



Lincoln Electric System

LES RESOLUTION 2020-12

WHEREAS, Lincoln Electric System (“LES”) has provided a deferred compensation benefit to its employees since 1982, which benefit is provided in the Deferred Compensation Plan of Lincoln Electric System, City of Lincoln, Nebraska (the “457(b) Plan”), which has been amended from time to time and was last amended and restated in December 2019; and

WHEREAS, LES reserves the right to amend the 457(b) Plan by action of the LES Administrative Board pursuant to Section 9.1 of the 457(b) Plan; and

WHEREAS, subsequent to preparation of the most recent restatement, Congress adopted the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94), which revises the Internal Revenue Code of 1986, as amended (the “Code”) so as to permit eligible 457(b) plans sponsored by governmental employers to provide for in-service distributions upon attainment of age 59½; and

WHEREAS, LES desires to amend the 457(b) Plan to permit in-service distributions to participants who have attained age 59½ effective October 1, 2020; and

WHEREAS, subsequent to preparation of the most recent restatement, Congress adopted the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”); and

WHEREAS, the CARES Act provides for a waiver of distributions required by Code Section 401(a)(9) with respect to the 2020 calendar year, and provides for rollover treatment of certain distributions that would otherwise be taxable (the “2020 RMD Waiver”); and

WHEREAS, the Plan’s Custodian implemented the 2020 RMD Waiver in operation on or about April 1, 2020; and

WHEREAS, LES desires to amend the 457(b) Plan, effective January 1, 2020, to incorporate implement the 2020 RMD Waiver (as put into operational effect on or about April 1, 2020).

NOW, THEREFORE, BE IT RESOLVED, that the LES Administrative Board adopts the Second Amendment to the 457(b) Plan in substantially the form that presented to the Board at its meeting.

BE IT FURTHER RESOLVED, that the LES Administrative Board hereby authorizes and directs the CEO to execute the Second Amendment to the 457(b) Plan in substantially the form that presented to the Board at its meeting.

BE IT FURTHER RESOLVED, that the LES Administrative Board hereby authorizes and directs the appropriate officers and staff of LES to take such actions and execute such documents that they deem necessary or appropriate to carry out the intent and purposes of the above preambles and resolutions, and to cause the 457(b) Plan to be administered according to its terms and applicable law.

Chair

Adopted: _____

DRAFT

**AMENDMENT NO. 2 TO THE
DEFERRED COMPENSATION PLAN OF
LINCOLN ELECTRIC SYSTEM, CITY OF LINCOLN, NEBRASKA**
(In-Service Distributions, 2020 RMD Waiver)

WHEREAS, Lincoln Electric System, City of Lincoln, Nebraska (the “Employer”) most recently amended and restated the Deferred Compensation Plan of Lincoln Electric System, City of Lincoln, Nebraska (the “Plan”), generally effective as of January 1, 2020; and

WHEREAS, subsequent to preparation of the most recent restatement, Congress adopted the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94), which revises the Internal Revenue Code of 1986, as amended (the “Code”) so as to permit eligible 457(b) plans sponsored by governmental employers to provide for in-service distributions upon attainment of age 59½; and

WHEREAS, subsequent to preparation of the most recent restatement, Congress adopted the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was enacted and provides for a waiver of distributions required by Code Section 401(a)(9) with respect to the 2020 calendar year, and provides for rollover treatment of certain distributions that would otherwise be taxable; and

WHEREAS, the Employer has determined that the Plan should be amended to provide for such in-service distributions and to implement the waiver of required minimum distributions for 2020.

NOW THEREFORE, the Plan is amended in the following respects:

1. The introductory paragraph of Section 4.1 is amended to read as follows, effective October 1, 2020:

4.1 Eligibility for Payment. Distribution of benefits from the Plan shall be made no earlier than the attainment of age ~~70~~59½, Severance from Employment, or in the event of an approved financial hardship due to an Unforeseeable Emergency, as defined below.

2. Section 4.2A is added to the Plan and reads as follows, effective October 1, 2020:

4.2A In-Service Distributions. A Participant who has attained age 59½ may elect to receive an in-service distribution. Such in-service distribution may be from any portion of the vested balance of the Participant’s Account. The Participant must elect to make the in-service distribution in writing or electronically in such manner as prescribed by the Plan Administrator. The Custodian will distribute the in-service distribution amount in a single sum as soon as administratively practicable.

3. Section 6.7 is added to the Plan and reads as follows, effective January 1, 2020 and implemented in operation on or about April 1, 2020:

6.7 2020 RMD Waiver. Notwithstanding anything in this Article 6 to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 1, 2021) but for the enactment of Code Section 401(a)(9)(I) (“2020 RMDs”), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant’s designated Beneficiary, or for a period of at least 10 years (“Extended 2020 RMDs”), will receive those distributions as follows:

(a) A Participant or Beneficiary receiving distributions required by this Article 6 for years before 2020 will receive 2020 RMDs or Extended 2020 RMDs, as applicable, unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

(b) A Participant or Beneficiary whose first distribution under this Article 6 would have been paid in 2020 will not receive the distribution, unless he or she chooses to do so. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to begin receiving the distributions described in the preceding sentence.

In addition, notwithstanding Section 4.4, and solely for purposes of applying the direct rollover provisions of the Plan, the 2020 RMDs and Extended 2020 RMDs will be treated as eligible rollover distributions.

IN WITNESS WHEREOF this Amendment has been executed by the Employer on _____, 2020.

LINCOLN ELECTRIC SYSTEM, CITY OF
LINCOLN, NEBRASKA.

By: _____
Kevin Wailes, CEO