

(2) any contributing employer to any employee benefit plan the assets of which are held in the AT&T Investment Fund which has entered into the Arrangement or any duly authorized employee or representative of such employer;

(3) any participant or beneficiary of any employee benefit plan the assets of which are held in the AT&T Investment Fund or any duly authorized representative of such participant or beneficiary; and

(4) nothing in this paragraph (k) shall authorize any of the persons described in subsections (2) and (3) to examine any trade secrets of AT&T or information which is privileged or confidential.

### Part III—Definitions

(a) An "affiliate" of a person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative of, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "Agreement" means the investment management, trust or other agreement entered into between an Asset Manager and AT&T for the provision of real estate management or advisory services.

(c) The term "Arrangement" means a fee arrangement entered into between AT&T and an Asset Manager pursuant to an Agreement providing for the payment of Performance Fees to the Asset Manager by an AT&T Investment Fund in exchange for real estate management or advisory services.

(d) The term "Asset Manager" means any person or entity providing real estate management or advisory services to an AT&T Investment Fund.

(e) The term "Assets" means assets of an AT&T Investment Fund which are the subject of an Arrangement with an Asset Manager.

(f) The term "AT&T" means AT&T Corporation, AT&T Investment Management Corporation and/or any Subsidiary.

(g) The term "AT&T Investment Fund" means an AT&T Trust or an AT&T Plan Assets Entity.

(h) The term "AT&T Plan Assets Entity" means any group trust, partnership or other entity (including without limitation the Telephone Real Estate Equity Trust), the assets of which are deemed to be "plan assets" by reason of the application of 29 C.F.R. 2510.3-101, but only if (1) fifty percent

or more of the interests in such entity are held by one or more AT&T Trusts, and (2) AT&T is the named fiduciary or manager of the assets of such entity.

(i) The term "AT&T Trust" means the AT&T Master Pension Trust or any other trust (other than an AT&T Plan Assets Entity), one hundred percent of the assets of which are assets of employee benefit plans maintained by AT&T.

(j) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(k) The term "Independent Valuations" means valuations based on independent and objective third party sources acceptable to AT&T (including without limitation NASDAQ, newspapers, or other general publications, or brokers which are independent of the Asset Manager and its affiliates), or, if such sources are not available with respect to a particular asset or at the option of AT&T, valuations conducted by an appraiser independent of the Asset Manager and its affiliates which has been approved by AT&T; provided, however, that, solely for purposes of the reports described in Part II, Section (d)(3) above, no such appraisal will be required with respect to any Asset if AT&T determines, in its sole discretion, that such an appraisal is unnecessary.

(l) The term "Net Proceeds" means, with respect to an Arrangement, the aggregate amount of cash and other assets (valued at fair market value as determined on the basis of Independent Valuations) which cease to be Assets which are subject to such Arrangement, in accordance with the terms of the Agreement establishing such Arrangement.

(m) The term "Performance Fee" means a fee which equals a pre-specified percentage (or several pre-specified percentages) of all Net Proceeds in excess of the Threshold Amount (or several Threshold Amounts), subject to such limitations, if any, as AT&T may approve or impose.

(n) The term "Subsidiary" means a corporation, partnership, or other entity of which (or in which) fifty percent or more of:

(1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such other entity, is owned directly or indirectly by AT&T Corporation or AT&T Investment Management Corporation.

(o) The term "Target Amount" means a value assigned to each Asset either (1)

at the time the Asset becomes subject to the Arrangement, by mutual agreement between the Asset Manager and AT&T, or (2) pursuant to an objective formula approved by the Asset Manager and AT&T at the time the Arrangement is established. However, in no event will the value be less than the value of the Asset at the time the Asset becomes subject to the Arrangement.

(p) The term "Termination Date" means the date, established in the Agreement, on which the Arrangement will terminate by reason of the passage of time, as the same may be amended from time to time with the approval of AT&T.

(q) The term "Threshold Amount" means with respect to any Arrangement an amount which equals one hundred percent of the AT&T Investment Fund's capital invested in the Assets plus a pre-specified annual compounded cumulative rate or rates of return, each of which is at least a minimum rate of return determined as follows:

(1) A non-fixed rate which is a least equal to the rate of change in the consumer price index (CPI) during the period from the time the Assets become subject to the Arrangement until Net Proceeds equal or exceed the applicable Threshold Amount; or

(2) a fixed rate which is at least equal to the average rate of change in the CPI over some period of time specified in the Agreement, which shall not exceed ten years.

**EFFECTIVE DATE:** This exemption is effective as of September 19, 1994, the date on which the notice of proposed exemption was published in the **Federal Register**.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on September 19, 1994 at 59 FR 47952.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

**Toyota Motor Sales, U.S.A., Inc. Money Purchase Pension Plan for Bargaining Unit Employees (the Plan) Located in Torrance, California**

Exemption Application No. D-09875  
Prohibited Transaction Exemption 95-52;

### Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan (the Sale) of group annuity contract No. GA-4564 (the