

**Summary Plan Description**

to the

**United Supermarkets, L.L.C. 401(k) Retirement and Savings Plan**

January 1, 2008

*This Summary is intended to serve as an easy-to-read explanation of the Plan as in effect as of the above date. It summarizes, in a very condensed form, the Plan's important provisions as they apply to participants who are employees of the Company on and after that date.*

*CAUTION: Although the Company has made a sincere effort to make this Summary as complete and accurate as possible, this Summary is not a substitute for the Plan document itself. The detailed provisions of the Plan document, not this Summary, govern the actual rights and benefits to which you may be or become entitled. The Plan document is available for your inspection during regular business hours at the Company's offices.*

## **Introduction**

This is the Summary Plan Description (the "Summary") for the United Supermarkets, L.L.C. 401(k) Retirement and Savings Plan (formerly the United Supermarkets, Ltd. 401(k) Retirement and Savings Plan) ("Plan") as it existed as of January 1, 2008. The Plan is a tax-qualified profit-sharing plan with a cash or deferred arrangement.

The Plan may be amended from time to time to keep it in compliance with federal laws affecting pension plans and to keep the Plan current with developments related to United Supermarkets, L.L.C. (the "Company") and its benefit programs. Your rights and benefits as a participant are generally governed by the terms of the Plan as in effect on the last date on which you worked for the Company.

Nothing in the Plan or in this Summary confers on you any rights of continued employment with the Company. Moreover, your participation in the Plan does not prohibit changes in the terms of, or the termination of, your employment by the Company.

## **Who Can Participate**

As a Team Member of the Company, you are eligible to participate in the Plan (an 'eligible employee') unless you are:

- a leased employee

As an eligible Team Member, you become a participant as of the first day of the calendar quarter after you have completed the age and service requirements set forth below. For purposes of employer discretionary contributions, other than matching contributions, you become a participant in the Plan as of the first day of the month after you completed the age and service requirements below. If you were a former employee of Excel Logistics, Inc. and you have completed the age and service requirements set forth below as of your date of hire with the Company, you became a participant in the Plan as of that date.

<u>Portion of the Plan</u>	<u>Age Requirement</u>	<u>Years of Service Requirement</u>
Elective Deferral (401(k)) contributions	20 1/2	1/2
Matching Contributions	20 1/2	1/2
Employer Discretionary Contributions	20 1/2	1

For this purpose, a '1/2 year of service' is any 6-consecutive month period during which complete at least 500 hours of service. A 'year of service' is any computation period during which you complete at least 1,000 hours of service. A 'computation period', in turn, is a 12-consecutive-month period, which begins on the date of hire and the first day of each plan year thereafter. In addition, you shall receive credit for service performed with Brookshire Store #510 and #504 provided you were an employee as of June 4, 2006. In addition, you shall receive credit for service performed with RC Taylor Distributing provided you were an employee as of July 29, 2007. In addition, you shall receive credit for service performed with Excel Logistics, Inc. provided you were an employee as of April 1, 2008. An 'hour of service' is, in general, an hour for which you were entitled to be paid by the Company.

In general, if you leave the Company after having become a participant, you will again become a participant immediately following your return to service at the Company.

## **Elective Contribution Forms**

As a participant, you can elect to make contributions of a portion of your compensation to the Plan by completing and filing with ING an enrollment form ('Enrollment Form') or by utilizing the electronic media set up for this purpose. If you become a participant in the Plan on or after January 1, 2009 unless you elect otherwise, 1% of

your compensation will automatically be deferred to the plan. Your completed Enrollment Form must indicate the percentage of your compensation you want to contribute to the Plan, as well as the way you want your contributions invested in the trust fund. You can begin making elective contributions as of the date on which you become a participant in the Plan. To do so, your completed Enrollment Form must be received by ING at least prior thereto.

After you choose your initial elective contribution percentage, you may increase or decrease as of each pay period. Elective contribution percentage changes are made on forms available from ING or by utilizing the electronic media set up for this purpose. This form must be completed and delivered to ING prior to the start of the first pay period to which the change applies.

## **Contributions**

### **Your Contributions**

You can elect to have from 1% to 92% of your compensation contributed to the Plan. Your contributions are based upon your W-2 Compensation. In addition, compensation also includes amounts you contribute to the Plan as an elective contribution. However, compensation earned while you are not a participant shall not be considered. If you are a highly compensated employee, your contributions may be restricted (see Limitations on Contributions, below).

Your contributions are ordinarily made through automatic payroll deductions every pay period. These contributions are considered to be the Company's contributions for federal income tax purposes, because they are made from your compensation before you receive it. Because of this, your contributions are not subject to current federal income tax. They are, however, subject to Social Security tax and certain state and local income taxes.

### **Company Matching Contributions**

The Company may, but shall not be required to, make a contribution for each participant who has elected to make elective deferral contributions. The Company's contributions are allocated or divided among participants eligible to share in such contributions for the pay period. Your allocation of the Company's matching contribution is based on the proportion that your elective deferral contributions bear to the total elective deferral contributions of all participants employed by the Company for the pay period. However, a participant's deferral contributions which exceed 6% shall not be considered.

### **Company Discretionary Contributions**

The Company may contribute an amount to participants' accounts on a yearly basis. This contribution is made at the discretion of the Company.

The discretionary contributions are allocated or divided among participants eligible to share in the contribution for the plan year. A participant's allocation shall be the employer's contribution multiplied by a fraction the numerator of which is the participant's Allocation Points and the denominator of which is the total Allocation Points of all participants. Each participant's Allocation Points equals the participant's Allocation Factor times the sum of 0.5% of the participant's compensation for the plan year plus 0.5% of the participant's compensation for the plan year which exceeds \$6,600, if any. You are eligible to receive an allocation of Company discretionary contributions provided you are employed on the last day of the plan year and you have completed at least 1,000 hours of service.

### **Qualified Non-Elective Contributions**

The Company may contribute for each non-highly compensated employee, or for any group of such Team Members, a 'qualified non-elective contribution' in an amount to be determined by the Company. These amounts are used to satisfy certain nondiscrimination tests and are nonforfeitable when made.

The Company's qualified non-elective contributions are 'allocated' or divided among participants eligible to share in the contribution for the plan year. As a participant, you may be entitled to share in the Company's qualified non-elective contributions for any plan year.

### Rollover Contributions

In general, a Team Member who receives a distribution from a qualified retirement plan that is eligible for rollover treatment must have 20% of such distribution withheld. This rule will not apply if the distribution is directly transferred to another tax-qualified retirement plan, an individual retirement account (IRA), an annuity contract described in section 403(b) of the Code, or an eligible governmental plan under section 457 of the Code.

If you were a participant in a former employer's tax-qualified retirement plan, 403(b) plan or 457 plan ('eligible plan') and you are entitled to receive an 'eligible rollover' distribution from that plan, you may elect to have all or a portion of the distribution paid to this Plan as a 'direct rollover' in accordance with the rules and procedures established by your former employer. In addition to a direct rollover, if you have received an eligible rollover distribution from your former employer's eligible plan, you may, within 60 days from receiving the distribution, rollover all or a portion of that distribution to this Plan.

A Team Member whose distribution was subject to the withholding at issue and who is covered by this Plan may still contribute an amount equal to the amount withheld from personal assets along with the portion of the distribution that was not withheld. For example, assume a Team Member who separates from service receives a distribution from the Plan and has 20% of such distribution withheld. Further assume that the Team Member subsequently becomes covered under the Plan. The employee may pay the remaining 80% of the distribution to the Plan and he or she may obtain an amount equal to 20% of the distribution from personal assets and contribute this amount to the Plan. (The Team Member may later claim a refund for the amount withheld.)

### Additional Contributions Due to Reemployment Following Uniformed Service

If you are reemployed with the Company following a period of uniformed service which entitles you to rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), you are entitled to make 'make-up' contributions to the Plan. The make-up contributions cannot exceed the amount of contributions that you could have made during the period of uniformed service if you had remained employed by the Company and earned an amount generally equal to that which you would have been paid by the Company (Uniformed Service Compensation). You can make such make-up contributions during a period beginning on the date you are reemployed with the Company and ending on the date which is the lesser of five years or three times the length of the period of uniformed service after the date of reemployment.

If you are reemployed with the Company following a period of uniformed service which entitles you to rights under USERRA, the Company shall be required to make a 'make-up' contribution on your behalf equal to (i) the matching contribution and qualified non-elective contribution that would have been made had you remained in the employment of the Company during your period of uniformed service and earned Uniformed Service Compensation during such period, and had your 'make-up' elective deferral contributions been made during such period of uniformed service; and (ii) the discretionary contribution that would have been made had you remained in the employment of the Company during your period of uniformed service and earned Uniformed Service Compensation.

### Limitations on Contributions

It is important to note that the total of your elective contributions in any year may not exceed the dollar limit for that year set by the IRS. The IRS limit may change from year to year. In addition, if you are age 50 or older by the last day of the plan year, you can contribute an additional ('catch-up') amount. For 2009, the elective contribution limit is \$16,500 and the catch-up contribution limit is \$5,500. In future years, the IRS will adjust these limits for cost-of-living adjustments.

If your elective contributions to the Plan total more than the IRS limit for a year, these (together with any income attributable thereto) will be returned to you by September 15 of the following year. If you work for more than one employer, and your elective contributions to this Plan, and a 401(k) plan of another employer, exceed the IRS limit for a year, you may request from the Company a withdrawal of such excess amount from this Plan, no later than by the first day in March of the following year. Excess elective contributions are taxable for the year contributed, but would not be subject to the 10% penalty tax on early withdrawals (see below) if distributed by the following April 15.

If your annual compensation causes you to be classified as 'highly compensated' under IRS regulations, your contributions to the Plan are monitored to ensure that you and other highly compensated participants do not set aside too much in relation to the contributions of other eligible employees. If you do, the excess will be repaid to you by the Plan. You will be notified if this applies to you.

Aggregate contributions to the Plan and to other retirement plans in which you participate are subject to limitations imposed by the Internal Revenue Code and the IRS regulations. For example, the amount of annual compensation on which your elective contributions are based is limited to \$245,000 for 2009. If you are affected by these restrictions, you will be notified.

### **Trust Fund**

Contributions made to the Plan are held in a trust fund. The trust assets do not belong to the Company, but are held for the exclusive benefit of plan participants and beneficiaries. It is the duty of the Trustee to hold and administer the trust fund.

The Company will periodically transfer elective contributions to the trust. Contributions are credited to your accounts as soon as the contributions have been received by the Trustee. Participant statements are produced quarterly.

Your contributions are placed in individual accounts established and maintained for you as a plan participant by the Trustee. Your individual accounts are your:

- Elective Contribution Account -- consisting of your elective contributions;
- Qualified Non-Elective Contribution Account -- consisting of the Company's nonforfeitable non-elective contributions (for all other purposes, this account is subject to the rules pertaining to your Elective Contribution Account);
- Employer Contribution Account -- consisting of Company discretionary contributions and contributions which match a percentage of your elective contributions;
- Rollover Contribution Account -- consisting of amounts rolled over from other qualified plans or IRAs.

### **Investments**

The Trustee will offer three or more investment funds for your selection. Your accounts will initially be invested in one or more of the investment funds as you select, on a form provided by ING. You may, on a daily basis, change your election as to how contributions are to be invested, or elect to transfer the balances of your accounts among the investment funds. You may make a change in your investment election, or an election to transfer account balances. To do this, you may indicate the desired investment election change or account balance transfer on a form, provided to you by ING. You file this form with ING.

You have the right to direct the Trustee as to how to vote, and how to exercise all other rights pertaining to, the shares of the funds in which your plan accounts are invested. You will receive copies of all materials and other information that the fund in question distributes to its owners in connection with matters to be voted on or acted upon. You will also receive a form for directing the Trustee as to how to vote or to take other action with respect to the shares of any of the funds held in your accounts, together with instructions as to how to complete the form and file it with the Trustee.

Your accounts will be credited or charged, on a daily basis, with the earnings or losses attributable to the specific funds in which the accounts are invested. No fees or expenses (such as commissions, sales loads, deferred sales charges or redemption or exchange fees) are charged to your accounts in connection with the investment of your accounts in, or the withdrawal of your accounts from, any of the investment funds. However, the persons who

administer and manage the funds may receive fees for their services. These fees are paid from the assets of the funds, and therefore reduce the overall return offered by the funds.

You will be provided with a summary description of each of the funds available for investment. You will also be provided with a copy of the most recent prospectus for a fund immediately following the initial investment of any of your accounts in that fund. Further, the Company has made arrangements so that you can receive additional and/or more detailed information regarding the investment funds from the benefits department.

The information that you may request from the benefits department includes the following:

- A description of the annual operating expenses of each fund and the aggregate amount of such expenses expressed as a percentage of average net assets of the fund, including any fee charged by the Trustee.
- Copies of prospectuses, financial statements and reports relating to each fund.
- A list of assets comprising the portfolio of each fund.
- Information concerning the value of shares or units in each fund as well as the past and current investment performance of each alternative determined, net of expenses, on a reasonable and consistent basis.
- Information concerning the value of shares or units in each fund held in your accounts.

By providing you with the array of investment choices, combined with your ability to change the mix of those investments, it is intended that the Plan constitutes a plan described in section 404(c) of the Employee Retirement Income Security Act, and Title 29 of the Code of Federal Regulations, section 2550.404c-1. It is further intended that the Company, the Trustee, and any other fiduciary of the Plan be relieved of liability for any losses which are the direct and necessary result of your investment instructions.

## **Vesting**

### **Calculation of Vested Percentage in General**

Your interest in your Elective Contribution, Qualified Non-elective Contribution, and Rollover Contribution Account is 100% vested at all times.

Your interest in the portion of your Employer Contribution Account which is attributable to employer matching contributions will become vested according to the following schedule:

<u>Years of Service</u>	<u>Vested Percentage</u>
1 but less than 2	25%
2 but less than 3	50%
3 but less than 4	75%
4 but less than 5	100%
5 but less than 6	100%
6 or more	100%

Your interest in your Company Discretionary Contributions will become vested according to the following schedule:

<u>Years of Service</u>	<u>Vested Percentage</u>
1 but less than 2	25%
2 but less than 3	50%
3 but less than 4	75%
4 but less than 5	100%
5 but less than 6	100%
6 but less than 7	100%
7 or more	100%

For this purpose, a 'year of service' is a plan year in which you complete at least 1000 hours of service. An hour of service is defined in the 'Who Can Participate' section above.

You will automatically become 100% vested in your Employer Contribution Account if, while you are employed by the Company, you: attain age 65; die; become disabled. For this purpose, you are treated as 'disabled' if the Company determined that you are unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to last for a continuous period of at least 12 months duration. Forfeitures resulting from a terminated participant's failure to be fully vested in his or her Employer Contribution Account will be reallocated as an additional Company contribution.

Notwithstanding anything in this Summary to the contrary, if you are reemployed with the Company following a period of uniformed service which entitles you to rights under USERRA, you will be credited with such uniformed service for purposes of determining your years of service for vesting purposes.

#### Break in Service Rules

A 1-year break in service is a computation period during which you have not completed more than 500 hours of service with the Company.

A 1-year break in service does not occur, however, in the computation period in which you enter or leave the Plan for reasons of an authorized leave of absence or certain maternity or paternity absences.

The Company will be required to credit you with hours of service for a maternity or paternity absence. These are absences taken on account of pregnancy, birth, or adoption of your child. No more than 501 hours of service shall be credited for this purpose and these hours of service shall be credited solely to avoid your incurring a 1-year break in service. The Company may require you to furnish it with proof that your absence qualifies as a maternity or paternity absence.

These break in service rules may be illustrated by the following example:

Employee A works 300 hours in a plan year. At the end of the plan year, Employee A will have a 1-year break in service because he has worked less than 501 hours in a plan year. Employee B works 300 hours in a plan year and takes an authorized leave of absence for which he is credited with an additional 250 hours. Employee B will not have a 1-year break in service because he is credited with more than 500 hours in a plan year.

If you do not have a vested interest in the Company contributions allocated to your account when you terminate your employment, you will lose credit for vesting or participation purposes for your pre-break years of service when your consecutive 1-year breaks in service equal or exceed the greater of 5 years, or your pre-break years of service. For example:

Employee A terminated employment on February 1, 2000 with 2 years of service. Employee A was not vested at the time of his termination of employment. Employee A returns to work on February 1, 2003. Employee A will be credited with his 2 pre-break years of service for vesting and participation because his period of termination (3 years) did not exceed 5 years.

If you receive a distribution of all or a portion of your vested benefit after you leave the Company and you are subsequently reemployed but before the earlier of (1) 5 years after your date of reemployment or (2) the date you sustained a 5-year break in service following the date of distribution, your nonvested account balance will be restored, provided you repay to the Plan any vested amount distributed to you. However, if you forfeit any of the nonvested portion of your account balance, such forfeiture will be used to reduce future contributions made by the Company.

If you are reemployed with the Company following a period of uniformed service which entitles you to rights under USERRA, you shall not be considered to have incurred a break in service on account of such uniformed service and you will be credited with such uniformed service for purposes of determining your years of service for vesting purposes.

### **Receiving Money While Employed**

While you are employed by the Company, there are limited circumstances under which you can receive money from the Plan. These are described below. Please note that certain distributions made prior to your attainment of age 59 ½ are subject to an early withdrawal penalty by the IRS. This penalty applies in addition to your ordinary income tax on such applicable distributions.

#### Hardship Withdrawals of Elective Deferral Contributions

You may receive all or part of your Elective Deferral Contributions, Rollover Contributions and After-tax Contributions if you incur a 'hardship.' However, After-tax Contributions must be withdrawn first. In addition, earnings on elective contributions cannot be withdrawn on account of a hardship. A hardship withdrawal may be made only if it is both on account of your immediate and heavy financial need and is necessary to meet such financial need. A withdrawal will be deemed to be made on account of an immediate and heavy financial need if the withdrawal is used:

- to pay medical expenses, within the meaning of Section 213(d) of the Internal Revenue Code, incurred or to be incurred by you, your spouse, or any of your dependents;
- for costs directly related to the purchase (excluding mortgage payments) of your principal residence;
- to pay tuition and related educational fees for the next 12 months of post-secondary education for you, your spouse, children or dependents;
- to prevent your eviction from your principal residence or the foreclosure of the mortgage on your principal residence;
- to pay burial or funeral expenses for your deceased parent, spouse, child or other dependent; or
- to pay expenses for the repair of damage to your principal residence that would qualify for the casualty deduction under the Internal Revenue Code.

A withdrawal will be deemed to be necessary to satisfy an immediate and heavy financial need if the amount of the withdrawal does not exceed the amount required to relieve the financial need. For this purpose, the amount of the financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the hardship withdrawal.

To receive a hardship withdrawal, the following conditions apply:

- you have received all withdrawals and distributions, other than hardship withdrawals, and all non-taxable loans currently available under this Plan and all other plans maintained by the Company;
- your elective contributions under this Plan, and your employee after-tax contributions under any other plan of the Company will be suspended for 6 months after the receipt of the hardship withdrawal; and

- your elective contributions to the Plan for your taxable year immediately following the taxable year of the hardship withdrawal is limited to the excess of (a) the annual limit on elective contributions for such next taxable year over (b) the amount of your elective contributions for the taxable year of the hardship withdrawal.

You apply for a hardship withdrawal by filing a written request with the Company.

#### In Service Withdrawals

While employed, the Plan permits distributions only under limited circumstances as follows:

- You may take a withdrawal of all or a portion of your Elective Deferral Accounts, any time after you reach age 59½.
- You may take a withdrawal of your Elective Deferral Account any time after you reach age 65.
- You may take a withdrawal of your Elective Deferral Account if you become disabled (defined above).
- You may take a withdrawal of all or a portion of your vested Employer Contribution Accounts, any time after you reach age 59½.
- You may take a withdrawal of your Employer Contribution Accounts any time after you reach age 65.
- You may take a withdrawal of the vested portion of your Employer Contribution Accounts if you become disabled (defined above).
- If you remain in employment with the Company then, the distribution of your vested accounts must be made by the later of the April 1st following the calendar year in which you: (1) attain age 70½ or (2) retire. Notwithstanding the preceding sentence, if you are a 5% owner of the Company, distributions of your vested accounts must be made by the April 1st following the calendar year in which you attain age 70½. If you are affected by this rule, you will be notified at the appropriate time.

#### Plan Loans

You may apply to ING for a loan from the Plan. However, loans are not available from Company discretionary contributions (other than matching contributions). Your application must be made in accordance with the on-line system set up for this purpose. ING may also request that you provide additional information, such as financial statements, tax returns and credit reports. After considering your application, ING may, in its discretion, determine that you qualify for the loan. ING will inform the Trustees that you qualify.

There are various rules and requirements that apply to any loan. These rules are outlined in this section. In addition, the Company has established a written loan program which explains these requirements in more detail. You can request a copy of the loan program from the Company. Generally, the rules for loans include the following:

- Loans must be made available to all participants on a uniform and non-discriminatory basis.
- All loans must be adequately secured. To obtain a Plan loan, you must pledge a security interest in 50% of your vested account balances under the Plan. The Company also requires that repayments on the loan obligation be by payroll deduction.
- The interest rate applied to all loans will be a reasonable rate of interest determined by taking into account interest rates being charged at the time of the loan.
- All loans must have a definite repayment period for payments to be made not less frequently than quarterly, and for the loan to be amortized on a level basis over a reasonable period of time, effective August 1, 2007 not to exceed five years.
- All loans will be considered a directed investment from your account under the Plan. All payments of principal and interest by you on a loan will be credited to your account.

- The amount the Plan may loan to you is limited by rules under the Internal Revenue Code. Any new loan will be limited to the lesser of:
  - \$50,000, or
  - ½ of your vested account balances.
- No loan in an amount less than \$1000 will be made.
- You can have only 1 loan outstanding at a time.
- If you fail to make payments when they are due under the loan, you will be considered to be 'in default'. The Trustees would then have authority to take all reasonable actions to collect the balance owing on the loan. This could include filing a lawsuit or foreclosing on the security for the loan. Under certain circumstances, a loan that is in default may be considered a distribution from the Plan, and could result in taxable income to you. In any event, your failure to repay a loan will reduce the benefit you would otherwise be entitled to from the Plan.

### **Plan Distributions**

If you separate from service, other than by reason of death, or become eligible for an in-service distribution discussed above, the balance of your vested plan accounts becomes distributable to you at your election. Subject to the 'consent' requirement described below, such balance will be distributed to you, in the form of a single sum cash payment or in installment payments not to exceed your life expectancy, as soon as practicable after you elect to receive payment. This payment(s) will be equal to the amount of such balance determined at the time the payment(s) is made.

### **Consent Requirement**

Until you have reached age 65, no distribution may be made to you from your accounts unless (a) the balance of your vested accounts does not exceed \$1,000 or (b) you consent to the distribution, in writing, within the 90-day period ending on the day the distribution is to be made. This generally means that if you terminate employment with an account balance that does not exceed \$1,000 and you do not consent to a distribution, the full balance of your account will be distributed to you. ING will furnish you with a written explanation of your right to defer your distribution until age 65 and effect of the deferral.

If an immediate distribution of your accounts cannot be made to you because you did not consent to the distribution, distribution of your vested accounts will be made as soon as practicable after the earliest to occur of (a) the date on which you attain age 65, (b) the date of your death, or (c) the date on which the Company receives written notice from you requesting and consenting to, an immediate distribution of the total balance of your vested accounts.

### **Distribution Upon Death**

#### **Designation of Beneficiary**

When you enroll in the Plan, you should complete the beneficiary designation form which is provided by the Company. Your beneficiary will always be your spouse unless:

- you do not have a spouse, or
- you designate a beneficiary other than your spouse.

If you are married, in order to designate a non-spouse beneficiary, you must obtain the written, notarized consent of your spouse on the beneficiary designation form.

If you fail to designate a beneficiary, or if no designated beneficiary survives you, your beneficiary will be your spouse, if any. If there is no spouse, your beneficiary will be the personal representative of your estate, or if no personal representative exists, any person determined by a court to be your beneficiary for this purpose.

#### **Death Prior to Commencement of Benefit Payment**

If you die while you are in service with the Company, or after your service has terminated but prior to the distribution of your plan account balances, then your vested accounts will be distributed to your beneficiary as soon as

practicable after your death. The distribution will be made in the form of a single lump-sum cash payment, unless your beneficiary elects to receive the distribution in installments as set forth above, in an amount equal to the balance of your vested plan accounts at the time the payment is made.

#### **Death After Commencement of Benefit Payments**

If distribution of your interest has begun in installments and you die before your entire interest has been distributed to you, then the remaining portion of your benefit payments shall be distributed at least as rapidly as under the method of periodic distribution being used at the time of your death.

#### **Taxation of Distributions**

Under current law, you defer paying federal income taxes on all contributions to the Plan until your account balances are distributed. Investment earnings accumulating in the Plan also escape taxation until they are paid out to you. Distributions from the Plan, including in-service hardship withdrawals and distributions because of retirement, separation from service or death, will be subject to taxes. You are required to pay federal income tax in the year you receive a distribution. Federal income tax will be withheld from your distribution at the rate of 20%, unless your distribution is transferred directly to an IRA or another qualified plan. However, amounts distributed on account of hardship prior to your attainment of age 59½ shall not be subject to the 20% withholding but instead are subject to withholding at a rate of 10%, unless you elect otherwise. The Internal Revenue Code also imposes a 10-percent penalty on the amount of all early distributions. The following are early distributions:

- in-service withdrawals prior to age 59½; or
- distributions in case of separation from service prior to age 55, unless the distribution is on account of death or disability.

If you wish to defer federal income taxes after receiving a distribution, you may roll the distribution into an Individual Retirement Account (IRA), or to another employer's plan (for example, a 401(k) plan, a pension plan or a profit sharing plan), if permitted.

More details concerning your options and federal income tax treatment will be provided when you receive your distribution. Since the tax laws are complicated and are subject to change, we recommend that you consult your tax advisor before receiving a hardship withdrawal or any distribution.

#### **Benefits Not Assignable**

No benefit under the Plan may be assigned or pledged as collateral or security for a loan (other than a plan loan), nor may any benefit be subject to your debts or to other legal obligations. There is an exception, however, to this rule. The Company may be required by law to recognize obligations you incur as a result of court ordered child support or alimony payments. The Company must honor a 'qualified domestic relations order.' A 'qualified domestic relations order' is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your benefit under the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Company, all or a portion of your plan benefit may be used to satisfy the obligation. The Company has adopted a procedure for determining if a domestic relations order is qualified. You can obtain a copy of the procedure from the Company upon request and without charge.

#### **Claims Procedure**

##### **General Description**

This section sets forth the procedures pertaining to claims for benefits by participants and beneficiaries ('claimants') under this Plan. Outlined below are the Plan's procedures governing the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations.

There are no fees or costs associated with processing a claim as a condition to making a claim or to appealing an adverse benefit determination. The claims procedures shall be made in accordance with the governing Plan

documents and, where appropriate, the Plan provisions will be applied consistently with respect to similarly situated claimants.

A participant or beneficiary entitled to benefits under this Plan has the right to appoint an authorized representative to act on behalf of such claimant in pursuing a benefit claim or appeal of an adverse benefit determination. Such authorized representative must provide written authority to the Plan Administrator. The Plan Administrator will determine if such representative is authorized to act on behalf of the claimant.

#### Steps in Filing a Claim

Step 1: The participant or beneficiary shall file a claim for benefits with the Plan Administrator.

Step 2: The Plan Administrator will either grant the claim, deny it or extend the time for claim processing.

Step 3: If a claim is wholly or partially denied, the Plan Administrator shall notify the claimant of the Plan's adverse benefit determination within a reasonable period of time, but not later than 90 days after receipt of the claim by the Plan, unless the Plan Administrator determines that special circumstances require an extension of time for processing the claim. If the Plan Administrator determines that an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of 90 days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the benefit determination.

#### Disability Benefits

In the case of a claim for disability benefits, the Plan Administrator shall notify the claimant, of the Plan's adverse benefit determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the Plan. This period may be extended by the Plan for up to 30 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, the Plan Administrator determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period of making the determination may be extended for up to an additional 30 days, provided that the Plan Administrator notifies the claimant, prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the Plan expects to render a decision. In the case of any extension under this paragraph, the notice of extension shall specifically explain the standards of which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information.

#### Measuring Time Periods

For purposes of this section, the period of time within which a benefit determination is required to be made shall begin at the time a claim is filed in accordance with the claims procedures outlined above, without regard to whether all the information necessary to make a benefit determination accompanies the filing. In the event that a period of time is extended, due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination shall stop ('stop date') from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information. Once the claimant provides the additional information the time period shall resume again from the 'stop date'.

#### Notice of Adverse Benefits Determination

The Plan Administrator may provide a claimant with written or electronic notification of any adverse benefit determination. If the notice is provided electronically, such claimant must have access to the notification at their work site and have the opportunity to convert such electronic notification to paper form free of charge. The notification shall include:

- the specific reason or reasons for the adverse determination;
- reference to the specific Plan provisions, if applicable, on which the determination is based;
- a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- a description of the Plan's review procedures and the time limits applicable to such procedures.

#### Appeal of Adverse Benefit Determinations

You have a right to appeal an adverse benefit determination to the Plan Administrator and there will be a full and fair review of the claim and the adverse benefit determination.

You have the right 60 days following receipt of a notification of an adverse benefit determination within which to appeal the determination. You also have the right to submit written comments, documents, records, and other information relating to the claim of benefits within the 60-day period.

You have the right to request free of charge, access to, and copies of, all documents, records, and other information relevant to a claim for benefits. Whether a document, record, or other information is relevant to a claim for benefits shall be determined by the Plan Administrator pursuant to Department of Labor regulations.

#### Timing of Notification of Benefit Determination on Review

The Plan Administrator shall notify a claimant of the plan's benefit determination on review within 60 days after receipt of the claimant's request for review by the Plan, unless the Plan Administrator determines that special circumstances require an extension of time for processing the claim. If the Plan Administrator determines that an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 60-day period. In no event shall such extension exceed a period of 60 days from the end of the initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the determination on review.

If the Plan is administered with a committee or a board of trustees that holds regularly scheduled meetings of the committee or board that immediately follows the Plan's receipt of a request for review, unless the request for review is filed within 30 days preceding the date of such meeting. In such case, a benefit determination may be made by no later than the date of the second meeting following the Plan's receipt of the request for review. If special circumstances require a further extension of time for processing, a benefit determination shall be rendered not later than the third meeting of the committee or board following the Plan's receipt of the request for review. If such an extension of time for review is required because of special circumstances, the Plan Administrator shall provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Plan Administrator shall notify the claimant, of the benefit determination as soon as possible, but not later than 5 days after the benefit determination is made.

#### Account Statement

You will receive statements of the balances in your plan accounts at least quarterly.

#### Plan Administration

The administration of the Plan is supervised by the Company as the Plan Administrator.

#### Top-Heavy Rules

The Internal Revenue Code requires plans that are 'top-heavy' to meet certain special requirements. While this Plan is not now 'top-heavy' the Department of Labor requires that we provide you with a brief statement of these special requirements.

A Plan is deemed to be 'top-heavy' if adjusted account balances attributable to 'key-employees' under the Plan (plus all other retirement plans of an employer) equal more than 60 percent of the total adjusted account balances for all participants. In general, 'key employees' are certain officers and shareholder of an employer and its subsidiaries.

If the Plan becomes 'top-heavy,' we will advise you. In that case, a minimum contribution may be required for all non-key employees employed on the last day of the plan year who are eligible to participate at any time during the plan year, even if they are credited with less than 1,000 hours of service in the plan year. In addition, a minimum vesting schedule would apply.

### **Amendment and Termination**

The Plan has been established with the intent of being maintained indefinitely. However, the Company has the right to amend or terminate the Plan at any time.

If the Plan is terminated, all contributions will be discontinued. You will automatically become fully vested in your plan accounts. All funds will continue to be held in the trust until distributions are otherwise required to be made unless an earlier distribution is directed by the Company.

### **Your Rights Under ERISA**

As a participant in the Company's Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

#### **Receive Information About Your Plan and Benefits**

- Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.
- Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated Summary Plan Description. The Administrator may make a reasonable charge for the copies.
- Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.
- Obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age and if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The Plan must provide the statement free of charge.

#### **Prudent Actions by Plan Fiduciaries**

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your Plan, called 'fiduciaries' of the plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your Employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

### Enforce Your Rights

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules. The procedures for claims are discussed in the section 15 of this Summary Plan Description.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator. If you have a claim for the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

### Assistance with Your Questions

If you have any questions about your Plan, you should contact the Plan Administrator. For further assistance regarding this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration. For additional information about this statement or about your rights under ERISA, you should contact the nearest Area Office of the U.S. Labor-Management Services Administration, Department of Labor.

Benefits provided under this Plan are not insured by the Pension Benefit Guaranty Corporation.

### **General Information**

Name of Plan:	United Supermarkets, L.L.C. 401(k) Retirement and Savings Plan
Plan Number:	002
Plan Year:	12-31
Employer and Plan Sponsor:	United Supermarkets, L.L.C. 7830 Orlando Avenue Lubbock TX 79423 806-791-6303
Employer Identification Number (EIN):	75-0916445
Plan Administrator:	The Employer
Type of Administration:	Self-administered
Trustee:	ING National Trust
Agent for Legal Service:	The Employer