



427 West 12th Street  
Kansas City, Missouri 64105

**KANSAS CITY SOUTHERN  
NOTICE AND PROXY STATEMENT  
for  
Annual Meeting of Stockholders  
to be held  
May 7, 2009**

**YOUR VOTE IS IMPORTANT!**

Please mark, date and sign the enclosed proxy card and promptly return it in the enclosed envelope, or vote by telephone or through the Internet as described on the proxy card.

**We commenced mailing this Notice and Proxy Statement,  
the enclosed proxy card and the accompanying 2008 Annual Report  
on or about March 30, 2009.**

**KANSAS CITY SOUTHERN**  
427 West 12th Street  
Kansas City, Missouri 64105

March 30, 2009

To Our Stockholders:

You are cordially invited to attend the Annual Meeting of Stockholders of Kansas City Southern, at Liberty Memorial, J.C. Nichols Auditorium, 100 West 26th Street, Kansas City, Missouri, at 10:00 a.m. Central Time, on Thursday, May 7, 2009. The purposes of this meeting are described in the accompanying Notice of Annual Meeting and Proxy Statement.

We urge you to read these proxy materials and our Annual Report and to participate in the Annual Meeting either in person or by proxy. ***Whether or not you plan to attend the meeting in person, please sign and return promptly the accompanying proxy card, in the envelope provided, to ensure that your shares will be represented. Alternatively, you may cast your votes by telephone or through the Internet as described on the accompanying proxy card.***

Sincerely,

A handwritten signature in black ink, appearing to read "MR. Haverty", with a stylized flourish at the end.

Michael R. Haverty  
*Chairman of the Board  
and Chief Executive Officer*

**KANSAS CITY SOUTHERN**  
427 West 12th Street  
Kansas City, Missouri 64105

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**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

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The Annual Meeting of Stockholders of Kansas City Southern will be held at Liberty Memorial, J.C. Nichols Auditorium, 100 West 26th Street, Kansas City, Missouri, at 10:00 a.m. Central Time, on Thursday, May 7, 2009.

Stockholders will consider and vote on the following matters:

1. Election of two directors;
2. Ratification of the Audit Committee's selection of KPMG LLP as our independent registered public accounting firm for 2009;
3. Approval of the Kansas City Southern 2009 Employee Stock Purchase Plan; and
4. Such other matters as may properly come before the Annual Meeting or any adjournment thereof.

Only stockholders of record at the close of business on March 9, 2009, are entitled to notice of and to vote at the Annual Meeting or any adjournment thereof.

By Order of the Board of Directors,



Michael R. Haverty  
*Chairman of the Board  
and Chief Executive Officer*

The date of this Notice is March 30, 2009.

**Please date, sign and promptly return the enclosed proxy card, regardless of the number of shares you may own and whether or not you plan to attend the meeting in person. Alternatively, you may cast your votes by telephone or through the Internet as described on the proxy card. You may revoke your proxy and vote your shares in person in accordance with the procedures described in this Notice and Proxy Statement. Please also indicate on your proxy card whether you plan to attend the Annual Meeting.**

**KANSAS CITY SOUTHERN**  
**427 West 12th Street**  
**Kansas City, Missouri 64105**

**PROXY STATEMENT**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
Information About the Annual Meeting . . . . .	1
Notice of Internet Availability of Proxy Materials . . . . .	1
Voting . . . . .	2
Beneficial Ownership . . . . .	5
Proposal 1 — Election of Two Directors . . . . .	8
The Board of Directors . . . . .	9
Corporate Governance . . . . .	11
Board Committees . . . . .	13
Insider Disclosures . . . . .	18
Non-Management Director Compensation . . . . .	20
Audit Committee Report . . . . .	24
Independent Registered Public Accounting Firm . . . . .	25
Proposal 2 — Ratification of The Audit Committee’s Selection of Independent Registered Public Accounting Firm . . . . .	26
Compensation Committee Report . . . . .	27
Compensation Discussion and Analysis . . . . .	27
Management Compensation Tables . . . . .	50
Potential Payments Upon Termination of Employment or Change in Control . . . . .	59
Proposal 3 — Approval of the Kansas City Southern 2009 Employee Stock Purchase Plan . . . . .	66
Stockholder Proposals . . . . .	69
Section 16(a) Beneficial Ownership Reporting Compliance . . . . .	70
Householding of Annual Meeting Materials . . . . .	70
Other Matters . . . . .	71

## **INFORMATION ABOUT THE ANNUAL MEETING**

### **Why were you sent this Proxy Statement?**

On or about March 30, 2009, we began mailing this Proxy Statement to our stockholders of record on March 9, 2009 (the "Record Date") in connection with our Board of Directors' solicitation of proxies for use at the 2009 Annual Meeting of Stockholders and any adjournment thereof (the "Annual Meeting"). We will hold the Annual Meeting at Liberty Memorial, J.C. Nichols Auditorium, 100 West 26th Street, Kansas City, Missouri on Thursday, May 7, 2009 at 10:00 a.m. Central Time. The Notice of Annual Meeting of Stockholders, our 2008 Annual Report to Stockholders (the "Annual Report"), and a proxy card and voting instructions accompany this Proxy Statement. Unless otherwise indicated or the context requires, references in this Proxy Statement to "KCS" or the "Company" include Kansas City Southern and its consolidated subsidiaries.

We will pay for the Annual Meeting, including the cost of mailing the proxy materials and any supplemental materials. Directors, officers and employees of KCS may, either in person, by telephone or otherwise, solicit proxy cards. They have not been specifically engaged for that purpose, however, nor will they be compensated for their efforts. We have engaged Morrow & Co., Inc. to assist in the solicitation of proxies and provide related informational support, for a service fee and the reimbursement of customary disbursements that are not expected to exceed \$15,000 in the aggregate. We will pay these fees and expenses. In addition, we may reimburse brokerage firms and other persons representing beneficial owners of our shares for their expenses in forwarding this Proxy Statement, the Annual Report and other soliciting materials to the beneficial owners.

Brokers, dealers, banks, voting trustees, other custodians and their nominees are asked to forward this Notice and Proxy Statement, the proxy card and the Annual Report to the beneficial owners of our stock held of record by them. Upon request, we will reimburse them for their reasonable expenses in mailing these materials to beneficial owners of our stock.

### **Who may attend the Annual Meeting?**

Only KCS stockholders or their proxies and guests of KCS may attend the Annual Meeting. Any stockholder or stockholder's representative who, because of a disability, may need special assistance or accommodation to allow him or her to participate in the Annual Meeting may request reasonable assistance or accommodation from us by contacting the office of the Corporate Secretary at our principal executive offices, (816) 983-1237. If written requests are made to the Corporate Secretary of KCS, they should be mailed to P.O. Box 219335, Kansas City, Missouri 64121-9335 (or by express delivery to 427 West 12th Street, Kansas City, Missouri 64105). To provide us sufficient time to arrange for reasonable assistance, please submit all requests by April 28, 2009.

### **What matters will be considered at the Annual Meeting?**

At the Annual Meeting, stockholders will consider and vote upon: (1) the election of two directors; (2) the ratification of the Audit Committee's selection of KPMG LLP as our independent registered public accounting firm for 2009; (3) approval of the Kansas City Southern 2009 Employee Stock Purchase Plan (the "2009 ESPP"); and (4) such other matters as may properly come before the Annual Meeting or any adjournment thereof. Stockholders do not have dissenters' rights of appraisal in connection with these proposals. Three proposals have been made by the Board of Directors and the Board of Directors unanimously recommends you vote "for" the nominees presented, "for" the proposal regarding the ratification of our independent registered public accounting firm for 2009 and "for" approval of the 2009 ESPP. None of the proposals is related to or contingent upon any other. The Board of Directors knows of no other matters that will be presented or voted on at the Annual Meeting.

## **NOTICE OF INTERNET AVAILABILITY OF PROXY MATERIALS**

**Important Notice Regarding the Availability of Proxy Materials for the Stockholders Meeting to be held on May 7, 2009.**

**The Proxy Statement and Annual Report are available at [www.edocumentview.com/ksu](http://www.edocumentview.com/ksu).**

For the date, time, location, information about attending the Annual Meeting, an identification of the matters to be voted upon at the Annual Meeting, and the recommendations of the Board of Directors regarding those matters, please see “Information About the Annual Meeting.” For information on how to vote in person or by proxy at the Annual Meeting, please see “Voting.”

## VOTING

### Who may vote at the Annual Meeting?

Only the holders of our common stock, par value \$0.01 per share (the “Common Stock”), and our 4% Noncumulative Preferred Stock, par value \$25.00 per share (the “4% Preferred Stock”), of record at the close of business on the Record Date are entitled to notice of and to vote at the Annual Meeting. On the Record Date, we had outstanding 242,170 shares of 4% Preferred Stock (excluding 407,566 shares held in treasury) and 91,575,810 shares of Common Stock (excluding 14,677,050 shares held in treasury) for a total of 91,817,980 shares eligible to vote at the Annual Meeting.

### How many votes does each Voting Share have?

The Common Stock and the 4% Preferred Stock (collectively, the “Voting Stock”) constitute our only voting securities and will vote together as a single class on all matters to be considered at the Annual Meeting. Each holder of Voting Stock is entitled to cast one vote for each share of Voting Stock held on the Record Date on each matter other than the election of directors. You may vote cumulatively for the election of directors. For this purpose, each stockholder has votes equal to the number of shares of Voting Stock held on the Record Date multiplied by the number of directors to be elected. You may cast all of your votes for a single nominee or distribute your votes among the nominees in any manner you elect. This Proxy Statement solicits discretionary authority to vote cumulatively for the election of directors. The accompanying form of proxy also grants that authority.

### How can you vote by proxy?

You can vote by proxy in three ways, each of which is valid under Delaware law:

- *By Internet:* Access our Internet voting site at [www.envisionreports.com/ksu](http://www.envisionreports.com/ksu) and follow the instructions on the screen, prior to 5:00 a.m., Central Time, on May 7, 2009 (May 5, 2009 for participants in certain employee benefit plans discussed below).
- *By Telephone:* Using a touch-tone telephone, call toll-free at 1-800-652-VOTE (8683) and follow the voice instructions, prior to 5:00 a.m., Central Time, on May 7, 2009 (May 5, 2009 for participants in certain employee benefit plans discussed below).
- *By Mail:* Mark, sign, date and return the enclosed proxy or instruction card so it is received before the Annual Meeting.

### How do we decide whether our stockholders have approved the proposals?

Stockholders owning at least a majority of the shares of Voting Stock entitled to vote must be present in person or represented by proxy to constitute a quorum for the transaction of business at the Annual Meeting. The shares of a stockholder who is present and entitled to vote at the Annual Meeting, either in person or by proxy, are counted for purposes of determining whether there is a quorum, regardless of whether the stockholder votes the shares. Abstentions and broker non-votes (defined below) are counted as present and entitled to vote for purposes of determining a quorum.

The directors are elected by the affirmative vote of a plurality of shares of Voting Stock present at the Annual Meeting and entitled to vote, provided a quorum exists. A plurality means receiving the largest number of votes. Where, as here, there are two director vacancies, the two nominees with the highest number of affirmative votes are elected. On any proposal other than the election of directors, the percentage of shares required to pass a proposal depends on the proposal. In most proposals, including ratification of the Audit Committee’s selection of KPMG

LLP as our independent registered public accounting firm for 2009 and approval of the 2009 ESPP, the affirmative vote of a majority of the shares of Voting Stock present at the Annual Meeting in person or by proxy and entitled to vote on the subject matter, provided a quorum is present, is required for the adoption of the proposal.

Voting ceases when the chairman of the Annual Meeting closes the polls. The votes are counted and certified by three inspectors appointed by the Board of Directors in advance of the Annual Meeting. In determining whether a majority of shares have been affirmatively voted for a particular proposal, the affirmative votes for the proposal are measured against the votes for and against the proposal plus the abstentions from voting on the proposal. You may abstain from voting on any proposal other than the election of directors. Abstentions from voting are not considered as votes affirmatively cast. Abstaining will, therefore, have the effect of a vote against a proposal. With regard to the election of directors, votes may be cast in favor or withheld. Votes that are withheld will be excluded entirely from the vote and will have no effect.

### **What if you hold shares in a brokerage account?**

The Voting Stock is traded on the New York Stock Exchange, Inc. (the “NYSE”). Under the rules of the NYSE, member stockbrokers who hold shares of Voting Stock in their name for customers are required to obtain directions from their customers on how to vote the shares. NYSE rules permit brokers to vote shares on certain proposals when they have not received any directions. The Staff of the NYSE, prior to the Annual Meeting, informs brokers of those proposals on which they are entitled to vote the undirected shares.

A “broker non-vote” occurs when a broker holding shares of Voting Stock for a beneficial owner does not vote on a particular proposal because the broker does not have discretionary voting authority for that proposal and has not received instructions from the beneficial owner (customer directed abstentions are not broker non-votes). Broker non-votes generally do not affect the determination of whether a quorum is present at the Annual Meeting because, in most cases, some of the shares held in the broker’s name have been voted, and, therefore, all of those shares are considered present at the Annual Meeting. Under applicable law, a broker non-vote will not be considered present and entitled to vote on non-discretionary items and will have no effect on the vote.

### **How are your shares voted if you submit a proxy?**

If you return a properly executed proxy card or properly vote via the Internet or telephone, you are appointing the Proxy Committee to vote your shares of Voting Stock covered by the proxy. The Proxy Committee consists of the three directors of KCS whose names are listed on the proxy card. If you wish to name someone other than the Proxy Committee as your proxy, you may do so by crossing out the names of the designated proxies and inserting the name of another person. In that case, it will be necessary for you to sign the proxy card and deliver it to the person so named and for that person to be present and vote at the Annual Meeting. Proxy cards so marked should not be mailed directly to us.

The Proxy Committee will vote the shares of Voting Stock covered by a proxy in accordance with the instructions given by the stockholder(s) executing the proxy or authorizing the proxy and voting via the Internet or telephone. If a properly executed, or authorized, and unrevoked proxy does not specify how the shares represented thereby are to be voted, the Proxy Committee intends to vote the shares FOR the election of the persons nominated by the Board for Directors, FOR ratification of the Audit Committee’s selection of KPMG LLP as our independent registered public accounting firm for 2009, FOR approval of the 2009 ESPP, and in accordance with their discretion upon such other matters as may properly come before the Annual Meeting. The Proxy Committee reserves the right to vote such proxies cumulatively for the election of less than all of the nominees for director, but does not intend to do so unless other persons are nominated and such a vote appears necessary to ensure the election of the persons nominated by the Board.

### **Can you revoke your proxy or voting instruction card?**

At any time before the polls for the Annual Meeting are closed, if you hold Voting Stock in your name, you may revoke a properly executed or authorized proxy by (a) an Internet or telephone vote subsequent to the date shown on the previously executed and delivered proxy or the date of a prior electronic or telephonic vote, or (b) with a later-dated, properly executed and delivered proxy, or (c) a written revocation delivered to our Corporate Secretary. If you

hold Voting Stock in a brokerage account, you must contact the broker and comply with the broker's procedures if you want to revoke or change the instructions previously given to the broker. Participants in certain employee benefit plans, as discussed below, must contact the plan trustee and comply with its procedures if they wish to revoke or change their voting instructions. Attendance at the Annual Meeting will not have the effect of revoking your properly executed or authorized proxy unless you deliver a written revocation to our Corporate Secretary before your proxy is voted.

**How do participants in our Employee Stock Ownership Plan, 401(k) and Profit Sharing Plan, and Union 401(k) Plan vote?**

If you participate in our employee stock ownership plan ("ESOP"), 401(k) and Profit Sharing Plan ("401(k) Plan"), or union 401(k) plan ("Union Plan"), you have received a separate voting instruction card (accompanying this Proxy Statement) to instruct the trustee of the ESOP, 401(k) Plan or Union Plan how to vote the shares of Common Stock held on your behalf. The trustee is required under the trust agreements to vote the shares in accordance with the instructions given on the voting instruction card.<sup>1</sup> If a voting instruction card is not returned by a participant, the trustee must vote those shares, as well as any unallocated shares, in the same proportions as the shares for which voting instructions were received from plan participants. Voting instructions by Internet or telephone must be given by 5:00 a.m., Central Time, on May 5, 2009. Unless you give voting instructions by Internet or telephone, the voting instruction card should be returned in the envelope provided to Proxy Services, c/o Computershare Investor Services, P.O. Box 43102, Providence, Rhode Island 02940-5068. The voting instruction card should not be returned to us. ESOP participants, 401(k) Plan participants, and Union Plan participants who wish to revoke their voting instructions must contact the trustee and follow its procedures.

**Are the votes of participants in the ESOP, 401(k) Plan, and Union Plan confidential?**

Under the terms of the ESOP, 401(k) Plan, and Union Plan, the trustee is required to establish procedures to ensure that the instructions received from participants are held in confidence and not divulged, released or otherwise utilized in a manner that might influence the participants' free exercise of their voting rights.

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<sup>1</sup> Voting instructions may also be given by Internet or telephone by participants in the ESOP, the 401(k) Plan, and the Union Plan. The accompanying voting instruction card relating to such plans contains the Internet address and toll-free number.



## BENEFICIAL OWNERSHIP

The following table contains information concerning the beneficial ownership of our Common Stock as of the Record Date by:

- Beneficial owners of more than five percent of our Common Stock that have publicly disclosed their ownership in filings with the SEC;
- The members of our Board of Directors;
- Our Chief Executive Officer, our Chief Financial Officer and the other executive officers for whom information is provided in the Management Compensation Tables in this Proxy Statement (we call these persons the “Named Executive Officers”); and
- All current executive officers and directors as a group.

We are not aware of any beneficial owner of more than five percent of the 4% Preferred Stock. None of our directors or executive officers owns any shares of 4% Preferred Stock or 5.125% Cumulative Convertible Perpetual Preferred Stock, Series D (“Series D Preferred Stock”). No officer or director of KCS owns any equity securities of any subsidiary of KCS. Holders of our Series D Preferred Stock do not have voting rights except under certain limited circumstances or as otherwise from time to time required by law, and do not currently have the right to vote at the Annual Meeting. Beneficial ownership is generally defined as either the sole or shared power to vote or dispose of the shares. Except as otherwise noted, the beneficial owners have sole power to vote and dispose of their shares. We are not aware of any arrangement which would at a subsequent date result in a change in control of KCS.

<u>Name and Address</u>	<u>Common Stock(1)</u>	<u>Percent of Class(1)</u>
Janus Capital Management LLC . . . . .	6,012,597(2)	6.75%
Scott E. Arvidson . . . . . Executive Vice President and Chief Information Officer	212,055(3)	*
Henry R. Davis . . . . . Director	9,192(4)	*
Robert J. Druten . . . . . Director	48,604(5)	*
Terrence P. Dunn . . . . . Director	23,692(6)	*
Michael R. Haverty . . . . . Chairman of the Board and Chief Executive Officer	1,912,520(7)	2.07%
James R. Jones . . . . . Director	115,072(8)	*
Thomas A. McDonnell . . . . . Director	647,499(9)	*
Patrick J. Ottensmeyer . . . . . Executive Vice President — Sales and Marketing	58,407(10)	*
Karen L. Pletz . . . . . Director	47,192(11)	*
Rodney E. Slater . . . . . Director	17,192(12)	*
Michael W. Upchurch . . . . . Executive Vice President and Chief Financial Officer	35,434(13)	*
José Guillermo Zozaya Delano . . . . . President and Executive Representative of Kansas City Southern de México, S.A. de C.V. (“KCSM”)	42,333(14)	*
All Directors and Executive Officers as a Group (20 Persons) . . . . .	3,631,602(15)	3.91%

\* Less than one percent of the outstanding shares.

- (1) This column includes Common Stock, including restricted shares, beneficially owned by officers, directors and beneficial owners of more than five percent of our Common Stock. In accordance with SEC rules, this column also includes shares that may be acquired upon the exercise of options or other convertible securities that are exercisable or convertible on the Record Date, or will become exercisable or convertible within 60 days of that date, which are considered beneficially owned. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares subject to options or other convertible securities held by that person that are exercisable or convertible on the Record Date, or exercisable or convertible within 60 days of the Record Date, are deemed outstanding. These shares are not, however, deemed outstanding for the purpose of computing the percentage ownership of any other person. In addition, under applicable law, shares that are held indirectly are considered beneficially owned. Directors and executive officers may also be deemed to own, beneficially, shares included in the amounts shown above which are held in other capacities. The holders may disclaim beneficial ownership of shares included under certain circumstances. Except as noted, the holders have sole voting and dispositive power over the shares. The list of our executive officers is included in our annual report on Form 10-K for the year ended December 31, 2008. See the last page of this Proxy Statement for instructions on how to obtain a copy of the Form 10-K.
- (2) The address of Janus Capital Management LLC (“Janus Capital”) is 151 Detroit Street, Denver, Colorado 80206. Janus Capital has shared voting and dispositive power for 6,012,597 shares of our Common Stock as a result of its 89.9% ownership stake in INTECH Investment Management LLC (“INTECH”) and 78.4% ownership stake in Perkins Investment Management Company, LLC (“Perkins”). Janus Capital, Perkins and INTECH are investment advisers, each furnishing investment advice to various registered investment companies and individual institutional clients (collectively the “Janus Managed Portfolios”). The 3,921,597 shares of our Common Stock (4.28% of the class) may be deemed to be beneficially owned by Perkins. The 2,091,000 shares of our Common Stock (2.28% of the class) may be deemed to be beneficially owned by INTECH. Janus Capital, Perkins and INTECH do not have the right to receive any dividends from, or proceeds from the sale of, our Common Stock held in the Janus Managed Portfolios for which they act as investment advisers or sub-advisers and each disclaims any beneficial ownership associated with such rights. This information is based on Amendment No. 3 to Janus Capital’s Schedule 13G filed on February 17, 2009.
- (3) Mr. Arvidson’s beneficial ownership includes 51,957 restricted shares and 131,758 shares that may be acquired through options that are exercisable as of, or will be exercisable within 60 days of, the Record Date.
- (4) Mr. Davis’s beneficial ownership includes 2,192 restricted shares.
- (5) Mr. Druten’s beneficial ownership includes 2,192 restricted shares and 20,000 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date. Mr. Druten holds 15,912 shares in a brokerage account with margin privileges.
- (6) Mr. Dunn’s beneficial ownership includes 21,500 shares held in a revocable trust for which he is the trustee with sole voting and dispositive power, and 2,192 restricted shares.
- (7) Mr. Haverty’s beneficial ownership includes 177,663 restricted shares, 873,526 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date, 29,746 shares allocated to his account in the ESOP and 11,033 shares allocated to his account in the 401(k) Plan, and 120,000 shares held by a charitable foundation for which Mr. Haverty disclaims beneficial ownership. As previously reported, in 2006, Mr. Haverty entered into a prepaid variable forward transaction which obligates him to deliver 350,000 shares or an equivalent amount of cash, at his election, in December 2009. Mr. Haverty pledged 350,000 shares to secure his obligations under that arrangement. In addition, 506,545 shares are pledged as collateral for a bank credit line.
- (8) Ambassador Jones’s beneficial ownership includes 2,192 restricted shares, and 40,000 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date.
- (9) Mr. McDonnell’s beneficial ownership includes 2,192 restricted shares, 40,000 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date, 65,307 shares held in a trust for which he is the trustee with sole voting and dispositive power, 500,000 shares held by a subsidiary of DST Systems, Inc. for which Mr. McDonnell disclaims beneficial ownership and 40,000 shares held by a charitable foundation for which Mr. McDonnell disclaims beneficial ownership.

- (10) Mr. Ottensmeyer's beneficial ownership includes 57,688 restricted shares.
- (11) Ms. Pletz's beneficial ownership includes 2,192 restricted shares, and 30,000 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date.
- (12) Mr. Slater's beneficial ownership includes 2,192 restricted shares.
- (13) Mr. Upchurch's beneficial ownership includes 35,434 restricted shares.
- (14) Mr. Zozaya's beneficial ownership includes 42,333 restricted shares.
- (15) The number includes 598,711 restricted shares, 1,249,413 shares that may be acquired through options that are exercisable as of, or will become exercisable within 60 days of, the Record Date and 830,710 shares otherwise held indirectly. A director, Mr. McDonnell, disclaims beneficial ownership of 540,000 of the total shares listed. Mr. Haverty, our Chairman and CEO, disclaims beneficial ownership of 120,000 of the total shares listed.

## PROPOSAL 1 — ELECTION OF TWO DIRECTORS

The Board of Directors of KCS is divided into three classes. The members of each class serve staggered three-year terms of office, which results in one class standing for election at each annual meeting of stockholders. The term of office for the directors elected at the Annual Meeting will expire in 2012 or when their successors are elected and qualified.

Two persons have been nominated by the Board of Directors, following the recommendation of the Nominating and Corporate Governance Committee, for election as directors. Both nominees are presently directors of KCS, have indicated they are willing and able to serve as directors if re-elected and have consented to being named as nominees in this Proxy Statement. If either nominee should become unable or unwilling to serve, the Proxy Committee intends to vote for one or more substitute nominees chosen by them in their sole discretion.

As explained above in “How do we decide whether our stockholders have approved the proposals?” directors are elected by the affirmative vote of a plurality of the shares of Voting Stock present at the Annual Meeting and entitled to vote on the election of directors, assuming a quorum is present.

### Nominees for Director to Serve Until the Annual Meeting of Stockholders in 2012

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*Michael R. Haverty*, age 64, has been Chief Executive Officer of KCS since July 12, 2000 and a director since May 1995. Mr. Haverty has served as Chairman of the Board of KCS since January 1, 2001. Mr. Haverty served as President of KCS from July 12, 2000 to June 12, 2006. Mr. Haverty served as Executive Vice President of KCS from May 1995 until July 12, 2000. He served as President and Chief Executive Officer of The Kansas City Southern Railway Company (“KCSR”) from 1995 to 2005 and has been a director of KCSR since 1995. He has served as Chairman of the Board of KCSR since 1999. Mr. Haverty has served as a director of the Panama Canal Railway Company, an affiliate of KCS, since 1996 and as Co-Chairman of the Board of Directors of that company since 1999. Mr. Haverty has served as Co-Chairman of Panarail Tourism Company, an affiliate of KCS, since 2000. He has served as Chairman of the Board of Kansas City Southern de México, S.A. de C.V. (“KCSM”), a subsidiary of KCS, since April 1, 2005. Mr. Haverty served as Chairman and Chief Executive Officer of Haverty Corporation from 1993 to May 1995, acted as an independent executive transportation advisor from 1991 to 1993, and was President and Chief Operating Officer of The Atchison, Topeka and Santa Fe Railway Company from 1989 to 1991.

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*Thomas A. McDonnell*, age 63, has been a director of KCS since March 18, 2003. Mr. McDonnell has served as a director of DST Systems, Inc. (“DST”) since 1971, as Chief Executive Officer of DST since 1984, and as President of DST since 1973 (except for a 30-month period from October 1984 to April 1987). DST provides sophisticated information processing, computer software services and business solutions to the financial services, communications and healthcare industries. He is a director of Blue Valley Ban Corp., Commerce Bancshares, Inc., Euronet Worldwide, Inc. and Garmin Ltd. and serves on the audit committees of each of these public companies, with the exception of Blue Valley Ban Corp. Mr. McDonnell previously served as a director of KCS from 1983 until October 1995. Mr. McDonnell also served as an officer and director of KCSR before DST was spun off from KCS in 1995.

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**YOUR BOARD RECOMMENDS THAT YOU VOTE  
“FOR”  
THE ELECTION OF THE BOARD’S NOMINEES**

## THE BOARD OF DIRECTORS

The Board of Directors met four times in 2008. The Board meets regularly to review significant developments affecting KCS and to act on matters requiring Board approval. The Board reserves certain powers and functions to itself; in addition, it has requested that the Chief Executive Officer refer certain matters to it. During 2008, all directors attended at least 75% of the aggregate of (1) the total number of meetings of the Board and (2) the total number of meetings held by all committees of the Board on which they served.

### Directors Serving Until the Annual Meeting of Stockholders in 2010

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*James R. Jones*, age 69, has been a director of KCS since November 1997. Ambassador Jones is also a director of KCSM. He has been Senior Counsel to the law firm of Manatt, Phelps & Phillips since March 1, 1999. Ambassador Jones is also Co-Chairman of Manatt Jones Global Strategies and Chairman of Globe Ranger Corp. Ambassador Jones was President of the International Division of Warnaco Inc. from 1997 through 1998, U.S. Ambassador to Mexico from 1993 through 1997, and Chairman and Chief Executive Officer of the American Stock Exchange from 1989 through 1993. Ambassador Jones served as a member of the U.S. Congress representing Oklahoma for 14 years. He was White House Special Assistant and Appointments Secretary to President Lyndon Johnson. Ambassador Jones is also a director of Grupo Modelo, S.A. de C.V. and San Luis Corporación.

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*Karen L. Pletz*, age 61, has been a director of KCS since March 1, 2004. Ms. Pletz has been the President and Chief Executive Officer of Kansas City University of Medicine and Biosciences (formerly The University of Health Sciences) since 1995. From 1978 to 1995, Ms. Pletz served as a Senior Vice President and Attorney for Central Bank, Jefferson City, Missouri and Division Manager of the Financial Management and Trust Services Division, Retail Bank Division and Marketing and Public Relations of Central Bank. From 1983 to 1984, Ms. Pletz was a partner in the law firm of Cook, Vetter, Doerhoff and Pletz, specializing in business and estate planning.

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*Terrence P. Dunn*, age 59, has been a director of KCS since May 2007. Mr. Dunn has served as President and Chief Executive Officer of J.E. Dunn Construction Group (formerly known as Dunn Industries) since 1989. Headquartered in Kansas City, Missouri, J.E. Dunn Construction Group is the holding company for commercial contracting and construction company affiliates across the nation. Mr. Dunn also serves on the Board of Directors of UMB Financial Corporation and H&R Block Bank (a wholly-owned subsidiary of H&R Block, Inc.).

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## Directors Serving Until the Annual Meeting of Stockholders in 2011

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*Henry R. Davis*, age 68, has been a director of KCS since February 28, 2008. Since 1998, Mr. Davis has served as President of the investment firm Promotora DAC, S.A. de C.V., which focuses its investments in the financial and real estate sectors. Mr. Davis served as President, Chief Executive Officer and Vice Chairman of the Board of Grupo Cifra from 1983, until its acquisition by Wal-Mart de México in 1998. Mr. Davis is a director of Grupo Bimbo, S.A.B. de C.V., Ixe Grupo Financiero S.A. de C.V. and Grupo Aeroportuario de Pacífico S.A.B. de C.V.

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*Robert J. Druten*, age 61, has been a director of KCS since July 26, 2004. Mr. Druten served as Executive Vice President and Chief Financial Officer of Hallmark Cards, Inc. from 1994 until his retirement in August 2006. From 1991 until 1994, he served as Executive Vice President and Chief Financial Officer of Crown Media, Inc., a cable communications subsidiary of Hallmark. He served as Vice President of Corporate Development and Planning of Hallmark from 1989 until 1991. Prior to joining Hallmark in 1986, Mr. Druten held a variety of executive positions with Pioneer Western Corporation from 1983 to 1986. Mr. Druten is a trustee and Chairman of the Board of Entertainment Properties Trust, a real estate investment trust, and a director of Alliance Holdings GP, L.P., a publicly traded limited partnership whose publicly traded subsidiary is engaged in the production and marketing of coal, and American Italian Pasta Company, a publicly traded company that is the largest producer of dry pasta in the United States.

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*Rodney E. Slater*, age 54, has been a director of KCS since June 5, 2001. Mr. Slater is a partner in the public policy practice group of the law firm Patton Boggs LLP and has served as a member of the firm's transportation practice group in Washington, D.C. since 2001. He served as U.S. Secretary of Transportation from 1997 to January 2001 and head of the Federal Highway Administration from 1993 to 1996. Mr. Slater is also a director of Southern Development Bancorporation, Delta Airlines and ICX Technologies. Mr. Slater serves on the Audit Committee of each of Delta Airlines and ICX Technologies. Mr. Slater is a member of the Global Options Advisory Board, and Immediate Past Chairman of the Board of United Way of America.

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## CORPORATE GOVERNANCE

The Corporate Governance Guidelines of Kansas City Southern (the “Guidelines”) are available for review in the “Corporate Governance” section under the “Investors” tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com). In addition, this section of our website makes available all of our corporate governance materials, including our Bylaws, board committee charters, code of business conduct and ethics and our anti-harassment and equal employment opportunity policies. Our Board of Directors regularly reviews corporate governance developments and modifies the Guidelines, committee charters, and key practices as it believes warranted.

The “Investors” section of our website also includes a copy of the brochure for our United States Speak Up! Report line in portable document format (i.e., PDF). Our United States Speak Up! line is a means for employees, customers, suppliers, stockholders and other interested parties to submit confidential and anonymous reports of suspected or actual actions they believe may violate our corporate policies or the law including, but not limited to, the following:

- Unlawful harassment
- Bribery
- Destroying, altering or falsifying company records
- Misuse of corporate assets
- Threats to personal safety
- Security concerns, including those of terrorist activity
- Employment discrimination
- Conflicts of interest
- Disclosure of proprietary information
- Securities matters
- Use or sale of illegal drugs
- Accounting or auditing irregularities
- Creating or ignoring safety or environmental hazards
- Insider trading
- Theft and fraud
- Violations of anti-trust, environmental or other governmental compliance regulations
- Suspicious activity, including inquiries from strangers about our facilities or operations

Our United States Speak Up! line is operated by an independent outside vendor 24 hours a day, seven days a week. Any employee, stockholder, or other interested party can call the following toll-free (within the United States) number to submit a report:

**1-800-727-2615**

We have a similar hotline in Mexico, the “KCSM Fraud Hotline,” to receive confidential and anonymous reports of suspected or actual actions that the reporting party believes may violate our corporate policies or the law. The KCSM Fraud Hotline is operated by an independent outside vendor 24 hours a day, seven days a week. Any employee, stockholder or other interested party can call the following toll-free (within Mexico) number to submit a report:

**01-800-5-22-20-22**

### **Code of Business Conduct and Ethics**

Our Code of Business Conduct and Ethics is applicable to all directors, officers and employees of KCS and its subsidiaries and embodies our principles and practices relating to the ethical conduct of our business and our commitment to honesty, fair dealing and compliance with applicable laws and regulations. Our Code of Business Conduct and Ethics is available in the “Corporate Governance” section under the “Investors” tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com) and in print to any stockholder who requests it.

### **Policy on Director Attendance at Annual Stockholder Meetings**

Our directors are encouraged to attend annual stockholder meetings. All directors serving at the time of the 2008 annual stockholder meeting attended that meeting.

## **Director Qualifications, Qualities and Skills**

The Guidelines establish certain qualifications, qualities and skills that directors and nominees must meet to be eligible to serve on our Board of Directors. Under the Guidelines, directors and nominees must be committed to representing the long-term interests of our stockholders and meet, at a minimum, the following qualifications:

- Highest personal and professional ethics, integrity and values;
- Independence, in accordance with the requirements of the NYSE, unless their lack of independence would not prevent two-thirds of the Board from meeting such requirements;
- No current service on boards of companies that, in the judgment of the Nominating and Corporate Governance Committee, are in competition with, or opposed to the best interests of, the Company; and
- Below the age of 72 years as of the date of the meeting at which his or her election would occur.

Additionally, it is considered desirable that directors and nominees possess the following qualities and skills:

- Significant experience at policy making levels in business, government or education;
- Significant experience or relationships in, or knowledge about, geographic markets served by us or industries that are relevant to our business; and
- Willingness to devote sufficient time to carrying out their duties and responsibilities effectively, including service on appropriate committees of the Board.

Our Bylaws also provide that no one who is 72 years old shall be eligible to be nominated or to serve as a member of the Board of Directors, but any person who attains the age of 72 during the term of directorship to which he or she was elected shall be eligible to serve the remainder of that term. Our Certificate of Incorporation and Bylaws do not have any other eligibility requirements for directors.

## **Non-Management Director Independence**

The Guidelines require that a majority of the Board of Directors must be independent, as determined affirmatively by the Board in accordance with the listing standards of the NYSE, although our goal is to have two-thirds of the members of the Board meet these requirements. We refer to directors who do not serve as executive officers of KCS or any of its subsidiaries as the “Non-Management Directors.” The Non-Management Directors constitute more than two-thirds of our Board of Directors. The Non-Management Directors are Messrs. Davis, Druten, Dunn, McDonnell and Slater, Ambassador Jones and Ms. Pletz. Our Board has affirmatively determined that each such Non-Management Director other than Ambassador Jones is independent in accordance with applicable NYSE listing standards (see “Insider Disclosures — Certain Relationships and Related Transactions”). In determining the independence of each Non-Management Director, the Board of Directors applied categorical standards of independence contained in the Guidelines and applicable NYSE listing standards. These standards assist the Board in determining that a director or nominee has no material relationship with KCS, either directly or as a partner, shareholder or officer of an organization that has a relationship with KCS. Under the standards, to be considered independent, a member of the Board may not:

- Have a material relationship with KCS (directly or as a partner, shareholder or officer of an organization that has such a relationship); provided, a material relationship shall not be inferred merely because (i) the director is a director, officer, shareholder, partner or principal of, or advisor to, another company that does business with KCS and the annual sales to, or purchases from, KCS are less than the greater of \$1 million or 2% of the annual revenues of the other company, if the director does not receive any compensation as a direct result of such business with KCS, or (ii) the director is an officer, director or trustee of a charitable organization, and our discretionary charitable contributions to that organization are less than the greater of \$1 million or 2% of that organization’s consolidated gross revenues;
- Be, or have been during the three years preceding the determination, an employee, or have an immediate family member who is, or was during the three years preceding the determination, an executive officer, of KCS;



- Have received, or have an immediate family member who has received during any twelve-month period within the three years preceding the determination, more than \$100,000 in direct compensation from KCS, other than director and committee fees, pension or other forms of deferred compensation for prior service (provided such deferred compensation is not contingent in any way on future service);
- Be, or have an immediate family member who is, a current partner of a firm that is our internal or external auditor; be a current employee of such a firm or have an immediate family member who is a current employee of such firm and who participates in the firm’s audit; or have been, or have an immediate family member who was, within the three years preceding the determination (but is no longer) a partner or employee of such firm and personally worked on our audit within that time;
- Be, or have been during the three years preceding the determination, or have an immediate family member who is, or was during the three years preceding the determination, employed as an executive officer of another company where any of our present executives at the same time serves or served on that company’s compensation committee; or
- Be a current employee, or have an immediate family member who is a current executive officer, of a company that has made payments to, or received payments from, KCS for property or services in an amount which, in any of the last three fiscal years, exceeded the greater of \$1 million or 2% of the other company’s consolidated gross revenues for its last completed fiscal year.

**Executive Sessions**

Our Non-Management Directors meet regularly in executive session without management. Thomas A. McDonnell (the “Presiding Director”) serves as Presiding Director in such sessions.

**Stockholder/Interested Person Communication with the Board**

Any stockholder or interested person may communicate with the Non-Management Directors or the Presiding Director by sending such communication in writing to the office of the Corporate Secretary, Kansas City Southern, P.O. Box 219335, Kansas City, Missouri, 64121-9335, or by express carrier to the Corporate Secretary, Kansas City Southern, 427 West 12th Street, Kansas City, Missouri 64105. In its capacity as the agent for the Non-Management Directors and Presiding Director, the office of the Corporate Secretary may review, sort and summarize the communications and, in accordance with the directions provided by and procedures established by the Non-Management Directors, forward such communications to the Non-Management Directors and the Presiding Director, as appropriate. The Non-Management Directors or the Presiding Director shall review such communication with the Board, or the group addressed in the communication, for the purpose of determining an appropriate response and any appropriate action that should be taken. Any communications received may be shared with management on the instruction of the Non-Management Directors or the Presiding Director.

**BOARD COMMITTEES**

The Board of Directors has established an Executive Committee, an Audit Committee, a Finance Committee, a Compensation and Organization Committee (referred to in this Proxy Statement as the “Compensation Committee”), and a Nominating and Corporate Governance Committee (referred to in this Proxy Statement as the “Nominating Committee”). Committee members are elected at the Board’s annual meeting immediately following our Annual Meeting of stockholders.

The following number of committee meetings were held during 2008:

<u>Committee</u>	<u>In Person(1)</u>	<u>By Telephone(1)</u>
Executive . . . . .	0	4
Audit . . . . .	4	0
Finance . . . . .	1	2
Compensation . . . . .	4	3
Nominating . . . . .	2	1

(1) Some directors attended in person certain meetings held by telephone and some directors attended by telephone certain meetings held in person, and were paid the appropriate fees for such attendance.

### **The Executive Committee**

The Executive Committee consists of our Chairman and Chief Executive Officer, and two Non-Management Directors elected by the Board to serve one-year terms. The current members of the Executive Committee are Mr. McDonnell (Chairman), Mr. Haverty and Mr. Slater. When the Board is not in session, the Executive Committee has all the powers of the Board in all cases in which specific directions have not been given by the Board.

### **The Audit Committee**

The Audit Committee consists of three Non-Management Directors elected by the Board, taking into consideration the recommendations of the Nominating Committee, to serve staggered three-year terms. The current members of the Audit Committee are Mr. Druten (Chairman), Mr. McDonnell and Ms. Pletz. The members of the Audit Committee are independent (as defined in the NYSE's listing standards) and meet the additional independence standards in Rule 10A-3 of the Securities and Exchange Commission ("SEC"). In determining independence, the Board of Directors concluded that each member of the Audit Committee has no material relationship with KCS under the standards set forth in the Guidelines.

The Audit Committee's duties and responsibilities include the following: (a) appoint and pre-approve the fees of our independent registered public accounting firm and pre-approve fees for other non-audit services provided by our independent registered public accounting firm; (b) monitor the quality and integrity of our financial reporting process, financial statements and systems of internal controls; (c) monitor the independence, qualifications and performance of our independent registered public accounting firm selected as the Company's auditor and internal audit department; (d) provide an avenue of communication among the independent registered public accounting firm, management, the internal audit department and the Board of Directors; (e) monitor compliance with legal and regulatory requirements; (f) discuss with management, the internal audit department and the Company's independent auditor, the Company's risk assessment and risk management policies, including the Company's major financial risk exposure and steps taken by management to monitor and mitigate such exposure; (g) prepare the report included in our annual meeting Proxy Statement; and (h) review with management and the independent registered public accounting firm our annual audited financial statements and quarterly financial statements.

The Guidelines do not limit the number of public company audit committees on which the members of our Audit Committee may serve. However, for any director to simultaneously serve on our Audit Committee and the audit committees of more than three other public companies, the Board must affirmatively determine that such simultaneous service will not impair the director's ability to effectively serve on our Audit Committee. The Board of Directors has affirmatively determined that Mr. McDonnell's simultaneous service on more than three public company audit committees (including ours) will not impair his ability to effectively serve on our Audit Committee.

The Board of Directors has adopted a written charter for the Audit Committee, a copy of which is available in the "Corporate Governance" section under the "Investors" tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com).

The Board has determined that Robert J. Druten and Thomas A. McDonnell are "audit committee financial experts" as that term is defined in applicable securities regulations. The Board determined that Mr. Druten qualifies as an audit committee financial expert based upon his prior experience as Executive Vice President and Chief Financial Officer of Hallmark Cards, Inc. and previously at Crown Media, Inc., as well as his prior experience as a certified public accountant with Arthur Young & Co. The Board of Directors determined that Mr. McDonnell qualifies as an audit committee financial expert based upon his experience as the Chief Executive Officer of DST, his accounting and financial education, his experience actively supervising others performing accounting or auditing functions, and his past and current memberships on audit committees of other public companies.

The Audit Committee's report is provided below.

### **The Finance Committee**

The Finance Committee consists of three Non-Management Directors elected by the Board, taking into consideration the recommendations of the Nominating Committee, to serve one-year terms. The current members of the Finance Committee are Mr. Druten (Chairman), Ambassador Jones and Mr. McDonnell. The Finance Committee has the following duties and responsibilities: (a) review and approve financial transactions exceeding

\$25 million, but not exceeding \$200 million, including, but not limited to, the filing of registration statements, issuance of debt or equity securities, and entrance into new credit facilities, leases and other forms of financing; (b) at the request of the Board, review and approve the terms and conditions of financial transactions exceeding \$200 million for which the Board has given prior general approval; (c) review management's financing plans and reports and make recommendations to the Board with respect to any matter affecting our financing plans and capital structure; (d) review such other matters within the scope of its responsibilities as the Committee determines from time to time, and make such recommendations to the Board with respect thereto as the Committee deems appropriate; (e) evaluate the Finance Committee's performance at least annually; and (f) review and reassess the adequacy of the Finance Committee's charter at least annually and recommend any proposed changes to the Board for approval. In addition to the foregoing, the Committee shall have such other powers and duties as may be delegated to it from time to time by the Board with respect to a particular financial transaction or type of financial transaction.

The Board of Directors has adopted a written charter for the Finance Committee, a copy of which is available in the "Corporate Governance" section under the "Investors" tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com).

### **The Compensation Committee**

The Compensation Committee consists of four Non-Management Directors elected by the Board, taking into consideration the recommendations of the Nominating Committee, to serve one-year terms. The current members of the Compensation Committee are Mr. Slater (Chairman), Mr. Davis, Mr. Dunn and Ms. Pletz. Each member of the Compensation Committee is independent (as defined in the NYSE's listing standards), is considered an outside director under Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code"), and is considered a non-employee director under Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

The Compensation Committee's duties and responsibilities include the following: (a) establish, communicate to management and the Board and periodically update the Company's compensation philosophy, objectives, policies, strategies and programs, with the objective of ensuring they provide appropriate motivation for corporate performance and increased stockholder value; (b) review and discuss with management the Company's disclosures in the "Compensation Discussion & Analysis" ("CD&A") intended to be included in the Company's annual meeting proxy statement and based on such review and discussion, recommend to the Board whether the CD&A should be included in the Company's annual meeting proxy statement; (c) review and approve the Compensation Committee Report for inclusion in the Company's annual meeting proxy statement; (d) review and approve guidelines for base, annual incentive and long-term compensation programs for management employees of KCS and, as prescribed by resolution of the Board, subsidiaries, consistent with the compensation philosophy of the Compensation Committee; (e) review and approve corporate goals and objectives relevant to the compensation of our Chief Executive Officer ("CEO"), evaluate and review with our CEO his performance in light of those goals and objectives, and set our CEO's compensation level based on that evaluation; (f) review and approve our CEO's recommendations concerning the compensation of other senior management of KCS; (g) in consultation with our CEO, Chief Financial Officer ("CFO"), and personnel officers and, if deemed appropriate by the Chairperson of the Compensation Committee, an independent outside consultant, review and recommend to the Board the compensation of directors, including equity awards, fees and benefits; (h) establish and communicate to senior management and the Board the Committee's expectations concerning long-term ownership of KCS stock, with the goal of promoting long-term ownership of our stock and aligning the interests of senior management with our stockholders; (i) administer the compensation plans of KCS and certain subsidiaries for which the Compensation Committee has been granted administrative responsibility in accordance with the terms of those plans, including, as applicable, approving all stock option and restricted stock grants and pools, establishing performance goals and targets under incentive plans, and determining whether or not those goals have been attained (the Compensation Committee has the authority to delegate that responsibility in accordance with the terms of the applicable plan); (j) review succession planning for key officers of KCS and subsidiaries; (k) review and approve our compensation disclosures with the SEC and other regulatory filings, including the disclosure of executive compensation in our annual Proxy Statement; (l) retain and terminate any compensation consultant used to assist in evaluating the compensation of the non-management directors, our CEO or executive officers, including the sole authority to select the consultant and

to approve its fees and other material engagement terms; (m) obtain advice and assistance from internal or external legal, accounting or other advisors as required for the performance of its duties; (n) monitor compliance with legal prohibitions on loans to directors and executive officers of KCS; (o) annually participate in a self-assessment of its performance and, in conjunction with the Nominating Committee, undertake an annual evaluation of the qualifications of the members of the Compensation Committee; (p) in consultation with management, oversee regulatory compliance with respect to compensation matters; (q) monitor the Company's disclosure controls and procedures and internal controls applicable to the implementation, accounting and reporting of executive compensation decisions and awards; (r) review any stockholder proposals relating to executive compensation matters and recommend to the Board any response to such proposals; (s) review and assess the adequacy of the Compensation Committee charter at least annually and recommend any proposed changes to the Board for approval; and (t) perform such other duties and exercise such other powers as directed by resolution of the Board not inconsistent with the Compensation Committee charter or as required by applicable laws, rules, regulations and NYSE listing standards.

The Board of Directors has adopted a written charter for the Compensation Committee, a copy of which is available in the "Corporate Governance" section under the "Investors" tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com).

The Compensation Committee's report is provided below.

## **Compensation Committee Processes and Procedures**

### ***Executive Compensation Practices***

The Compensation Committee follows the processes and procedures established in its charter with respect to the determination of executive compensation.

The Compensation Committee has sole authority to set the compensation of our CEO, to set the compensation of the members of senior management of the Company and its subsidiaries based on recommendations from the CEO and outside compensation consultants, and to recommend for Board approval the compensation provided to our Non-Management Directors. The Compensation Committee does not share this authority with, or delegate this authority to, any other person. The Compensation Committee recommends each component of Non-Management Director compensation to our Board. The Compensation Committee assists the Board in fulfilling its responsibility to maximize long-term stockholder value by ensuring that officers, directors and employees are compensated in accordance with our compensation philosophy, objectives and policies; competitive practice; and the requirements of applicable laws, rules and regulations.

In fulfilling its responsibilities, the Compensation Committee has direct access to our officers and employees and consults with our CEO, our CFO, our personnel officers and other members of senior management as the Chairman of the Committee deems necessary. The Compensation Committee may retain at the Company's expense a compensation consultant, which is selected, engaged and instructed by the Compensation Committee, to advise the Compensation Committee on executive compensation practices and trends. The Compensation Committee has for the past three years engaged Towers Perrin, an independent compensation consultant, to advise the Compensation Committee on its executive compensation policies and to assist the Compensation Committee in making executive compensation decisions, including in 2008 and 2009.

The Compensation Committee reviews executive officer compensation on an annual basis. For each review, the Compensation Committee may consider, and decide the weight it will give to, the following factors:

- competition in the market for executive employees;
- executive compensation provided by peer group companies selected by the Compensation Committee with the assistance of Towers Perrin;
- executive officer performance;
- our financial performance and compensation expenses;
- the accounting impact of executive compensation decisions;

- company and individual tax issues;
- executive officer retention;
- executive officer health and welfare;
- executive officer retirement planning;
- executive officer responsibilities; and
- executive officer risk of termination without cause.

NYSE listing standards require the Compensation Committee, in determining the long-term incentive component of our CEO's compensation, to consider:

- company performance and relative stockholder return;
- value of similar incentive awards to chief executive officers at comparable companies; and
- awards given our CEO in past years.

The Compensation Committee may request that management recommend compensation package components, discuss hiring and retention concerns and personnel requirements, and provide information with respect to such matters as executive, Company and business unit performance; market analysis; benefit plan terms and conditions; financial, accounting and tax considerations; legal requirements; and value of outstanding awards. The Compensation Committee may rely on our CEO and other executives for these purposes.

The Compensation Committee develops the criteria for evaluating the performance of our CEO and privately reviews his performance against these criteria on at least an annual basis. The CEO periodically discusses the performance of other executive officers with the Compensation Committee. The Compensation Committee may review human resources and business unit records. The Compensation Committee may discuss with the Audit Committee the executive officers' compliance with our Code of Ethics.

#### ***Non-Management Director Compensation Practices***

The Compensation Committee recommends each component of Non-Management Director compensation to the Board. The Committee seeks to recommend competitive compensation packages that include both short-term cash and long-term stock components. The Board of Directors does not delegate its authority for determining Non-Management Director compensation to any other person.

In recommending Non-Management Director compensation, the Compensation Committee may consider, and determine the weight it will give to, any combination of the following:

- market competition for directors;
- securities law and NYSE independence, expertise and qualification requirements;
- director compensation provided by peer group companies selected by the Compensation Committee with the assistance of Towers Perrin;
- directors' duties and responsibilities; and
- director retention.

### ***Compensation Committee Interlocks and Insider Participation***

During 2008:

- no member of the Compensation Committee was an officer or employee of KCS or was formerly an officer of KCS;
- no member of the Compensation Committee had any material relationship with KCS other than service on the Board and Board committees and the receipt of compensation for that service, except as described below in “Insider Disclosures — Certain Relationships and Related Transactions;”
- no executive officer of KCS served as a member of the Compensation Committee (or other Board committee performing equivalent functions or, in the absence of any such committee, the entire Board of Directors) of another entity, one of whose executive officers served on our Compensation Committee; and
- no executive officer of KCS served as a member of the Compensation Committee (or other Board committee performing equivalent functions or, in the absence of any such committee, the entire Board of Directors) of another entity, one of whose executive officers served as a director of KCS.

### **The Nominating and Corporate Governance Committee**

The Nominating Committee consists of four Non-Management Directors elected by the Board to serve staggered three-year terms. The current members of the Nominating Committee are Ms. Pletz (Chairwoman), Mr. Davis, Mr. Dunn and Mr. Slater. The members of the Nominating Committee are independent (as defined in the NYSE’s listing standards). The Nominating Committee recommends to the Board of Directors suitable nominees for election to the Board or to fill newly created directorships or vacancies on the Board. The Nominating Committee’s duties and responsibilities include the following: (a) ensure that (i) the Board has the benefit of qualified and experienced directors who meet the requirements of applicable laws, rules, regulations, the Guidelines, and the criteria established in the Committee’s charter, (ii) the Company maintains appropriate corporate governance practices and procedures including, but not limited to, the Guidelines, and (iii) the performance of the Board, committees of the Board and management is periodically evaluated; (b) adopt and apply criteria for the selection of director nominees; (c) adopt and apply criteria, which may be listed in the Guidelines, for the selection of director nominees; (d) establish and publish on our website a policy concerning the treatment of shareholder-recommended nominees to the Board; (e) develop and implement a procedure to annually evaluate the performance of the Board and its committees and compliance with corporate governance procedures of KCS; (f) establish and maintain an orientation program for new directors and a continuing education program for all directors; (g) review and consider related person transactions in accordance with the procedure set forth below; (h) annually review and reassess the adequacy of the Nominating Committee’s charter and recommend any proposed changes to the Board for approval; (i) make recommendations to the Board with respect to the selection of Board committee members; and (j) perform any other activities consistent with its charter, our Bylaws and governing law as the Nominating Committee or the Board of Directors deems appropriate.

The Nominating Committee has the authority to obtain advice and seek assistance from internal or external legal, accounting or other advisors, and has the sole authority to retain and terminate any search firm used to identify director candidates, including sole authority to approve such firm’s fees and other engagement terms.

The Board of Directors has adopted a written charter for the Nominating Committee, a copy of which is available in the “Corporate Governance” section under the “Investors” tab of our website at [www.kcsouthern.com](http://www.kcsouthern.com).

The Nominating Committee generally will consider director nominees recommended by stockholders. Nominees recommended by stockholders in compliance with our Bylaws will be evaluated on the same basis as other nominees considered by the Nominating Committee. Stockholders should see “Stockholder Proposals” below for information relating to the submission by stockholders of nominees and matters for consideration at a meeting of our stockholders.

## **INSIDER DISCLOSURES**

### **Certain Relationships and Related Transactions**

On September 29, 2000, we entered into an agreement with the law firm of Manatt, Phelps & Phillips, of which Ambassador Jones is Senior Counsel. The agreement expired on October 31, 2004, but has been extended on a month-to-month basis since that date. Under the agreement, Manatt Jones Global Strategies, a wholly-owned subsidiary of Manatt, Phelps & Phillips has provided us with advice and assistance on issues and transactions in Mexico and other

international venues. As compensation for these services, we have paid Manatt Jones Global Strategies approximately \$10,000 per month. Ambassador Jones, one of our Non-Management Directors, receives a salary from Manatt, Phelps & Phillips for his services as Senior Counsel and serves as Co-Chairman and CEO of Manatt Jones Global Strategies. The fees paid by us did not exceed 5% of either firm's gross revenues for its last full fiscal year.

A 50% owned affiliate of a wholly-owned subsidiary of DST leases to KCSR the headquarters building occupied by KCS and KCSR, and also leases to KCSR a floor in another building. These leases expire in 2019. In addition, during 2008, KCSR entered into a short-term lease for office space with the DST affiliate that expires in the first quarter of 2010. Thomas A. McDonnell, one of our Non-Management Directors, is the President, Chief Executive Officer and a director of DST and Chairman of the Board of Directors of the DST subsidiary. Rent and expenses paid by KCSR under these leases aggregated approximately \$3.9 million in 2008. DST's indirect 50% interest in those lease payments amounted to less than 1% of DST's consolidated gross revenues in 2008. The aggregate rentals payable under the leases from January 1, 2008 until the end of the lease terms total approximately \$31.0 million. Mr. McDonnell does not receive any salary from the DST subsidiary or affiliate, owns no stock in either entity, owns less than 5% of the outstanding common stock of DST, and receives no direct financial benefit from these lease payments.

### **Related Person Transaction Policies and Procedures**

The Board of Directors is empowered to review, approve and ratify any transactions between KCS and "related persons," as that term is defined by Item 404 of Regulation S-K. In May 2007, the Nominating Committee proposed, and the full Board adopted, an amended Nominating Committee charter containing procedures for the review of related person transactions and the reporting of such transactions by the Nominating Committee to the full Board of Directors for approval or ratification. These transactions, which include any financial transaction, arrangement or relationship or any series of similar transactions, are reviewed for approval or ratification for any transaction between the Company and its directors, director nominees, executive officers, greater than five percent beneficial owners and their respective immediate family members, where the amount involved in the transaction exceeds or is expected to exceed \$120,000 in a single fiscal year. The Nominating Committee has directed the Corporate Secretary to review on behalf of the Nominating Committee responses to annual director and officer questionnaires to determine whether any related person has, or has had, a direct or indirect material interest in any transaction with the Company or its subsidiaries, other than the receipt of ordinary director or officer compensation in the last fiscal year. These procedures are consistent with Item 404 of Regulation S-K. Also in May 2007, the Audit Committee proposed, and the full Board adopted, an amended Audit Committee charter containing procedures designed to ensure that any related person transactions which are ratified or approved by the Nominating Committee are properly reported by the Company in its financial statements and SEC filings.

The policy outlined in the Nominating Committee Charter provides that the Nominating Committee reviews certain transactions subject to the policy and determines whether or not to approve or ratify those transactions. In doing so, the Nominating Committee takes into account, among other factors it deems appropriate:

- the significance of the transaction to the Company;
- the best interests of the Company's stockholders;
- the materiality of the transaction to the related person;
- whether the transaction is significantly likely to impair any judgments an executive officer or director would make on behalf of the Company;
- the Company's Code of Business Conduct and Ethics;
- whether a related person serves on the Compensation Committee and if so, whether such continued service is appropriate in accordance with Rule 16b-3 under the Exchange Act and the Compensation Committee charter; and
- whether the terms of the transaction are more favorable to the Company than would be available from an unrelated third party.

## NON-MANAGEMENT DIRECTOR COMPENSATION

This section describes the compensation paid to our Non-Management Directors. Michael R. Haverty, our Chairman and CEO, serves on our Board of Directors, but is not paid any compensation for his service on the Board. His compensation is described in the Summary Compensation Table included in this Proxy Statement.

### Director Fees

#### *Non-Management Director Compensation Program*

On February 28, 2008, the Board of Directors approved a revised Non-Management Director compensation program (the “Non-Management Director Compensation Program”) recommended to it by the Compensation Committee. Under this revised program, which became effective May 1, 2008, each Non-Management Director receives the following compensation for his or her service as a member of the Board:

#### **Annual Retainers for Board and Committee Membership**

<u>Type</u>	<u>Amount</u>
Annual Board retainer . . . . .	\$50,000
Presiding Director additional retainer . . . . .	\$15,000
Audit Committee Chair . . . . .	\$10,000
Compensation Committee Chair . . . . .	\$ 7,000
Executive Committee Chair . . . . .	\$ 7,000
Finance Committee Chair . . . . .	\$ 7,000
Nominating Committee Chair . . . . .	\$ 7,000
Audit Committee Membership . . . . .	\$ 5,000

#### **Fees per Meeting Attended**

<u>Type</u>	<u>Amount</u>
Board (in person) . . . . .	\$4,000
Board (by telephone) . . . . .	\$3,000
Committee (in person) . . . . .	\$2,000
Committee (by telephone) . . . . .	\$1,500

In addition, under the Non-Management Director Compensation Program, each Non-Management Director is awarded a grant of Restricted Common Stock under the 1991 Plan (for 2008) or the 2008 Plan (for years after 2008) on the date of each annual meeting. The grant is for a number of shares equal to \$90,000 in value based on the average closing price of the Company’s stock for the 30 days prior to the grant date. Following the 2008 Annual Meeting, each Non-Management director was awarded 2,192 shares of Restricted Common Stock calculated in accordance with the above-described formula.

### Non-Management Director Stock Awards

Restricted shares awarded to Non-Management Directors vest upon the earlier of (a) one year from the date of grant or (b) the day prior to the next annual meeting of stockholders. The restricted shares that have not vested are forfeited if there is a termination of affiliation for any reason other than death, disability or change in control of KCS. The restricted shares vest automatically upon termination of affiliation due to death, disability or change in control of KCS. The Non-Management Directors may also be granted awards under the 2008 Plan, as determined by the Board of Directors.



### **Director Stock Ownership Guidelines**

The Board has adopted stock ownership guidelines for Non-Management Directors. These guidelines provide that each Non-Management Director is required to beneficially own at least 20,000 shares of our Common Stock within eight years from the later of May 4, 2005 or the date on which the Non-Management Director first joined the Board. Restricted stock granted to a Non-Management Director will count toward this requirement. The permitted period for compliance with our stock ownership guidelines was extended from five years to eight years in connection with the adoption of the Non-Management Director Compensation Program in 2008, which to date has resulted in fewer shares being awarded annually to our Non-Management Directors.

### **Non-Management Director Expense Reimbursement**

In addition to compensating the Non-Management Directors as discussed above, we also reimburse the Non-Management Directors for their expenses in attending Board and Committee meetings.

### **Directors' Deferred Fee Plan**

Non-Management Directors are permitted to defer receipt of directors' fees under an unfunded Directors' Deferred Fee Plan (which we refer to as the "Deferred Fee Plan") adopted by the Board of Directors. Earnings for time periods prior to June 1, 2002 accrue interest on deferred fees from the date the fees are credited to the director's account, and on the earnings on deferred fees from the date the earnings are credited to the account. The rate of earnings is determined annually and is one percentage point less than the prime rate in effect at Chemical Bank on the last day of each calendar year. A director may request that the rate of earnings be determined pursuant to a formula based on the performance of certain mutual funds advised by Janus Capital Management LLC; however, the plan administrator is not obligated to follow such request and may at its sole discretion continue to determine earnings by reference to the prime rate of Chemical Bank. Earnings on the amount credited to a director's account as of May 31, 2002, earnings on deferred fees and earnings credited to the director's account on and after June 1, 2002 are determined by the hypothetical "investment" of deferred fees based on the director's election among investment options designated by us from time to time for the Deferred Fee Plan. An underlying investment rate determined from time to time by the Board (currently the rate on U.S. Treasury securities with a maturity of 10 years plus one percentage point, adjusted annually on July 1) is used to credit with interest any part of a director's account for which a mutual fund has not been designated as the hypothetical "investment." A director's account value will be paid after the director ceases to be a director of KCS. Amounts deferred, including related earnings, will be paid either in installments or a lump sum, as elected by the director. Distributions under the Deferred Fee Plan are allowed prior to cessation as a director in certain instances as approved by the Board. The Board may designate a plan administrator, but in the absence of such designation, the Corporate Secretary of KCS will administer the Deferred Fee Plan.

The following table shows the balance in each Non-Management Director's account in the Deferred Fee Plan as of December 31, 2008.

<u>Name</u>	<u>Deferred Fee Plan Account Balance as of 12/31/08</u>
<b>Henry R. Davis</b> .....	\$ 0
<b>Robert J. Drueten</b> .....	\$ 0
<b>Terrence P. Dunn</b> .....	\$ 0
<b>James R. Jones</b> .....	\$29,668
<b>Thomas A. McDonnell</b> .....	\$ 0
<b>Karen L. Pletz</b> .....	\$ 0
<b>Rodney E. Slater</b> .....	\$ 0

## 2008 Compensation

The following table shows the compensation paid to our Non-Management Directors in 2008.

### DIRECTOR COMPENSATION

<u>Name</u>	<u>Fees Earned or Paid in Cash (\$)</u>	<u>Stock Awards \$(1)</u>	<u>Option Awards \$(2)</u>	<u>All Other Compensation \$(3)</u>	<u>Total (\$)</u>
<b>Henry R. Davis</b> .....	\$ 70,667	\$377,345	\$ 0	\$ 103	\$448,115
<b>Robert J. Druten</b> .....	\$ 95,500	\$131,562	\$ 0	\$21,055	\$248,117
<b>Terrence P. Dunn</b> .....	\$ 84,000	\$259,162	\$ 0	\$30,155	\$373,317
<b>James R. Jones</b> .....	\$ 71,000(4)	\$131,562	\$ 0	\$30,155	\$232,717
<b>Thomas A. McDonnell</b> .....	\$113,000	\$131,562	\$ 0	\$30,155	\$274,717
<b>Karen L. Pletz</b> .....	\$103,500	\$131,562	\$ 0	\$ 155	\$235,217
<b>Rodney E. Slater</b> .....	\$ 95,500	\$131,562	\$ 0	\$ 155	\$227,217

- (1) This column represents the dollar amount recognized for financial reporting purposes with respect to the 2008 fiscal year for the fair value of restricted shares granted in 2008 as well as prior fiscal years. The grant date fair value was computed in accordance with FAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. Fair value is calculated using the average trading price of our Common Stock on the date of grant. These amounts reflect our accounting expense for these awards, and do not correspond to the actual value that will be recognized by the named directors. The restricted shares were awarded under our 1991 Stock Option and Performance Award Plan. Each Non-Management Director received a grant of 2,192 restricted shares of Common Stock on the date of the 2008 annual meeting of stockholders. Mr. Davis also received an initial grant of 10,000 restricted shares on February 28, 2008, the date that he was appointed to the Board of Directors by election of a majority of our directors. Please see “Note 10 Share-Based Compensation — Nonvested Stock” in the “Notes to the Consolidated Financial Statements” in the Company’s Form 10-K for the fiscal year ended December 31, 2008 for the assumptions made in the valuation of these awards.

As of December 31, 2008, each Non-Management Director held the number of unvested restricted shares of Common Stock listed in the table below:

<u>Name</u>	<u>Number of Unvested Restricted Shares at 12/31/08</u>	<u>Fair Value at Grant Date(a)</u>
<b>Henry R. Davis</b> .....	12,192	\$473,143
<b>Robert J. Druten</b> .....	2,192	\$101,643
<b>Terrence P. Dunn</b> .....	2,192	\$101,643
<b>James R. Jones</b> .....	2,192	\$101,643
<b>Thomas A. McDonnell</b> .....	2,192	\$101,643
<b>Karen L. Pletz</b> .....	2,192	\$101,643
<b>Rodney E. Slater</b> .....	2,192	\$101,643

- (a) The grant date for the 2,192 restricted shares awarded to each director on the date of the 2008 Annual Stockholders’ Meeting was May 1, 2008. The grant date for the 10,000 restricted shares awarded to Mr. Davis on his election to the Board of Directors was February 28, 2008.
- (2) No options were granted to any Non-Management Director in or for 2008. Certain Non-Management Directors have unexercised stock options granted prior to January 2007 when Non-Management Director compensation included stock options as opposed to restricted stock grants. Ambassador Jones also has unexercised options to purchase 6,000 shares of the common stock of Janus Capital Group, Inc. (“Janus”), which were initially granted

as options to purchase common stock in Stilwell in exchange for KCS non-qualified stock options issued as compensation and subsequently converted to options to purchase Janus common stock in connection with the 2003 merger of Janus into Stilwell. Further information regarding the Janus transaction is set forth under “Compensation Discussion and Analysis — Option Exercises and Stock Vested — Options Granted in Connection with the Stilwell Spin-off” below.

As of December 31, 2008, each Non-Management Director held the options listed in the table below:

<u>Name</u>	<u>Number of Exercisable Options at 12/31/08</u>	<u>Number of Unexercisable Options at 12/31/08</u>
<b>Henry R. Davis</b> .....	0	0
<b>Robert J. Druten</b> .....	20,000	0
<b>Terrence P. Dunn</b> .....	0	0
<b>James R. Jones(a)</b> .....	77,500(a)	0
<b>Thomas A. McDonnell</b> .....	40,000	0
<b>Karen L. Pletz</b> .....	30,000	0
<b>Rodney E. Slater</b> .....	0	0

(a) Does not include 6,000 options for the purchase of Janus common stock that were outstanding at December 31, 2008.

(3) All Other Compensation for the Non-Management Directors consists of:

<u>Name</u>	<u>Group Term Life Premiums</u>	<u>AD&amp;D Premiums</u>	<u>Charitable Matching Gifts(a)</u>	<u>Total</u>
<b>Henry R. Davis</b> .....	\$ 92	\$11	\$ 0	\$ 103
<b>Robert J. Druten</b> .....	\$138	\$17	\$20,900	\$21,055
<b>Terrence P. Dunn</b> .....	\$138	\$17	\$30,000	\$30,155
<b>James R. Jones</b> .....	\$138	\$17	\$30,000	\$30,155
<b>Thomas A. McDonnell</b> .....	\$138	\$17	\$30,000	\$30,155
<b>Karen L. Pletz</b> .....	\$138	\$17	\$ 0	\$ 155
<b>Rodney E. Slater</b> .....	\$138	\$17	\$ 0	\$ 155

(a) We provide a two-for-one Company match of eligible charitable contributions made by our Non-Management Directors. The maximum amount of contributions we will match in any calendar year for any director is \$15,000. Of this \$15,000 maximum, only half may be contributed to one organization.

(4) Does not include consulting fees paid to Manatt Jones Global Strategies, as described in “Insider Disclosures — Certain Relationships and Related Transactions.”

## AUDIT COMMITTEE REPORT

In accordance with the Audit Committee's written charter duly adopted by the Board of Directors, we have reviewed and discussed with management the Company's audited financial statements as of and for the year ended December 31, 2008.

Management is responsible for the Company's internal controls and the financial reporting process. KPMG LLP, the Company's independent registered public accounting firm, is responsible for performing an independent audit of the Company's consolidated financial statements and expressing an opinion on the effectiveness of the Company's internal control over financial reporting in accordance with the standards of the Public Company Accounting Oversight Board and to issue a report thereon. Our responsibility is to monitor and oversee these processes on behalf of the Board of Directors.

We have discussed with the independent registered public accounting firm the matters required to be discussed by Statement on Auditing Standards No. 61, as amended (AICPA, *Professional Standards*, Vol. 1. AU section 380) as adopted by the Public Company Accounting Oversight Board in Rule 3200T.

We discussed with the Company's independent registered public accounting firm the overall scope and plans for their audit. We met with the independent registered public accounting firm, with and without management present, to discuss the results of their audits, their evaluations of the Company's internal controls, and the overall quality of the Company's financial reporting.

We have received and reviewed the written disclosures and the letter from the independent registered public accounting firm required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the audit committee concerning independence, and have discussed with the registered public accounting firm its independence from management.

Based on the reviews and discussions referred to above, we recommended to the Board of Directors that the financial statements referred to above be included in the Company's annual report on Form 10-K for the year ended December 31, 2008 for filing with the SEC.

The Audit Committee

Robert J. Drueten, *Chairman*

Thomas A. McDonnell

Karen L. Pletz

*This Audit Committee Report is not deemed "soliciting material" and is not deemed filed with the SEC or subject to Regulation 14A or the liabilities under Section 18 of the Exchange Act.*

## INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

### Engagement

KPMG LLP (“KPMG”) served as our independent registered public accounting firm for the year ended December 31, 2008. KPMG performed professional services in connection with the audit of our consolidated financial statements we filed with the SEC under the Exchange Act, registration statements we filed with the SEC under the Securities Act of 1933, as amended (the “Securities Act”), and private offering documents. KPMG also audited the Company’s internal control over financial reporting as of December 31, 2008 and issued an attestation report.

### Independent Registered Public Accounting Firm Fees

The following table presents the total fees for professional audit services and other services rendered by KPMG, the independent accountants to KCS, for the years ended December 31, 2008 and 2007 (*in thousands*).

	Year Ended December 31,	
	2008	2007
Audit fees . . . . .	\$3,000.0	\$3,681.7
Audit-related fees(1) . . . . .	616.5	465.5
Tax fees . . . . .	28.0	50.0
All other fees . . . . .	—	—
Total . . . . .	<u>\$3,644.5</u>	<u>\$4,197.2</u>

(1) Primarily reflects fees related to debt offering documents and related to SEC filings, as well as certain benefit plans.

### Pre-Approval Policy

The Audit Committee must pre-approve the engagement of the independent registered public accounting firm to audit our consolidated financial statements.

The Audit Committee’s pre-approval policies and procedures, as described in its charter, provide that the Audit Committee will approve all fees for audit and non-audit services prior to engagement. The Chair of the Audit Committee is authorized to pre-approve any audit and non-audit services on behalf of the Audit Committee, provided that such decisions are provided to the full Audit Committee at its next scheduled meeting.

The Audit Committee pre-approved all services provided by KPMG for 2008.

### Selection of KPMG as our Independent Registered Public Accounting Firm for 2009

The Audit Committee has selected KPMG as our independent registered public accounting firm to audit our 2009 consolidated financial statements and provide an attestation report on the effectiveness of our internal control over financial reporting as of December 31, 2009.

**PROPOSAL 2 — RATIFICATION OF THE AUDIT COMMITTEE’S  
SELECTION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Audit Committee has selected KPMG as our independent registered public accounting firm to audit our 2009 consolidated financial statements and provide an attestation report on the effectiveness of our internal control over financial reporting as of December 31, 2009. KPMG served as our independent registered public accounting firm in 2008. We are seeking our stockholders’ ratification of the Audit Committee’s selection of our independent registered public accounting firm even though we are not legally required to do so. If our stockholders ratify the Audit Committee’s selection, the Audit Committee nonetheless may, in its discretion, retain another independent registered public accounting firm at any time during the year if the Audit Committee feels that such change would be in the best interest of KCS and its stockholders. Alternatively, if this proposal is not approved by stockholders, the Audit Committee may re-evaluate its decision. One or more representatives of KPMG are expected to be present at the Annual Meeting and will have the opportunity, if desired, to make a statement and are expected to be available to respond to appropriate questions from stockholders. As explained above in “How do we decide whether our stockholders have approved the proposals?” ratification of this proposal requires the affirmative vote of a majority of the shares of Voting Stock present at the Annual Meeting that are entitled to vote on the proposal, assuming a quorum is present.

**YOUR BOARD RECOMMENDS THAT YOU VOTE  
“FOR”  
RATIFICATION OF THE AUDIT COMMITTEE’S  
SELECTION OF KPMG LLP**

## COMPENSATION COMMITTEE REPORT

The Compensation Committee has received and discussed with management the disclosures contained in “Compensation Discussion and Analysis” in this Proxy Statement. Based on that review and analysis, we recommended to the Board of Directors that the Compensation Discussion and Analysis section be included in this Proxy Statement.

The Compensation Committee

Rodney E. Slater, *Chairman*

Henry R. Davis

Terrence P. Dunn

Karen L. Pletz

*This Compensation Committee Report is not deemed “soliciting material” and is not deemed filed with the SEC or subject to Regulation 14A or the liabilities under Section 18 of the Exchange Act.*

## COMPENSATION DISCUSSION AND ANALYSIS

### ***Introduction***

The Compensation Committee is responsible for establishing our executive compensation policies and overseeing our executive compensation practices. The Compensation Committee is comprised solely of Non-Management Directors, all of whom meet the independence requirements of the NYSE.

The creation of stockholder value is the most important responsibility of our Board of Directors and executive officers. With our acquisition of the controlling interest in KCSM on April 1, 2005, we now own and operate a coordinated end-to-end railway linking vital commercial and industrial centers in the United States and Mexico. We believe we are well-positioned to operate a rapidly growing, highly profitable, long-haul, cross-border railway network. Our executives will be required to execute consistently, efficiently, and well in order to develop this network and create stockholder value. Our Compensation Committee believes our compensation practices and programs are appropriately designed to incent our executives to meet this goal and to hold them accountable for our performance, with the ultimate objective of promoting long-term stockholder value and enhancing the strength and leadership position of our Company in the North American surface transportation industry.

All references in this Compensation Discussion and Analysis to “Named Executive Officers” refer to our Chief Executive Officer, our Chief Financial Officer and the other executive officers for whom information is provided in the Management Compensation Tables below. Except for José Guillermo Zozaya Delano, who serves as the President and Executive Representative of KCSM and is based in Mexico, all of our Named Executive Officers are based in the United States. We sometimes refer herein to these officers as “U.S. Named Executive Officers.”

### ***Role of Compensation Consultant***

For assistance in fulfilling its responsibilities, the Compensation Committee retained Towers Perrin, an independent compensation consulting firm, to review and independently assess various aspects of our compensation programs, including the compensation of individuals serving as executives of KCSM, and to advise the Compensation Committee in making its executive compensation decisions for 2008. Towers Perrin is engaged by and reports directly to the Compensation Committee and has been retained again for 2009. Towers Perrin’s role in 2008 has been to provide market data, including market trend data, to the Compensation Committee, to advise the Compensation Committee regarding the Company’s executive compensation relative to the market data, and to make recommendations to the Compensation Committee regarding compensation structure and components. The Compensation Committee may or may not adopt Towers Perrin’s recommendations. Typically, the Compensation Committee considers internal factors, such as individual performance and Company strategy, and then adopts a version of Towers Perrin’s recommendations, modified to reflect its own analysis of the foregoing internal factors.

Specifically, in 2008, Towers Perrin:

- analyzed the competitiveness of compensation provided to KCS' Non-Management Directors;
- analyzed the competitiveness of compensation provided to KCS' executives, including KCSM's executives;
- assisted with developing a peer group of companies to facilitate benchmarking and appropriate comparisons (as detailed below);
- assisted with administering the 2007-2009 long-term incentive program and grant guidelines;
- provided detail regarding current executive compensation trends;
- reviewed and provided comments to the 2008 Compensation Discussion and Analysis;
- reviewed the Company's Annual Incentive Plan ("AIP") as applied to senior and executive management of the Company;
- assisted with developing the termination tables included in the 2008 Proxy Statement; and
- assisted with determining appropriate compensation for newly hired and promoted executives.

Among other things, in 2008, Towers Perrin assisted the Compensation Committee in identifying the primary competitive market for the purpose of enabling the Compensation Committee to perform a benchmarking analysis of our executives' base salaries, annual incentive compensation, and long-term incentive compensation. In connection with this analysis and prior benchmarking analyses, we have defined our primary United States and Mexico competitive market as transportation and mature, capital-intensive companies with annual revenues of less than \$3 billion that participate in Towers Perrin's Executive Compensation Database. In 2008, with respect to our United States executives, this group was comprised of the following companies, all of which had revenues in 2008 between \$850 million and \$2.8 billion:

- |                                    |                                   |                                  |
|------------------------------------|-----------------------------------|----------------------------------|
| • A.O. Smith Corp.                 | • Herman Miller Inc.              | • PerkinElmer Inc.               |
| • AGL Resources, Inc.              | • HNI Corp.                       | • PNM Resources Inc.             |
| • Alexander & Baldwin, Inc.        | • IDACORP Inc.                    | • Portland General Electric Co.  |
| • Beckman Coulter, Inc.            | • IDEX Corporation                | • Revlon Inc.                    |
| • Brady Corp.                      | • Kaman Corp.                     | • The Scotts Miracle-Gro Company |
| • Carpenter Technology Corp.       | • Kennametal Inc.                 | • Southern Union Co.             |
| • Cephalon Inc.                    | • Magellan Midstream Partners LP  | • Terra Industries Inc.          |
| • Crown Castle International Corp. | • Martin Marietta Materials, Inc. | • Thomas & Betts Corp.           |
| • Donaldson Co. Inc.               | • Media General Inc.              | • The Toro Co.                   |
| • DPL Inc.                         | • MetroPCS Communications Inc.    | • Tupperware Brands Corp.        |
| • Ferrellgas Partners LP           | • Millipore Corp.                 | • UIL Holdings Corp.             |
| • GATX Corp.                       | • Mirant Corp.                    | • UniSource Energy Corp.         |
| • The GEO Group, Inc.              | • Monaco Coach Corp.              | • Warnaco                        |
| • Hayes Lemmerz International Inc. | • National Semiconductor Corp.    | • Westar Energy Inc.             |
|                                    | • NorthWestern Corp.              |                                  |

With respect to our Mexico executives this group was comprised of the following companies, all of which had revenues in 2008 between \$361 million and \$2.0 billion:

- |                    |                   |  |
|--------------------|-------------------|--|
| • Cemex            | • Grupo Alfa      | • Pepsico de México                              |
| • Coca-Cola Femsa  | • Grupo KUO       | • Pfizer México, S.A. de C.V.                    |
| • Gamesa           | • Hewlett Packard | • Procter & Gamble                               |
| • Glaxo SmithKline | • IBM de México   | • Sabritas                                       |
| • GRUMA            | • Kellogg         | • Smurfit Carton y Papel de México, S.A. de C.V. |
|                    | • Maseca          |  |



## ***Philosophy***

The Compensation Committee has adopted an executive compensation philosophy consisting of the following elements:

### *Market competitive positioning*

- Base salary — On average, we seek to pay executives a base salary that is at about the local country market 50th percentile, subject to incumbent-specific and internal equity/value considerations.
- Target incentive award opportunities — Due to the impact of our acquisition of KCSM in 2005 on our consolidated revenues and income, we transitioned our executives' target annual and long-term incentive award opportunities to approximate U.S. market median practices by 2007, and have fundamentally achieved that objective. Because these target awards are intended to approximate the market median in the U.S., the target award for executives based in Mexico may be above the market median practice in Mexico.

### *Role of incentive compensation*

- Annual Incentives — The purpose of our annual cash incentive awards is to motivate and reward the achievement of predetermined goals. Annual incentive program awards for Named Executive Officers are awarded based on achievement of Company performance measures.
- Long-Term Incentives — Our long-term incentives are designed to encourage executive retention, align the interests of our executives with those of our stockholders, facilitate executive stock ownership and reward the achievement of long-term financial goals.

The Compensation Committee believes our executive compensation program will achieve the following objectives:

- Facilitate the attraction and retention of highly-qualified executives;
- Motivate our executives to achieve our operating and strategic goals;
- Align our executives' interests with those of our stockholders by rewarding them in accordance with the creation of stockholder value; and
- Deliver executive compensation in a responsible and cost-effective manner.

### *Elements Of Compensation*

The primary elements of our 2008 executive officer compensation package are described below. The amount and types of elements differ between our U.S. and Mexico executives as a result of custom, traditions, compensation statutes and tax law differences.

<i>Compensation Element</i>	<i>Purpose</i>	<i>Characteristic</i>
<i>Base Salary</i>	To provide a fixed element of pay for an individual's primary duties and responsibilities.	Base salaries are reviewed annually and are set based on competitiveness versus the external local country market, and internal equity considerations.
<i>Annual Incentive</i>	To encourage and reward the achievement of specified financial goals.	Performance-based cash award opportunity; amount earned is based on actual results relative to pre-determined goals. Target incentive award payouts are set at approximately the market 50th percentile.
<i>Restricted Stock</i>	To align the executives' interests with those of investors (via creation of stockholder value), to encourage stock ownership, and to provide an incentive for retention.	Service-based long-term incentive opportunity; award value depends on share price.
<i>Performance Stock</i>	To reward performance related to achievement of pre-determined financial goals, to align the executives' interests with those of investors (via creation of stockholder value), to encourage stock ownership, and to provide an incentive for retention.	Performance shares are earned on a pro rata basis, conditioned upon achievement of predetermined one-, two- and three-year performance goals. The earned performance share awards will not vest or be delivered until the end of the three-year program period. Award value depends on share price.
<i>Stock Options</i>	To facilitate the attraction and stockholder alignment of new hires and promoted executives.	Performance based long-term incentive opportunity; amounts realized are dependent upon share price appreciation.

<i>Compensation Element</i>	<i>Purpose</i>	<i>Characteristic</i>
<i>Perquisites</i>	To provide, on a conservative basis, perquisites typically provided at companies against which KCS competes for executive talent, and to provide perquisites to KCSM's executives as required by Mexican law.	In the U.S., KCS pays for country club initiation fees (but not membership dues), financial planning services, payment of fees for donor advised funds, and other limited perquisites as described below. For all executives, KCS provides an annual physical exam (provided through KCS's medical plan). In Mexico, we provide the following perquisites: (1) annual Christmas bonus, (2) vacation and vacation premium payments, (3) food stipend, (4) automotive allocation, (5) maintenance and gasoline, (6) 100% of the executive's share of social security fees, and (7) a limited reimbursement of expenses for financial planning services.
<i>Benefits</i>	To provide for basic life and disability insurance, medical coverage, and retirement income.	For U.S. executives, KCS matches employee 401(k) contributions (100% match up to 5% of salary up to the statutory limit) and also pays premiums for medical, disability and AD&D. For U.S. and Mexico executives, KCS provides a basic amount of group life insurance coverage. Additionally, KCS provides all U.S. employees with the opportunity to annually purchase a specified number of shares of KCS Common Stock at a discount, subject to Board of Director approval. For U.S. executives, KCS has an "Executive Plan" that provides a benefit based on an amount equal to 10% of the excess of (a) an executive's base salary times the percentage specified in his or her employment agreement over (b) the maximum compensation that can be considered for benefit purposes in a qualified retirement plan. In Mexico, KCS matches executives' contributions into a savings fund up to certain legal limits.

Details regarding these elements, as well as other components and considerations of our executive compensation strategy, are set forth below.

### ***Compensation Determination and Implementation***

The Compensation Committee may use tally sheets, benchmark analyses by a peer group of companies selected by the Compensation Committee with the assistance of Towers Perrin, wealth accumulation analyses, internal pay equity analyses and other tools in setting the compensation of senior management. The Compensation Committee has used in the past, and may use in the future, tally sheets to obtain an estimated value of the Named Executive Officers' overall compensation packages; assess the appropriateness of each of the pay components provided to the Named Executive Officers; understand the relative magnitude of all components of total compensation provided to these executives; and assess the appropriateness of overall compensation paid to each Named Executive Officer. Tally sheets were not prepared by Towers Perrin or utilized by the Compensation Committee in 2008. The Compensation Committee uses executive compensation analyses prepared by Towers Perrin to confirm that the compensation packages for our Named Executive Officers are in line with the compensation philosophy adopted by the Compensation Committee.

Pay packages for the top executives are recommended by our CEO to the Compensation Committee early each year. The CEO and the Compensation Committee consider competitive market data on salaries, target annual incentives and long-term incentives, as well as internal equity and each executive's individual responsibility, salary grade, experience, and overall performance. The analysis of these factors is qualitative in nature, and the Compensation Committee does not give any specific weighting to any of these factors. The Compensation Committee reserves the right to materially change compensation for situations such as a material change in an executive's responsibilities. The amount of compensation realized or potentially realizable by our executives does not directly impact the level at which future pay opportunities are set or the programs in which they participate.

The targeted total direct compensation levels for our executives are, generally, at the 50th percentile of observed local country market practices as determined by compensation surveys. Please see the "Compensation Committee Review of our Executive Compensation Program" for disclosure regarding where actual payments fall within targeted compensation levels.

A one-time award of restricted stock and performance stock intended to cover a three-year period was issued to the Named Executive Officers under the Company's long-term incentive program in January 2007 (see "Long Term Incentives" for a more detailed discussion of this program).

Special one-time equity awards, generally in the form of stock options and/or restricted stock, are granted to newly-hired executives and executives receiving promotions. The number of options granted to newly-hired or promoted executives are recommended by management and set by the Compensation Committee based on consideration of the competitive market and on similar factors used in determining awards to existing management. In addition, each newly hired and promoted executive receives a pro rata grant of restricted stock and performance stock under the Company's long-term incentive program (see "Long Term Incentives" for a more detailed discussion of this program).

We do not time stock option grants or other equity awards to our executives with the release of material non-public information.

### ***Base Salary***

Named Executive Officers are paid a base salary to provide a basic level of regular income for services rendered during the year. The Compensation Committee, based on recommendations from the CEO, determines the level of base salaries and annual adjustments, if any, for the Named Executive Officers and other senior executives for whom the Compensation Committee has responsibility. Although the Company generally targets the 50th percentile of the primary local comparative market in setting base salary levels, actual executive salaries may vary from this targeted 50th percentile positioning as the Compensation Committee considers each Named Executive Officer's level of responsibility, experience, our performance, and internal equity considerations, as well as whether a Named Executive Officer's individual performance was strong or weak, in considering the salary adjustment recommendations. The Compensation Committee exercises subjective judgment and varies the weightings of these factors with respect to each Named Executive Officer.

Given the state of the economy and its negative impact on the Company's operations, the CEO recommended to the Compensation Committee in early 2009 that the base salaries of all management employees of the Company, including the Named Executive Officers, be frozen at 2008 levels as a means to manage expenses. The CEO also recommended that the management salary levels be reviewed mid-year 2009 in the event of a positive change in the state of the economy. The Compensation Committee agreed with this recommendation and did not make any changes to management salaries, including the Named Executive Officers, for 2009.

### ***Annual Incentive Awards***

In February 2008, the Compensation Committee approved the 2008 Annual Incentive Plan (the "2008 AIP") model for our Named Executive Officers. In order for there to be any payout to our Named Executive Officers under the 2008 AIP, our consolidated operating ratio was required to be 79.2% or lower. The 2008 AIP model approved by the Compensation Committee for our Named Executive Officers was dependent solely on the financial performance goals of the Company set forth below and did not include department or individual performance goals. The Compensation Committee determined that focusing our Named Executive Officers on the Company's financial performance would result in executive management working to lead management and operations personnel in a manner to seek to maximize Company performance to achieve target levels or better. Each Named Executive Officer is assigned incentive targets at the threshold, target and maximum incentive performance levels that are a percentage of the Named Executive Officer's 2008 base salary. The target percentage assigned for each performance level depends on the executive's salary grade and is set such that the amount of the potential payout would maintain the Named Executive Officer's target total direct compensation at the approximate local market 50th percentile level.

Following are the 2008 financial performance incentive targets, as well as the percentage payout of the executive's total incentive target for these metrics:

<u>Performance Level</u>	<u>Consolidated Operating Income (30% weight)</u>	<u>Consolidated Operating Ratio (30% weight)</u>	<u>Earnings Before Interest, Taxes, Depreciation and Amortization ("EBITDA") (30% WEIGHT)</u>	<u>Return on Capital Employed ("ROCE") (20% weight)</u>	<u>Percentage Payout of Total Incentive Target</u>
Threshold . . . . .	\$362 million	79.2%	\$549 million	8.7%	50%
Target . . . . .	\$422 million	78.0%	\$649 million	10.10%	100%
Maximum . . . . .	\$492 million	76.8%	\$776 million	11.7%	200%

For the year ended December 31, 2008, our consolidated operating income was \$390.2 million, our consolidated operating ratio was 78.9%, our EBITDA was \$565.9 million and our ROCE was 8.694%. Based on these results, the Compensation Committee determined that the Named Executive Officers were eligible to receive a 2008 AIP payment that was 62.3% of their respective target amounts. The 2008 AIP amounts awarded to each Named Executive Officer are set forth in the Non-Equity Incentive Plan Compensation column in the Summary Compensation Table.

If our financial results are restated after the payment of incentive awards to executives, the Compensation Committee will review any repayment actions to be taken on a case-by-case basis.

Each year, the Compensation Committee will determine whether an annual cash incentive program will be adopted for that year and will establish participation, award opportunities and corresponding performance measures and goals, considering general market practices and its own subjective assessment of the effectiveness of such program in meeting its goals of motivating and rewarding the Company's executives. See "2009 Annual Incentive Plan" for a discussion of the AIP model adopted for 2009.

As part of its annual review of executive compensation at the Company, the Compensation Committee directed its outside consultant, Towers Perrin, in the fall of 2008 to conduct a thorough review of the Company's AIP as applied to the Company's senior executive management. This plan is the primary annual incentive program covering senior executive management, which is the same group covered by other analyses conducted for the Company by Towers Perrin. The study assessed the AIP in light of sound and logical compensation principles, consistency with current design practices at other major U.S. companies, and alignment with the Company's own business objectives, talent management and compensation strategies.

The Towers Perrin study found that most aspects of the AIP were aligned not only with market practices but with the Company's compensation philosophy for executives. The study also noted several areas of ongoing focus for the Company and encouraged the Compensation Committee to pay particular attention to these design elements each and every year. The specific areas noted by the report included the number and mix of performance metrics covered under the AIP, as well as the relationship between these metrics and the performance metrics used in the Company's long-term performance grants. The Compensation Committee has reviewed the results of the study, which have been reflected in the design of the 2009 AIP.

### ***Long-Term Incentives***

*2008 Stock Option and Performance Award Plan (the "2008 Plan").* The purpose of the 2008 Plan is to allow employees, directors and consultants of KCS and its affiliates to acquire or increase equity ownership in the Company. The 2008 Plan provides for the award of stock options (including incentive stock options), restricted shares, restricted share units, bonus shares, stock appreciation rights ("SARs"), limited stock appreciation rights ("LSARs"), performance units and/or performance shares to officers, directors and employees. Awards under the 2008 Plan are made in the discretion of the Compensation Committee, which is empowered to determine the terms and conditions of each award. Specific awards may be granted singly or in combination with other awards. The 2008 Plan was approved by the stockholders of the Company on October 7, 2008 and replaced the 1991 Amended and Restated Stock Option and Performance Award Plan (the "1991 Plan"), which was terminated on October 14, 2008 with respect to new awards. The purpose of the 1991 Plan and the types of awards provided for in the 1991 Plan were generally the same as the 2008 Plan. Awards granted under the 1991 Plan continue to be governed by that plan and their respective award agreements until vesting or expiration. The stock options and restricted share awards described in the Non-Management Director Compensation Table and Summary Compensation Table were awarded under the 1991 Plan or the 2008 Plan.

### ***2007-2009 Executive Long-Term Incentive Program***

Prior to March 2005, we relied on stock option grants as the primary long-term incentive award vehicle for our executives. Starting with the March 2005 long-term incentive grants to executives, we adopted a strategy of awarding service-based restricted shares as our sole long-term incentive award vehicle in an effort to enhance executive retention and increase executive stock ownership. These awards vest at the completion of five years of service by the executive following the award grant.

In 2006, our Board of Directors and Compensation Committee expressed an interest in linking our long-term incentive stock awards more closely to our performance in order to provide an incentive to executives to meet or exceed our long-term performance goals. We believe that stock-based long-term incentives serve to motivate executive officers to focus their efforts on activities that will enhance stockholder value over the long term, thus aligning their interests with those of the Company's stockholders.

Accordingly, on September 19, 2006, the Compensation Committee adopted a new Executive Long-Term Incentive Grant program (the "LTI Program"). On January 17, 2007, pursuant to the terms of the LTI Program, the Compensation Committee granted our executives a one-time stock grant comprised of performance shares (60% weighting) and restricted shares (40% weighting) to cover the performance period of 2007 through 2009. Performance shares may be earned yearly over the three-year period on a pro rata basis, conditioned upon achievement of predetermined one-, two- and three-year performance goals. The earned performance share awards and restricted stock awards will not vest until the end of the three-year program period. The performance metrics in the LTI Program are operating ratio (50% weighting), earnings before interest, taxes, depreciation and amortization ("EBITDA") (25% weighting), and return on capital employed ("ROCE") (25% weighting).

Based on the recommendations of our senior management, which based its recommendations on performance metrics contained in our long-term financial performance plan, the Compensation Committee adopted the following performance goals as the performance metrics for the 2007-2009 performance periods:

Performance Level	Operating Ratio (50%)	EBITDA (25%)	ROCE (25%)	Earned Percentage of Incentive Target
<b>2007</b>				
Threshold . . . . .	79.99%	\$500 million	7.9%	50%
Target . . . . .	79.8%	\$549 million	8.6%	100%
Maximum . . . . .	78.5%	\$649 million	10.1%	200%
<b>2008</b>				
Threshold . . . . .	Better of 2007 Operating Ratio Target (79.8%) or 2007 Actual Operating Ratio	Better of 2007 EBITDA Target (\$549 million) or 2007 Actual EBITDA	Better of 2007 ROCE Target (8.6%) or 2007 Actual ROCE	0%
Target . . . . .	78.5%	\$649 million	10.1%	100%
Maximum . . . . .	76.8%	\$776 million	11.7%	200%
<b>2009</b>				
Threshold . . . . .	Better of 2008 Operating Ratio Target (78.5%) or 2008 Actual Operating Ratio	Better of 2008 EBITDA Target (\$649 million) or 2008 Actual EBITDA	Better of 2008 ROCE Target (10.1%) or 2008 Actual ROCE	0%
Target . . . . .	76.8%	\$776 million	11.7%	100%
Maximum . . . . .	75.4%	\$921 million	13.4%	200%

In 2007, our operating ratio was 79.2%, our EBITDA was \$533.2 million and our ROCE was 8.7%. As such, each Named Executive Officer earned 120.20% of the 2007 tranche of their performance share awards. In 2008, our operating ratio was 78.9%, our EBITDA was \$565.9 million and our ROCE was 8.694%. Therefore, each Named Executive Officer earned 61.7% of the 2008 tranche of their performance share awards. As a result of this 2008 performance, the 2009 threshold performance goals are an operating ratio of 78.5%, EBITDA of \$649 million and ROCE of 10.1%.

In 2009, we must exceed the performance goals for the threshold performance level in order for our executives to earn any percentage of the final third of their performance share awards. If we meet or exceed performance goals for the target or maximum performance levels in 2009, the executives may earn 100% to 200% of the final third of their performance share awards. If our actual performance is between performance levels, the percentage of the performance share awards earned by the executives will be prorated between such performance levels.

**Perquisites**

Minimal perquisites are provided to the Named Executive Officers. The types and amount of perquisites vary between our U.S. and Mexico executives as a result of custom, tradition, compensation statutes and tax laws. For U.S. executives, we have historically paid and continue to pay country club initiation fees (with monthly dues paid by the executive). For all executives, we provide an annual physical exam through our medical plan. In addition, all U.S. management employees are given the opportunity to use our stadium and arena suites to the extent the suites are not being used for business purposes. Also, spouses of our U.S. and Mexico executives may at times travel with the executives on chartered or commercial flights to the extent the spouse's presence is required and/or requested for a business event. Executives may also use the services of their administrative assistants for limited personal matters. Our charitable matching gift program for U.S. employees may also be considered a perquisite.

In 2007, the Compensation Committee determined that it would be appropriate to add a financial counseling expense reimbursement program as an additional perquisite for our Named Executive Officers. The purpose of this program is to encourage and support financial, estate, retirement, tax and education planning by the Named Executive Officers by providing to them reimbursement for certain expenses of such planning. The maximum amount of the annual reimbursement under this program for our CEO is \$8,000. The maximum amount of the annual reimbursement under this program for our other Named Executive Officers is \$5,000.

In 2008, the Compensation Committee recommended to the Company's Executive Committee of its Board of Directors the approval of a new perquisite to provide the payment of three years' of the administrative fees charged by the Greater Kansas City Community Foundation ("GKCCF") related to donor advised funds established by our U.S. executives at the GKCCF. These fees are paid out of funds from the Company's charitable foundation. The Compensation Committee also recommended that the Executive Committee approve an amendment to the Company's matching gift program to allow the Company to match gifts out of donor advised funds in accordance with the terms of the Company's matching gift policy as if the gift were made directly by the executive. Each of these recommendations was adopted and approved by the Executive Committee during 2008.

Consistent with applicable law and perquisite practices in Mexico generally, we provide the following perquisites to our Named Executive Officers based in Mexico: (1) annual Christmas bonus, (2) vacation and vacation premium payments, (3) food stipend, (4) automotive allocations, (5) automotive maintenance and gasoline, (6) 100% payment of the employee's social security fees and (7) a limited reimbursement of expenses for financial planning services in accordance with the KCS Financial Planning Reimbursement Policy. The annual Christmas bonus is a payment in the amount equal to one month's salary, prorated based on time with the Company. Executives based in Mexico have a number of vacation days as set forth in their respective employment agreements and a corresponding vacation premium equal to 50% of their earned vacation days, generally paid on or around their annual anniversary date, in accordance with the Company's payroll policy. Each KCSM executive receives up to 9% of base salary, but not to exceed the legal maximum, for food expenses. KCSM leases on behalf of each of its executives a company car, which is replaced every four years.

The Compensation Committee believes these perquisites are conservative, but reasonable and consistent with our overall compensation program, industry practice and applicable law, and better enable the Company to attract and retain high-performing employees for key positions. The Compensation Committee periodically reviews the levels of perquisites and other personal benefits provided to our Named Executive Officers. The Compensation Committee does not plan to materially increase the perquisites currently provided, subject to, with respect to our Named Executive Officers based in Mexico, requirements under Mexican law.

### ***Benefits***

We provide certain benefit programs that are designed to be competitive within the marketplace from which we recruit our employees. The majority of employee benefits provided to our Named Executive Officers are offered through broad-based plans available to our management employees generally.

*KCS 401(k) and Profit Sharing Plan (the "401(k) Plan")*. Our 401(k) Plan is a qualified defined contribution plan. Eligible U.S. employees may elect to make pre-tax deferral contributions, called 401(k) contributions, to the 401(k) Plan of up to 75% of Compensation (as defined in the 401(k) Plan) (10% maximum deferred percentage for such contributions with respect to Compensation paid prior to July 1, 2002, unless the employee elects catch-up contributions in accordance with the 401(k) Plan) subject to certain limits under the Code. We will make matching contributions to the 401(k) Plan equal to 100% of a participant's 401(k) contributions and up to a maximum of 5% of a participant's Compensation. Our matching contributions for the 401(k) Plan vest over five years as follows:

- 0% for less than two years of service;
- 20% upon two years of service;
- 40% upon three years of service;
- 60% upon four years of service; and
- 100% upon five years of service.



We may, in our discretion, make special contributions on behalf of participants to satisfy certain nondiscrimination requirements imposed by the Code. These contributions are 100% vested when made.

We may also make, in our discretion, annual profit sharing contributions to the 401(k) Plan in an amount not to exceed the maximum allowable deduction for federal income tax purposes and certain limits under the Code. Only employees who have met certain standards as to hours of service are eligible to receive profit sharing contributions. No minimum contribution is required. Each eligible participant, subject to maximum allocation limitations under the Code, is allocated the same percentage of the total contribution as the participant's Compensation bears to the total Compensation of all participants. Profit sharing contributions are 100% vested when made.

Participants may direct the investment of their accounts in the 401(k) Plan by selecting from one or more of the diversified investment funds available under the 401(k) Plan, including a fund consisting of our Common Stock.

*Employee Stock Ownership Plan ("ESOP").* The ESOP is designed to be a qualified employee stock ownership plan for our U.S. employees under the Code for purposes of investing in shares of our Common Stock. In connection with the spin-off of Stilwell Financial in July 2002 (the "Stilwell Spin-off"), holders of KCS Common Stock (including employees owning KCS shares through the ESOP) were issued two shares of common stock of Stilwell Financial for each share of KCS Common Stock held. On December 31, 2002, Janus Capital Corporation merged into Stilwell, and effective January 1, 2003, Stilwell was renamed Janus Capital Group, Inc. and the Stilwell common stock became Janus Capital Group Inc. common stock (we refer to the Janus Capital Group Inc. common stock as "Janus shares"). With respect to the Janus shares held in a participant's ESOP account, the participant may: (a) keep the Janus shares in the account, (b) dispose of the Janus shares and reinvest the proceeds in one or more of the diversified investment funds available under the ESOP, (c) dispose of the Janus shares and reinvest the proceeds in our Common Stock, or (d) select any combination of the foregoing. Allocations of shares of our Common Stock, if any, to participant accounts in the ESOP for any plan year are based upon each participant's proportionate share of the total eligible compensation paid during the plan year to all participants in the ESOP, subject to Code-prescribed maximum allocation limitations. All participants in the ESOP are fully vested. Effective as of January 1, 2009, participation is frozen and no new participant will enter the plan. As of the date of this Proxy Statement, all shares held by the ESOP have been allocated to participants' accounts.

*Executive Plan.* In order to provide executives with competitive retirement and savings plans, we maintain a supplemental benefit plan for those U.S. executives who have an employment agreement with the Company. Our Executive Plan provides a benefit based on an amount equal to 10% of the excess of (a) an executive's base salary times the percentage specified in his or her employment agreement (ranging from 145% to 175%) over (b) the maximum compensation that can be considered for benefit purposes in a qualified retirement plan. Payments are generally made annually under this plan and executives receive such payments in restricted stock.

*Other Benefits.* We also pay premiums for medical, disability, and AD&D for our U.S. management employees. For U.S. and Mexico executives, we provide a basic amount of group life insurance coverage. Additionally, we provide U.S. employees with the opportunity to purchase KCS Common Stock at a discount, subject to annual Board of Director approval.

*Benefits Provided for KCSM Executives.* We provide accident, medical and life insurance for our executives based in Mexico. Each of our Named Executive Officers based in Mexico may contribute to a savings fund up to 13% of his base salary up to Ps. 2,078 monthly, the legal maximum. We make a matching contribution to each such Named Executive Officer's savings fund. In addition, we are required under Mexican law to make certain severance payments to any employee (including a Named Executive Officer) who is terminated without cause. See "Severance Compensation" for a more detailed discussion of these payments.

### ***Pay Mix***

The percentage of a Named Executive Officer's total compensation that is comprised by each of the compensation elements is not specifically determined, but instead is a result of the targeted competitive positioning for each element (i.e., local country market 50th percentile for base salaries, U.S. market 50th percentile for annual incentives, and long-term incentives and below market median for perquisites and benefits, except as may be required by applicable Mexican law). Generally, long-term incentives comprise a significant portion of a Named

Executive Officer’s total compensation. This is consistent with the Compensation Committee’s desire to reward long-term performance in a way that is aligned with stockholders’ interests. In 2008, pay mix for each of the Named Executive Officers was as follows:

<u>Named Executive Officer</u>	<u>Base Salary (%)</u>	<u>Annual Incentive (%)</u>	<u>Long Term Incentive (%)</u>
Michael R. Haverty . . . . .	22.3%	22.3%	55.4%
Michael W. Upchurch . . . . .	23.5%	14.1%	62.3%
Patrick J. Ottensmeyer . . . . .	31.2%	18.7%	50.1%
Jose Guillermo Zozayo Delano . . . . .	28.9%	17.4%	53.7%
Scott E. Arvidson . . . . .	33.2%	18.2%	48.6%

***Executive Stock Ownership Guidelines***

In 2006, we implemented stock ownership guidelines for our Named Executive Officers and other members of senior management. A fixed share approach is used, with the number of shares based on the salary multiples shown in the table below and a specified “constant” share price used for the divisor.

	<u>Multiple of Salary</u>
CEO . . . . .	5
COO . . . . .	4
EVPs . . . . .	3
SVPs and VPs . . . . .	1

The Compensation Committee will periodically review the continued appropriateness of the fixed share ownership guidelines.

Executives are given five years, commencing on the later of the date the guidelines were implemented or their start date, to meet the required share holdings. If an executive fails to timely comply with the ownership guidelines, then not less than 50% of any future annual incentives will be paid in restricted shares until compliance is achieved.

Shares that count in determining compliance with the stock ownership guidelines are shares beneficially owned by the executive, shares held by the executive in any KCS benefit plan, restricted shares at the time of grant (even if not yet vested), performance shares when earned (even if not yet vested), and shares issued and retained on exercise of stock options.

***Change in Control Benefits***

*Purpose.* Various compensation arrangements provide for award and account vesting and separation pay for our U.S. Named Executive Officers upon a change in control (see the discussion of change in control triggers below) or the occurrence of certain events after a change in control. Please see the “Potential Payments upon Termination of Employment or Change in Control” for a discussion of why the Compensation Committee believes the current levels of post-employment termination compensation and benefits are appropriate and consistent with our compensation objectives. These arrangements are designed to:

- preserve our ability to compete for executive talent;
- provide stability during a change in control by encouraging executives to cooperate with and achieve a change in control approved by the Board, without being distracted by the possibility of termination of employment or demotion after the change in control; and
- encourage an acquirer to evaluate whether to retain our executives by making it more expensive to dismiss our executives rather than its own.

Other than as described below under the caption “Potential Payments Upon Termination of Employment or Change in Control,” Named Executive Officers based in Mexico are not entitled to any special rights or formal payments upon a change in control.

*Summary of Benefits.* In the event of a termination of employment by the Company without “cause” or a resignation by the executive for “good reason” (as defined below) within a three year period after a change in control, Messrs. Haverty, Ottensmeyer and Arvidson, and, with respect to Mr. Upchurch, upon such termination or resignation within a two year period after a change in control, receive the following benefits pursuant to the terms of their respective employment agreements:

Cash Severance (paid in a lump sum)	<ul style="list-style-type: none"> <li>• Haverty: Salary x 3 x 1.6767</li> <li>• Ottensmeyer: Salary x 3 x 1.75</li> <li>• Arvidson and Upchurch: Salary x 2 x 1.60</li> </ul>
Unvested Equity Awards	<ul style="list-style-type: none"> <li>• Become immediately vested</li> </ul>
Health and Welfare Benefits	<ul style="list-style-type: none"> <li>• Medical, prescription and dental continue for 3 years at the cost of the Company for Messrs. Haverty, Arvidson and Ottensmeyer and for one year for Mr. Upchurch. Each of Messrs. Haverty, Arvidson and Ottensmeyer may continue (i) medical, prescription and dental coverage until age 60 and (ii) medical and prescription coverage following the attainment of age 60, each at the cost of the executive, which cost may be no more than the cost of such benefits to active or retired peer executives at the Company immediately prior to the change in control.</li> </ul>
Excise-Tax Protection and Tax Gross-Up	<ul style="list-style-type: none"> <li>• Messrs. Haverty, Ottensmeyer and Arvidson are eligible to receive payment for excise taxes incurred as a result of any excess parachute payments, as well as a tax gross-up for income taxes payable as a result of the excise tax reimbursement</li> <li>• Mr. Upchurch is not eligible to receive payment for excise taxes incurred as a result of any excess parachute payments or any tax gross-up as described above</li> </ul>

In addition to other termination benefits provided to Mr. Zozaya pursuant to his employment agreement and applicable Mexican law, all unvested equity awards granted to Mr. Zozaya will immediately vest upon a termination following a change in control.

Although all the employment agreements of the U.S. Named Executive Officers other than Mr. Upchurch contain the excise tax protection and tax gross-up provisions described above, the Compensation Committee directed in 2006 that, going forward, no new employment agreements contain such provisions. In addition, the health and welfare benefits contained in the Company’s U.S. executive employment agreements has been modified to limit this benefit to one year of medical and dental coverage paid for by the Company following a change in control.

In 2008, the Compensation Committee reviewed the employment agreements for our U.S. executives and benefit plans in accordance with the final regulations adopted under Section 409A of the Code (“Section 409A”). On December 31, 2008, effective January 1, 2009, the Company adopted technical amendments to these employment agreements and benefits plans to comply with Section 409A.

*Definition of “cause” and “good reason.”* The employment agreements of Messrs. Haverty, Ottensmeyer, Arvidson and Upchurch generally define “cause” in the context of a termination of employment prior to a change in control to include:

- breach of the executive’s employment agreement by the executive;
- dishonesty involving the Company;
- gross negligence or willful misconduct in the performance of his duties;
- failure to substantially perform his duties and responsibilities, including willful failure to follow reasonable instructions of the Board, President or other officer to whom he reports;
- breach of an express employment policy;
- fraud or criminal activity;
- embezzlement or misappropriation; or
- breach of fiduciary duty to the Company.

These employment agreements generally define “cause” in the context of a termination of employment after a change in control to mean commission of a felony or a willful breach of duty, but excluding:

- bad judgment or negligence;
- an act or omission believed by the executive in good faith to be in or not opposed to the interest of the Company, without intent to gain a profit to which he is not entitled;
- an act or omission with respect to which a determination could be made by the Board that the executive met the standard of conduct entitling him to indemnification by the Company; or
- an act or omission occurring more than 12 months before the date on which any member of the Board knew or should have known about it.

These employment agreements generally define “good reason” in the context of a resignation by the executive after a change in control to include:

- assignment to the executive of duties inconsistent with his position, authority or duties that result in a diminution or other material adverse change in his position, authority or duties;
- for Messrs. Haverty, Ottensmeyer and Arvidson, a failure by the Company to comply with the change in control provisions in the agreement;
- requiring the executive to be based more than 40 miles away from the location where he was previously employed;
- any other material adverse change in the executive’s terms and conditions of employment;
- material diminution in base compensation (in the case of Mr. Upchurch, material diminution in compensation); or
- any other action or inaction by the Company which constitutes a material breach of the agreement.

*Triggering Events.* Messrs. Haverty’s, Ottensmeyer’s and Arvidson’s employment agreements generally provide that the following events (which we refer to as “triggering events”) constitute a “change in control”:

- for any reason at any time less than 75% of the members of our Board shall be incumbent directors, as defined in the agreement; or
- any “person” (as such term is used in Sections 13(d) and 14(d)(2) of the Exchange Act) other than us shall have become after September 18, 1997, according to a public announcement or filing, the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of KCS or KCSR representing 30% (or, with respect to certain payments to be made to the Named Executive Officer under his

or her employment agreement, 40%) or more (calculated in accordance with Rule 13d-3) of the combined voting power of our or KCSR's then outstanding voting securities; or

- the stockholders of KCS or KCSR shall have approved a merger, consolidation or dissolution of KCS or KCSR or a sale, lease, exchange or disposition of all or substantially all of our or KCSR's assets, if persons who were the beneficial owners of the combined voting power of our or KCSR's voting securities immediately before any such merger, consolidation, dissolution, sale, lease, exchange or disposition do not immediately thereafter beneficially own, directly or indirectly, in substantially the same proportions, more than 60% of the combined voting power of any corporation or other entity resulting from any such transaction.

Mr. Upchurch's employment agreement generally provides that the following events (which we also refer to as "triggering events") constitute a "change in control":

- a majority of the members of the Company Board is replaced during any twelve (12) month period with directors whose appointment or election was not endorsed by a majority of the members of the Company Board, in office immediately prior to the date of such appointment or election; or
- any person (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) or group has acquired during a twelve (12) month period ending on the date of the most recent acquisition by such person or group of ownership of stock of the Company possessing 30% or more of the total voting power of the outstanding stock of the Company; or
- any person or group has acquired ownership of stock of the Company that, constitutes more than 50% of the total fair market value or total voting power of the outstanding stock of the Company; or
- any person or group has acquired during a twelve (12) month period ending on the date of the most recent acquisition by such person or group assets of the Company that have a total gross fair market value of more than 40% of the total gross fair market value of all of the assets of the Company immediately before such acquisition.

Severance benefits under the employment agreements for Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson do not become due upon a mere change in control. Requiring that a termination of employment without cause or a resignation for good reason occur within a three year period (two years with respect to Mr. Upchurch) after a change in control before certain compensation and benefits are available is called a "double trigger." We believe a double trigger is in the best interest of our stockholders because it:

- encourages executives to help transition through a change in control;
- mitigates any potential disincentive for the executives when they are evaluating and/or implementing a potential change in control, particularly when the acquiring company may not require the services of our executives; and
- protects executives from termination of employment without cause or an adverse change in position following a change in control.

### ***Severance Compensation***

Each of Messrs. Haverty's, Upchurch's, Ottensmeyer's and Arvidson's employment agreement provides that in the event of termination of employment without cause for any reason other than a change in control, death, disability or retirement, such Named Executive Officer will receive one year of salary, payable in a lump sum with respect to Messrs. Haverty, Ottensmeyer and Arvidson, and in equal installments over a 12-month period with respect to Mr. Upchurch, at the rate in effect immediately prior to the termination of his employment. Additionally, Messrs. Haverty and Arvidson each receive reimbursement of health and life insurance costs for fifteen months and Messrs. Ottensmeyer and Upchurch receive reimbursement of health and life insurance costs for twelve months. Executives will also remain eligible, in the year in which a termination of employment occurred, to receive benefits under the AIP and any other Executive Plan in which they participate under certain circumstances. Executives must waive any claims against us in return for receiving these severance benefits.

Upon a termination of employment without cause, Mr. Zozaya is entitled under Mexican law to a severance payment equal to a minimum of ninety days' integrated salary (consisting of base salary plus benefits), plus an additional payment equal to twenty days' integrated salary for each year of service with KCSM. In addition and as required by Mexico law, as of December 31, 2008, Mr. Zozaya would be eligible to receive a seniority premium equal to Ps. 1,338 per year for each year of service for KCSM (which if converted at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008, would equal \$98.83 per year). Mr. Zozaya is also entitled to a payment equal to one year's base salary upon the termination of his employment, as well as other termination benefits provided pursuant to the terms of his employment agreement with KCSM.

#### ***Reasonableness of Severance Payments***

The post-employment termination compensation and benefits described above are required under the terms of employment agreements with the Named Executive Officers and, with respect to Mr. Zozaya, applicable Mexican law. These benefits may be amended only with the consent of the executive, or not at all in the case of benefits required under Mexican law, and in all events cannot be changed unilaterally. In 2006, the Compensation Committee tasked Towers Perrin with performing a competitive analysis of the Company's employment agreements. Based on the results of this analysis, which was presented to the Compensation Committee in January 2007, the Compensation Committee determined that the benefits included and amounts paid under these agreements were within competitive ranges for the Company's peer group and were consistent with the compensation philosophy adopted by the Compensation Committee. Specifically, Towers Perrin calculated that, based on an assumed change in control transaction valued at approximately \$2.79 billion (based on, among other things, our stock price and number of shares of our common stock outstanding), the aggregate after-tax cost to us for our change in control severance payments would be approximately 1.2% of the transaction value. Towers Perrin advised that the potential financial impact of change in control severance arrangements for our U.S. Named Executive Officers at that time in the general marketplace was approximately 1-3% of the transaction value. Thus, the value of our change in control severance benefits was at the low end of this range and was determined to be reasonable by the Compensation Committee. Although Towers Perrin did not consider in its analysis severance amounts payable to Mr. Zozaya, we believe the impact of these payments would be immaterial.

As a result of this analysis and based on the recommendation of Towers Perrin, the Compensation Committee determined it appropriate to modify two elements in future employment agreements with its U.S. executives with respect to change in control severance arrangements: (a) a revision of the health and welfare benefits provided to executives following a change in control to limit the benefit to one year of medical and dental coverage paid for by the Company and (b) the elimination of the excise tax protection and tax gross-up provisions. In addition, the Compensation Committee has limited the number of future employment agreements that may contain change in control severance provisions. These changes will result in the value of the Company's change in control severance payments decreasing in the future as severance benefits provided to new executives joining us or being promoted into our executive ranks will have a lower cost to the Company than those provided to several of our current executives.

#### ***Other Compensatory Plans that Provide Benefits on Retirement or Termination of Employment***

Described below are the portions of our compensation plans in which the accounts of Named Executive Officers become vested as a result of (a) their retirement, death, disability or termination of employment, (b) a change in control of us, or (c) a change in the Named Executive Officer's responsibilities following a change in control.

**ESOP.** Participation in the ESOP is frozen effective January 1, 2009, meaning that no new participants will enter the ESOP. All existing participants are 100% vested in their accounts. Distributions of benefits under the ESOP may be made in connection with a participant's death, disability, retirement or other termination of employment. A participant in the ESOP has the right to select whether payment of his or her benefit will take the form of whole shares of our Common Stock or a combination of cash and whole shares of our Common Stock. Any remaining balance in a participant's account will be paid in cash, except that the participant may elect to have such balance applied to provide whole shares of our Common Stock for distribution at the then fair market value. In

addition to these distribution options, a participant may elect to receive a distribution in the form of whole Janus shares (to the extent Janus shares are held in the participant's account). If no election is made, the plan provides that the payment shall be made in cash. A participant may further opt to receive payment in a lump sum or in installments.

*2008 Plan.* Subject to the terms of the specific award agreements, under the 2008 Plan, the termination of affiliation of a grantee of an award by reason of death, Disability, Retirement or on account of a Change of Control (as such terms are defined in the 2008 Plan) may accelerate the ability to exercise an award.

#### Death

Upon the death of a grantee of an award under the 2008 Plan, unless otherwise specified in the award agreement,

(i) the grantee's restricted shares and restricted share units, if any, that were forfeitable will become nonforfeitable,

(ii) any options or SARs not exercisable at that time will become nonforfeitable and exercisable and the grantee's personal representative or other transferee upon death may exercise such options or SARs up to the earlier of the expiration of the option or SAR term, one year after the death of the grantee, or 10 years from the grant date of the award,

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has ended will become nonforfeitable, and the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will become nonforfeitable in the award that would be earned for such performance period if the performance goals for such performance period were met at target, and

(iv) any shares subject to a deferred stock award will become nonforfeitable.

#### Disability

Upon the termination of affiliation by reason of Disability of a grantee of an award under the 2008 Plan, unless otherwise specified in the award agreement,

(i) the grantee's restricted shares and restricted share units, if any, that were forfeitable will become nonforfeitable in a number determined by multiplying the total number of restricted shares and restricted share units by a fraction, the numerator of which is the number of 12-month periods of employment commencing on the grant date that have been completed by the grantee, and the denominator of which is the total number of 12-month periods in the period of restriction,

(ii) any options or SARs not exercisable at that time will become nonforfeitable and exercisable and the grantee or the grantee's legal representative (or the grantee's transferee upon the death of the grantee) may exercise such options or SARs up to the earlier of the expiration of the option or SAR term, one year following the grantee's termination of affiliation by reason of Disability, or 10 years from the grant date of the award,

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has ended will become nonforfeitable, and the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will be forfeited, and

(iv) any shares subject to a deferred stock award will become nonforfeitable.

#### Retirement

Upon the termination of affiliation by reason of Retirement of a grantee of an award under the 2008 Plan, unless otherwise specified in the award agreement,

(i) the grantee's restricted shares and restricted share units, if any, that were forfeitable will become nonforfeitable in a number determined by multiplying the total number of restricted shares and restricted share units by a fraction, the numerator of which is the number of 12-month periods of employment commencing on the

grant date that have been completed by the grantee, and the denominator of which is the total number of 12-month periods in the period of restriction,

(ii) any options or SARs not exercisable at that time will become nonforfeitable and exercisable and the grantee (or the grantee's legal representative or the grantee's transferee upon the death of the grantee) may exercise such options or SARs up to the earlier of the expiration of the option or SAR term, five years following the grantee's termination of affiliation by reason of Retirement, or 10 years from the grant date of the award,

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has ended will become nonforfeitable, and the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will be forfeited, and

(iv) any shares subject to a deferred stock award will become nonforfeitable.

#### Change of Control

Upon the termination of affiliation of a grantee of an award under the 2008 Plan on account of a Change of Control, unless otherwise specified in the award agreement,

(i) the grantee's restricted shares and restricted share units, if any, that were forfeitable will become nonforfeitable,

(ii) any options or SARs not exercisable at that time will become exercisable and the grantee may exercise such options or SARs up to the earlier of the expiration of the option or SAR term, three months following the grantee's termination of affiliation on account of a Change of Control, or 10 years from the grant date of the award,

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has ended will become nonforfeitable, and the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will become nonforfeitable in the award that would be earned for such performance period if the performance goals for such performance period were met at target,

(iv) any LSARs (which may be granted in tandem with options or SARs awarded under the 2008 Plan) will be automatically exercised, and upon exercise of an LSAR, the grantee may receive a cash payment based upon the difference between the fair market value of a share on the exercise date and the per share exercise price of the related option or the strike price of the related SAR, and

(v) any shares subject to a deferred stock award will become nonforfeitable.

#### Other Termination of Affiliation

Upon the termination of affiliation of a grantee of an award under the 2008 Plan for any reason other than death, Disability, Retirement, or on account of a Change of Control, then, unless otherwise specified in the award agreement,

(i) the grantee's restricted shares and restricted share units, if any, that were forfeitable on the date of the grantee's termination of affiliation, are forfeited on that date,

(ii) any options or SARs not exercisable at that time will be forfeited, and any options or SARs that are vested and exercisable or become exercisable at that time may be exercised by the grantee up to the earlier of the expiration of the option or SAR term, three months following the grantee's termination of affiliation, or 10 years from the grant date of the award; provided, however, that if termination of affiliation is for Cause (as defined in the 2008 Plan), then any unexercised options or SARs will be forfeited,

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has ended but which are not vested will be forfeited, and the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will be forfeited, and

(iv) any nonvested shares subject to a deferred stock award will be forfeited.



*1991 Plan.* Subject to the terms of the specific award agreements, under the 1991 Plan, the death or disability, retirement or other Termination of Affiliation (as such terms are defined in the 1991 Plan) of a grantee of an award or a Change of Control (as defined in the 1991 Plan) may accelerate the ability to exercise an award.

#### Death or Disability

Upon the death or disability of a grantee of an award under the 1991 Plan,

(i) the grantee's restricted shares, if any, that were forfeitable will become nonforfeitable unless otherwise provided in the specific award agreement,

(ii) any options or stock appreciation rights ("SARs") not exercisable at that time become exercisable and the grantee (or his or her personal representative or transferee under a will or the laws of descent and distribution) may exercise such options or SARs up to the earlier of the expiration of the option or SAR term or 12 months, and

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will be determined based upon a formula described in the 1991 Plan or the applicable award agreement.

#### Retirement

Upon the retirement of a grantee of an award under the 1991 Plan,

(i) the grantee's restricted shares, if any, that were forfeitable will become nonforfeitable unless otherwise provided in the specific award agreement,

(ii) any options or SARs not exercisable at that time become exercisable and the grantee (or his or her personal representative or transferee under a will or the laws of descent and distribution) may exercise such options or SARs up to the earlier of the expiration of the option or SAR term or five years from the date of retirement, and

(iii) the benefits payable with respect to any performance share or performance unit for which the performance period has not ended will be determined based upon a formula described in the 1991 Plan or the applicable award agreement.

#### Termination of Affiliation

If a grantee has a Termination of Affiliation (as defined in the 1991 Plan) for any reason other than for Cause (as defined in the 1991 Plan), death, disability or retirement, then

(i) the grantee's restricted shares, if any, to the extent forfeitable on the date of the grantee's Termination of Affiliation, are forfeited on that date,

(ii) any unexercised options or SARs, to the extent exercisable immediately before the grantee's Termination of Affiliation, may be exercised in whole or in part, up to the earlier of the expiration of the option or SAR term or three months after the Termination of Affiliation, and

(iii) any performance shares or performance units for which the performance period has not ended as of the Termination of Affiliation will terminate immediately upon that date.

#### Change of Control

Upon a Change of Control (as defined in the 1991 Plan),

(i) a grantee's restricted shares, if any, that were forfeitable become nonforfeitable,

(ii) any options or SARs not exercisable at that time become immediately exercisable,

(iii) we will pay to the grantee, for any performance share or performance unit for which the performance period has not ended as of the date of the Change of Control, a cash payment based on a formula described in the 1991 Plan or the applicable award agreement, and

(iv) all LSARs (which may be granted in tandem with options awarded under the 1991 Plan) are automatically exercised upon a Change of Control that is not approved by our Incumbent Board (as such terms are defined in the

1991 Plan). Upon exercise of an LSAR, the grantee may receive a cash payment based upon the difference between the fair market value on the date of the Change of Control or other specified date and the per share exercise price of the related option.

*401(k) Plan.* Participants become vested in Company contributions as follows: 20% vesting after 2 years of service, 40% after 3 years of service, 60% after 4 years of service and 100% after 5 years of service. Also, a participant becomes 100% vested upon retirement at age 65, death or disability or upon a change in control of us (as defined in the 401(k) Plan). Distribution of benefits under the 401(k) Plan will be made in connection with a participant's death, disability, retirement or other termination of employment. Subject to certain restrictions, a participant may elect whether payment of his or her benefits will be in a lump sum or installments. A participant may elect to receive distributions of benefits under the 401(k) Plan in whole shares of our Common Stock, or in a combination of cash and whole shares of our Common Stock, to the extent of whole shares of our Common Stock allocated to such participant's account. Absent such election, distributions of benefits will be made in cash.

### ***Tax and Accounting Considerations***

Section 162(m) of the Code generally limits the deduction by publicly held corporations for federal income tax purposes of compensation in excess of \$1 million paid to any of the Named Executive Officers listed in the Summary Compensation Table, unless it is "performance-based."

Except as otherwise described in this section, the Compensation Committee intends to qualify compensation expense as deductible for federal income tax purposes.

The compensation packages of the Named Executive Officers for 2008 included base salary, annual cash incentives, and restricted and performance shares. The highest total base salary was within the \$1 million limit. The AIP payment was determined based upon the achievement of performance measures established at the beginning of the year. The annual incentive arrangement permits the Compensation Committee to exercise discretion in the determination of the award amounts and is not intended to be a performance-based plan under Section 162(m) of the Code. The restricted shares were awarded under the provisions of the 1991 Plan or the 2008 Plan. These restricted stock awards do not qualify as performance-based compensation under Section 162(m) since the vesting of the awards is time-based. The restricted shares awarded to the Named Executive Officers have the potential to result in total compensation in excess of the \$1 million limit under Section 162(m). The performance shares were awarded under the provisions of the 1991 Plan or 2008 Plan and are intended to qualify as performance based compensation under Section 162(m) since the awards are earned based on our performance.

Prior to 2005, we awarded our executives stock options under the 1991 Plan. These stock options may result in taxable compensation upon exercise. Except with respect to certain stock options granted in 2000 to Mr. Haverty as part of his executive compensation package, we believe we have taken all steps necessary, including obtaining stockholder approval, so that any compensation expense we may incur as a result of awards of stock options under the 1991 Plan and the 2008 Plan, with respect to those Named Executive Officers whose total compensation might exceed the \$1 million limit, qualifies as performance-based compensation for purposes of Section 162(m) so that any portion of this component of our executive compensation packages will be deductible for federal income tax purposes. Mr. Haverty has indicated that he intends to manage the exercise of his options granted in 2000 so that the number of any options he exercises in any given year will not result in his total compensation exceeding the \$1 million limit of Section 162(m).

The Compensation Committee will review from time to time in the future the potential impact of Section 162(m) on the deductibility of executive compensation. However, the Compensation Committee intends to maintain the flexibility to take actions it considers to be in the best interests of KCS and our stockholders and which may be based on considerations in addition to tax deductibility.

The Compensation Committee reviews projections of the estimated accounting (pro forma expense) and tax impact of all material elements of the executive compensation program. Generally, an accounting expense is accrued over the requisite service period of the particular pay element and we realize a tax deduction upon the payment to, or realization by, the executive.

In 2008, the Compensation Committee reviewed our executive employment agreements, benefit plans, 1991 Plan award agreements and 2008 Plan award agreements in accordance with the final regulations adopted under Section 409A. All benefit plans and award agreements were designed or amended during or prior to 2008, to the extent necessary, to comply with Section 409A. On December 31, 2008, effective January 1, 2009, the Company adopted technical amendments to the executive employment agreements to comply with Section 409A.

For executives based in Mexico, the Compensation Committee considers certain Mexican tax and accounting issues when forming compensation packages. All elements of compensation are presented on a pre-tax basis, and accordingly the values of all non-taxable cash elements and benefits are grossed up to their pre-tax values.

### *Compensation Committee Review of our Executive Compensation Program*

In late 2008, at the direction of the Compensation Committee, Towers Perrin performed a competitive executive compensation analysis to assess the competitiveness of the compensation of the executives of the Company, including the Named Executive Officers. The results of this analysis were presented to the Compensation Committee in February 2009. Towers Perrin analyzed the market competitiveness of the following elements for each of the covered executive positions:

- Base salary;
- Target annual incentive award opportunity (award that may be earned for achieving pre-determined performance goals);
- Target total cash compensation (salary plus target annual incentive award opportunity);
- Annualized expected value of long-term incentive grants/awards (estimated value on date of grant); and
- Target total direct compensation (target total cash compensation plus the annualized expected value of long-term incentive awards).

In performing the study, the Company's executive positions were initially "matched," based on Towers Perrin's understanding of the positions' primary duties and responsibilities, to similar positions in Towers Perrin's 2008 Executive Compensation Data Bank. At the request of the Company, a premium was applied to the market compensation data for certain benchmark survey position matches to reflect the differences between the responsibilities of the Company's positions and those of the benchmark survey job matches. Of the Named Executive Officers, the only premium applied was to the position of the Chief Financial Officer. A 10% premium was applied to this position given the Chief Financial Officer's ultimate responsibility for operations of our purchasing department and the day-to-day supervision of the internal audit department.

As stated above, our Compensation Committee seeks to provide base salaries, target total cash and target total direct compensation that is on average consistent with median market (i.e., comparably sized transportation and mature capital intensive companies) practices, recognizing internal equity and incumbent-specific considerations such as performance, future potential, and tenure with the Company. Based on the findings of the study described above, the Compensation Committee believes that our targeted executive compensation levels are "competitive" in aggregate, within a +/- 15% of the target market 50th percentile (i.e., 85% to 115% of target market 50th percentile).

The results of this study found that (i) our base salaries are, on average, at approximately local country market 50th percentile levels; (ii) our target total cash compensation levels are on average within a competitive range around the U.S. market median; (iii) our target annual incentive award opportunities, expressed as a percentage of salary, are, on average, at the U.S. market 50th percentile level; and (iv) our target long-term incentive award opportunities, and resulting target total direct compensation levels, are, on average, consistent with U.S. market median practices. Results for individual incumbents varied. For the five Named Executive Officers as a group, average competitive positioning for base salary was 94%, and for total direct compensation, 117%.

The conclusion that the Named Executive Officers were being compensated at or near market median given their positions satisfied the Compensation Committee that the ratio of compensation between the CEO and the other Named Executive Officers was acceptable and reasonable, particularly when taking into consideration the

differences in responsibilities of each. The policies or decisions relating to the compensation of the CEO are not materially different than the other Named Executive Officers.

***Pay and Performance Analysis***

In early 2009, the Compensation Committee engaged Towers Perrin to conduct a review of the alignment between the compensation of the Company’s five top executive officers in the years 2005, 2006 and 2007 and key and long-term performance indicators relative to Class I railroads and the Company’s competitive peer group. Towers Perrin reviewed the relationship between pay and performance from both an annual and long-term perspective over the period of 2005 to 2007 in order to assess (i) the reasonableness of KCS’s compensation levels given the Company’s financial and stock performance and (ii) whether the movement of pay levels with performance over time is appropriate.

Towers Perrin examined KCS performance relative to peers focusing on metrics similar to those KCS used in its performance plans. With respect to annual performance, Towers Perrin assessed pay levels against performance in the following areas: (i) operating income; (ii) EBITDA; (iii) net cash flow from operating activities; (iv) operating ratio; and (v) ROCE. For long-term performance, Towers Perrin assessed pay levels against total shareholder return over the same period.

The study found that year-over-year changes in total cash compensation at the Company were strongly aligned with changes in year-over-year change in performance relative to Class I railroads. In addition, the study found that the relative accumulated value of awards under the Company’s long-term incentive program was aligned with the Company’s total shareholder return, relative to both Class I railroads and peers from the Company’s peer group.

***2009 Annual Incentive Plan***

In February 2009, the Compensation Committee approved the 2009 Annual Incentive Plan (the “2009 AIP”) model for our Named Executive Officers. In order for there to be any payout to our Named Executive Officers under the 2009 AIP, the Company must generate positive unadjusted free cash flow on a consolidated basis and the Company must achieve a consolidated operating ratio at least equal to its 2008 consolidated operating ratio of 78.9%. Unadjusted free cash flow is defined as cash flow from operations, less cash used for capital expenditures and other investment activities (including capital expenditures), less dividends paid.

The 2009 AIP model approved by the Compensation Committee for our Named Executive Officers differs from the 2008 AIP model in that if the Company generates positive unadjusted free cash flow on a consolidated basis and achieves a consolidated operating ratio of at least 78.9%, the amount of the AIP payments to our Named Executive Officers will depend solely on consolidated operating ratio of the Company set forth below. The Compensation Committee determined that in a down economy it is extremely important for senior management of the Company to focus on managing cash and controlling operating expenses.

As with the 2008 AIP model, each Named Executive Officer is assigned incentive targets at the threshold, target and maximum incentive performance levels that are a percentage of the Named Executive Officer’s 2009 base salary. The target percentage assigned for each performance level depends on the executive’s salary grade and is set such that the amount of the potential payment would maintain the Named Executive Officer’s target total direct compensation at the approximate market 50th percentile level.

Following are the 2009 operating ratio incentive targets, as well as the percentage payout of the executive’s total incentive target for these metrics:

<u>Performance Level</u>	<u>Consolidated Operating Ratio</u>	<u>Percentage Payout at Total Incentive Target</u>
Threshold . . . . .	78.9%	50%
Target . . . . .	77.9%	100%
Maximum . . . . .	76.9%	200%

***Named Executive Officer Salaries for 2009***

The base salaries for each of our Named Executive Officers for the 2009 fiscal year are as follows:

<u>Named Executive Officer</u>	<u>Amount</u>
Michael R. Haverty . . . . .	\$759,533
Michael W. Upchurch . . . . .	\$320,000
Patrick J. Ottensmeyer . . . . .	\$379,600(a)
José Guillermo Zozaya Delano . . . . .	\$316,034(a)(b)
Scott E. Arvidson . . . . .	\$336,386

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- (a) Base salaries reflected are slightly higher than base salaries paid in 2008 reported in the Summary Compensation Table below due to salary adjustments adopted in January 2008 but which did not take effect until February 2008.
  - (b) Mr. Zozaya is paid in Mexican pesos. His 2009 base salary amount reported above was converted from Mexican pesos at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008.

**MANAGEMENT COMPENSATION TABLES**  
**SUMMARY COMPENSATION TABLE**

The following table and narrative disclose compensation earned in 2008 by the Named Executive Officers. The table shows amounts earned by such persons for all services rendered in all capacities to KCS and its subsidiaries during the past year.

<u>Name and Principal Position</u>	<u>Year</u>	<u>Salary \$(1)</u>	<u>Stock Awards \$(4)</u>	<u>Option Awards \$(5)</u>	<u>Non-Equity Incentive Plan Compensation (\$)</u>	<u>All Other Compensation \$(6)</u>	<u>Total (\$)</u>
<b>Michael R. Haverty, . . . . .</b> Chairman of the Board and Chief Executive Officer	2008	\$759,533	\$2,215,624	\$ 4,343	\$473,189	\$ 51,662	\$3,504,351
	2007	\$727,794	\$2,839,746	\$104,220	\$679,302	\$ 50,494	\$4,401,556
	2006	\$700,008	\$ 576,081	\$104,220	\$892,027	\$ 43,016	\$2,315,352
<b>Michael W. Upchurch, . . .</b> Executive Vice President and Chief Financial Officer(2)(3)	2008	\$240,417	\$ 306,906	\$ 6,266	\$ 76,139	\$ 16,118	\$ 645,846
<b>Patrick J. Ottensmeyer, . . .</b> Executive Vice President Sales and Marketing	2008	\$376,137	\$ 714,663	\$107,680	\$141,894	\$ 4,318	\$1,344,692
	2007	\$314,526	\$ 453,360	\$107,680	\$183,854	\$ 28,648	\$1,088,068
	2006	\$190,000	\$ 55,900	\$ 62,813	\$233,623	\$ 18,191	\$ 560,527
<b>José Guillermo Zozaya Delano, . . . . .</b> President and Executive Representative of KCSM(3)(7)	2008	\$306,772	\$ 653,872	\$ 0	\$118,134	\$105,015	\$1,183,793
<b>Scott E. Arvidson, . . . . .</b> Executive Vice President and Chief Information Officer(3)	2008	\$336,386	\$ 676,854	\$ 724	\$115,263	\$ 12,636	\$1,141,863

(1) Reflects actual salary received.

(2) Mr. Upchurch was hired in March 2008 and was promoted to Executive Vice President and Chief Financial Officer on October 16, 2008.

(3) Messrs. Upchurch, Arvidson and Zozaya were not Named Executive Officers in 2006 or 2007; accordingly only 2008 compensation is reflected in the above table.

(4) This column presents the dollar amount recognized for financial reporting purposes with respect to the 2008 fiscal year for the fair value of restricted shares and performance shares granted in 2008 as well as prior fiscal years, in accordance with FAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For additional information, refer to Note 10 to our consolidated financial statements in our annual report on Form 10-K for the year ended December 31, 2008, as filed with the SEC. See the Grants of Plan-Based Awards Table for information on awards made in 2008. These amounts reflect our accounting expense for these awards, and do not correspond to the actual value that will be recognized by the Named Executive Officers.

(5) This column presents the dollar amount recognized for financial reporting purposes with respect to the 2008 fiscal year for the fair value of stock options granted in 2008 as well as prior fiscal years, in accordance with FAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For additional information, refer to Note 10 to our consolidated financial statements in our annual report on Form 10-K for the year ended December 31, 2008, as filed with the SEC. See the Grants of Plan-Based Awards Table for information on awards made in 2008. These amounts reflect our accounting expense for these awards, and do not correspond to the actual value that will be recognized by the Named Executive Officers.

(6) “All Other Compensation” for the Named Executive Officers consists of:

Name		401(K) Contributions	Group Term Life Insurance Premiums	AD&D Premiums	LTD Premiums	Matching Charitable Gifts(a)	Financial Planning Reimbursement	Other(b)	Total
Haverty . . . . .	2008	\$ 9,000	\$3,564	\$168	\$158	\$30,000	\$8,000	\$ 772(c)	\$ 51,662
	2007	\$11,250	\$1,080	\$168	\$158	\$29,983	\$7,855	\$ 0	\$ 50,494
	2006	\$11,000	\$1,080	\$168	\$158	\$30,000	\$ N/A	\$ 610	\$ 43,016
Upchurch . . . . .	2008	\$ 9,775	\$ 675	\$140	\$132	\$ 0	\$ 0	\$ 5,396(d)	\$ 16,118
Ottensmeyer . . . . .	2008	\$ 2,000	\$1,242	\$168	\$158	\$ 0	\$ 750	\$ 0	\$ 4,318
	2007	\$ 5,912	\$1,080	\$168	\$158	\$ 0	\$ 900	\$ 20,430	\$ 28,648
	2006	\$ 0	\$ 675	\$105	\$ 99	\$ 0	\$ N/A	\$ 17,312	\$ 18,191
Zozaya . . . . .	2008	N/A	\$2,526	\$ 0	\$ 0	\$ 0	\$ 0	\$102,489(e)	\$105,015
Arvidson . . . . .	2008	\$11,500	\$ 810	\$168	\$158	\$ 0	\$ 0	\$ 0	\$ 12,636

- (a) We provide a two-for-one Company match of eligible charitable contributions made by our Named Executive Officers. The maximum amount of contributions we will match in any calendar year for any Named Executive Officer is \$15,000. Of this \$15,000, only half may be contributed to one organization.
- (b) All employees of the Company, including the Named Executive Officers, are given the opportunity to use our stadium and arena suites to the extent the suites are not being used for business purposes. Our Named Executive Officers may use the services of their administrative assistants for limited personal matters. In addition, spouses of certain of our Named Executive Officers accompanied them on private aircraft chartered to transport the Named Executive Officers for business purposes. None of these perquisites results in an aggregate incremental cost to the Company, and thus no value for either of these perquisites is included in the Summary Compensation Table.
- (c) “Other” for Mr. Haverty consists of \$772 for the cost of tickets for commercial flights paid by the Company for his spouse to accompany him on business.
- (d) “Other” for Mr. Upchurch costs of \$5,396 paid by the Company for an initiation fee for a country club membership.
- (e) “Other” for Mr. Zozaya consists of the payments set forth in the following table, payment of which is consistent with Mexican law and requisite practices.

	Christmas Bonus (\$)	Vacation Bonus (\$)	Food Stipends (\$)	Auto Maintenance and Gasoline (\$)	Savings Fund	Social Security	Leased Vehicles	Security	Total
2008 . . . . .	\$26,336	\$4,389	\$1,417	\$4,616	\$1,842	\$967	\$16,665	\$46,257	\$102,489

(7) All amounts of Mr. Zozaya’s compensation (other than the Company’s FAS 123R expenses for stock awards) are paid to Mr. Zozaya in Mexican pesos. The amounts reported on this table were converted from Mexican pesos at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008.

*Narrative to Summary Compensation Table*

We compete with other companies for executive talent and we seek to pay executives at approximately the market median for their positions in order to remain competitive for executive talent. Except for certain benefits and payments provided to Mr. Zozaya under applicable Mexican law (which are available to all other KCSM employees), none of the Named Executive Officers participate in any compensation programs that are not available to the other executives of the Company. We believe it is of note that Mr. Haverty has been with KCS for approximately fourteen years, and he has many years of executive experience in our industry. We further believe that the unique roles, responsibilities, experience, accountability, leadership and achievements of Mr. Haverty as our Company’s Chief Executive Officer is worthy of special consideration in setting his compensation.

*Employment Agreements.* Each of the Named Executive Officers is a party to an employment agreement with KCS, KCSR, KCSM or KCS and KCSR, which remains in effect until terminated or modified.

Pursuant to their respective employment agreements, Messrs. Haverty, Upchurch, Ottensmeyer, Arvidson and Zozaya receive as compensation for their services an annual base salary at the rate approved by the Compensation Committee. The salaries for these executive officers shall not be reduced except as agreed to by the parties or as part of a general salary reduction applicable to all officers. Messrs. Haverty, Upchurch, Ottensmeyer, Arvidson and Zozaya are eligible to participate in benefit plans or programs generally available to management employees of the KCSR or KCSM, as applicable. Each of the employment agreements of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson provides that the value of the respective Named Executive Officer's annual compensation is fixed at a percentage of base salary for purposes of determining contributions, coverage and benefits under any disability insurance policy and under any cash compensation benefit plan provided to the Named Executive Officer as follows: 167.67% for Mr. Haverty; 175% for Mr. Ottensmeyer; 145% for Messrs. Upchurch and Arvidson.

For information regarding potential payments to the Named Executive Officers upon termination of employment or change in control, see "Potential Payments Upon Termination of Employment or Change in Control" below.

*Indemnification Agreements.* We have entered into indemnification agreements with our KCS officers and directors. Each of our U.S. Named Executive Officers is an officer of KCS. These agreements are intended to supplement our officer and director liability insurance and to provide the officers and directors with specific contractual assurance that the protection provided by our Bylaws will continue to be available regardless of, among other things, an amendment to the Bylaws or a change in management or control of KCS. The indemnification agreements provide for indemnification to the fullest extent permitted by the Delaware General Corporation Law and for the prompt advancement of expenses, including attorneys' fees and all other costs and expenses incurred in connection with any action, suit or proceeding in which the director or officer was or is a party, is threatened to be made a party or is otherwise involved, or to which the director or officer was or is a party, is threatened to be made a party or is otherwise involved by reason of service in certain capacities. Under the indemnification agreements, if required by the Delaware General Corporation Law, an advancement of expenses incurred will be made upon delivery to us of an undertaking to repay all advanced amounts if it is ultimately determined by final adjudication that the officer or director is not entitled to be indemnified for such expenses. The indemnification agreements allow directors and officers to seek court relief if indemnification or expense advances are not received within specified periods, and obligate us to reimburse them for their expenses in pursuing such relief in good faith.



### GRANTS OF PLAN-BASED AWARDS

The following table provides information for each of the Named Executive Officers regarding 2008 grants of annual incentive awards, restricted shares, earned performance shares and stock options.

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards(1)			All Other Stock Awards: Number of Shares of Stock or Units	All Other Option Awards: Number of Securities Underlying Options (#)(4)	Exercise or Base Awards Price of Option Awards (\$/Sh)(6)	Grant Date Fair Value of Stock and Option Awards
		Threshold (\$)	Target (\$)	Maximum (\$)				
Michael R. Haverty . . .	N/A	\$379,766	\$759,533	\$1,519,066				
	01/17/2007				24,063(3)		\$717,559	
	01/15/2008				3,831(2)		\$118,340	
Michael W. Upchurch . . . . .	N/A	\$ 61,027(5)	\$122,055(5)	\$ 244,109(5)				
	03/03/2008				26,722(2)		\$956,380	
	03/03/2008				2,999(3)		\$107,334	
	03/28/2008				1,250(2)		\$ 0(7)	
	03/28/2008					2,500	\$39.53	\$ 98,825
	11/11/2008				6,525(2)			\$175,718
Patrick J. Ottensmeyer . . . . .	N/A	\$113,880	\$227,760	\$ 455,520				
	01/17/2007				6,683(3)		\$199,287	
	01/15/2008				3,637(2)		\$112,347	
	01/15/2008				1,028(3)		\$ 31,755	
José Guillermo Zozaya Delano . . . . .	N/A	\$ 94,810(8)	\$189,620(8)	\$ 379,241(8)				
	01/17/2007				6,683(3)		\$199,287	
	01/15/2008				2,333(2)		\$ 72,066	
	01/15/2008				1,028(3)		\$ 31,755	
Scott E. Arvidson . . . . .	N/A	\$ 92,506	\$185,012	\$ 370,025				
	01/17/2007				1,954(3)		\$ 58,268	
	10/29/2007				4,729(3)		\$184,053	
	01/15/2008				933(2)		\$ 28,820	

(1) The amounts reflected in these columns represent the threshold, target and maximum amounts that could have been earned under our 2008 AIP. Actual amounts paid for 2008 performance are reflected in the Non-Equity Incentive Plan Compensation column in the Summary Compensation Table.

- (2) These amounts reflect restricted stock awards granted under the 1991 Plan or 2008 Plan as listed in the following table.

<u>Name</u>	<u>Grant Date</u>	<u>Purchase Price</u>	<u>Shares Granted</u>	<u>Vesting Schedule</u>
<b>Haverty</b> .....	01/15/2008	\$ 0.00	3,831	1/5 per year over 5 years(a)
<b>Upchurch</b> .....	03/03/2008	\$ 0.00	20,000	5 years
	03/03/2008	\$ 0.00	6,722	< 3 years(b)
	03/28/2008	\$39.53	1,250	5 years(c)
	11/11/2008	\$ 0.00	6,525	< 3 years(b)
<b>Ottensmeyer</b> .....	01/15/2008	\$ 0.00	1,304	1/5 per year over 5 years
	01/15/2008	\$ 0.00	2,333	< 3 years (b)
<b>Zozaya</b> .....	01/15/2008	\$ 0.00	2,333	< 3 years (b)
<b>Arvidson</b> .....	01/15/2008	\$ 0.00	933	1/5 per year over 5 years

- (a) These shares became non-forfeitable on the grant date due to the fact that this executive meets the retirement criteria under the 1991 Plan, however they remain subject to sale and transfer restrictions in accordance with the vesting schedule above.
- (b) These shares represent a pro rata award of restricted shares under the Company's 2007-2009 Long-Term Incentive Plan and will vest on January 17, 2010.
- (c) The purchase price paid by Mr. Upchurch represented the average high and low trading prices on the NYSE on the grant date, which was higher than the closing price. These shares are non-forfeitable, but are subject to sale and transfer restrictions in accordance with the vesting schedule shown above.
- (3) These amounts reflect performance share awards granted under the Company's 2007-2009 Long-Term Incentive Plan, and earned by the Named Executive Officers based upon the achievement of pre-determined performance goals for the performance period ended December 31, 2008, as certified by the Compensation Committee on February 26, 2009. These shares will vest on January 17, 2010. The number of additional performance shares granted to the Named Executive Officers, which may be earned upon the achievement of performance targets for the performance period ended December 31, 2009, is set forth in the column captioned "Equity Incentive Plan Awards; Number of Unearned Shares, Units or Other Rights That Have Not Vested" in the Outstanding Equity Awards table below.
- (4) The amounts reflected in this column represent stock option awards granted under the 1991 Plan or 2008 Plan as listed in the following table

<u>Name</u>	<u>Grant Date</u>	<u>Option Price</u>	<u>Options Granted</u>	<u>Exercisable Date</u>	<u>Expiration Date</u>
<b>Haverty</b> .....	N/A				
<b>Upchurch</b> .....	03/28/2008	\$39.53	2,500	03/28/2013	03/27/2018
<b>Ottensmeyer</b> .....	N/A				
<b>Zozaya</b> .....	N/A				
<b>Arvidson</b> .....	N/A				

- (5) These amounts are prorated based on Mr. Upchurch's first date of employment with the Company of March 3, 2008 and based on a change in salary grade in October 2008 as a result of his promotion to Executive Vice President and Chief Financial Officer.
- (6) Pursuant to the 1991 Plan, the exercise price is the average of the high and low trading prices on the NYSE on the grant date, which in this case was higher than the closing price.
- (7) The amount has been reduced to zero to reflect the amount paid by Mr. Upchurch to purchase 1,250 shares of restricted stock at \$39.53 per share. This restricted stock was nonforfeitable on the grant date but remains subject to transfer and sale restrictions over its vesting period.
- (8) Mr. Zozaya is paid in Mexican pesos. His threshold, target and maximum non-equity incentive plan award amounts were converted from Mexican pesos at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008.

## OUTSTANDING EQUITY AWARDS AT FISCAL YEAR-END

The following table provides information for each of the Named Executive Officers regarding outstanding stock options, unvested stock awards and unearned stock awards held by them as of December 31, 2008.

Name	Option Awards					Stock Awards			
	Number of Securities Underlying Unexercised Options (#) Exercisable(1)	Number of Securities Underlying Unexercised Options (#) Unexercisable(1)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)(2)	Market Value of Shares of Units of Stock That Have Not Vested (\$)(3)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Rights That Have Not Vested (#)(4)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Rights That Have Not Vested (\$)(3)
Michael R. Haverty . . . . .	638,366		—	\$ 5.75	07/12/10				
	12,363		—	\$14.34	02/26/11				
	13,207		—	\$13.42	02/05/12				
	105,901		—	\$12.55	01/15/13				
	90,000		—	\$14.60	01/01/14				
	13,689		—	\$14.53	02/08/14				
						97,666	\$1,860,537		
						24,063	\$ 458,400	39,000	\$742,950
Michael W. Upchurch. . . . .	—	2,500	—	\$39.53	03/27/18				
						33,247	\$ 633,355		
						2,999	\$ 57,131	12,500	\$238,125
Patrick J. Ottensmeyer. . . . .	—	30,000	—	\$25.80	06/08/16				
						49,875	\$ 950,119		
						20,733	\$ 394,964	12,499	\$238,106
José Guillermo Zozaya Delano . . . . .	—	—	—			42,333	\$ 806,444		
						20,733	\$ 394,964	12,499	\$238,106
Scott E. Arvidson . . . . .	109,400		—	\$ 5.75	07/12/10				
	122		—	\$14.34	02/26/11				
	130		—	\$13.42	02/05/12				
	15,500		—	\$12.55	01/15/13				
	6,000		—	\$14.60	01/01/14				
	606		—	\$14.53	02/08/14				
						50,391	\$ 959,949		
						10,489	\$ 199,815	10,833	\$206,369

(1) The exercisable dates of the options listed in this column are shown in the following table.

<u>Name</u>	<u>Number of Securities</u>	<u>Exercisable Date</u>
<b>Michael R. Haverty</b> .....	440,366	07/13/2001
	198,000	07/13/2003
	12,363	02/27/2001
	13,207	02/06/2002
	15,901	01/16/2003
	90,000	01/16/2008
	90,000	01/02/2005
	13,689	02/09/2004
<b>Michael W. Upchurch</b> .....	2,500	03/28/2013
<b>Patrick J. Ottensmeyer</b> .....	20,000	06/09/2009
	10,000	06/09/2011
<b>Scott E. Arvidson</b> .....	17,400	07/13/2003
	92,000	07/13/2001
	122	02/27/2001
	130	02/06/2003
	500	01/16/2003
	15,000	01/16/2008
	6,000	01/02/2005
	606	02/09/2004

(2) The vesting dates of the restricted shares and earned performance shares listed in this column are shown in the following table.

<u>Name</u>	<u>Number of Securities</u>	<u>Vesting Date</u>
<b>Michael R. Haverty</b> .....	24,333	01/17/2009
	11,000	01/19/2009
	8,000	03/14/2009
	24,333	01/17/2010
	11,000	01/19/2009
	8,000	03/14/2009
	11,000	01/19/2011
	24,063	01/17/2010
<b>Michael W. Upchurch</b> .....	13,247	01/17/2010
	20,000	03/29/2013
	2,999	01/17/2010

<u>Name</u>	<u>Number of Securities</u>	<u>Vesting Date</u>
<b>Patrick J. Ottensmeyer</b> . . . . .	309	01/17/2009
	261	01/30/2009
	310	01/17/2010
	22,333	01/17/2010
	261	01/29/2010
	309	01/17/2011
	260	01/31/2011
	20,000	06/09/2011
	310	01/17/2012
	261	01/31/2012
	5,000	10/31/2012
	261	01/31/2013
	20,733	01/17/2010
<b>José Guillermo Zozaya Delano</b> . . . . .	16,000	04/20/2011
	4,000	05/01/2011
	22,333	01/17/2010
	20,733	01/17/2010
<b>Scott E. Arvidson</b> . . . . .	133	01/17/2009
	127	01/19/2009
	187	01/30/2009
	23	02/03/2009
	132	01/17/2010
	16,500	01/17/2010
	127	01/19/2010
	186	01/29/2010
	23	02/03/2010
	5,000	03/14/2010
	133	01/17/2011
	127	01/19/2011
	5,000	01/19/2011
	187	01/31/2011
	133	01/17/2012
186	01/31/2012	
15,000	02/23/2012	
7,000	10/31/2012	
187	01/13/2013	
10,489	01/17/2010	

(3) The amount in this column is calculated by multiplying the closing price of our Common Stock on the NYSE on December 31, 2008, which was \$19.05, by the number of shares of stock that have not vested.

(4) The amounts in this column reflect the performance shares granted to the executive pursuant to the 2007-2009 Long-Term Incentive Plan that may be earned upon certification by the Compensation Committee of achievement of pre-determined performance goals for the performance period ended December 31, 2009. Actual amounts earned may be more or less than reflected depending on whether such performance shares are earned at the threshold, target or maximum level. If earned, these shares will vest on the later of (a) January 17, 2010, or (b) the date the Compensation Committee certifies the achievement of the related performance targets. Performance shares that are not earned within the applicable performance period are forfeited.

## OPTION EXERCISES AND STOCK VESTED

The following table provides information for each of the Named Executive Officers regarding stock option exercises and vesting of stock awards during 2008.

<u>Name</u>	<u>Option Awards</u>		<u>Stock Awards</u>	
	<u>Number of Shares Acquired on Exercise (#)</u>	<u>Value Realized on Exercise (\$)</u>	<u>Number of Shares Acquired on Vesting (#)</u>	<u>Value Realized on Vesting (\$)(1)</u>
<b>Michael R. Haverty</b> . . . . .	549,634	\$16,706,069	47,165	\$1,483,155
<b>Michael W. Upchurch</b> . . . . .	N/A	N/A	1,250	\$ 0(2)
<b>Patrick J. Ottensmeyer</b> . . . . .	N/A	N/A	310	\$ 9,263
<b>José Guillermo Zozaya Delano</b> . . . . .	N/A	N/A	N/A	N/A
<b>Scott E. Arvidson</b> . . . . .	450	\$ 16,429	283	\$ 8,770

- (1) The amounts in this column were calculated by multiplying the number of shares of stock by the closing price of our Common Stock on the NYSE on the vesting date, or if the market was not open on such date, the closing price of our Common Stock on the NYSE on the next preceding trading date.
- (2) This amount has been reduced to reflect the amount paid by Mr. Upchurch to purchase 1,250 shares of restricted stock at \$39.53 per share. This restricted stock was non-forfeitable on the grant date, but remains subject to transfer and sale restrictions over its vesting period.

### Options Granted in Connection with the Stilwell Spin-off

In connection with the Stilwell Spin-off and as part of an equitable adjustment of KCS non-qualified stock options previously granted and outstanding as of June 28, 2000 (the record date for the Stilwell Spin-off), the exercise price of the options was adjusted as allowed by the 1991 Plan and holders of the options received separately exercisable options to purchase Stilwell common stock (“Stilwell options”) at the rate of two Stilwell options for each KCS non-qualified stock option held. On December 31, 2002, Janus Capital Corporation merged into Stilwell and effective January 1, 2003, Stilwell was renamed Janus Capital Group Inc. Effective as of January 1, 2003, the Stilwell options are now options to purchase Janus Capital Group Inc. common stock.

Janus options for 1,888,106 shares were granted to Mr. Haverty and Janus options for 1,800 shares were granted to Mr. Arvidson. These Janus options related to KCS non-qualified stock options granted to Messrs. Haverty and Arvidson in 2000 prior to the Stilwell Spin-off and in years prior to 2000. Messrs. Upchurch, Ottensmeyer and Zozaya did not join the Company until after the Stilwell Spin-off, and therefore did not receive any Janus options. The following table sets forth information regarding the shares of Janus common stock received upon exercise of Janus options and the value realized on exercise.

<u>Name</u>	<u>Option Awards</u>		<u>Stock Awards</u>	
	<u>Number of Shares Acquired on Exercise (#)</u>	<u>Value Realized on Exercise (\$)</u>	<u>Number of Shares Acquired on Vesting (#)</u>	<u>Value Realized on Vesting (\$)</u>
<b>Michael R. Haverty(1)</b> . . . . .	—	—	N/A	N/A
<b>Michael W. Upchurch</b> . . . . .	N/A	N/A	N/A	N/A
<b>Patrick J. Ottensmeyer</b> . . . . .	N/A	N/A	N/A	N/A
<b>José Guillermo Zozaya Delano</b> . . . . .	N/A	N/A	N/A	N/A
<b>Scott E. Arvidson(2)</b> . . . . .	—	—	N/A	N/A

- (1) As of December 31, 2008, Mr. Haverty owns 5,462 exercisable Janus options.
- (2) All of Mr. Arvidson’s Janus options have expired.

## POTENTIAL PAYMENTS UPON TERMINATION OF EMPLOYMENT OR CHANGE IN CONTROL

### *KCS Officers*

As described above in the section titled “Narrative to the Summary Compensation Table,” each of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson is a party to an employment agreement with KCSR or KCS and KCSR, with KCSR as the employer. These employment agreements remain in effect until they are terminated or modified. Each agreement contains certain benefits in the event of the termination of the U.S. Named Executive Officer’s employment for death, disability, retirement, termination by KCSR without cause, or, after a change in control, termination by KCSR without cause or resignation by the U.S. Named Executive Officer for good reason. We believe that providing certain severance protections plays an important role in attracting and retaining key executive officers. The Compensation Committee believes the severance benefits are an appropriate and necessary component of each Named Executive Officer’s compensation package. The following terms used in this section shall have the meanings provided in the “Change in Control Benefits” subsection of the “Compensation Discussion and Analysis” section: “cause” other than in the context of a termination of employment after a change in control, “cause” in the context of a termination of employment after a change in control, “good reason” in the context of a resignation after a change in control, and “change in control.”

The severance benefits described below are required to be provided pursuant to the terms of employment agreements with Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson. For more information regarding the benefits provided in these agreements, please see the information provided in the “Change in Control Benefits” and the “Severance Compensation” subsections of the “Compensation Discussion and Analysis” section. In 2006, Towers Perrin performed a competitive analysis of the severance benefit provisions of the employment agreements of the U.S. Named Executive Officers and it found that the benefits provided in these employment agreements were within the competitive ranges for our peer group. These agreements may be amended with the consent of the U.S. Named Executive Officer.

### *Severance Benefits Other than After a Change in Control*

In the event of termination of employment without cause by KCSR, for any reason other than death, disability, retirement or following a change in control, each of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson would pursuant to their respective employment agreements:

- Subject to the execution of a release, with respect to Messrs. Haverty, Ottensmeyer and Arvidson, be entitled to a severance payment equal to twelve months of the Named Executive Officer’s base salary at the rate in effect immediately prior to such termination payable in a lump sum within 75 days following termination, and with respect to Mr. Upchurch, be entitled to a severance payment equal to twelve months of his base salary at the rate in effect immediately prior to such termination payable over a twelve-month period;
- Unless such benefits are provided by another employer, be entitled to payment by KCSR of the premium for continuing group health coverage, and reimbursement for the cost of comparable life insurance coverage, for fifteen months and including reimbursement for state and federal income taxes with respect to Messrs. Haverty and Arvidson, and for twelve months with respect to Mr. Ottensmeyer, and with respect to Mr. Upchurch, be entitled to continuation of group health coverage for a twelve-month period at the rate that would be charged to an active employee with similar coverage;
- Remain eligible in the year in which such termination occurs, to receive benefits under the AIP at the discretion of the Compensation Committee, and to receive benefits under any other compensatory or benefit plan in which such U.S. Named Executive Officer participates, if such plans are then in existence and the U.S. Named Executive Officer was entitled to participate immediately prior to termination in accordance with the applicable provisions of such plans, but only to the extent the U.S. Named Executive Officer meets all the requirements of any such plan for the plan year at the time of such termination.

Severance pay received in the year in which employment termination occurs will be taken into account for the purpose of determining benefits, if any, under the AIP, but not under the Executive Plan. After termination of

employment, the U.S. Named Executive Officer would not be entitled to accrue or receive benefits under any other employee benefit plan under the current provisions of such plans.

As part of his employment agreement, each of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson has agreed not to use or disclose any trade secrets of the Company or any of its affiliates, as applicable, after any termination of his employment. Severance payments are conditioned upon the U.S. Named Executive Officer's waiver of any claims against the Company upon termination. In addition, each U.S. Named Executive Officer has agreed not to compete with the business of the Company in the geographic area in which the Company operates for a period of one year following the date of termination (with respect to Messrs. Haverty, Ottensmeyer and Arvidson, other than in the event of a change in control). They have also agreed for a period of one year following the date of termination (with respect to Messrs. Haverty, Ottensmeyer and Arvidson, other than in the event of a change in control) not to (i) divert business from the Company, (ii) accept any business of any customer or prospective customer of the Company with whom the U.S. Named Executive Officer had any contact or association or who was under the U.S. Named Executive Officer's supervision, or the identity of whom was learned by the U.S. Named Executive Officer as a result of his employment with the Company, whether or not solicited by the U.S. Named Executive Officer or (iii) induce, solicit or cause any employee of the Company to leave the employ of the Company.

#### ***Severance Benefits Following a Change in Control***

The Compensation Committee believes that the occurrence of a change in control transaction may create uncertainty regarding the continued employment of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson because many change in control transactions result in significant organizational changes, particularly at the key management level. We provide each of the U.S. Named Executive Officers with enhanced severance benefits if, within three years after a change in control (two years with respect to Mr. Upchurch), his employment is terminated without cause or he resigns for good reason. Severance benefits under the employment agreements of Messrs. Haverty, Upchurch, Ottensmeyer and Arvidson do not become due upon a mere change in control. Instead, severance benefits are only provided if there is a "double trigger," meaning that the U.S. Named Executive Officer must also be terminated without cause or resign for good reason in the specified period following a change in control. The "double trigger" mechanism is intended to:

- Encourage executives to stay with the Company during a change in control, thus helping to provide stability to the Company during a critical time;
- Mitigate any potential disincentive for the executives when they are evaluating and/or implementing a potential change in control, particularly when the acquiring company may not require the services of our executives; and
- Protect the executives from termination without cause or an adverse change in position following a change in control.

If there were a change in control during the term of the employment agreement, with respect to Messrs. Haverty, Ottensmeyer and Arvidson, the employment, executive capacity, salary and benefits of the U.S. Named Executive Officer would be continued for a three-year period at the same levels in effect on the control change date. During that period, annual salary would be paid at a rate not less than twelve times the highest monthly base salary paid or payable to the U.S. Named Executive Officer in the twelve months immediately prior to the change in control. During such three-year employment period, the U.S. Named Executive Officer also would be eligible to participate in all benefit plans made generally available to executives at his level or to the employees of KCSR, and generally would be eligible to participate in any incentive compensation plan. In addition, KCS and KCSR would use their best efforts to cause all outstanding options held by the U.S. Named Executive Officer to become immediately exercisable on the date of the change in control and, to the extent such options are not vested and are subsequently forfeited, the U.S. Named Executive Officer would receive a lump-sum cash payment within five days after the options are forfeited equal to the difference between the fair market value of the Common Stock underlying the non-vested, forfeited options (determined as of the date the options are forfeited) and the exercise



price of the options. In addition, if the amount of contributions or benefits or any incentive compensation was determined on a discretionary basis immediately prior to the control change date:

- The amount of such contributions or benefits continued would not be less than the average annual amount for the three years prior to the change in control; and
- Incentive compensation would not be less than 75% of the maximum amount which could have been paid to the Named Executive Officer under the terms of the incentive compensation plan.

Upon the U.S. Named Executive Officer's involuntary termination of employment (other than for cause) or voluntary termination of employment (for good reason), within three years (two years with respect to Mr. Upchurch) following a change in control, KCSR would pay to the U.S. Named Executive Officer within five days after his termination a lump sum severance payment. The severance payment would equal a percentage of the U.S. Named Executive Officer's annual base salary multiplied by three (with respect to Messrs. Haverty and Ottensmeyer) or two (with respect to Messrs. Arvidson and Upchurch). The applicable percentage rate is 167.67% for Mr. Haverty, 175% for Mr. Ottensmeyer and 160% for Messrs. Upchurch and Arvidson. Messrs. Haverty, Ottensmeyer and Arvidson will also be entitled to a continuation of benefits (other than incentive compensation) for a three-year period at levels in effect immediately prior to the termination of employment. If any benefit plan would not permit continued participation after termination of employment, such U.S. Named Executive Officer would be entitled to a lump sum payment, payable within five days after termination, equal to the amount of benefits he would have received under the plan if he had been fully vested in the average annual contributions or benefits in effect for the three plan years ending prior to the control change date and has been a continuing participant in such plan to the end of the three-year period. Following such three-year period, Messrs. Haverty, Ottensmeyer and Arvidson would also be entitled to continuation of certain health, prescription and dental benefits until attainment of age 60, and certain health and prescription benefits for the remainder of their life unless such benefits are otherwise provided by a subsequent employer. The cost of such benefits would not exceed the cost of such benefits to active or retired (as applicable) peer executives.

With respect to Messrs. Haverty, Ottensmeyer and Arvidson, a voluntary termination after a change in control is for good reason if it is for any reason listed above in the definition of "good reason" in the context of a resignation after a change in control. A voluntary termination would not be for good reason for purposes of certain change in control benefits unless the U.S. Named Executive Officer complies with the notice provisions in the agreement and KCSR does not remedy the good reason condition.

The employment agreements also provide for payments to each of the U.S. Named Executive Officers (other than Mr. Upchurch) necessary to relieve them of certain adverse federal income tax consequences if amounts received under the agreements were determined to involve "parachute payments" subject to excise taxes under Section 4999 of the Code.

If any dispute should arise under a U.S. Named Executive Officer's employment agreement (other than Mr. Upchurch) after the control change date involving an effort by him to protect, enforce or secure rights or benefits claimed by him, KCSR shall pay promptly upon demand all reasonable expenses incurred by the U.S. Named Executive Officer (including attorneys' fees) in connection with the dispute, without regard to whether the U.S. Named Executive Officer prevails in the dispute, except that the U.S. Named Executive Officer shall repay KCSR any amounts so received if a court having jurisdiction makes a final, nonappealable determination that he acted frivolously or in bad faith by the dispute.

### ***KCSM Officers***

For 2008, Mr. Zozaya is the only Named Executive Officer employed in Mexico. We are required under Mexican law to provide certain termination benefits to all employees, including any Named Executive Officers, employed in Mexico. We have provided additional termination benefits to Mr. Zozaya, as described below, in order to remain competitive with benefits offered in the local country market, as well as to facilitate our retention and recruitment efforts.

In the event of termination of employment without cause (as defined in Mexican law), or in the event of retirement, Mr. Zozaya would be entitled under Mexican law to receive a payment equal to ninety days of his

integrated salary (consisting of base salary plus benefits), plus an additional payment equal to twenty days of integrated salary for each year of service with KCSM. In addition and as required by Mexico law, as of December 31, 2008, Mr. Zozaya would be eligible to receive a seniority premium equal to Ps. 1,338 per year for each year of service for KCSM (which if converted at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008, would equal \$98.83 per year). Pursuant to the terms of his employment agreement, Mr. Zozaya is entitled to a severance payment equal to one year's base salary upon a termination of his employment without cause. Mr. Zozaya would also receive these payments if his employment were terminated without cause following a change in control of KCSM.

If Mr. Zozaya's employment with KCSM is terminated, whether or not the termination was for cause, he would receive a payment equal to the value of any earned but unpaid Christmas bonus, vacation premium, food stipend and savings plan balance. The Christmas bonus is paid on a pro rata calendar year basis, while the vacation premium is paid on an annual pro rata basis that commences on each anniversary of the employee's seniority date. Because the food stipend is paid to Mr. Zozaya on a monthly basis, he is only eligible to receive a pro rata payment of the amount earned but not paid in the month of termination. Finally, Mr. Zozaya would receive a payment equal to the account balance of his savings plan, including all amounts contributed to the plan by the Company.

Mr. Zozaya is not eligible to receive payments upon a voluntary termination or a termination for cause, other than the payment of the earned but unpaid Christmas bonus, vacation premium, food stipend and savings plan balance, as each is described in the immediately preceding paragraph.

#### ***Compensatory Plans Providing Benefits Upon Termination of Employment or Change in Control***

Certain compensation plans available to the Named Executive Officers have accounts that become vested upon certain events, such as: (a) the Named Executive Officer's retirement, death, disability or termination of employment, (b) a change in control of our Company, or (c) a change in the Named Executive Officer's responsibilities following a change in control. See the subsection titled "Other compensatory plans that provide benefits on retirement or termination" in the "Compensation Discussion and Analysis" section for a description of the vesting of the accounts upon these certain events.

#### ***Trusts Securing the Rights of the Officers, Directors, Employees and Former Employees***

We have established a series of trusts that are intended to secure the rights of our officers, directors, employees, former employees and others (each a "Beneficiary") under various contracts, benefit plans, agreements, arrangements and commitments. The function of each trust is to receive contributions from us and, following a change in control of KCS (as defined by the trust), if we fail to honor certain obligations to a Beneficiary, the trust shall distribute to the Beneficiary amounts accumulated in such Beneficiary's trust account, or in the general trust account, to discharge such obligations as they become due, to the extent of available trust assets. The trusts require that we be solvent as a condition to making distributions. Trusts have been established with respect to the employment continuation commitments under employment agreements, the Executive Plan, the Directors' Deferred Fee Plan, indemnification agreements, the 1991 Plan, the 2008 Plan and our charitable contribution commitments, among others. New trusts were executed on March 6, 2006. The new trusts are revocable until a change in control of KCS and will terminate if no such change in control occurs prior to March 6, 2011, unless extended by the Board of Directors. KCSR has established similar trusts tied to any failure by KCSR to honor its obligations to Beneficiaries following a change in control of KCS.

#### ***Tables Summarizing Payments Upon Employment Termination***

The following tables summarize the estimated payments that would be made under each contract, agreement, plan or arrangement which provides for payments to a Named Executive Officer at, following, or in connection with any termination of employment, including by resignation, retirement, disability, or dismissal or resignation for good reason following a change in control. None of our Named Executive Officers is eligible to receive payments upon a voluntary resignation or a termination for cause (as defined above), except that because Mr. Haverty meets the definition of "retirement" under the 1991 Plan, he has restricted stock and earned performance shares that are non-forfeitable and would be payable upon a voluntary resignation. In accordance with SEC regulations, we do not

report any amount to be provided under any arrangement which does not discriminate in scope, terms or operation in favor of our Named Executive Officers and which is available generally to all salaried employees in the United States. The following tables do not repeat information provided in the Summary Compensation Table or the Outstanding Equity Awards at Year-End Table, except to the extent the amount payable would be enhanced by the termination event.

For purposes of the quantitative disclosure in the following tables, and in accordance with SEC regulations, we have assumed that the termination took place on the last business day of our most recently completed fiscal year, and that the price per share of our Common Stock was \$19.05, the closing market price on that date.

Michael R. Haverty					
<u>Benefit</u>	<u>Death</u>	<u>Disability</u>	<u>Retirement</u>	<u>Change in Control</u>	<u>Without Cause or Good Reason</u>
Cash Severance . . . . .	\$	\$ —	\$ —	\$3,820,527	\$759,533
Equity (Intrinsic Value)					
Unvested Restricted Stock . . . . .	\$1,860,537	\$ 933,450	\$ 933,450	\$1,860,537	\$ —
Unvested Performance Shares . . . . .	\$2,094,376	\$1,351,426	\$1,351,426	\$2,094,376	\$ —
Unvested 401k Contributions . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Unexercisable Options . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$3,954,913	\$2,284,876	\$2,284,876	\$3,954,913	\$ —
Retirement Benefits					
Retiree Medical (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 1,050	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ 1,050	\$ —
Other Benefits					
Health & Welfare (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 27,333	\$ 15,795
Tax Gross-Ups . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ 27,333	\$ 15,795
<b>Total . . . . .</b>	<b>\$3,954,913</b>	<b>\$2,284,876</b>	<b>\$2,284,876</b>	<b>\$7,803,823</b>	<b>\$775,328</b>

Michael W. Upchurch					
<u>Benefit</u>	<u>Death</u>	<u>Disability</u>	<u>Retirement</u>	<u>Change in Control</u>	<u>Without Cause or Good Reason</u>
Cash Severance . . . . .	\$	\$ —	\$ —	\$1,024,000	\$320,000
Equity (Intrinsic Value)					
Unvested Restricted Stock . . . . .	\$633,355	\$381,000	\$ —	\$ 633,355	\$ —
Unvested Performance Shares . . . . .	\$295,256	\$ 57,131	\$ —	\$ 295,256	\$ —
Unvested 401k Contributions . . . . .	\$ 9,714	\$ 9,714	\$ —	\$ 9,714	\$ —
Unexercisable Options . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$938,325	\$447,845	\$ —	\$ 938,325	\$ —
Retirement Benefits					
Retiree Medical (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Other Benefits					
Health & Welfare (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 9,408	\$ 9,408
Total . . . . .	\$ —	\$ —	\$ —	\$ 9,408	\$ 9,408
<b>Total . . . . .</b>	<b>\$938,325</b>	<b>\$447,845</b>	<b>\$ —</b>	<b>\$1,971,733</b>	<b>\$329,408</b>

Patrick J. Ottensmeyer

<u>Benefit</u>	<u>Death</u>	<u>Disability</u>	<u>Retirement</u>	<u>Change in Control</u>	<u>Without Cause or Good Reason</u>
Cash Severance . . . . .	\$ —	\$ —	\$ —	\$1,992,900	\$379,600
Equity (Intrinsic Value)					
Unvested Restricted Stock . . . . .	\$ 950,119	\$ 651,681	\$ —	\$ 950,119	\$ —
Unvested Performance Shares . . . . .	\$ 633,070	\$ 394,964	\$ —	\$ 633,070	\$ —
Unvested 401k Contributions . . . . .	\$ 6,422	\$ 6,422	\$ —	\$ 6,422	\$ —
Unexercisable Options . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$1,589,611	\$1,053,067	\$ —	\$1,589,611	\$ —
Retirement Benefits					
Retiree Medical (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 90,070	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ 90,070	\$ —
Other Benefits					
Health & Welfare (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 91,821	\$ 10,788
Tax Gross-Ups . . . . .	\$ —	\$ —	\$ —	\$1,239,577	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$1,331,398	\$ 10,788
<b>Total . . . . .</b>	<b>\$1,589,611</b>	<b>\$1,053,067</b>	<b>\$ —</b>	<b>\$5,003,979</b>	<b>\$390,388</b>

José Guillermo Zozaya Delano(a)

<u>Benefit</u>	<u>Death</u>	<u>Disability</u>	<u>Retirement</u>	<u>Change in Control</u>	<u>Without Cause or Good Reason</u>
Cash Severance . . . . .	\$ —	\$ 18,298	\$18,298	\$ 369,945	\$369,945
Equity (Intrinsic Value)					
Unvested Restricted Stock . . . . .	\$ 806,444	\$508,006	\$ —	\$ 806,444	\$ —
Unvested Performance Shares . . . . .	\$ 633,070	\$394,964	\$ —	\$ 633,070	\$ —
Total . . . . .	\$1,439,514	\$902,970	\$ —	\$1,439,514	\$ —
<b>Total . . . . .</b>	<b>\$1,439,514</b>	<b>\$921,268</b>	<b>\$18,298</b>	<b>\$1,809,459</b>	<b>\$369,945</b>

(a) Cash severance payments to Mr. Zozaya are paid in Mexican pesos. All cash severance amounts were converted from Mexican pesos at a conversion rate of 13.5383 Mexican pesos per U.S. dollar, the conversion rate reported by Banco de México on December 31, 2008.

Scott E. Arvidson

<u>Benefit</u>	<u>Death</u>	<u>Disability</u>	<u>Retirement</u>	<u>Change in Control</u>	<u>Without Cause or Good Reason</u>
Cash Severance . . . . .	\$ —	\$ —	\$ —	\$1,076,435	\$336,386
Equity (Intrinsic Value)					
Unvested Restricted Stock . . . . .	\$ 959,949	\$750,399	\$ —	\$ 959,949	\$ —
Unvested Performance Shares . . . . .	\$ 406,184	\$199,815	\$ —	\$ 406,184	\$ —
Unvested 401k Contributions . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Unexercisable Options . . . . .	\$ —	\$ —	\$ —	\$ —	\$ —
Total . . . . .	\$1,366,133	\$950,214	\$ —	\$1,366,133	\$ —
Retirement Benefits					
Retiree Medical (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 43,367	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ 43,367	\$ —
Other Benefits					
Health & Welfare (Present Value) . . . . .	\$ —	\$ —	\$ —	\$ 119,760	\$ 18,745
Tax Gross-Ups . . . . .	\$ —	\$ —	\$ —	\$ 828,594	\$ —
Total . . . . .	\$ —	\$ —	\$ —	\$ 948,354	\$ 18,745
<b>Total . . . . .</b>	<b>\$1,366,133</b>	<b>\$950,214</b>	<b>\$ —</b>	<b>\$3,434,289</b>	<b>\$355,131</b>

### **PROPOSAL 3 — APPROVAL OF THE KANSAS CITY SOUTHERN 2009 EMPLOYEE STOCK PURCHASE PLAN**

On February 26, 2009, the Compensation and Organization Committee of the Board of Directors (the “Compensation Committee”) recommended that the Board of Directors approve and adopt the Kansas City Southern 2009 Employee Stock Purchase Plan (the “ESPP”), subject to stockholder approval. On March 10, 2009, the Executive Committee of the Board of Directors (the “Executive Committee”), acting on behalf of the Board of Directors, approved and adopted the ESPP, subject to stockholder approval. If the stockholders approve the ESPP, it will become effective on the day of the Annual Meeting.

The ESPP is intended to qualify as an “Employee Stock Purchase Plan” under Section 423 of the Internal Revenue Code (the “Code”) and would provide eligible employees with an opportunity to purchase shares of KCS common stock (“Shares”) through payroll deductions. The principal provisions of the ESPP are summarized below. This summary is not a complete description of all of the ESPP’s provisions, and is qualified in its entirety by reference to the ESPP which is attached to this Proxy Statement as Appendix A. Capitalized terms below in this summary not defined in this Proxy Statement have the meanings set forth in the ESPP.

*Purpose.* The ESPP is intended to provide employees of KCS and its Participating Subsidiaries with an opportunity to acquire Shares through annual Offerings.

*Shares.* Shares offered under the ESPP will be KCS Common Stock having a par value of \$0.01. The maximum number of Shares which may be sold under the ESPP is 4,000,000 Shares. The Board may specify the number of Shares to be offered in an Offering. Any Shares that are not purchased during an Offering Period may again be sold under the ESPP.

*Administration.* The ESPP will be administered by a Committee appointed by the Board. The Committee may delegate to one or more officers or managers of KCS or any Participating Subsidiary authority to administer the ESPP subject to any terms and limitations imposed by the Committee.

*Eligibility.* Any employee of the Company or any Participating Subsidiary whose customary employment with the Company is more than twenty hours per week or more than five months in any calendar year, and who is an employee 30 days (or another specified time period not to exceed 60 days) prior to the Offering Date, will be eligible to participate in the ESPP, subject to signing an enrollment agreement and other enrollment procedures. However, no employee will be permitted to elect to purchase Shares if after such purchase the employee would own 5% or more of the total combined voting power or value of all classes of Stock of KCS or any subsidiary. An employee who is on an authorized sick leave, military leave or other leave of absence will remain an employee for purposes of the ESPP; provided, however, if the period of leave exceeds 90 days and the employee’s right to reemployment is not guaranteed either by statute or contract, then the employee will be deemed to have terminated employment on the 91st day of such leave. As of March 13, 2009, KCS had approximately 3,027 employees who would be eligible to participate in the ESPP.

*Method of Payment.* Payment for Shares purchased under the ESPP will be made by payroll deduction in 1% increments of compensation, subject to a minimum deduction of 1% of compensation per pay period and a maximum deduction of 5% of compensation per pay period unless provided otherwise in the Offering; provided, however, no employee may purchase Shares at a rate which exceeds \$25,000 of Fair Market Value in a calendar year determined as of the Offering Date, and the maximum number of Shares that a participant may purchase in an Offering shall be \$25,000 divided by the Fair Market Value of a Share on the Offering Date. Payroll deductions will occur over the Offering Period which will be a period of six months or such other period as specified by the Board in the Offering. The payroll deduction amounts will be held in a bookkeeping account for the participant until the purchase of the Shares. Interest will not be paid on the amount credited to the account.

*Purchase of Shares.* Shares will be purchased on the Purchase Date which generally will be the last day of the Offering Period unless otherwise provided by the Board or the Committee. The amount of Shares purchased by an account will be the number of whole shares that can be purchased with the amount credited to the account. Fractional shares will not be purchased. Any amount remaining in the account after the purchase will be carried over to the next Offering if not withdrawn by the participant. If the number of Shares to be purchased exceeds the number

available for purchase in the Offering, the Committee will allocate the available Shares among the participants in an equitable manner.

Purchase Price. The Purchase Price per Share will be designated by the Board in the Offering and will not be less than the lesser of: (a) 85% of the Fair Market Value of a Share on the Offering Date, or (b) 85% of the Fair Market Value of a Share on the Purchase Date.

Withdrawal By Participant. At any time up to 15 days prior to the Purchase Date a participant may withdraw all or part of the amount credited to the participant's account. If the participant withdraws the entire amount credited to the participant's account, then the participant will cease to participate in the Offering and may not resume participation until the next Offering. Once an employee participates in an Offering, then participation in the next offering will be automatic subject to the participant's right to withdraw (in which event the employee may reenroll in a subsequent Offering).

Termination of Employment; Death. If a participant ceases to be an employee of the Company or any Participating Subsidiary, whether due to termination of employment or death, the participant shall be deemed to have elected to withdraw the participant's entire account. The amount in the participant's account will be paid to the participant, or to the participant's beneficiary or estate if the participant is deceased.

Adjustments to Shares; Acceleration of Purchase. In the event of a change in Shares subject to the ESPP or subject to any Offering by reason of any dividend or other distribution (whether in the form of cash, Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, or other similar corporate transaction or event that affects the Shares such that the Committee determines an adjustment to be appropriate, then the Committee may adjust the maximum number of Shares subject to the ESPP and the outstanding options under the ESPP. In the event of a sale of substantially all assets of the Company, or a sale of 80% of the outstanding securities of the Company, or a merger or similar transaction in which the Company is not the surviving entity or following which Shares outstanding are converted to other property, then if the surviving or acquiring corporation does not continue or assume the outstanding options under the ESPP or substitute similar rights, the Committee may cause the purchase of Shares with the amounts then credited to the participants' accounts to be accelerated.

Federal Income Tax Consequences to Participants. Payroll deductions to the ESPP are made on an after-tax basis, which means that the applicable federal and state tax withholding is applied to a participant's compensation before ESPP contributions are deducted.

If there is a disposition of the participant's Shares within one year of the Purchase Date or two years after the Offering Date, the participant will recognize ordinary income equal to the excess of the Fair Market Value of the Shares on the Purchase Date over the purchase price. Any further gain or loss recognized upon such disposition of Shares will be short-term or long-term gain or loss, depending upon the length of time the participant holds the Shares following the Purchase Date. If there is a disposition of the participant's Shares more than one year after the Purchase Date or more than two years after the Offering Date, or if the participant dies while owning the Shares and the participant's beneficiary or estate disposes of the Shares, then the participant (or the beneficiary or estate of a deceased participant) will recognize ordinary income equal to the lesser of (a) the excess of the amount realized upon the disposition of the Shares over the purchase price of the Shares, or (b) the excess of the Fair Market Value of the Shares on the Offering Date over the purchase price on the Purchase Date. The amount of ordinary income recognized upon such a disposition (but not upon death) is added to the Participant's basis in the Shares. Any further gain or loss which is realized upon such disposition of Shares is treated as long-term capital gain or loss.

Federal Income Tax Consequences to KCS. In the event of a disposition of Shares by a participant after the expiration of the required holding periods, KCS will not recognize taxable income, nor will it be entitled to any deduction from income by reason of the participant's purchase or disposition of the Shares. In the event a participant recognizes compensation income as a result of a disposition prior to the expiration of the required holding periods, KCS will be entitled to a corresponding deduction from its taxable income, subject to the deduction limitation imposed by Section 162(m) of the Code.

The foregoing summary of the effect of federal income taxation upon the participant with respect to Shares purchased under the ESPP does not purport to be complete. Reference should be made to the applicable provisions of the Internal Revenue Code. In addition, the summary does not discuss the tax implications of a participant's death or the provisions of income tax laws of any municipality, state or foreign country in which the participant may reside.

**YOUR BOARD RECOMMENDS THAT YOU VOTE  
"FOR"  
THE APPROVAL OF THE KANSAS CITY SOUTHERN  
2009 EMPLOYEE STOCK PURCHASE PLAN**



## STOCKHOLDER PROPOSALS

In November 2008, the Board of Directors of KCS approved an amendment and restatement of our Bylaws to, among other things, clarify and supplement the advance notice requirements that stockholders must follow in order to either make a director nomination or bring any other business at any annual or special meeting of the stockholders, and to explicitly provide that the procedure provided in the Bylaws is the exclusive means for a stockholder to make such nominations or proposals (other than proposals governed by Rule 14a-8 of the federal proxy rules). As amended, the Bylaws provide that to be properly brought before a meeting, a proposal must be either (i) specified in the notice of the meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder owning at least 1% of the Company's outstanding stock entitled to the vote at the meeting. In addition, the amended and restated Bylaws (A) expand the required disclosure regarding stockholders making proposals or nominations to include, among other things, disclosure of all ownership interests, class and number of shares owned, hedges, derivative and or short positions, profit interests, options, any voting or dividend rights with respect to any shares of securities of the Company, any material interests of the stockholder (and beneficial owner, if any) in the nomination or proposal, and any other information that would be required in a solicitation of proxies for the nomination or proposal, and (B) require a stockholder nominating a person for election as a director to include in the advance notice certain biographical information about each such nominee, a fully completed Director's Questionnaire on the form supplied by the Company, a written representation of such nominee as to any voting commitments or related transactions, and an agreement by such nominee to comply with the Company's corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines.

If a holder of our Common Stock wishes to present a proposal for inclusion in our proxy statement for next year's annual meeting of stockholders (other than director nominations), such proposal must be received by us on or before November 30, 2009. The proposal must be made in accordance with the applicable laws and rules of the SEC and the interpretations thereof, as well as our Bylaws. Any such proposal should be sent to our Corporate Secretary at P.O. Box 219335, Kansas City, Missouri 64121-9335 (or if by express delivery to 427 West 12th Street, Kansas City, Missouri 64105).

### **Director Nominations**

Any stockholder who meets the requirements set forth in our Bylaws may submit a director nomination for consideration by the Nominating Committee by complying with the requirements of this section, including: (i) the nomination must be made for an election to be held at a meeting of stockholders at which directors are otherwise to be elected; (ii) the stockholder must be a record owner on the record date for that meeting, and at the meeting, of securities representing at least 1% of the securities entitled to be voted at the meeting for election of directors; (iii) the stockholder must deliver a timely written nomination notice to the office of our Corporate Secretary, providing the information required by this section; and (iv) the nominee must meet the minimum qualifications for directors established by the Board. The qualifications for membership on the Board of Directors is described in the "Director Qualifications, Qualities and Skills" subsection on page 12 above.

With respect to stockholder nominations of candidates for our Board of Directors, our Bylaws provide that not less than 90 days nor more than 150 days prior to the first anniversary date of the preceding year's annual meeting any stockholder who intends to make a nomination at the current year's annual meeting shall deliver a notice in writing (the "Stockholder's Notice") to our Corporate Secretary setting forth, as to each person whom the stockholder proposes to nominate (i) all information relating to such person required to be disclosed in solicitations of proxies for election of directors, or as otherwise required, pursuant to applicable rules of the SEC or the NYSE; (ii) the nominee's written consent to be named in the Proxy Statement, to serve as a director and to comply with our rules, guidelines and policies applicable to directors; (iii) the name and address of the stockholder and the telephone number(s) at which we are able to reach the stockholder and the nominee during normal business hours; (iv) the class and number of shares of KCS which are owned beneficially and of record by the stockholder; (v) a fully completed Director's Questionnaire on the form supplied by us, executed by the nominee; and (vi) such other information as the Nominating Committee reasonably deems relevant, to be provided within such time limits as reasonably imposed by the Nominating Committee; provided, however, that if the annual meeting is to be held more

than 30 days before, or more than 60 days after, such anniversary date, notice by the stockholder to be timely must be delivered not earlier than the 150th day prior to the annual meeting and not later than the 15th day following the day on which public announcement of the date of the annual meeting was first made by us. Public announcement is disclosure (i) in any press release distributed by us, (ii) published by us on our website or (iii) included in a document publicly filed by us with the SEC. To be timely for a special stockholders' meeting at which directors will be elected, a Stockholder's Notice must be received by our Corporate Secretary's office not later than the close of business on the 15th day following the day on which we first publicly announce the date of the special meeting. Proposals to nominate directors to be timely for the 2010 annual meeting, if it occurs on May 6, 2010, must be received at our principal executive offices no earlier than December 8, 2009 and no later than February 8, 2010. Further information regarding the qualifications for service on our Board of Directors is provided above under "Director Qualifications, Qualities and Skills."

No nominee from a stockholder will be considered who was previously submitted for election to the Board of Directors and who failed to receive at least 25% of the votes cast at such election, until a period of three years has passed from the date of such election.

### **Matters Other than Director Nominations**

In addition to any other applicable requirements, for a proposal other than director nominations (other than a proposal requested to be included in the Proxy Statement, as noted above) to be properly brought before the meeting by a stockholder, the stockholder must have given timely notice thereof in writing to our Corporate Secretary. To be timely, such Stockholder's Notice must be delivered to or mailed and received at our principal executive offices, not less than 45 days nor more than 90 days prior to the meeting; provided, however, that if the meeting is designated by the Board of Directors to be held at a date other than the first Thursday in May and less than 60 days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, to be timely, the Stockholder's Notice must be so received not later than the close of business on the 15th day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made, whichever first occurs. A Stockholder's Notice to our Corporate Secretary shall set forth as to each matter the stockholder proposes to bring before the meeting (i) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, (ii) the name and address of the stockholder proposing such business, (iii) the class and number of shares of capital stock of KCS which are beneficially owned by the stockholder and the name and address of record under which such stock is held, and (iv) any material interest of the stockholder in such business. Proposals for matters other than director nominations (other than proposals submitted for inclusion in the proxy statement) to be timely for the 2010 annual meeting, if it occurs on May 6, 2010, must be received at our principal executive offices no earlier than February 5, 2010 and no later than March 22, 2010.

### **SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE**

Section 16(a) of the Exchange Act requires our directors, executive officers and certain other officers and persons who own more than 10 percent of our Common Stock or Preferred Stock (collectively "Reporting Persons"), to file reports of their ownership of such stock and changes in such ownership with the SEC, the NYSE and KCS (the "Section 16 Reports"). Based solely on a review of the Section 16 Reports for 2008 and any amendments thereto furnished to us and written representations from certain of the Reporting Persons, other than as described below, we believe no Reporting Person was late in filing such Section 16 Reports for fiscal year 2008. Paul Weyandt, our Senior Vice President — Finance and Treasurer, filed a Form 4/A on May 23, 2008 to report a transaction that was inadvertently omitted from the Form 4 he filed on May 1, 2008. Ambassador Jones, one of our Non-Management Directors, filed a Form 4 on April 30, 2008 to report a transaction that occurred on April 24, 2008.

### **HOUSEHOLDING OF ANNUAL MEETING MATERIALS**

Pursuant to the rules of the SEC, services that deliver our communications to stockholders that hold their stock through a bank, broker or other nominee holder of record may deliver to multiple stockholders sharing the same address a single copy of our Annual Report and Proxy Statement. We will promptly deliver upon written or oral

request a separate copy of the Annual Report and/or Proxy Statement to any stockholder at a shared address to whom a single copy of the documents was delivered. Written requests should be made to Kansas City Southern, P.O. Box 219335, Kansas City, Missouri 64121-9335 (or if sent by express delivery to 427 West 12th Street, Kansas City, Missouri 64105), Attention: Corporate Secretary's Office, and oral requests may be made by calling our Corporate Secretary's Office at (816) 983-1237. Any stockholder who wants to receive separate copies of the Proxy Statement or Annual Report in the future, or any stockholder who is receiving multiple copies and would like to receive only one copy per household, should contact the stockholder's bank, broker or other nominee holder of record.

#### OTHER MATTERS

The Board of Directors knows of no other matters that are expected to be presented for consideration at the Annual Meeting. Our Bylaws require that stockholders intending to bring business before an Annual Meeting, including the nomination of candidates for election to the Board of Directors, give timely and sufficient notice to our Secretary in the manner described above. As of the date of this Proxy Statement, no notice of a proposal that we are required to include in this Proxy Statement has been received. However, if other matters properly come before the meeting, it is intended that persons named in the accompanying proxy will vote on them in accordance with their best judgment.

By Order of the Board of Directors



Michael R. Haverty  
Chairman of the Board  
and Chief Executive Officer

Kansas City, Missouri  
March 30, 2009

Our Annual Report includes our annual report on Form 10-K for the year ended December 31, 2008 (without exhibits) as filed with the SEC. We will furnish without charge upon written request a copy of our annual report on Form 10-K. The annual report on Form 10-K includes a list of all exhibits thereto. **We will furnish copies of such exhibits upon written request therefor and payment of our reasonable expenses in furnishing such exhibits. Each such request must include a good faith representation that, as of the Record Date, the person making such request was a beneficial owner of Voting Stock entitled to vote at the Annual Meeting. Such written request should be directed to our Corporate Secretary, P.O. Box 219335, Kansas City, Missouri 64121-9335 (or if by express delivery to 427 West 12th Street, Kansas City, Missouri 64105), (816) 983-1237.** Our annual report on Form 10-K for the year ended December 31, 2008 is also available free of charge on our website at [www.kcsouthern.com](http://www.kcsouthern.com). Through our website, we make available, free of charge, annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments to those reports, as soon as reasonably practicable after electronic filing or furnishing of these reports with the SEC. The annual report on Form 10-K for the year ended December 31, 2008 with exhibits, as well as other filings by us with the SEC, are also available through the SEC's Internet site at [www.sec.gov](http://www.sec.gov). In addition, our corporate governance guidelines, ethics and legal compliance policy, and the charters of our Audit Committee, Finance Committee, Nominating Committee and Compensation Committee are available on our website. These guidelines and charters are available in print to any stockholder who requests them. Written requests may be made to our Corporate Secretary, Box 219335, Kansas City, Missouri 64121-9335 (or if by express delivery to 427 West 12th Street, Kansas City, Missouri 64105).

**KANSAS CITY SOUTHERN 2009 EMPLOYEE STOCK PURCHASE PLAN****Article 1. Purpose**

The purpose of the Kansas City Southern 2009 Employee Stock Purchase Plan (the “Plan”) is to provide employees of Kansas City Southern (the “Company”) and its subsidiaries with an opportunity to become part owners of the Company by purchasing Shares (as defined below) through accumulated payroll deductions. It is the intention of the Company to have the Plan qualify as an “Employee Stock Purchase Plan” under Section 423 of the Code (as defined below). The provisions of the Plan shall be construed accordingly.

**Article 2. Definitions**

Whenever used in the Plan, the following terms shall have the meanings set forth below:

2.1 “Account” means a bookkeeping account maintained for a Participant under the Plan.

2.2 “Board” means the Board of Directors of the Company.

2.3 “Code” means the Internal Revenue Code of 1986, as amended from time to time. References to a particular section of the Code include references to regulations thereunder and to successor provisions.

2.4 “Committee” means a committee of the Board designated by the Board to administer the Plan.

2.5 “Compensation” means the base compensation (which includes gross straight time, sick pay, vacation pay or holiday pay) paid to a Participant by the Company or Participating Subsidiary, prior to withholding and prior to employee elective contributions to a plan described in Sections 125 or 401(k) of the Code, during the applicable pay period. Compensation shall not include overtime, arbitraries, commissions, bonus payments, or any other remuneration paid to the Participant, such as, by way of example, relocation expenses, tax gross ups, referral bonuses, tuition reimbursement, the imputed value of group life insurance, car allowances, or any income realized as a result of participation in any stock option, stock purchase or similar plan of the Company or any Participating Subsidiary.

2.6 “Corporate Transaction” means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) a sale or other disposition of all or substantially all of the consolidated assets of the Company;

(ii) a sale or other disposition of at least eighty percent (80%) of the outstanding securities of the Company;

(iii) a merger, consolidation or similar transaction following which the Company is not the surviving corporation; or

(iv) a merger, consolidation or similar transaction following which the Company is the surviving corporation but the Shares outstanding immediately preceding the merger, consolidation or similar transaction are converted or exchanged by virtue of the merger, consolidation or similar transaction into other property, whether in the form of securities, cash or otherwise.

2.7 “Employee” means any individual who is an employee of the Company or of any Participating Subsidiary and whose customary employment with the Company is more than twenty (20) hours per week or more than five (5) months in any calendar year (within the meaning of Sections 423(b)(4)(B) and (C) of the Code, respectively). For purposes of the Plan, the employment relationship shall be treated as continuing intact while the individual is on sick leave or other leave of absence approved by the Company; provided, however, where the period of leave exceeds ninety (90) days and the Employee’s right to reemployment is not guaranteed either by statute or by contract, the employment relationship shall be deemed to have terminated on the ninety-first (91st) day of such leave. Employee shall not include any individual who is not an employee of the Company or of any Participating Subsidiary thirty (30) days prior to the Offering Date, or as of such other date prior to the Offering Date, not to exceed 60 days, as determined by the Board. Employee shall not include any employee in a jurisdiction outside of

the United States if, as of the Offering Date, the Offering would not be in compliance with the applicable laws of any jurisdiction in which the employee resides or is employed.

2.8 “Exchange Act” means the Securities Exchange Act of 1934, as amended.

2.9 “Fair Market Value” with respect to the Shares, as of any date, means (i) the closing sales price of the Shares on the New York Stock Exchange or any other such exchange on which the Shares are traded, or in the absence of reported sales on such date, the closing sales price on the immediately preceding date on which sales were reported; (ii) in the event there is no public market for the Shares, the fair market value as determined, in good faith, by the Committee in its sole discretion.

2.10 “Offering” means the grant of options to purchase Shares under the Plan to Employees as authorized by the Board. The Board may authorize consecutive Offerings at one time.

2.11 “Offering Date” means the date selected by the Board for an Offering to commence and as of which the options to purchase Shares pursuant to the Offering are granted to Participants.

2.12 “Offering Period” means a period of six (6) months, or such other period (not to exceed twelve (12) months) as determined by the Board with respect to an Offering, during which funds may be accumulated in a Participant’s Account by means of payroll deductions for the purpose of exercising an option under the Offering.

2.13 “Participant” means an Employee who elects to participate, or who automatically participates, with respect to an Offering, pursuant to the provisions of Section 6.2 and who has authorized payroll deductions pursuant to Section 6.3.

2.14 “Participating Subsidiary” means a Subsidiary who is designated by the Committee as a Subsidiary whose employees may be considered as Employees under the Plan.

2.15 “Person” means any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization, government or political subdivision thereof or other entity.

2.16 “Purchase Date” means the date as of which options are exercised and purchases of Shares are carried out for Participants in accordance with the Offering (which shall be the last day of the Offering Period, unless otherwise determined by the Board or the Committee with respect to an Offering).

2.17 “Shares” means shares of common stock, \$0.01 par value, of the Company.

2.18 “Subsidiary” means a subsidiary of the Company as defined under Section 424(f) of the Code.

### **Article 3. Administration.**

3.1 Authority of Committee. The Plan shall be administered by the Committee. Subject to the express provisions of the Plan and applicable law, and in addition to other express powers and authorizations conferred on the Committee by the Plan, the Committee shall have full power and authority to construe and interpret the Plan and may from time to time adopt such rules and regulations for carrying out the Plan as it may deem necessary or desirable for the administration of the Plan.

3.2 Committee Discretion Binding. Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan, shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive, and binding upon all Persons, including the Company, any Subsidiary, any Participant, any Employee, and any designated beneficiary.

3.3 Delegation. Subject to the terms of the Plan and applicable law, the Committee may delegate to one or more officers or managers of the Company or any Participating Subsidiary, or to a committee of such officers or managers, the authority, subject to such terms and limitations as the Committee shall determine, to administer the Plan.

3.4 No Liability. No member of the Board or Committee shall be liable for any action taken or determination made in good faith with respect to the Plan.

#### **Article 4. Shares Available for Awards.**

4.1 Shares Available. Subject to adjustment as provided in Section , the number of Shares which may be sold under the Plan shall not exceed 4,000,000 Shares. The Board may specify the number of Shares to be offered in an Offering. In the event that any Shares offered in an Offering are not purchased, such unpurchased Shares may again be sold under the Plan.

4.2 Adjustments. In the event that the Committee determines that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other similar corporate transaction or event affects the Shares such that an adjustment is determined by the Committee to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee may, in such manner as it may deem appropriate, make such equitable adjustments in the Plan, and the then outstanding Offering, as it deems necessary and appropriate, including, but not limited to, changing the number of Shares reserved under the Plan and the price of the current Offering.

4.3 Source of Shares; No Fractional Shares. Shares which are to be delivered under the Plan may be obtained by the Company from its treasury, by purchases on the open market or from private sources, or by issuing authorized but unissued Shares. Any issuance of authorized but unissued Shares shall be approved by the Board or the Committee. Authorized but unissued Shares may not be delivered under the Plan if the purchase price thereof is less than the par value of the Shares. No fractional Shares may be purchased or issued under the Plan.

4.4 Oversubscription. If the number of Shares that Participants become entitled to purchase in an Offering is greater than the number of Shares offered in the Offering or remaining available, the available Shares shall be allocated by the Committee among such Participants in such manner as it deems fair and equitable.

**Article 5. Eligibility.** All Employees (including Employees who are directors) of the Company or of any Participating Subsidiary, will be eligible to participate in the Plan, in accordance with such rules as may be prescribed from time to time; provided, however, that such rules shall neither permit nor deny participation in the Plan contrary to the requirements of the Code (including, but not limited to, Sections 423(b)(3), (4) and (5) of the Code). During an Offering Period, no Employee may participate under the Plan if such Employee would own five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any Subsidiary. For purposes of the preceding sentence, the rules of Section 424(d) of the Code shall apply in determining the stock ownership of an Employee, and Shares which the Employee would be permitted to purchase under the current Offering Period shall be treated as Shares owned by the Employee.

#### **Article 6. Participation and Offerings.**

6.1 Board Authorization. The Board may authorize one or more Offerings to Employees to purchase Shares under the Plan. The Board or the Committee may at any time suspend an Offering if required by law or if the Board or Committee determines in good faith that it is in the best interests of the Company. Each Offering shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate and which shall comply with the requirements of Section 423(b)(5) of the Code that all Employees granted options to purchase Shares under the Plan shall have the same rights and privileges. The terms and conditions of an Offering shall be incorporated by reference into the Plan.

6.2 Enrollment. An Employee who is not automatically a Participant with respect to an Offering as hereinafter provided in this Section may become a Participant with respect to an Offering by delivering a form of enrollment (“Enrollment Form”) to the Company in accordance with applicable Plan procedures no later than fifteen (15) business days prior to the Offering Date of an Offering, or by such other earlier or later deadline as specified by the Board or the Committee. If an Employee is a Participant during the entire Offering Period of an Offering, then the Employee will automatically be a Participant in the immediately succeeding Offering (subject to any subsequent withdrawal under Section 6.7 or Article 8) unless the Employee notifies the Company no later than fifteen (15) business days (or such earlier or later deadline as specified by the Board or the Committee) prior to the Offering Date of such immediately succeeding Offering that the Employee elects not to be a Participant with respect to such Offering.

6.3 Minimum and Maximum Payroll Deduction. A Participant's Enrollment Form will authorize specified regular payroll deductions on each payroll date during the Offering Period. Subject to Section 6.4, payroll deductions for such purpose shall be in one percent (1%) increments of Compensation subject to a minimum deduction of one percent (1%) of Compensation per pay period and a maximum deduction of five percent (5%) of Compensation per pay period or such other maximum percentage as specified by the Board in the Offering. The payroll deduction percentage of a Participant with respect to an Offering if the Participant automatically becomes a Participant in the Offering as provided in Section 6.2 will be the percentage in effect for the last pay period of the immediately preceding Offering, subject to Section 6.6.

6.4 \$25,000 Maximum. Notwithstanding anything else contained herein, no Employee may purchase Shares under this Plan and any other qualified employee stock purchase plan (within the meaning of Section 423 of the Code) of the Company or its Subsidiaries at a rate which exceeds Twenty-five Thousand Dollars (\$25,000) of Fair Market Value of Shares for each calendar year in which a purchase is executed. For purposes of this Section, Fair Market Value shall be determined as of the Offering Date of the applicable Offering.

6.5 Participant Accounts. The Company and Participating Subsidiaries will establish Participant Accounts to which will be credited the payroll deductions authorized pursuant to Section 6.3. No interest shall be earned by or credited to any Account. All payroll deduction amounts credited to a Participant's account under the Plan will be deposited with the general funds of the Company and may be used by the Company for any corporate purpose, and the Company shall not be obligated to segregate such payroll deduction amounts.

6.6 Payroll Deduction Changes. A Participant may, by written notice at any time during the Offering Period, direct the Company or the Participating Subsidiary to reduce or increase payroll deductions, subject to a maximum of one change per Offering Period or such other number of changes as determined by the Board or the Committee with respect to an Offering in compliance with Section 423(b)(5) of the Code. Subject to other procedures established by the Board or the Committee, any such change (including a change to be effective for the immediately succeeding offering period) shall be made on a new Enrollment Form with the Company not less than fifteen (15) business days prior to the effective date of such change.

6.7 Participant Withdrawals; Suspensions. A Participant may, no later than fifteen (15) business days prior to a Purchase Date with respect to an Offering, elect to withdraw all of the amount credited to his or her Account, or a portion of the amount credited to his or her Account to the extent authorized by the Board or the Committee with respect to an Offering in compliance with Section 423(b)(5) of the Code. Any withdrawal of the entire amount credited to a Participant's Account with respect to an Offering will terminate such Participant's participation in the Offering. If a Participant is also a participant in a 401(k) plan maintained by the Company or any Subsidiary and receives a hardship distribution under such 401(k) plan, the Participant's payroll deductions under this Plan shall be suspended for a period of six (6) months from the date of the hardship distribution.

6.8 Purchase. As of the Purchase Date, the Account of each Participant shall be totaled. If a Participant's Account contains sufficient funds to purchase one or more Shares as of that date, the Participant shall be deemed to have purchased the largest number of Shares that can be purchased by the amount credited to the Participant's Account at the price determined under Article 7 below. Notwithstanding the preceding sentence, except to the extent otherwise provided by the Board in the Offering, the maximum number of Shares that a Participant may purchase in an Offering shall be \$25,000 divided by the Fair Market Value of a Share on the Offering Date. A Participant's Account will be charged, on the Purchase Date, for the amount of the purchase, and for all purposes under the Plan, the Participant shall be deemed to have purchased the Shares on that date. As promptly as possible after the Purchase Date, the Company shall transfer (including, but not limited to, a transfer by electronic transaction) the Shares so purchased to the Participant's Account to be held on behalf of the Participant (or the Participant and a joint owner as designated by the Participant in accordance with applicable law). The Company may in its discretion issue Shares in certificate form. Upon the death of a Participant, Shares in the Participant's Account that do not pass to a joint owner in accordance with applicable law will be distributed to the Participant's designated beneficiary or estate.

6.9 Account Restrictions. For a period of two (2) years after the Offering Date, a Participant cannot transfer Shares purchased in the Offering from the Participant's Account to a different brokerage or other account or request a stock certificate for such Shares. During such two-year holding period, any disposition of Shares by the Participant will be treated as a "disqualified disposition" pursuant to Section 423 of the Code to the extent provided therein.

After the two-year holding period, a Participant may transfer Shares to a different brokerage account or request a stock certificate for such Shares. A disposition of Shares by the Participant after the two-year holding period shall be treated as a “qualified disposition” pursuant to Section 423 of the Code to the extent provided therein.

6.10 Insufficient Payroll Deduction. If for any reason a Participant’s Compensation is insufficient to cover a payroll deduction on a particular payroll date, then no payroll deduction will be made on that date. The payroll deduction in effect for the Participant will resume on the next payroll date as of which the Participant’s Compensation is sufficient to cover such payroll deduction, but the payroll deduction or deductions missed under the preceding sentence will not be deducted on any future payroll date.

6.11 Account Balance after Purchase. Any amount remaining in a Participant’s Account after the Purchase Date of an Offering shall be held in the Participant’s Account for the purchase of Shares in the next Offering subject to the Participant’s withdrawal of such amount under Section 6.7.

**Article 7. Purchase Price.** The purchase price of a Share on a Purchase Date with respect to an Offering shall be designated by the Board in the Offering and shall not be less than the lesser of: (a) eighty-five percent (85%) of the Fair Market Value of a Share on the Offering Date, or (b) eighty-five percent (85%) of the Fair Market Value of a Share on the Purchase Date of the applicable Offering Period.

**Article 8. Termination of Employment.** If a Participant ceases to be an Employee for any reason, he or she shall be deemed to have elected to withdraw from the Plan and the payroll deductions credited to such Participant’s Account during the Offering Period, but not yet used, shall be returned to the Participant in cash or, in the case of his or her death, shall be paid in cash to the Participant’s designated beneficiary or estate.

**Article 9. Transferability.** Neither payroll deductions credited to a Participant’s Account nor any rights with regard to the purchase of Shares under the Plan may be assigned, transferred, pledged, or otherwise disposed of in any way (other than by will, laws of descent and distribution, or beneficiary designation) by a Participant, and during a Participant’s lifetime any option granted to the Participant under the Plan shall be exercisable only by the Participant. Any such attempt at assignment, transfer, pledge, or other disposition shall be without effect, and the Company will treat such act as an election to withdraw Participant’s entire Account in accordance with Section 6.7.

**Article 10. Corporate Transactions.** In the event of a Corporate Transaction, then: (i) any surviving or acquiring corporation may continue or assume options to purchase Shares outstanding under the Plan or may substitute similar rights (including a right to acquire the same consideration paid to stockholders in the Corporate Transaction) for those outstanding under the Plan, or (ii) if any surviving or acquiring corporation does not continue or assume such options to purchase Shares or does not substitute similar rights for options to purchase Shares outstanding under the Plan, then, in the discretion of the Committee, the Participants’ Accounts may be used to purchase Shares under the Offering within five (5) business days prior to the Corporate Transaction, and the Participants’ options under the Offering shall terminate immediately after such purchase.

**Article 11. General Provisions.**

11.1 Amendments. The Board may, from time to time, amend or discontinue the Plan; provided, however, that approval of the shareholders shall be sought to the extent required for the Plan to satisfy the requirements of Section 423 of the Code or other applicable laws or regulations.

11.2 No Right to Employment. The grant of an option to purchase Shares under the Plan shall not be construed as giving a Participant the right to be retained in the employment of the Company or any Subsidiary. Further, the Company or any Subsidiary may at any time dismiss a Participant from employment, free from any liability or claim under the Plan, unless otherwise expressly provided in the Plan.

11.3 No Rights as Shareholder. Subject to the provisions of the Plan, no Participant or holder or beneficiary of any purchase shall have any rights as a shareholder with respect to any Shares to be distributed under the Plan until such Shares have been purchased pursuant to Section 6.8.

11.4 Obligatory Status. Participation in the Plan shall impose no obligation upon a Participant to purchase any Shares under the Plan.



11.5 Application of Funds. The proceeds received by the Company from the sale of Shares pursuant to purchases under the Plan will be used for general corporate purposes.

11.6 Severability. If any provision of the Plan becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any person, or would disqualify the Plan or any purchase under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan, such provision shall be stricken as to such jurisdiction or person, and the remainder of the Plan shall remain in full force and effect.

11.7 Governing Law. The validity, construction, and effect of the Plan and any rules and regulations relating to the Plan shall be determined in accordance with the laws of the State of Delaware, without giving effect to the conflict of law principles thereof.

11.8 Other Laws. The Committee may refuse to issue or transfer any Shares if, acting in its sole discretion, it determines that the issuance or transfer of such Shares or such other consideration might violate any applicable law or regulation (including applicable non-U.S. laws or regulations) or entitle the Company to recover the same under Section 16(b) of the Exchange Act, and any payment tendered to the Company by a Participant, other holder or beneficiary in connection with the purchase of such Shares shall be promptly refunded to the relevant Participant, holder or beneficiary. Without limiting the generality of the foregoing, no Plan provision shall be construed as an offer to sell securities of the Company, and no such offer shall be outstanding, unless and until the Committee in its sole discretion has determined that any such offer, if made, would be in compliance with all applicable requirements of the U.S. federal or non-U.S. securities laws and any other laws to which such offer, if made, would be subject.

11.9 Shareholder Approval. This Plan shall not be effective until approved by the shareholders of the Company as provided in Section 423(b)(2) of the Code.

11.10 Headings. Headings are given to the Sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.