

LABOR READY INC
Form DEF 14A
April 11, 2005

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

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
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LABOR READY, INC.

(Name of Registrant as Specified In Its Charter)

LABOR READY, INC.

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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Tacoma, Washington

April 11, 2005

Dear Shareholders:

It is a pleasure to invite you to your Company's 2005 annual meeting of shareholders, to be held at Labor Ready's corporate headquarters, 1015 A Street, Tacoma, Washington, on Wednesday, May 18, 2005, at 10:00 a.m. (Pacific Daylight Time).

The matters to be acted upon are described in the accompanying Notice of Annual Meeting and Proxy Statement.

I look forward to seeing our shareholders at the meeting. We will report on Labor Ready's operations and respond to questions you may have.

YOUR VOTE IS VERY IMPORTANT. Whether or not you plan to attend, it is important that your shares be represented. Please sign, date and mail the enclosed proxy card as soon as possible in the enclosed postage prepaid envelope in order to ensure that your vote is counted. If you attend the meeting you will, of course, have the right to vote your shares in person.

Very truly yours,

/s/ Robert J. Sullivan

Robert J. Sullivan
Chairman of the Board

LABOR READY, INC.

1015 A Street

Tacoma, Washington 98402

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

Wednesday, May 18, 2005

To the Shareholders:

The annual meeting of the shareholders of Labor Ready, Inc., a Washington corporation, will be held at Labor Ready's corporate headquarters, 1015 A Street, Tacoma, Washington on Wednesday, May 18, 2005 at 10:00 a.m. (Pacific Daylight Time) for the following purposes:

1. to elect the directors to serve until the next annual meeting of shareholders, and until their respective successors are elected and qualified;
2. to ratify the selection of PricewaterhouseCoopers LLP to serve as the independent registered public accounting firm of the Company for the fiscal year ending December 30, 2005;
3. to approve the Labor Ready, Inc. 2005 Long-Term Equity Incentive Plan; and
4. to transact such other business as may properly come before the meeting.

Only shareholders of record at the close of business on March 28, 2005 will be entitled to notice of, and to vote at, the annual meeting and any adjournments thereof.

By Order of the Board of Directors

/s/Timothy J. Adams

Timothy J. Adams
Secretary

Tacoma, Washington
April 11, 2005

YOUR VOTE IS IMPORTANT

WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, YOU ARE URGED TO DATE AND SIGN THE ENCLOSED PROXY CARD AND RETURN IT AS PROMPTLY AS POSSIBLE IN THE ENCLOSED STAMPED AND ADDRESSED ENVELOPE IN ORDER THAT THE PRESENCE OF A QUORUM MAY BE ASSURED. THE GIVING OF SUCH PROXY DOES NOT AFFECT YOUR RIGHT TO REVOKE IT LATER OR VOTE YOUR SHARES IN PERSON IN THE EVENT THAT YOU SHOULD ATTEND THE MEETING.

LABOR READY, INC.

1015 A Street

Tacoma, Washington 98402

PROXY STATEMENT

ANNUAL MEETING OF SHAREHOLDERS

Wednesday, May 18, 2005

The Board of Directors of Labor Ready, Inc., a Washington corporation, is soliciting your proxy to vote your shares at the 2005 Annual Meeting of Shareholders of the Company to be held at 10:00 a.m. (Pacific Daylight Time) on Wednesday, May 18, 2005, at the corporate headquarters of Labor Ready, Inc., 1015 A Street, Tacoma, Washington, and at any adjournment thereof. This proxy statement contains the required information under the rules of the Securities and Exchange Commission and is designed to assist you in voting your shares.

Revocation of Proxies. If you execute a proxy, you will retain the right to revoke it at any time before it is voted. You may revoke or change your proxy before it is voted by: (i) sending a written revocation to the Corporate Secretary of the Company at P.O. Box 2910, Tacoma, WA 98401; (ii) submitting a proxy with a later date; (iii) delivering a written request in person to return the executed proxy; or (iv) attending and voting at the annual meeting. Your right to revoke your proxy is not limited by or subject to compliance with a specified formal procedure, but you should give written notice to the Secretary of the Company at or before the annual meeting so that the number of shares represented by proxy can be recomputed.

Voting of Proxies. If you properly execute and return the enclosed proxy card, the individuals named on the proxy card (your proxies) will vote your shares in the manner you indicate. We urge you to specify your choices by marking the appropriate box on the enclosed proxy card; if you sign and return the proxy card without indicating your instructions, your shares will be voted FOR PROPOSAL 1 (the election of directors nominated by the Board of Directors), FOR PROPOSAL 2 (ratification of selection of independent registered public accounting firm), and FOR PROPOSAL 3 (approval of Labor Ready, Inc. 2005 Long-Term Equity Incentive Plan) and with respect to any other business that may come before the meeting, as recommended by the Board of Directors. In the vote on the election of the director nominees (Proposal 1), you may vote For all or some of the nominees or your vote may be Withheld with respect to one or more of the nominees. For the proposals to ratify the selection of the Company's independent registered accounting firm (Proposal 2) and to approve the Company's 2005 Long-Term Equity Incentive Plan (the Long-Term Equity Incentive Plan) (Proposal 3), you may vote For, Against or Abstain.

Quorum. A quorum is necessary to hold a valid meeting. If shareholders entitled to cast at least a majority of all the votes entitled to be cast at the annual meeting are present in person or by proxy, a quorum will exist. Shares represented by proxies containing an abstention as to any matter will be treated as shares that are present and entitled to vote for purposes of determining a quorum. Similarly, shares held by brokers or nominees for the accounts of others as to which voting instructions have not been given for that matter and for which the broker does not have

discretionary voting authority for that matter (Broker Non-Votes) will be treated as shares that are present and entitled to vote for purposes of determining a quorum. Brokers may exercise discretion to vote shares as to which instructions are not given with respect to the proposals regarding the election of directors and the ratification of the selection of the independent registered accounting firm. However, current New York Stock Exchange (NYSE) rules prohibit discretionary voting with respect to equity compensation plans, such as the Long-Term Equity Incentive Plan.

Voting Requirements to Approve Each Proposal. Nominees for election as directors who receive the greatest number of votes cast will be elected directors. There is no cumulative voting for the Company s directors. The proposal to ratify the appointment of PricewaterhouseCoopers LLP as the Company s independent registered accounting firm, and the proposal to approve the Long-Term Equity Incentive Plan, will be approved under Washington law if the number of votes cast For the matter exceeds the number of votes cast Against the matter. In addition to the Washington law requirement, the current rules of the NYSE require that the proposal to approve the Long-Term Equity Incentive Plan receive the affirmative For vote of a majority of the votes cast on this proposal, and that over 50% of the shares entitled to vote actually cast a vote on this proposal.

Effect of Abstentions, Withheld Votes and Broker Non-Votes. Abstentions, withheld votes and Broker Non-Votes will have no practical effect in the election of directors, in the ratification of appointment of PricewaterhouseCoopers LLP, or in the approval of the Long-Term Equity Incentive Plan (except as noted below) because abstentions, withheld votes and Broker Non-Votes do not represent votes cast For or Against the respective proposal. However, Broker Non-Votes do have an effect on the proposal to approve the Long-Term Equity Incentive Plan to the extent that Broker Non-Votes prevent us from satisfying the NYSE requirement that over 50% of the shares entitled to vote on the proposal must actually be cast on the proposal.

Record Date. Shareholders of record at the close of business on March 28, 2005 are entitled to vote at the annual meeting. On March 28, 2005, the Company had 42,737,349 shares of common stock outstanding. Each share of common stock entitles the holder thereof to one vote.

Discretionary Authority. If any nominee for director is unable to serve or for good cause will not serve, or if any matters not specified in this proxy statement come before the meeting, eligible shares will be voted as specified by the named proxies pursuant to discretionary authority granted in the proxy. At the time this proxy statement was printed, we were not aware of any other matters to be voted on.

Solicitation of Proxies. Proxies may be solicited by officers, directors and regular supervisory and executive employees of the Company, none of whom will receive any additional compensation for their services. In addition, the Company has retained Morrow & Co., Inc. to assist in the solicitation of proxies for a fee of \$5,500.

Mailing and Forwarding of Proxy Materials. On or about April 11, 2005, we mailed this proxy statement and the enclosed proxy card to shareholders. We will arrange with brokerage firms and other custodians, nominees and fiduciaries to forward proxy solicitation material to certain beneficial owners of the common stock and will reimburse such brokerage firms, custodians, nominees and fiduciaries for reasonable out-of-pocket expenses that they incur as a result of forwarding the proxy materials.

Executive Offices. The principal executive office of the Company is located at 1015 A Street, Tacoma, WA 98402. The mailing address of the principal executive office is P.O. Box 2910, Tacoma, WA 98401. The telephone number for the Company is (253) 383-9101.

PROPOSAL 1. ELECTION OF DIRECTORS

The Company's directors are elected each year at the annual meeting of shareholders to serve until their successors are elected and qualified, or until they resign or are removed or are otherwise disqualified to serve. The Company's Board of Directors currently consists of seven directors. The Board of Directors has nominated the following persons for election as directors, all of whom are currently directors. **The Board of**

Directors recommends a vote for each of the nominees. Proxies cannot be voted for a greater number of persons than the number of nominees named. The nominees are as follows:

Robert J. Sullivan, 74, has served as Chairman of the Board of the Company since July 2000 and as a director since November 1994. Mr. Sullivan's career included 12 years at American Express Company and related companies, where he served as a financial officer and division general manager. He served three years as chief financial officer of Cablevision, Inc., and was general manager of the Long Island cable television system. He also spent 10 years as a financial consultant to small businesses, including Labor Ready from 1993 to 1994.

Joseph P. Sambataro, Jr., 54, has served as Chief Executive Officer and President of the Company since September 2001 and as a director since January 2000. Mr. Sambataro joined the Company in August 1997 and served as Chief Financial Officer, Treasurer and Assistant Secretary until January 2001 and as Executive Vice President until March 2001. Prior to joining the Company, he served as the Managing Partner of the Seattle office of BDO Seidman, LLP, an accounting and consulting firm, from 1990 to 1997. From 1985 to 1990, Mr. Sambataro was co-founder and CEO of an onsite toxic waste bioremediation company and co-founder and VP Finance of a natural products biotechnology company. From 1972 to 1985, Mr. Sambataro was with KPMG Peat Marwick and partner in charge of audit in the Seattle office from 1983 to 1985.

Thomas E. McChesney, 58, has served as a director of the Company since July 1995. Since 2004, Mr. McChesney has been president of Shoes 4 Work, a provider of slip-resistant shoes to the hospitality industry. From 1998 to 2004, he was Director of Investment Banking with Blackwell Donaldson and Company. He is also a director of Nations Express, Inc. and Stonestreet One, Inc.

Carl W. Schafer, 69, has served as a director of the Company since September 1999. Mr. Schafer is currently President of The Atlantic Foundation, a charitable foundation. Mr. Schafer has also been Financial Vice President and Treasurer of Princeton University, Chairman of the Investment Advisory Committee for the Howard Hughes Medical Institute, and principal of Rockefeller & Co., Inc. He serves on various boards including Frontier Oil Corporation, which is traded on the New York Stock Exchange, and the UBS, Guardian, Harding Loevner and European Investors groups of mutual funds.

Gates McKibbin, 58, has served as a director of the Company since March 2001. Since 1996, Ms. McKibbin has been self-employed as a consultant developing comprehensive strategy and leadership programs for large, nationally respected organizations. Prior to 1996 she was Vice President of Change Management for Bank of America, and has held numerous other executive positions.

William W. Steele, 68, has served as a director of the Company since August 2001. Mr. Steele is currently a director and Chairman of the Executive Committee of ABM Industries, a large facilities services contractor traded on the New York Stock Exchange. In the course of his 43-year career with ABM Industries, Mr. Steele was appointed its President in 1991 and its Chief Executive Officer in 1994, and served in those capacities until his retirement in October of 2000.

Keith Grinstein, 44, was newly appointed as a director of the Company in November 2004. Mr. Grinstein has been a member of the board of directors of Coinstar since August 2001 and has served as its chairman since June 2002. He has held a number of senior executive positions at Nextel International, Inc., a telecommunications company, serving as its president from January 1996 to March 1999, its chief executive officer from January 1996 to August 1999 and a member of its board of directors from 1996 until 2002. Mr. Grinstein's other past experience includes positions at AT&T Wireless Services, Inc. (formerly McCaw Communications). He is currently a partner of Second Avenue Partners, a venture capital fund, and a director of Nextera Enterprises Inc. and F5 Networks Inc.

PROPOSAL 2. RATIFICATION OF SELECTION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Audit Committee of the Board of Directors has appointed PricewaterhouseCoopers LLP as the independent registered public accounting firm to audit the Company's consolidated financial statements for the fiscal year ending December 30, 2005. Services provided to the Company and its subsidiaries by PricewaterhouseCoopers LLP in fiscal 2004 and 2003 are described under "Fees Paid to Independent Registered Public Accounting Firm for Fiscal 2004 and 2003" below. Representatives of PricewaterhouseCoopers LLP will be present at the annual meeting to make a statement if they desire to do so and respond to appropriate questions by shareholders. The ratification of the Board's selection of

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PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 30, 2005 will be approved if the number of votes cast in favor of the ratification exceeds the numbers of votes cast against ratification. **Proxies will be voted**

FOR the ratification of the appointment of PricewaterhouseCoopers LLP as the Company's independent registered accounting firm for fiscal 2005 unless other instructions are indicated on your proxy. In the event shareholders do not ratify the appointment, the Audit Committee will reconsider the appointment. The Audit Committee reserves the right to change its independent registered public accounting firm without seeking shareholder approval if it determines that such change is in the best interests of the Company.

Fees Paid to Independent Registered Public Accounting Firm for Fiscal 2004 and 2003

PricewaterhouseCoopers LLP provided audit and other services in the following categories and was paid the following amounts:

	2004		2003
Audit fees: (1)	\$ 768,243	\$	321,152
Audit-related fees: (2)		\$	17,170
Tax fees: (3)	\$ 51,016	\$	16,625
All other fees: (4)	\$ 179,108	\$	3,165

(1) Audit fees for fiscal 2004 and 2003 were for services rendered for the audits of the consolidated financial statements included in the Company's Annual Reports on Form 10-K including, in 2004, review of internal controls over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act; quarterly reviews of the financial statements included in the Company's Quarterly Reports on Form 10-Q; and other Securities and Exchange Commission filings including consents, comfort letters and other assistance required to complete the year end audit of the consolidated financial statements.

(2) Audit-related fees for fiscal 2003 were for services for research on audit-related issues.

(3) Tax fees include consultation on tax compliance, tax advice and tax planning.

(4) All other fees for fiscal 2004 and 2003 includes subscriptions and due diligence in connection with mergers and acquisitions.

The services described above were approved by the Audit Committee pursuant to the policy described below; the Audit Committee did not rely on any of the exceptions to pre-approval under Rule 2-01(c)(7)(i)(C) under Regulation S-X.

Policy on Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services of Independent Registered Public Accounting Firm

The Audit Committee pre-approves all audit and non-audit services provided by the independent registered public accounting firm prior to the engagement of the independent accountants with respect to such services. The Company's independent accountants may be engaged to provide non-audit services only after the Audit Committee has first considered the proposed engagement and has determined in each instance that the

proposed services are not prohibited by applicable regulations and the accountants' independence will not be materially impaired as a result of having provided such services. In making this determination, the Audit Committee shall take into consideration whether a reasonable investor, knowing all relevant facts and circumstances, would conclude that the accountants' exercise of objective and impartial judgment on all issues encompassed within the accountants' engagement would be materially impaired. The Audit Committee may delegate its approval authority to pre-approve services provided by the independent accountants to one or more of the members of the Audit Committee, provided that any such approvals are presented to the Audit Committee at its next scheduled meeting.

PROPOSAL 3. APPROVAL OF LABOR READY, INC. 2005 LONG-TERM EQUITY INCENTIVE PLAN

General Information

On February 16, 2005, the Board of Directors (Board) of Labor Ready, Inc. (the Company) adopted, subject to shareholder approval, the Labor Ready, Inc. 2005 Long-Term Equity Incentive Plan (the 2005 Plan). The purposes of the 2005 Plan are:

to attract and retain the most talented employees, officers, directors, and consultants available, and

to promote the growth and success of our business by aligning the long-term interests of employees, officers, directors, and consultants with those of our shareholders by providing an opportunity to acquire

an interest in our business, and by providing rewards for exceptional performance and long-term incentives for future contributions to our success.

We currently award stock options and other stock awards to employees, officers and directors through the Labor Ready, Inc. 2000 Stock Option Plan and the Labor Ready, Inc. 1996 Stock Option and Incentive Plan (collectively referred to as the Current Plans). As of April 11, 2005 the Company had an aggregate of approximately 855,000 shares remaining for future awards under the Current Plans. No further awards will be made pursuant to the Current Plans upon shareholder approval of the 2005 Plan, and the remaining shares available for future awards will be issued in connection with awards made pursuant to the 2005 Plan.

The 2005 Plan permits the grant of the following awards:

nonqualified stock options

incentive stock options

restricted stock

restricted stock units

stock appreciation rights (SARs)

The flexibility of the 2005 Plan in types and specific terms of awards will allow future awards to be based on then-current objectives for aligning compensation with shareholder value.

The following is a summary of the material terms of the 2005 Plan and is qualified in its entirety by reference to the 2005 Plan. A copy of the 2005 Plan is attached to this proxy statement as Appendix A.

Summary of the 2005 Plan

Administration

The Compensation Committee (the Committee) will administer the 2005 Plan. The Committee will have authority to determine when and to whom awards will be granted, including the type, amount, form of payment and other terms and conditions of each award, consistent with the provisions of the 2005 Plan. In addition the Committee has the authority to interpret the 2005 Plan and the awards granted under the plan, and establish rules and regulations for the administration of the plan. The Committee may delegate the administration of the plan to the one or more subcommittees consisting of members of the Committee or our independent directors.

Eligible Participants

Any employee, officer, consultant or director providing services to the Company or to any affiliate of the Company is eligible to be selected to receive awards under the 2005 Plan. As of the date of this proxy statement approximately 2,900 employees, officers and directors were eligible as a class to be selected to receive awards under the 2005 Plan.

Shares Available for Awards

The aggregate number of shares of the Company's common stock (Common Stock) that may be issued as awards under the 2005 Plan will be 5.5 million shares, which includes approximately 855,000 shares of Common Stock currently available for issuance under the Current Plans and approximately 4,645,000 additional shares of Common Stock. The aggregate number of shares of Common Stock which may be granted to any one participant in any one year under the 2005 Plan is 1 million. The maximum aggregate number of shares of Common Stock which may be granted as incentive stock options is 4 million. The Committee may adjust the aggregate number of shares reserved for issuance under the Plan in the case of a stock dividend or other distribution, including a stock split, merger, extraordinary dividend, or other similar corporate transaction or event, in order to prevent dilution or enlargement of the benefits or potential benefits intended to be provided under the 2005 Plan.

If any shares of Common Stock related to an award granted under the Current Plans or the 2005 Plan are forfeited or become unexercisable, or if any award terminates without the delivery of any shares, the shares of Common Stock previously set aside for such awards will be available for future awards under the 2005 Plan. The

aggregate number of shares of Common Stock that may be issued under the 2005 Plan will be reduced by (i) 1.5 shares for each share delivered in settlement of any award of restricted stock, restricted stock unit or stock appreciation right (SAR) and (ii) one share for each share delivered in settlement of an option.

Stock Options

The holder of an option will be entitled to purchase a number of shares of Common Stock at a specified exercise price (which may not be less than the fair market value of the underlying shares on the date of grant) during a specified time period, all as determined by the Committee. The option exercise price may be payable either in cash or, at the discretion of the Committee, in shares of our Common Stock.

Restricted Stock and Restricted Stock Units

The holder of restricted stock will own shares of Common Stock subject to forfeiture to the Company if the holder does not satisfy certain requirements (including, for example, continued employment with the Company) for a specified period of time. The holder of restricted stock units will have the right, subject to any restrictions imposed by the Committee, to receive shares of Common Stock, or a cash payment equal to the fair market value of those shares, at some future date determined by the Committee, provided that the holder has satisfied certain requirements (including, for example, continued employment with the Company until such future date).

The awards of restricted stock and restricted stock units that are intended to qualify as performance based compensation within the meaning of Section 162(m) of the Internal Revenue Code will be subject to the attainment of performance goals relating to the performance criteria selected by the Committee as permitted under the 2005 Plan.

Stock Appreciation Rights

Participants may be granted tandem SARs (consisting of SARs with underlying options) and stand-alone SARs. The holder of a tandem SAR is entitled to elect between the exercise of the underlying option for shares of Common Stock or the surrender of the option in exchange for the receipt of a payment (in cash, Common Stock or both) equal to the excess of the fair market value on the surrender date over the aggregate exercise price payable for such shares. The holder of stand-alone SARs will be entitled to receive (in cash, Common Stock or both) the excess of the fair market value (on the exercise date) over the exercise price for such shares.

Termination of Employment

Unless otherwise provided in the applicable award agreement or any severance agreement, vested options granted under the 2005 Plan will expire, terminate, or otherwise be forfeited as follows:

ninety (90) days after the date of termination of a participant's employment, other than in the circumstances described below;

immediately upon termination of a participant for cause (as may be defined in a subplan or award agreement);

twelve (12) months after the date on which a participant suffers Disability (as defined in the 2005 Plan); and

twelve (12) months after the death of a participant if such participant's employment had not previously been terminated.

Duration, Termination and Amendment

The 2005 Plan will terminate on the tenth anniversary of the date the Company's shareholders approve the plan, unless terminated by the Board or the Committee earlier, or extended by an amendment approved by the Company's shareholders. No awards may be made after the termination date. However, unless otherwise expressly provided in an applicable award agreement, any award granted under the 2005 Plan prior to the expiration may extend beyond the end of such period through the award's normal expiration date.

The Board and the Committee may generally amend or terminate the plan as determined to be advisable. Shareholder approval may also be required for certain amendments by the Internal Revenue Code, the rules of NYSE, or rules of the Securities and Exchange Commission. The Board or the Committee has specific authority to amend the 2005 Plan without shareholder approval to comply with legal, regulatory and listing requirements

and to avoid unanticipated consequences determined to be inconsistent with the purpose of the 2005 Plan or any award agreement.

Prohibition on Repricing Awards

Without the approval of the Company's shareholders, no option or SAR may be amended to reduce its exercise price or grant price and no option or SAR may be canceled and replaced with an option or SAR having a lower exercise price.

Transferability of Awards

Unless otherwise provided by the Committee, awards under the 2005 Plan may only be transferred by will or the laws of descent and distribution. The Committee may permit further transferability pursuant to conditions and limitations that it may impose.

Federal Income Tax Consequences

The federal income tax consequences of awards under the 2005 Plan to the Company and the Company's employees, officers, directors, and consultants are complex and subject to change. The following discussion is only a summary of the general rules applicable to the 2005 Plan.

Under new Section 409A of the Internal Revenue Code of 1986, as amended (the Code), enacted as part of the American Jobs Creation Act of 2004, recipients of certain equity compensation awards (including certain types of stock appreciation rights and restricted stock units) may be subject to a burdensome taxation regime. If Section 409A were to apply to awards under the 2005 Plan, the affected participants may be required to recognize ordinary income for tax purposes earlier than the times otherwise applicable as described in the discussion below and to pay substantial penalties. The 2005 Plan allows for the issuance of certain of these types of awards for purposes of giving the Company maximum flexibility. However, the Company does not intend to issue any awards that would be subject to Section 409A until the new rules have been revised or clarified. Furthermore, the Board and the Committee generally have the authority to amend the 2005 Plan as they deem necessary to comply with applicable laws, including Section 409A. Therefore, the following discussion does not specifically address the potential impact of Section 409A on the various awards.

Options

Options granted under the 2005 Plan may be either incentive stock options or nonqualified stock options. Incentive stock options are options which are designated as such by the Company and which meet certain requirements under Section 422 of the Code and the regulations thereunder. Any option which does not satisfy these requirements will be treated as a nonqualified stock option.

Incentive Stock Options

If an option granted under the 2005 Plan is treated as an incentive stock option, the optionee will not recognize any income upon either the grant or the exercise of the option, and the Company will not be entitled to a deduction for federal tax purposes. Upon a sale of the shares, the tax treatment to the optionee and the Company will depend primarily upon whether the optionee has met certain holding period requirements at the time he or she sells the shares. In addition, as discussed below, the exercise of an incentive stock option may subject the optionee to alternative minimum tax liability.

If an optionee exercises an incentive stock option and does not dispose of the shares received within two years after the date the option was granted or within one year after the transfer of the shares to him or her, any gain realized upon the disposition will be characterized as long-term capital gain and, in such case, the Company will not be entitled to a federal tax deduction.

If the optionee disposes of the shares either within two years after the date the option is granted or within one year after the transfer of the shares to him or her, the disposition will be treated as a disqualifying disposition and an amount equal to the lesser of (1) the fair market value of the shares on the date of exercise minus the exercise price, or (2) the amount realized on the disposition minus the exercise price, will be taxed as ordinary income to the optionee in the taxable year in which the disposition occurs. (However, in the case of gifts, sales to related parties, and certain other transactions, the full difference between the fair market value of the stock and

the purchase price will be treated as compensation income). The excess, if any, of the amount realized upon disposition over the fair market value at the time of the exercise of the option will be treated as long-term capital gain if the shares have been held for more than one year following the exercise of the option.

The exercise of an incentive stock option may subject an optionee to alternative minimum tax liability. The excess of the fair market value of the shares at the time an incentive stock option is exercised over the purchase price of the shares is included in income for purposes of the alternative minimum tax even though it is not included in taxable income for purposes of determining the regular tax liability of an employee. Consequently, an optionee may be obligated to pay alternative minimum tax in the year he or she exercises an incentive stock option.

In general, the Company will not be entitled to a federal income tax deduction upon the grant, exercise, or termination of an incentive stock option. However, in the event an optionee sells or otherwise disposes of the stock received on the exercise of an incentive stock option in a disqualifying disposition, the Company will be entitled to a deduction for federal income tax purposes in an amount equal to the ordinary income, if any, recognized by the optionee upon disposition of the shares, provided that the deduction is not otherwise disallowed under the Code.

Nonqualified Stock Options

Nonqualified stock options granted under the 2005 Plan do not qualify as incentive stock options and will not qualify for any special tax benefits to the optionee. An optionee generally will not recognize any taxable income at the time he or she is granted a nonqualified option. However, upon exercise, the optionee will recognize ordinary income for federal tax purposes measured by the excess of the then fair market value of the shares over the exercise price. The income realized by the optionee will be subject to income and other employee withholding taxes.

The optionee's basis for determination of gain or loss upon the subsequent disposition of shares acquired upon the exercise of a nonqualified stock option will be the amount paid for such shares plus any ordinary income recognized as a result of the exercise of such option. Upon disposition of any shares acquired pursuant to the exercise of a nonqualified stock option, the difference between the sale price and the optionee's basis in the shares will be treated as a capital gain or loss and generally will be characterized as long-term capital gain or loss if the shares have been held for more than one year at the time of their disposition.

In general, the Company will not be entitled to a federal income tax deduction upon the grant or termination of a nonqualified stock option or a sale or disposition of the shares acquired upon the exercise of a nonqualified stock option. However, upon the exercise of a nonqualified stock option, the Company will be entitled to a deduction for federal income tax purposes equal to the amount of ordinary income that an optionee is required to recognize as a result of the exercise, provided that the deduction is not otherwise disallowed under the Code.

Restricted Stock and Restricted Stock Units

Generally, the holder of restricted stock will recognize ordinary compensation income at the time the stock becomes vested. The amount of ordinary compensation income recognized will be equal to the excess, if any, of the fair market value of the stock on the date it becomes vested over any amount paid by the holder in exchange for stock.

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In the case of restricted stock units, the holder will recognize ordinary compensation income at the time the stock is received equal to the excess of value of the stock on the date of receipt over any amount paid by the holder in exchange for stock. If the holder of a restricted stock unit receives the cash equivalent of the stock issuable under the restricted stock unit in lieu of actually receiving the stock, the recipient will recognize ordinary compensation income at the time of the receipt of such cash in the amount of the cash received. In the case of both restricted stock and restricted stock units, the income recognized by the holder will generally be subject to U.S. income tax withholding and employment taxes.

In the year that the recipient of a stock award recognizes ordinary taxable income in respect of restricted stock or a restricted stock unit, the Company will be entitled to a deduction for federal