain period. With respect to the Five Year Certain and Life Option, the Actuarial Equivalent shall be based on the age of the Participant, but no actuarial adjustment shall be made to account for the five year certain period. With respect to the Ten Year Certain and Life Option, the Actuarial Equivalent shall be based on the age of the Participant and an actuarial adjustment shall be made to account for the ten year certain period. With respect to the Level Income Option, the Actuarial Equivalent shall be based on the age of the Participant and an estimate of the Social Security benefit that will be payable to the Participant assuming that the Participant will commence receiving Social Security Benefits on the date the Participant attains age 65, but no actuarial adjustment shall be made to account for the five year certain period.

(c) A Participant who is not credited with an Hour of Service on or after January 1, 1995, and who is not on an approved Leave of Absence as of January 1, 1995, may, subject to the provisions of Section 7.04, elect to convert the automatic form of the Pension otherwise payable to him (other than a disability retirement Pension) into one of the optional forms of benefit available in accordance with the terms of the Plan in effect on December 31, 1994.

#### 7.04 Election of Options

(a) A married Participant's election of any option shall be effective only if the Administrative Committee receives Spousal Consent to the election unless:

- (i) The option is the Actuarial Equivalent of the Qualified Joint and Survivor Annuity; and
- (ii) The option provides for monthly payments to the Participant's Spouse for life after the Participant's death in an amount equal to at least 50% but not more than 100% of the monthly amount payable to the Participant under the option.

(b) The Administrative Committee shall furnish to each Participant, no less than 30 days and no more than 90 days before his Annuity Starting Date, a written explanation in nontechnical language of the terms and conditions of the benefit payable to the Participant in the automatic and optional forms described in Sections 7.02(a) and 7.03. Such explanation shall include a general description of the eligibility conditions for, and the material features and relative values of, the automatic and optional forms of benefit under the Plan, any rights the Participant may have to defer commencement of his benefit, the requirement for Spousal Consent as provided in Section 7.04(a), and the right of the Participant to make and to revoke elections under Section 7.03. An election under Section 7.03 shall be made on a form provided by the Administrative Committee, and may be made only during the 90-day period ending on the Participant's Annuity Starting Date, but not prior to the date the Participant receives the written explanation described in this Section 7.04(b).

(c) An election of an option under Section 7.03 may be revoked on a form provided by the Administrative Committee, and subsequent elections and revocations may be made at any time and from time to time during the 90-day election period. An election of an optional benefit shall be effective on the Participant's Annuity Starting Date. A revocation of any election shall be effective when the completed form is filed with the Administrative Committee. If a Participant who has elected an optional benefit dies before the date the election of the option becomes effective, the election shall be revoked except as provided in Section 8.01. If the Beneficiary designated under an option dies before the date the election of the option becomes effective, the election shall be revoked.

(d) Notwithstanding the foregoing subsections, if a Participant, who has been given the written explanation described in Section 7.04(b) (referred to as the "Written Explanation"), affirmatively elects a form of distribution and, where applicable, the Participant's spouse consents to such form of distribution the Participant's Annuity Starting Date may be less than thirty (30) days after the Written Explanation is given to the Participant provided that:

- (i) The Company notifies the Participant that he has the right to a period of at least thirty (30) days after receipt of the Written Explanation to consider whether or not to elect a distribution;
- (ii) The Company notifies the Participant that he has the right to revoke his election to commence receiving his distribution during the period ending seven (7) days after the Participant receives the Written Explanation, or, if later, the Participant's Annuity Starting Date;
- (iii) The Participant's Annuity Starting Date is after the date the Written Explanation is provided to the Participant; provided, however, that the Participant's Annuity Starting Date may be

before the Participant makes an affirmative election to commence distribution and before the expiration of the period described in Section 7.04(d)(ii); and

- (iv) The actual distribution of benefits to the Participant does not commence before the expiration of the period described in Section 7.04(d)(ii).

#### 7.05 Method of Payment for Eligible Rollover Distributions

(a) Notwithstanding any provision of the Plan to the contrary, effective January 1, 1993, if a Distributee is entitled to receive an Eligible Rollover Distribution which exceeds \$200, the Distributee may elect, at the time and in the manner prescribed by the Administrative Committee, and in accordance with this Section 7.05, to have his Eligible Rollover Distribution paid in accordance with one of the following methods:

- (i) All of the Eligible Rollover distribution shall be paid directly to the Distributee;
- (ii) All of the Eligible Rollover Distribution shall be paid as a Direct Rollover to the Eligible Retirement Plan designated by the Distributee; or
- (iii) The portion of the Eligible Rollover Distribution designated by the Participant, which portion shall be at least \$500, shall be paid as a Direct Rollover to the Eligible Retirement Plan designated by the Distributee and the balance of the Eligible Rollover Distribution shall be paid directly to the Distributee.

(b) No less than 30 days and no more than 90 days prior to the Distributee's Annuity Starting Date, the Administrative Committee shall provide the Distributee with an election form and a notice that satisfies the requirements of Section 1.411(a)-11(c) of the Income Tax Regulations and Section 402(f) of the Code. In the event the Distributee does not return the signed election form by his Annuity Starting Date, he shall be deemed to have elected the method of payment described in Section 7.05(a)(i).

(c) Notwithstanding the provisions of Section 7.05(b) above, distributions paid in accordance with Section 7.05(a) may commence less than 30 days after the material described in Section 7.05(b) is given to the Distributee provided that:

- (i) If the Distributee is the Participant, the Actuarial Equivalent of the Participant's vested Accrued Pension does not exceed \$5,000 (\$3,500 prior to August 5, 1997);
- (ii) If the Distributee is the Participant's Spouse, the Actuarial Equivalent of the Spouse's Pension does not exceed \$5,000 (\$3,500 prior to August 5, 1997);
- (iii) The Distributee is notified that he has the right to a period of at least 30 days after receipt of the material to consider whether or not to elect a distribution; and
- (iv) After receipt of such notification, he affirmatively elects to receive a distribution.

(d) The following definitions apply to the terms used in this Section 7.05:

- (i) "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:
  - (A) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint 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 under Section 401(a)(9) of the Code;
  - (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); and
  - (D) Any other type of distribution that the Internal Revenue Service announces (pursuant to regulation, notice or otherwise) is not an Eligible Rollover Distribution pursuant to Section 402(c) of the Code.
- (ii) "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving Spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

- (iii) "Distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the "alternate payee," as defined in Section 414(p)(8) of the Code, pursuant to a Qualified Domestic Relations Order are Distributees with regard to the interest of the Spouse or former Spouse.
- (iv) "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

#### 7.06 Commencement of Payments

(a) Except as otherwise provided in this Article 7, payment of a Participant's Pension shall begin as soon as administratively practicable following the latest of (i) the date the Participant attains age 65, (ii) the fifth anniversary of the date on which he became a Participant, or (iii) the date the Participant terminates service with the Employer (but not more than 60 days after the close of the Plan Year in which the latest of (i), (ii) or (iii) occurs).

(b) Notwithstanding the foregoing, distributions to a Participant shall be required by the April 1 following the calendar year in which he/she attains age seventy and one-half (70.5) or retires, except that a distribution to a Participant who owns five percent (5%) or more of the outstanding stock of the Employer (or stock possessing more than five percent (5%) of the total combined voting power of all Employer stock, a ("5% owner") must commence by the April 1 of the calendar year in which he or she attains age seventy and one-half (70.5).

In the event a Participant's benefit commences under this subsection while the Participant is in active service, such required beginning date shall be the Participant's Annuity Starting Date for purposes of this Article 6, and the Participant shall receive a late retirement benefit commencing on or before his required beginning date in an amount determined as if he had retired on his required beginning date. As of each succeeding January 1 prior to the Participant's actual late retirement date and as of his actual late retirement date, the Participant's benefit shall be recomputed to reflect additional accruals. The Participant's recomputed benefit shall then be reduced by the Actuarial Equivalent value of the total payments of his late retirement benefits, which were paid prior to each such recomputation, to arrive at the Participant's late retirement benefit; provided that no such reduction shall reduce the Participant's late retirement benefit below the amount of any late retirement benefit payable to the Participant prior to the recomputation of his benefit.

(c) In the event a Participant remains in service after the end of the calendar year in which he attains age 70.5, and payment of the Participant's benefit is not required to commence under Section 7.06(c) above, then the benefit upon his late retirement shall be equal to the greater of:

- (i) His Accrued Benefit as of his actual retirement date; or
- (ii) His Accrued Benefit as of the April 1st that next follows the Plan Year in which he attains age 70.5 recomputed in accordance with regulations issued by the Secretary of the Treasury as of the first day of each subsequent Plan Year (and as of his actual retirement date), less the Actuarial Equivalent of any distribution he has received, if any, subsequent to the aforementioned April 1st.

(d) Notwithstanding any provision of this Plan to the contrary, all Plan distributions shall conform to the regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any Plan provision that is inconsistent with Section 401(a)(9) of the Code.

With respect to distributions made under this subsection for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

Notwithstanding the foregoing, Participants who attained age 70.5 prior to January 1, 1997 shall continue to receive minimum distributions in accordance with the terms of the Plan in effect at that time.

### Article 8. Death Benefits

#### 8.01 Spouse's Pension

(a) If a married Participant, who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, dies prior to his Annuity Starting Date and while in the

active service of the Employer or an Affiliated Employer after having met the requirements for any vested Pension, a Pension shall be payable to his surviving Spouse for life in accordance with the following:

- (i) If the Participant dies after a date on which he could have retired pursuant to Section 5.01, 5.02 or 5.03, whichever is applicable, the Spouse's Pension shall be an amount payable as if the Participant had retired and elected the 100% Joint and Survivor Annuity described in Section 7.03(a)(i) on the day before his death. Payment of the Spouse's Pension shall commence on the first day of the calendar month following the Participant's date of death, unless the Spouse makes a written election to defer commencement to a later date, which date shall not be later than the date the Participant would have attained age 65.
- (ii) If the Participant dies before a date on which he could have retired, the Spouse's Pension shall be an amount payable as if the following events had occurred: (A) the Participant separated from service on the date of his death or, if earlier, the date of his actual separation from service, (B) the Participant survived to the earliest date he could have retired, (C) the Participant retired and elected an immediate payment of the 100% Joint and Survivor Annuity described in Section 7.03(a)(i), and (D) the Participant died on the day after the earliest date he could have retired. Payment of the Spouse's Pension shall commence on the first day of the calendar month following the earliest date the Participant could have retired, unless the Spouse makes a written election to defer commencement to a later date, which date shall not be later than the date the Participant would have attained age 65.

(b) If a married Participant, who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, dies prior to his Annuity Starting Date and after having terminated from the Employer or an Affiliated Employer after having become entitled to a vested Pension, a Pension shall be payable to his surviving Spouse for life in accordance with the following:

- (i) If the Participant dies after a date on which he could have retired pursuant to Section 5.01, 5.02 or 5.03, whichever is applicable, the Spouse's Pension shall be an amount payable as if the Participant had retired and elected the 75% Joint and Survivor Annuity described in Section 7.03(a)(i) on the day before his death. Payment of the Spouse's Pension shall commence on the first day of the calendar month following the Participant's date of death, unless the Spouse makes a written election to defer commencement to a later date, which date shall not be later than the date the Participant would have attained age 65.
- (ii) If the Participant dies before a date on which he could have retired, the Spouse's Pension shall be an amount payable as if the following events had occurred: (A) the Participant separated from service on the date of his death or, if earlier, the date of his actual separation from service, (B) the Participant survived to the earliest date he could have retired, (C) the Participant retired and elected an immediate payment of the 75% Joint and Survivor Annuity described in Section 7.03(a)(i), and (D) the Participant died on the day after the earliest date he could have retired. Payment of the Spouse's Pension shall commence on the first day of the calendar month following the earliest date the Participant could have retired, unless the Spouse makes a written election to defer commencement to a later date, which date shall not be later than the date the Participant would have attained age 65.

(c) If a married Participant, who is not credited with an Hour of Service on or after January 1, 1995, and who is not on an approved Leave of Absence as of January 1, 1995, dies prior to his Annuity Starting Date and after having become entitled to a vested Pension, a Pension shall be payable to his surviving Spouse for life in accordance with the terms of the Plan in effect on December 31, 1994.

(d) In any case, an immediate lump sum payment, which is equal to the Actuarial Equivalent of the Spouse's Pension shall be made in lieu of the Spouse's Pension if the value of the lump sum payment is equal to or less than \$5,000 (prior to August 5, 1997 this amount was \$3,500). The lump sum payment may be made at any time on or after the date the Participant dies. However, if a lump sum payment is to be made after payment of the Spouse's Pension is to commence, the Spouse must consent in writing to such form of distribution.

## 8.02 Children's Pension

(a) If a Participant, who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, dies prior to his Annuity Starting Date after having met the requirements for any vested Pension, and the Participant is not survived by a Spouse, but is survived by a child or children who are under the age of 23, a Pension shall be payable to such surviving child or children in equal shares. The total amount of the Pension payable to the surviving child or children shall be equal to the following:

- (i) If the Participant dies after a date on which he could have retired pursuant to Section 5.01, 5.02 or 5.03, whichever is applicable, the Pension payable as if the Participant had retired on the day before his death.
- (ii) If the Participant dies before a date on which he could have retired, the Actuarial Equivalent of the Pension payable as if the following events had occurred: (A) the Participant separated from service on the date of his death or, if earlier, the date of his actual separation from service, and (B) the Participant retired on the earliest date he could have retired.

Such benefit shall be payable until each such child attains age 23; provided, however, that such annuity shall be payable for a minimum of 60 months.

(b) If a Participant's surviving Spouse dies after benefits have commenced pursuant to Section 8.01, and the Surviving Spouse is survived by a child or children of the Participant who are under the age of 23, a Pension equal to the benefit received by the surviving Spouse pursuant to Section 8.01 prior to her death shall be payable to such surviving child or children in equal shares until each one attains age 23; provided, however, that if the Participant is credited with an Hour of Service on or after January 1, 1995, or the Participant is on an approved Leave of Absence as of January 1, 1995, such annuity shall be payable for a minimum of 60 months (including the payments to the Spouse).

(c) In any case, an immediate lump sum payment, which is equal to the Actuarial Equivalent of the Pension payable to the surviving child or children shall be made in lieu of such Pension if the value of the lump sum payment is equal to or less than \$5,000 (prior to August 5, 1997 this amount was \$3,500). The lump sum payment may be made at any time on or after the date the Participant or Spouse dies, whichever is applicable.

### 8.03 Death Benefit Payable to Participant's Estate

If a Participant, who is credited with an Hour of Service on or after January 1, 1995, or who is on an approved Leave of Absence as of January 1, 1995, dies prior to his Annuity Starting Date after having met the requirements for any vested Pension, and the Participant is not survived by a Spouse or children under the age of 23, a single lump sum payment shall be immediately payable to his estate in an amount equal to the Actuarial Equivalent of the following:

(a) If the Participant dies after a date on which he could have retired pursuant to Section 5.01, 5.02 or 5.03, whichever is applicable, the Pension payable as if the Participant had retired on the day before his death and elected the Five Year Certain and Life Annuity described in Section 7.03(a)(ii).

(b) If the Participant dies before a date on which he could have retired, the Pension payable as if the following events had occurred: (A) the Participant separated from service on the date of his death or, if earlier, the date of his actual separation from service, (B) the Participant survived to the earliest date he could have retired, (C) the Participant retired and elected an immediate payment of the Five Year Certain and Life Annuity described in Section 7.03(a)(ii), and (D) the Participant died on the day after the earliest date he could have retired.

### 8.04 Accumulated Contributions

In the event that a Participant's Accumulated Contributions exceed the aggregate benefits paid under the Plan to the Participant and each of the Participant's Beneficiaries as of the date that such payments cease under the terms of the Plan (or if no payments are otherwise payable under the terms of the Plan), an immediate lump sum distribution of such excess shall be payable in the following order of priority: (a) to the Participant's surviving child or children in equal shares, (b) the estate of the last to die of the surviving children, (c) to the Participant's Beneficiary, (d) the estate of the Participant's Beneficiary, or (e) the estate of the Participant.

## Article 9. Administration of the Plan

### 9.01 Appointment of Administrative Committee

The general administration of the Plan and the responsibility for carrying out the provisions of the Plan shall be placed in the Administrative Committee appointed by the President of the Company to serve at the pleasure of the President. The Administrative Committee shall be composed of at least 3 members. Any person appointed a member of the Administrative Committee shall signify his acceptance by filing written acceptance with the President of the Company. Any member of the Administrative Committee may resign by delivering his written resignation to the President of the Company.

### 9.02 Duties of Administrative Committee

The members of the Administrative Committee (i) shall elect a chairperson from their number and a secretary who may be, but need not be, one of the members of the Administrative Committee; (ii) may appoint from their number such subcommittees with such powers as they shall determine; (iii) may authorize one or more of their number or any agent to

execute or deliver any instrument or make any payment on their behalf; (iv) may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the Plan; and (v) may allocate among themselves or delegate to other persons all or such portion of their duties under the Plan, other than those granted to the Trustee under the trust instrument adopted for use in implementing the Plan, as they, in their sole discretion, shall decide.

#### 9.03 Meetings

The Administrative Committee shall hold meetings upon such notice, at such place or places, and at such time or times as the members of the Administrative Committee may from time to time determine.

#### 9.04 Action of Majority

Any act which the Plan authorizes or requires of the Administrative Committee shall be done by a majority of its members. The action of that majority expressed from time to time by a vote at a meeting or in writing without a meeting shall constitute the action of the Administrative Committee and shall have the same effect for all purposes as if assented to by all members of the Administrative Committee at the time in office.

#### 9.05 Compensation and Bonding

No member of the Administrative Committee shall receive any compensation from the Plan for his services as such. The Company shall purchase such bonds as may be required under ERISA.

#### 9.06 Establishment of Rules

Subject to the limitations of the Plan, the Administrative Committee shall prescribe such forms, make such rules, regulations, interpretations and computations, and shall take such other action to administer the Plan, as it may deem appropriate. In administering the Plan, the Administrative Committee shall act in a uniform and nondiscriminatory manner and in full accordance with any and all laws applicable to the Plan.

#### 9.07 Manner of Administering

The Administrative Committee shall have the sole and complete discretion to interpret and administer the terms of the Plan and to determine eligibility for benefits and the amount of any such benefits pursuant to the terms of the Plan, and in so doing the Administrative Committee may correct defects, supply omissions and reconcile inconsistencies to the extent necessary to effectuate the Plan, and such actions shall be binding and conclusive on all persons.

#### 9.08 Prudent Conduct

The members of the Administrative Committee shall use that degree of care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use in a similar situation.

#### 9.09 Service In More Than One Fiduciary Capacity

Any individual, entity or group of persons may serve in more than one fiduciary capacity with respect to the Plan and/or the funds of the Plan.

#### 9.10 Limitation of Liability

The Employer, the members of the Board of Directors, the members of the Administrative Committee, and any officer, employee or agent of the Employer shall not incur any liability individually or on behalf of any other individuals or on behalf of the Employer for any act, or failure to act, made in good faith in relation to the Plan or the funds of the Plan. However, this limitation shall not act to relieve any such individual or the Employer from a responsibility or liability for any fiduciary responsibility, obligation or duty under Part 4, Title I of ERISA.

#### 9.11 Indemnification

The members of the Administrative Committee, members of the Board of Directors, officers, employees and agents of the Employer shall be indemnified against any and all liabilities arising by reason of any act, or failure to act, in relation to the Plan or the funds of the Plan, including, without limitation, expenses reasonably incurred in the defense of any claim relating to the Plan or the funds of the Plan, and amounts paid in any compromise or settlement relating to the Plan or the funds of the Plan, except for willful and intentional actions or failures to act. The foregoing indemnification shall be from the funds of the Plan to the extent of those funds and to the extent permitted under applicable law; otherwise from the assets of the Employer.

## 9.12 Expenses of Administration

All expenses that arise in connection with the administration of the Plan, including but not limited to the compensation of the Trustee, administrative expenses and proper charges and disbursements of the

Trustee and compensation and other expenses and charges of any enrolled actuary, counsel, accountant, specialist, or other person who has been retained by the Administrative Committee in connection with the administration thereof, shall be paid from the Trust to the extent not paid by the Employer.

## 9.13 Claims and Review Procedures

(a) Applications for benefits and inquiries concerning the Plan (or concerning present or future rights to benefits under the Plan) shall be submitted to the Administrative Committee in writing. An application for benefits shall be submitted on the prescribed form and shall be signed by the applicant.

(b) In the event that an application for benefits is denied in whole or in part, the Administrative Committee shall notify the applicant in writing of the denial and of the right to review of the denial. The written notice shall set forth, in a manner calculated to be understood by the applicant, specific reasons for the denial, specific references to the provisions of the Plan on which the denial is based, a description of any information or material necessary for the applicant to perfect the application, an explanation of why the material is necessary, and an explanation of the review procedure under the Plan. The written notice shall be given to the applicant within a reasonable period of time (not more than 90 days) after the Administrative Committee receives the application, unless special circumstances require further time for processing and the applicant is advised of the extension. In no event shall the notice be given more than 180 days after the Administrative Committee receives the application.

(c) An applicant whose application for benefits was denied in whole or part, or the applicant's duly authorized representative, may appeal the denial by submitting to the Administrative Committee a request for a review of the application within 60 days after receiving written notice of the denial from the Administrative Committee. The Administrative Committee shall give the applicant or his representative an opportunity to review pertinent materials, other than legally privileged documents, in preparing the request for a review. The request for a review shall be in writing and addressed to the Administrative Committee. The request for a review shall set forth all of the grounds on which it is based, all facts in support of the request and any other matters that the applicant deems pertinent. The Administrative Committee may require the applicant to submit such additional facts, documents or other materials as it may deem necessary or appropriate in making its review.

(d) The Administrative Committee shall act on each request for a review within 60 days after receipt, unless special circumstances require further time for processing and the applicant is advised of the extension. In no event shall the decision on review be rendered more than 120 days after the Administrative Committee receives the request for a review. The Administrative Committee shall give prompt written notice of its decision to the applicant. In the event that the Administrative Committee confirms the denial of the application for benefits in whole or in part, the notice shall set forth, in a manner calculated to be understood by the applicant, the specific reasons for the decision and specific references to the provisions of the Plan on which the decision is based.

(e) No legal action for benefits under the Plan shall be brought unless and until the claimant (i) has submitted a written application for benefits in accordance with paragraph (a), (ii) has been notified by the Administrative Committee that the application is denied, (iii) has filed a written request for a review of the application in accordance with paragraph (c) and (iv) has been notified in writing that the Administrative Committee has affirmed the denial of the application; provided, however, that legal action may be brought after the Administrative Committee has failed to take any action on the claim within the time prescribed by paragraphs (b) and (d) above.

## Article 10. Management of Funds

### 10.01 The Trustee

All the funds of the Plan shall be held in the Trust by a Trustee appointed from time to time by the Company under a trust instrument adopted, or as amended, by the Company for use in providing the benefits of the Plan and paying its expenses not paid directly by an Employer. No Employer shall have any liability for the payment of benefits under the Plan nor for the administration of the Trust held by the Trustee.

### 10.02 Exclusive Benefit Rule

Except as otherwise provided in the Plan, no part of the corpus or income of the funds of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and other persons entitled to benefits under the Plan,

and paying Plan expenses not otherwise paid by the Employer, before the satisfaction of all liabilities with respect to them. No person shall have any interest in or right to any part of the earnings of the Trust, or any right in, or to, any part of the assets held under the Plan, except as and to the extent expressly provided in the Plan.

#### 10.03 Appointment of Investment Manager

The Company, in its sole discretion, shall determine the investment policy for the Plan. However, the Company may, in its sole discretion, appoint one or more Investment Managers to manage the assets of the Plan (including the power to acquire and dispose of all or part of such assets) as the Company shall designate. In that event, the authority over and responsibility for the management of the assets so designated shall be the sole responsibility of that Investment Manager.

### **Article 11. Amendment, Merger and Termination**

#### 11.01 Amendment of the Plan

The Company, by action of its Board of Directors, may at any time and from time to time, and retroactively if deemed necessary or appropriate, amend in whole or in part any or all of the provisions of the Plan. However, no amendment shall make it possible for any part of the funds of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the Plan, before the satisfaction of all liabilities with respect to them. No amendment shall be made which has the effect of decreasing the Accrued Pension of any Participant or of reducing the nonforfeitable percentage of the Accrued Pension of a Participant below the nonforfeitable percentage computed under the Plan as in effect on the date on which the amendment is adopted or, if later, the date on which the amendment becomes effective. No amendment shall be made which affects the rights, duties or responsibilities of the Trustee unless the Trustee provides written consent to such amendment.

#### 11.02 Merger or Consolidation

The Company may, in its sole discretion, merge this Plan with another qualified plan, subject to any applicable legal requirements. However, the Plan may not be merged or consolidated with, and its assets or liabilities may not be transferred to, any other plan unless each person entitled to benefits under the Plan would, if the resulting plan were then terminated, receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer if the Plan had then terminated.

#### 11.03 Additional Participating Employers

(a) If any company is now or becomes a subsidiary or associated company of an Employer, the Company may include the employees of that company as participants in the Plan upon appropriate action by that company necessary to adopt the Plan. In that event, or if any persons become Employees of an Employer as the result of merger or consolidation or as the result of acquisition of all or part of the assets or business of another company, the Company shall determine to what extent, if any, credit and benefits shall be granted for previous service with the subsidiary, associated or other company, but subject to the continued qualification of the trust for the Plan as tax-exempt under the Code.

(b) Any subsidiary or associated company may terminate its participation in the Plan upon appropriate action by it. In that event, the Company may, in its sole discretion (i) retain all or a portion of the Participants in the employ of that associated company as terminated participants in the Plan or (ii) direct that the Trustee segregate the funds of the Plan held on account of all or a portion of the Participants in the employ of that associated company, and direct that the segregated assets be spun off into a separate plan to be administered by the associated company.

#### 11.04 Termination of the Plan

The Company, by action of its Board of Directors, may terminate the Plan for any reason at any time. In case of termination of the Plan, the rights of Participants to their Accrued Pensions as of the date of the termination, to the extent then funded or protected by law, if greater, shall be nonforfeitable. The funds of the Plan shall be used for the exclusive benefit of persons entitled to benefits under the Plan as of the date of termination, except as provided in Section 3.06. However, any funds not required to satisfy all liabilities of the Plan for benefits because of erroneous actuarial computation shall be returned to the Company. The Administrative Committee shall determine on the basis of actuarial valuation the share of the funds of the Plan allocable to each person entitled to benefits under the Plan in accordance with Section 4044 of ERISA, or corresponding provision of any applicable law in effect at the time. In the event of a partial termination of the Plan, the provisions of this Section 11.04 shall be applicable to the Participants affected by that partial termination.

### **Article 12. General Provisions**

12.01 Nonalienation; Qualified Domestic Relations Orders

(a) Except as required by any applicable law, no benefit under the Plan shall in any manner be anticipated, assigned or alienated, and any attempt to do so shall be void. However, payment shall be made in accordance with the provisions of any Qualified Domestic Relations Order.

(b) An immediate lump sum payment, which is the Actuarial Equivalent of the series of payments provided for in a Qualified Domestic Relations Order, shall be made in lieu of the series of payments if the value of the lump sum payment is \$3,500 or less.

12.02 Conditions of Employment Not Affected by Plan

The establishment of the Plan shall not confer any legal rights upon any Employee or other person for a continuation of employment, nor shall it interfere with the right of the Employer (which right is hereby reserved) to discharge any Employee and to treat him without regard to the effect which that treatment might have upon him as a Participant or potential Participant of the Plan.

12.03 Facility of Payment

(a) If the Administrative Committee finds that a Participant or other person entitled to a benefit is unable to care for his affairs because of illness or accident, the Administrative Committee may direct that any benefit due him, unless a claim has been made for the benefit by a duly appointed legal representative, be paid to his Spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the Plan for that benefit.

(b) If the Administrative Committee finds that a Participant or other person entitled to a benefit is a minor, the Administrative Committee may direct that any benefit due him, unless a claim has been made for the benefit by a duly appointed legal representative, be paid in the following order of preference: (i) to the minor's custodial parent(s); (ii) if no custodial parent of the minor is then living, to a custodian selected by the Administrative Committee to hold the funds for the minor under the Uniform Transfers or Gifts to Minors Act in effect in the jurisdiction in which the minor resides; (iii) if the Administrative Committee decides not to select a custodian pursuant to subparagraph (ii), to the duly appointed and currently acting guardian of the estate of the minor; or (iv) if no guardian of the estate of the minor is duly appointed or currently acting within 60 days of the date the amount becomes payable, to the court having jurisdiction over the estate of the minor.

12.04 Information

(a) Each Participant, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the Plan, shall file with the Administrative Committee the information that it shall require to establish his rights and benefits under the Plan.

(b) If a Participant in his application for retirement income, or in response to any request by the Employer or Administrative Committee for information, makes any statement which is erroneous or omits any material fact or fails before receiving his first payment to correct any information that he previously incorrectly furnished to the Employer or the Administrative Committee for its records, the amount of his Pension shall be adjusted on the basis of the current facts, and the amount of any overpayment or underpayment made to the Participant shall be deducted from, or added to, his next succeeding payments as the Administrative Committee shall direct.

12.05 (Reserved)

12.06 Proof of Death and Right of Beneficiary or Other Person

The Administrative Committee may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of the Plan benefits of a deceased Participant as the Administrative Committee may deem proper, and its determination of death and of the right of that Beneficiary or other person to receive payment shall be conclusive.

12.07 Failure to Locate Recipient

In the event that the Administrative Committee is unable to locate a Participant or Beneficiary who is entitled to payment under the Plan within 7 years from the date such payment was to have been made, the amount to which such

Participant or Beneficiary was entitled shall be declared a forfeiture and shall be used to reduce future Employer contributions to the Plan. If the Participant or Beneficiary is later located, the benefit which was previously forfeited hereunder shall be restored by means of an additional Employer contribution to the Plan, if necessary.

12.08 Action by the Board of Directors

Any action required or permitted to be taken by the Board of Directors under the Plan shall be by resolution adopted by the Board of Directors at a meeting held either in person or by telephone or other electronic means, or by unanimous written consent in lieu of a meeting. The Board of Directors may, in its discretion, appoint the Executive Committee or another Committee to take those actions on its behalf which are the responsibility of the Board of Directors in accordance with the terms of the Plan.

12.09 Construction

- (a) The Plan shall be construed, regulated and administered pursuant to the laws of the State of California, except where ERISA controls.
- (b) If any provision of this instrument is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective.
- (c) The use of the masculine pronoun in this Plan shall include the feminine pronoun wherever appropriate, and vice versa.
- (d) The use of the singular form of a word in this Plan shall include the plural form wherever appropriate, and vice versa.
- (e) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

**Execution of the Plan**

The Farmer Bros. Co. Retirement Plan is hereby executed this 27th day of February, 2002.

/s/ John E. Simmons

\_\_\_\_\_  
(Signature)

Treasurer

\_\_\_\_\_  
(Title)

## Appendix A

### Maximum Annual Benefit Limitation and Maximum Annual Additions Limitation

Section 6.01 of the Plan shall be construed in accordance with this Appendix A. Unless the context clearly requires otherwise, words and phrases used in this Appendix A shall have the same meanings that are assigned to them under the Plan.

The Plan Year shall be considered a "limitation year" for purposes of this Appendix A and Section 415 of the Code.

#### A.01 Definitions

The following words and phrases, when used in this Appendix A with an initial capital letter, shall have the following meanings, unless the context clearly indicates otherwise:

"Annual Additions" on behalf of a Participant under the Plan or any other qualified plan maintained by the Employer or an Affiliated Employer for the Plan Year shall not include transfers to the Plan from any other qualified plan but shall include:

- (a) The total contributions made on behalf of the Participant by the Employer and all Affiliated Employers under any qualified Defined Contribution Plan,
- (b) With respect to limitation years beginning before 1987, the lesser of the part of the Participant's contributions in excess of 6% of his Section 415 Compensation or one-half of his total contributions to any qualified Defined Contribution Plan maintained by the Employer or an Affiliated Employer,
- (c) With respect to Limitation Years beginning after 1986, all of the Participant's contributions to any qualified Defined Contribution Plan maintained by the Employer or an Affiliated Employer,
- (d) Forfeitures, if applicable, that have been allocated on behalf of the Participant under any qualified Defined Contribution Plan maintained by the Employer or an Affiliated Employer,
- (e) Voluntary or mandatory contributions made by the Participant under this Plan or another qualified Defined Benefit Plan maintained by the Employer or an Affiliated Employer, and
- (f) Contributions made on behalf of the Participant to an "individual medical benefit account" under a pension or annuity plan maintained by the Employer or an Affiliated Employer, as described, and to the extent required, under Section 415(l) of the Code.

"Defined Benefit Plan" means any qualified pension plan which is not a Defined Contribution Plan; however, in the case of a Defined Benefit Plan which provides a benefit which is based partly on the balance of the separate account of a participant, that plan shall be treated as a Defined Contribution Plan to the extent benefits are based on the separate account of a participant and as a Defined Benefit Plan with respect to the remaining portion of the benefits under the plan.

"Defined Benefit Plan Fraction" for any limitation year is a fraction -

- (a) The numerator of which is the projected annual benefit of the Participant (determined as of the close of the limitation year) under all Defined Benefit Plans maintained by the Employer or an Affiliated Employer; and
- (b) The denominator of which is the lesser of (i) or (ii) below:
  - (i) The product of 1.25 multiplied by the defined benefit plan dollar limitation under Section 415(b)(1)(A) of the Code (automatically adjusted each year as described in Section A.02(d)) in effect for such limitation year; or
  - (ii) The product of 1.4 multiplied by an amount that is 100% of the Participant's average Section 415 Compensation for the three consecutive years in which his Section 415 Compensation was the highest.

"Defined Contribution Plan" means any qualified pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to that participant's accounts, subject to the limitations described in the definition of "Defined Benefit Plan" above.

“Defined Contribution Plan Fraction” for any limitation year is a fraction —

- (a) The numerator of which is the sum of the Annual Additions made by the Employer or an Affiliated Employer on behalf of the Participant for such limitation year and all prior limitation years; and
- (b) The denominator of which is the sum of the lesser of (i) or (ii) below determined for such limitation year and for each prior year of service with the Employer or an Affiliated Employer:
  - (i) The product of 1.25 multiplied by the defined contribution plan dollar limitation under Section 415(c)(1)(A) of the Code (automatically adjusted every year as described in Section A.02(d)); or
  - (ii) The product of 1.4 multiplied by an amount equal to 25% of the Participant’s Section 415 Compensation for such year.

At the direction of the Administrative Committee, the portion of the denominator of that fraction with respect to limitation years ending before 1983 shall be computed as the denominator for the limitation year ending in 1982, as determined under the law as then in effect, multiplied by a fraction the numerator of which is the lesser of: (A) \$51,875; or

- (B) 1.4 multiplied by 25% of the Participant’s Section 415 Compensation for the limitation year ending in 1981;

and the denominator of which is the lesser of:

- (A) \$41,500; or
- (B) 25% of the Participant’s Section 415 Compensation for that limitation year.

“Section 415 Compensation” means wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer or an Affiliated Employer to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, reimbursements, and expense allowances), and excluding:

- (a) Contributions made by the Employer or an Affiliated Employer on behalf of the Participant to the Plan or any other plan of deferred compensation maintained by the Employer or an Affiliated Employer;
- (b) Amounts realized from the exercise of a non-qualified stock option;
- (c) Amounts realized when restricted stock is no longer subject to substantial risk of forfeiture;
- (d) Amounts realized from the disposition of stock acquired under a qualified stock option; and
- (e) Other amounts that receive special tax benefits.

Effective January 1, 1998, Section 415 Compensation also includes any pre-tax contributions pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Sections 125, 401(k), 402(g)(3), 402(h)(1)(B) or 403(b) of the Code. On or after January 1, 2001, Code Section 132(f) transportation benefits are also included in determining Section 415 Compensation.

“Social Security Retirement Age” means age 65 with respect to a Participant who was born before January 1, 1938; age 66 with respect to a Participant who was born after December 31, 1937, and before January 1, 1955; and age 67 with respect to a Participant who was born after December 31, 1954.

#### A.02 Adjustments to Maximum Annual Benefit Limitation

- (a) The maximum annual benefit limitation described in Section 6.01(a) shall be subject to the following adjustments:
  - (i) Less than 10 Years of Participation. If the Participant has not been a Participant in the Plan for at least 10 years, the maximum annual benefit limitation in Section 6.01(a)(i) shall be multiplied by the ratio that the number of years of his participation in the Plan bears to 10.

(ii) Less than 10 Years of Vesting Service. If the Participant has not completed 10 Years of Vesting Service, the maximum annual benefit limitation in Section 6.01(a)(ii) shall be multiplied by the ratio that the number of his Years of Vesting Service bears to 10.

(iii) Payment Before Age 62. If the benefit begins before the Participant attains age 62, the maximum annual benefit limitation in Section 6.01(a)(i) shall be equal to the lesser of the Actuarial Equivalent of the maximum annual benefit limitation at age 62 (as determined in accordance with Section A.02(a)(iv) below) calculated using the following:

(i) The early retirement factors prescribed in the Plan (or in the absence of prescribed factors, the mortality table and interest rate prescribed in the definition of Actuarial Equivalent); or

(ii) The IRS Mortality Table and an interest rate equal to 5%. Notwithstanding the foregoing, the mortality decrement shall be applied only on a post-retirement basis where the Plan benefits are not subject to forfeiture upon the Participant's death prior to his Annuity Starting Date.

(iv) Payment After Age 62 And Before Social Security Retirement Age. If the benefit begins before the Participant's Social Security Retirement Age but on or after the date he attains age 62, the maximum annual benefit limitation in Section 6.01(a)(i) shall be reduced by 5/9 of one percent for each of the first 36 months plus 5/12 of one percent for each additional month by which the Participant is younger than the Social Security Retirement Age at the date his benefit begins.

(v) Payment After Social Security Retirement Age. If the benefit begins after the Participant's Social Security Retirement Age, the maximum annual benefit limitation in Section 6.01(a)(i) shall be equal to the lesser of the Actuarial Equivalent of the maximum annual benefit limitation at the Participant's Social Security Retirement Age calculated using:

(i) The deferred retirement factors prescribed in the Plan (or in the absence of prescribed factors, the mortality table and interest rate prescribed in the definition of Actuarial Equivalent); or

(ii) The IRS Mortality Table and an interest rate equal to 5%. Notwithstanding the foregoing, the mortality decrement shall be applied only on a post-retirement basis where the Plan benefits are not subject to forfeiture upon the Participant's death prior to his Annuity Starting Date.

(b) The limitations in Section 6.01 shall not apply to any Participant who has not at any time participated in any Defined Contribution Plan maintained by the Employer or an Affiliated Employer if the Participant's total annual retirement benefit payable under the Plan and all other Defined Benefit Plans maintained by the Employer or an Affiliated Employer does not exceed \$10,000.

(c) A Participant's benefit shall be subject to the following adjustments before the application of the maximum annual benefit limitation in Section 6.01(a) and, as so modified, shall be subject to such limitation:

(i) If the Participant's benefit is payable as a joint and survivor annuity with his Spouse as the Beneficiary, the modification of the benefit for that form of payment shall be made before the application of the maximum limitation in Section 6.01(a) and, as so modified, shall be subject to the limitation.

(ii) If the Participant's benefit is payable in a form that is neither described in Section A.01(c)(i) nor a straight life annuity, the Participant's benefit shall be converted to a straight life benefit before the application of the maximum benefit limitation in Section 6.01(a)(i) and, as so modified, shall be subject to such limitation. For purposes of the subsection, the straight life benefit shall be equal to the greater of the Actuarial Equivalent of the benefit otherwise payable to the Participant' calculated using:

(A) The optional benefit factors prescribed in the Plan (or in the absence of prescribed factors, the mortality table and interest rate prescribed in the definition of Actuarial Equivalent); or

(B) The IRS Mortality Table and an interest rate equal to 5%, or, if the form of benefit is subject to Section 417(e) (3) of the Code, an interest rate equal to the IRS Interest Rate.

(d) As of January 1 of each calendar year commencing on or after January 1, 1988, the dollar limitation as determined by the Commissioner of the Internal Revenue Service for that calendar year shall become effective as the maximum annual benefit limitation in Section 6.01(a)(i) during the limitation year ending within that calendar year.

#### A.03 Maximum Annual Additions Limitation

If a Participant's Annual Additions for any Plan Year would otherwise exceed the maximum Annual Additions limitation set for in Section 6.01(b), the excess Annual Additions for such Plan Year shall be reduced by reducing the contributions made on behalf of the Participant to the Defined Contribution Plans maintained by the Employer or an Affiliated Employer during such Plan Year in the manner and priority set forth in such plans.

#### A.04 Participant in a Defined Contribution Plan

This Section is repealed for Plan Years beginning January 1, 2000 and thereafter.

(a) If a Participant under this Plan has at any time participated in a Defined Contribution Plan maintained by the Employer or an Affiliated Employer, and if Annual Additions have been made on behalf of the Participant under such Defined Contribution Plan, the sum of the Participant's Defined Benefit Plan Fraction and Defined Contribution Plan Fraction shall not exceed 1.0.

(b) In the event the sum of a Participant's Defined Benefit Plan Fraction and Defined Contribution Plan Fraction exceeds 1.0, his benefits under, and contributions to, all plans shall be accomplished by first reducing the benefits otherwise payable to the Participant under this Plan or any other Defined Benefit Plan in which the Participant participates (in such priority as shall be determined by the Administrative Committee for this Plan and the administrators of such other plans), and second by reducing the contributions made on behalf of the Participant to Defined Contribution Plans in which the Participant participates in the manner and priority set forth in such plans. The necessary reductions may, however, be made in a different manner and priority pursuant to the agreement of the Administrative Committee for this Plan and the administrators of all other plans in which the Participant participates.

#### A.05 Preservation of Current Accrued Pension

Notwithstanding anything to the contrary contained in this Appendix A, a Participant's annual benefit payable under the Plan, prior to any reduction required by operation of Section A.04, shall in no event be less than:

(a) The benefit that the Participant had accrued under the Plan as of the end of the Plan Year beginning in 1982, with no changes in the terms and conditions of the Plan on or after July 1, 1982, taken into account in determining that benefit; or

(b) The benefit that the Participant had accrued under the Plan as of the end of the Plan Year beginning in 1986, with no changes in the terms and conditions of the Plan after May 5, 1986, taken into account in determining that benefit.

## **Appendix B**

### **Top-Heavy Provisions**

Section 6.02 of the Plan shall be construed in accordance with this Appendix B. Unless the context clearly requires otherwise, words and phrases used in this Appendix B shall have the same meanings that are assigned to them under the Plan.

#### **B.01 General Definitions**

The following words and phrases, when used in this Appendix B with an initial capital letter, shall have the following meanings, unless the context clearly indicates otherwise:

“Applicable Determination Date” means the last day of the later of the

first Plan Year or the preceding Plan Year (where two or more plans are aggregated and they do not have the same Plan Year, the Applicable Determination Date for each plan shall be such date for each plan which falls within the same calendar year).

“Applicable Valuation Date” means the valuation date coincident with or immediately preceding the last day of the first Plan Year or the preceding Plan Year, whichever is applicable.

“Average Remuneration” means the average annual Remuneration of a Participant for the five consecutive years of Benefit Service after December 31, 1983, during which he receives the greatest aggregate Remuneration from the Employer or an Affiliated Employer, excluding any Remuneration for service after the last Plan Year with respect to which the Plan is top-heavy.

“Key Employee” means an Employee who is in a category of Employees determined in accordance with the provisions of Sections 416(i)(1) and (5) of the Code and any regulations thereunder, and where applicable, on the basis of the Employee’s Remuneration from the Employer or an Affiliated Employer.

“Non-Key Employee” means any Employee who is not a Key Employee.

“Permissive Aggregation Group” means each qualified plan in the Required Aggregation Group and any other qualified plan(s) of the Employer or an Affiliated Employer in which all Participants are Non-Key Employees if the resulting aggregation group continues to meet the requirements of Sections 401(a)(4) and 410 of the Code.

“Remuneration” means “Section 415 Compensation” (as defined in Appendix A), except that Remuneration for purposes of this Appendix B shall not exceed the Maximum Compensation Limitation for any Plan Year.

“Required Aggregation Group” means any other qualified plan(s) of the Employer or an Affiliated Employer in which there are Participants who are Key Employees or which enable(s) the Plan to meet the requirements of Sections 401(a)(4) and 410 of the Code.

“Top-Heavy Ratio” means the ratio of (a) the present value of the Accrued Pensions under the Plan for Key Employees to (b) the present value of the Accrued Pensions under the Plan for all Key Employees and Non-Key Employees. The Top-Heavy Ratio shall be determined as of the Applicable Valuation Date in accordance with Sections 416(g)(3) and (4) of the Code utilizing the Plan’s actuarial funding assumptions. For purposes of determining the Top-Heavy Ratio:

(a) The present value of Accrued Pensions under the Plan shall be combined with the present value of accrued pensions or account balances under each other qualified plan in the Required Aggregation Group and, in the discretion of the Administrative Committee, may be combined with the present value of accrued pensions or account balances under any other qualified plan in the Permissive Aggregation Group;

(b) The present value of accrued pensions or account balances of all Non-Key Employees who were Key Employees during any prior Plan Year shall not be taken into account;

(c) Distributions made during the five-year period ending on the Applicable Determination Date shall be taken into account; and

(d) The present value of accrued pensions or account balances of Participants who have not performed services for the Employer or an Affiliated Employer during the five-year period ending on the Applicable Determination Date shall not be taken into account.

B.02 Top-Heavy Definition

The Plan shall be “top-heavy” with respect to any Plan Year if, as of the Applicable Determination Date, the Top-Heavy Ratio exceeds 60%.

B.03 Provisions Applicable When The Plan Is Top-Heavy

(a) The following provisions shall be applicable to Participants for any Plan Year with respect to which the Plan is top-heavy:

(i) The Accrued Pension of a Participant who is a Non-Key Employee shall not be less than 2% of his Average Remuneration multiplied by the number of years of his Benefit Service, not in excess of 10, during the Plan Years after 1983 for which the Plan is top-heavy. That minimum benefit shall be payable at a Participant’s Normal Retirement Date. If payments commence at a time other than the Participant’s Normal Retirement Date, the minimum Accrued Pension shall be the Actuarial Equivalent of that minimum benefit.

(ii) A Participant shall vest in his Accrued Pension Derived from Employer Contributions in accordance with the following schedule in lieu of the provisions of Section 4.01(b):

Years of Vesting Service	Vesting Percentage
Less than 2	—%
2 but less than 3	20%
3 but less than 4	40%
4 but less than 5	60%
5 or more	100%

However, in no event shall the Participant’s vested percentage in his Accrued Pension Derived from Employer Contributions determined under this Section B.03(a)(ii) be less than the Participant’s vested percentage determined under Section 4.01(b).

(iii) The 1.25 multiplier in the definitions of “Defined Benefit Plan Fraction” and “Defined Contribution Plan Fraction” in Section A.01 of Appendix A shall be reduced to 1.0, and the \$51,875 dollar amount in the definition of “Defined Contribution Plan Fraction” in Section A.01 of Appendix A shall be reduced to \$41,500.

(b) If the Plan is top-heavy with respect to a Plan Year and ceases to be top-heavy for a subsequent Plan Year, the following provisions shall be applicable:

(i) The Accrued Pension in any such subsequent Plan Year shall not be less than the minimum Accrued Pension provided in Section B.03(a)(i) computed as of the end of the most recent Plan Year for which the Plan was top-heavy.

(ii) If a Participant has completed three Years of Vesting Service on or before the last day of the most recent Plan Year for which the Plan was top-heavy, the vesting schedule set forth in Section B.03(a)(ii) shall continue to be applicable.

(iii) If a Participant has completed at least two, but less than three, Years of Vesting Service on or before the last day of the most recent Plan Year for which the Plan was top-heavy, the vesting provisions of Section 4.01(b) shall again be applicable; provided however, that in no event shall the vested percentage of a Participant’s Accrued Pension Derived from Employer Contributions be less than the percentage determined under Section B.03(a)(ii) as of the last day of the most recent Plan Year for which the Plan was top-heavy.

## Appendix C

### Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees (Effective January 1, 1994)

Beginning January 1, 1994, the provisions of this Appendix C shall apply (a) in the event the Plan is terminated, to any Participant who is a Highly Compensated Employee or former Highly Compensated Employee of the Employer or an Affiliated Employer, and (b) in any other event, to any Participant who is one of the 25 highest compensated employees or former highest compensated employees of the Employer or Affiliated Employer with the greatest compensation in any Plan Year.

#### C.01 Restrictions

The amount of the annual payments to any one of the Participants to whom this Appendix C applies shall not be greater than the sum of:

- (a) An amount equal to the payments that would be made on behalf of the Participant under a single life annuity that is the Actuarial Equivalent of the sum of the Participant's Accrued Pension and other benefits under the Plan (other than a social security supplement), and
- (b) The amount of the payments the Participant is entitled to receive, if any, under a social security supplement.

#### C.02 Limitation on Restrictions

(a) If, after payment of benefits to any one of the Participants to whom this Appendix C applies, the value of Plan assets equals or exceeds 110% of the value of current liabilities (as that term is defined in Section 412(l)(7) of the Code) of the Plan, the provisions of Section C.01 shall not be applicable to the payment of benefits to such Participant.

(b) If the value of the Accrued Pension and other benefits of any one of the Participants to whom this Appendix C applies is less than 1% of the value of current liabilities (as that term is defined in Section 412(l)(7) of the Code) of the Plan, the provisions of Section C.01 shall not be applicable to the payment of benefits to such Participant.

(c) If the Actuarial Equivalent of the Accrued Pension and other benefits of any one of the Participants to whom this Appendix C applies does not exceed \$5,000 (\$3,500 prior to August 5, 1997), the provisions of Section C.01 shall not be applicable to the payment of benefits to such Participant.

(d) To the extent permitted by law, if any Participant to whom this Appendix C applies elects to receive a lump sum payment in lieu of his benefit and the provisions of Section C.01 are not met with respect to such Participant, the Participant shall be entitled to receive his benefit in full provided he (i) agrees to repay to the Plan any portion of the lump sum payment which would be restricted by operation of the provisions of Section C.01 and (ii) provides adequate security to guarantee that repayment in accordance with rules established by the Internal Revenue Service.

(e) In the event the Plan is terminated, the restrictions of this Appendix C shall not be applicable if the benefits payable to any Highly Compensated Employee and any former Highly Compensated Employee are limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Code.

(f) If it is subsequently determined by statute, court decision acquiesced in by the Commissioner of Internal Revenue, or ruling by the Commissioner of Internal Revenue, that the provisions of this Appendix C are no longer necessary to qualify the Plan under the Code, this Appendix C shall be ineffective without the necessity of further amendment to the Plan.

## Appendix D

### Limitation Concerning Highly Compensated Employees or Former Highly Compensated Employees (Effective January 1, 1989, Through December 31, 1993)

For the period beginning January 1, 1989, and ending December 31, 1993, the provisions of this Appendix D shall apply to any Participant who is one of the 25 highest paid Employees of the Employer on any Commencement Date and whose anticipated annual Pension provided under the Plan at Normal Retirement Date exceeds \$1,500. "Commencement Date" means the Effective Date of the Plan or the effective date of any amendment to the Plan which increases the benefits.

(a) If the Plan is terminated during the first 10 years after a Commencement Date, the amount of the Pension provided under the Plan for any one of the Participants to whom this Appendix D applies shall not be greater than the amount of Pension that can be provided by the largest of the following amounts:

(i) The Employer's contributions (or funds attributable to those contributions) which would have been applied to provide the Pension if the Plan as in effect on the date before that Commencement Date had been continued without change;

(ii) \$20,000;

(iii) The sum of (A) the Employer's contributions (or funds attributable to those contributions) which would have been applied to provide benefits for the Employee if the Plan had been terminated on the day before that Commencement Date, plus (b) an amount computed by multiplying the smaller of \$10,000 or 20 percent of the average annual remuneration of that Employee during the last five years of service, by the number of years since that Commencement Date; or

(iv) The present value of the maximum benefit guaranteed by the Pension Benefit Guaranty Corporation (PBGC), as described in Section 4022(b)(3)(B) of ERISA, determined on the basis of the actuarial assumptions promulgated by the PBGC applicable as of the date of termination of the Plan or the date Pension payments commence, whichever is earlier.

(b) Any excess reserves arising by application of the provisions of paragraph (a) above shall be used and applied as provided in the Plan for the benefit of the other persons entitled to benefits under the Plan. However, if sufficient funds are available to provide in full for the Pensions accrued for all other persons entitled to benefits under the Plan to the date of termination of the Plan, those excess reserves shall first be used and applied to provide the accrued Pensions of the Participants whose Pensions have been restricted by operation of the provisions of this Appendix D.

**Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Michael H. Keown certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Farmer Bros. Co.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2012

/s/ MICHAEL H. KEOWN

---

**Michael H. Keown**  
**President and Chief Executive Officer**  
**(principal executive officer)**

**Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Jeffrey A. Wahba, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Farmer Bros. Co.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2012

/s/ JEFFREY A. WAHBA

---

**Jeffrey A. Wahba**  
**Treasurer and Chief Financial Officer**  
**(principal financial and accounting officer)**

**Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report of Farmer Bros. Co. (the "Company") on Form 10-Q for the three months ended September 30, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael H. Keown, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 5, 2012

/s/ MICHAEL H. KEOWN

---

**Michael H. Keown**  
**President and Chief Executive Officer**  
**(principal executive officer)**

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report of Farmer Bros. Co. (the "Company") on Form 10-Q for the three months ended September 30, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jeffrey A. Wahba, Treasurer and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operation of the Company.

Dated: November 5, 2012

/s/ JEFFREY A. WAHBA

---

**Jeffrey A. Wahba**  
**Treasurer and Chief Financial Officer**  
**(principal accounting and financial officer)**

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.