

**BUILDING TRADES PENSION PLAN  
OF WESTERN PENNSYLVANIA**

**Amended and Restated as of July 1, 2014**

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**BUILDING TRADES PENSION FUND  
OF WESTERN PENNSYLVANIA**

(Amended and Restated as of July 1, 2014)

**PREAMBLE**

**WHEREAS**, the Plan was established effective September 1, 1955 to provide retirement benefits, and it was last amended and restated effective as of January 1, 2009; and

**WHEREAS**, the Board of Trustees has the right to amend the terms of the Plan; and

**WHEREAS**, the Board of Trustees wishes to amend the terms of the Plan to make those changes necessary to comply with the current tax qualification requirements of the Code and to incorporate the applicable terms of prior amendments.

**NOW, THEREFORE**, the Board of Trustees hereby amends the Plan in its entirety as follows, effective as of July 1, 2014, except as otherwise provided herein, to be applicable to Employees whose Covered Employment terminates on or after said effective date:

**ARTICLE I  
DEFINITIONS**

- 1.01 **Accrued Benefit** shall mean a Participant's basic Pension calculated under Section 4.01 as of any given date.
- 1.02 **Actuarial Equivalent** shall mean a benefit or amount of equivalent actuarial value computed as follows, except as otherwise specified herein:
- (a) on the basis of the UP-1984 Mortality Table and interest at the rate of 7% compounded annually; and
  - (b) for determining present value (for purposes of Code § 417(e)(3)), on the basis of the applicable mortality table specified under Code § 417(e)(3)(B) by the Commissioner of Internal Revenue for the Plan Year of determination and interest equal to the applicable interest rate specified under Code § 417(e)(3)(C) by the Commissioner of Internal Revenue for the month of November preceding the Plan Year of determination, or using the mortality and interest assumptions specified in subsection (a) of this Section if those assumptions would produce a higher present value.
- 1.03 **Annuity Starting Date** shall mean the date as of which a Participant's Pension is first payable.
- 1.04 **Board of Trustees** shall mean the Board of Trustees established by the Trust Agreement and consisting of the persons acting in the capacity of Trustees from time to time pursuant to the Trust Agreement.

- 1.05 **Building Trades Association** shall mean an employer association which has bound its employer members to make contributions to the Trust Fund under a Collective Bargaining Agreement.
- 1.06 **Code** shall mean the Internal Revenue Code of 1986, as the same may be amended from time to time.
- 1.07 **Collective Bargaining Agreement** shall mean a collective bargaining agreement with a Union requiring contributions to be made to the Trust Fund by an Employer for its employees.
- 1.08 **Covered Employment** shall mean Credited Employment and Non-Credited Employment.
- 1.09 **Credited Employment** shall mean employment with an Employer for which the Employer is obligated to make payments to the Trust Fund on the Employee's behalf.
- 1.10 **Employee** shall mean an employee of an Employer for whom the Employer is required to make contributions to the Trust Fund under a Collective Bargaining Agreement or a written participation agreement with the Board of Trustees (excluding in all cases any person who is self-employed).
- 1.11 **Employer** shall mean:
- (a) an Employer who is a member of a Building Trade Association, or an independent Employer, that as of the effective date of this amendment and restatement, has in force and effect a Collective Bargaining Agreement requiring its employer members, or the Employer, respectively, to make contributions to the Trust Fund;
  - (b) an Employer who is a member of a Building Trade Association, or an independent Employer, that after the effective date of this amendment and restatement, enters into a Collective Bargaining Agreement requiring its employer members, or the independent Employer, respectively, to make contributions to the Trust Fund; and
  - (c) an Employer who is required to make contributions to the Trust Fund pursuant to a written participation agreement with the Board of Trustees, which may include the Union for the purpose of making such contributions.
- 1.12 **Employer Contributions** shall mean the payments made or required to be made by an Employer to the Trust Fund in the amounts and manner specified in a Collective Bargaining Agreement or in a written participation agreement with the Board of Trustees.
- 1.13 **ERISA** shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time.
- 1.14 **Hour of Service** shall mean each hour of service credited under Section 3.01.

- 1.15 **Non-Credited Employment** shall mean employment with an Employer for which the Employer is not obligated to make payments to the Trust Fund on the Employee's behalf.
- 1.16 **Normal Retirement Age** shall mean the later of:
- (a) age 65; or
  - (b) the Participant's attained age at the earlier of (i) the date he is credited with three Years of Credited Employment or (ii) the fifth anniversary of the date he first became a Participant in the Plan.
- 1.17 **Normal Retirement Date** shall mean the first day of the calendar month coinciding with or next following the date on which a Participant attains Normal Retirement Age.
- 1.18 **One Year Break in Service** shall mean a one year break in service determined under Section 3.04.
- 1.19 **Participant** shall mean an Employee who becomes and remains a participant in accordance with Article II.
- 1.20 **Pension** shall mean the monthly benefit a Participant, and where applicable, his Spouse or beneficiary, is eligible to receive in accordance with the provisions of the Plan.
- 1.21 **Plan** shall mean the Building Trades Pension Fund of Western Pennsylvania set forth herein, as the same may be amended from time to time.
- 1.22 **Plan Year** shall mean each calendar year.
- 1.23 **Retirement, Retires or Retired** shall mean a permanent termination or withdrawal from employment or work in the same industry, in the same trade or craft and in the same geographic area covered by the Plan. A Participant shall not be Retired if he maintains employment or self-employment (i) in the construction industry, performing work commonly engaged in by any Employer maintaining the Plan, and (ii) in the trade or craft in which the Employee worked at any time under the Plan and (iii) such employment is performed within the "geographic area" covered by the Plan. For this purpose, "industry", "trade or craft" and "geographic area" shall be determined in accordance with Department of Labor Regulation § 2530.203-3(c).
- 1.24 **Spouse** shall mean the individual to whom a Participant is legally married under applicable law (as further addressed in Section 5.01).
- 1.25 **Trustees** shall mean the members of the Board of Trustees selected and acting as trustees for the Fund in accordance with the Trust Agreement.
- 1.26 **Trust Agreement** shall mean the Agreement and Declaration of Trust establishing the Building Trades Pension Fund of Western Pennsylvania effective September 1, 1955, as amended from time to time.
- 1.27 **Trust Fund** shall mean the trust estate (and assets of) Building Trades Pension Plan of Western Pennsylvania.

- 1.28 **Union** shall mean a union that is a party to a Collective Bargaining Agreement requiring contributions to the Trust Fund.
- 1.29 **Year of Credited Employment** shall mean a year of credited employment under Section 3.03.

## ARTICLE II PARTICIPATION

### 2.01 **Commencement of Participation**

An Employee shall become a Participant in the Plan on the date he complete 250 hours of Credited Employment or 1,000 Hours of Service in Covered Employment.

### 2.02 **Termination of Participation**

A Participant's participation in the Plan shall terminate on the date he retires, dies or incurs a One Year Break in Service.

### 2.03 **Recommencement of Participation**

- (a) A former Participant who returns to Credited Employment after a termination of participation shall again become a Participant in the Plan on the date he so returns to Credited Employment if his Years of Credited Employment credited before his termination of participation have not been disregarded.
- (b) If the Years of Credited Employment credited to a former Participant before his termination of participation have been disregarded, he shall be treated as if a new Employee and shall participate in the Plan in accordance with Section 2.01.

### 2.04 **Special Limit on Participation**

- (a) Notwithstanding any contrary provisions, the participation of (and the accrual of benefits by) a Participant who is both a highly compensated employee within the meaning of subsection (d) of this Section and a non-collectively bargained employee within the meaning of subsection (e) of this Section may be prospectively conditioned upon the submission by the Employer or Employers who contribute (or who are obligated to contribute) on behalf of such Participant of a demonstration and certification satisfactory to the Board of Trustees that the portion of the Plan which covers the non-collectively bargained employees (including the Participant) of such Employer(s) satisfies the applicable minimum coverage and general nondiscrimination requirements of Code §§ 410(b) and 401(a)(4).
- (b) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Code under this Section, an Employer who contributes to the Plan on behalf of non-collectively bargained employees may elect to use any definition of compensation that complies with the provisions of Treas. Reg.

§1.414(s)-1 (or its successor) to apply such nondiscrimination requirements to the portion of the Plan which is required to be tested as a separate plan of such Employer, provided that the definition of compensation so elected by an Employer is used consistently to the extent required by Treas. Reg. §1.414(s)-1 (or its successor).

- (c) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Code under this Section, the annual compensation of a Participant taken into account for any Plan Year shall not exceed \$200,000, with said dollar amount proportionately reduced for any Plan Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code § 401(a)(17). Said annual compensation limit shall be applied separately with respect to the compensation of an Employee from each Employer maintaining the Plan, rather than the total compensation from all Employers maintaining the Plan.
- (d) For purposes of this Section, a Participant shall be considered a highly compensated employee for a Plan Year (the "current Plan Year") if, as determined in accordance with Code §414(q), the Participant performs service for an Employer during the current Plan Year and either:
  - (1) is a 5-percent owner within the meaning of Code § 416(i)(1)(A)(iii) at any time during the current Plan Year or preceding Plan Year; and
  - (2) during the preceding Plan Year, received compensation (within the meaning of Code § 415(e)(3)) of more than \$80,000, or such higher amount prescribed pursuant to Code § 414(q)(1), and if elected by the Employer, was also among the top 20 percent paid employees determined by excluding employees under Code § 414(q)(5).
- (e) For purposes of this Section, a non-collectively bargained employee shall mean an Employee for whom an Employer is obligated to contribute pursuant to a written participation agreement with the Board of Trustees, and not a collective bargaining agreement with the Union; provided, however, for this purpose, such an Employee shall be treated as a collectively bargained employee to the extent provided by Treas. Reg. §1.410(b)-6(d)(2)(ii)(A) through (D) (or any successor).

## **ARTICLE III**

### **SERVICE**

#### **3.01 Hours of Service**

- (a) An Employee shall be credited with an Hour of Service for each hour for which the Employee is directly or indirectly paid, or entitled to payment, by the Employer for the performance of duties, and for each hour for which the Employee is directly or indirectly paid, or entitled to such payment, by the Employer for reasons other than for the performance of duties irrespective of whether the employment relationship has terminated (such as vacation, holidays, sickness, jury duty, disability, lay-off, military duty or leave of absence). These

hours shall include overtime hours, but credit is required to be given only for the hours actually worked irrespective of any increase in the rate of pay for such hours.

- (b) An Employee shall be credited with an Hour of Service for each hour for which back pay has been awarded or agreed to by the Employer. These Hours shall be credited to the Employee for the period or periods to which the award, agreement or payment pertains. The Hours to be credited will be determined without regard to the mitigation of damages for reasons such as the Employee's bad faith or receipt of compensation from other sources during the period wrongfully not employed.
- (c) Hours of Service shall be calculated and credited pursuant to Department of Labor Regulation § 2530.200b-2(b) and (c), which is incorporated herein by this reference.
- (d) Notwithstanding the contrary provisions, (i) no more than 250 Hours of Service shall be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws; and (iii) Hours of Service shall not be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

**3.02 Years of Credited Employment**

An Employee shall be credited with a full or fractional Year of Credited Employment for each Plan Year in accordance with the following schedule based on Hours of Service credited in the Plan Year while in Credited Employment:

<u>Hours of Service</u>	<u>Year of Credited Employment</u>
0 - 249	0
250 – 499	0.25
500 - 749	0.50
750 - 999	0.75
1,000 or more	1.00

**3.03 Contiguous Noncovered Service**

An Employee's contiguous noncovered service from and after January 1, 1976 shall be recognized as employment with an Employer for the purpose of determining his eligibility for a Deferred Vested Pension and whether he has incurred a One Year Break in Service. For this purpose:

- (a) noncovered service shall mean employment with the same Employer that is not Credited Employment (and not otherwise recognized for purposes of determining Years of Credited Employment); and
- (b) such noncovered service shall be contiguous noncovered service if the noncovered service immediately precedes or follows Credited Employment and no quit, discharge or retirement occurs between the noncovered service and Credited Employment.

### 3.04 **Breaks in Service**

- (a) A One Year Break in Service shall mean a Plan Year during which an Employee is credited with less than 250 Hours of Service with an Employer. For this purpose:
  - (1) An Employee shall not incur a One Year Break in Service during a period of Total Disability within the meaning of Section 6.01 and shall be credited with 251 Hours of Service for this purpose.
  - (2) An Employee shall be credited with an Hour of Service for each hour which otherwise would have been credited to him as an Hour of Service (or eight hours per normal workday if such hours cannot be determined), up to a maximum of 251 Hours of Service, during a period of absence from work on or after January 1, 1985 by reason of (i) such Employee's pregnancy, (ii) the birth of his child, (iii) the placement of a child with him for adoption, or (iv) the care of such child immediately following the child's birth or placement for adoption. Said hours of service shall be credited (i) in the Plan Year in which the absence begins if necessary to prevent a one year Break in Service in that Plan Year, or (ii) otherwise, in the following Plan Year.
- (b) Notwithstanding any contrary provisions, an Employee's Years of Credited Employment credited prior to a One Year Break in Service shall be forfeited if:
  - (1) the Participant is not vested in his Accrued Benefit; and
  - (2) the Participant incurs five consecutive One Year Breaks in Service.
- (c) Notwithstanding any contrary provisions, Years of Credited Employment shall not include any Years of Credited Employment forfeited or otherwise disregarded under the terms of the Plan previously in effect.
- (d) If a Participant forfeits Years of Credited Employment, all benefits accrued and contributions made under the Plan before the forfeiture shall be forfeited.

### 3.05 **Military Service (USERRA)**

Notwithstanding any contrary provisions, a Participant with reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) with respect to this Plan shall be provided with service credit with respect to qualified military

service in accordance with Code § 414(u). Said service credit shall include Hours of Service for the hours that the Participant would have worked had such Participant not been in qualified military service. If such hours cannot be determined within a reasonable degree of certainty, then the hours credited to the Participant shall be based upon the average number of hours worked in the 12 month period (or his shorter period of employment if less than 12 months) immediately before such his qualified military service.

## ARTICLE IV ELIGIBILITY AND BENEFITS

### 4.01 Basic Pension

- (a) A Participant's basic Pension under the Plan for the period prior to January 1, 2011 shall be a monthly amount payable in the form of a 5 Year Certain and Life Annuity commencing on his Normal Retirement Date, or Annuity Starting Date if later, equal to:
  - (1) his accrued benefit as of December 31, 1980 (refer to the Appendix); plus
  - (2) 3% of his Employer Contributions resulting from Credited Employment on or after January 1, 1981 through December 31, 2003; plus
  - (3) 2.5% of his Employer Contributions resulting from Credited Employment on or after January 1, 2004 through December 31, 2005; plus
  - (4) 2% of his Employer Contributions resulting from Credited Employment on or after January 1, 2006 through December 31, 2010; plus
  - (5) the sum of all ad hoc increases to his accrued benefit adopted prior to January 1, 1999; plus
  - (6) any increases resulting under subsection (f) of this Section.
- (b) For Credited Employment from and after January 1, 2011 and prior to January 1, 2013, a Participant's basic Pension under the Plan shall be a monthly amount payable in the form of a 5 Year Certain and Life Annuity commencing on his Normal Retirement Date, or Annuity Starting Date if later, equal to 1.5% of his Employer Contributions resulting from said Credited Employment.
- (c) For Credited Employment from and after January 1, 2013 and prior to January 1, 2016, a Participant's basic Pension under the Plan shall be a monthly amount payable in the form of a 5 Year Certain and Life Annuity commencing on his Normal Retirement Date, or Annuity Starting Date if later, equal to 0.5% of his Employer Contributions resulting from said Credited Employment.
- (d) For Credited Employment from and after January 1, 2016, a Participant's basic Pension under the Plan shall be a monthly amount payable in the form of a 5 Year Certain and Life Annuity commencing on his Normal Retirement Date, or

Annuity Starting Date if later, equal to 1.5% of his Employer Contributions resulting from said Credited Employment.

- (e) Notwithstanding the foregoing and any contrary provisions, the following shall apply to the calculation of a Participant's basic Pension:
- (1) Effective for accruals from and after January 1, 2011, payments made or required to be made to the Trust Fund under a Collective Bargaining Agreement or written participation agreement or under a funding improvement plan or rehabilitation plan shall not be treated as Employer Contributions for purposes of calculating a Participant's basic Pension to the extent said agreement or plan provides that said payments are not to be used in calculating benefits under the Plan.
  - (2) Unless otherwise specifically provided in the applicable plan or schedule thereto, effective for accruals from and after January 1, 2011, the calculation of a Participant's basic Pension shall exclude any increases in Employer Contributions required by a funding improvement plan or rehabilitation plan adopted by the Board of Trustees pursuant to ERISA § 305 and Code § 432 or schedule thereto.
  - (3) As required by ERISA § 305 and Code § 432, the employer surcharge due thereunder shall not be used in calculating a Participant's basic Pension.
  - (4) Effective for accruals from and after January 1, 2011, for purposes of calculating the amount of a Participant's basic Pension, the amount of Employer Contributions shall be determined by the contribution rate in effect as of January 1, 2010, and hours of Employer Contributions in excess of 2,000 hours in a calendar year shall be excluded. If a Participant is in Credited Employment with more than one type of Employer (e.g., a default schedule employer and alternative schedule employer under a rehabilitation plan or funding improvement plan) during a calendar year, the foregoing 2,000 hour limit shall be applied to his combined hours of Employer Contributions in the order in which the hours were worked.
  - (5) Effective for accruals from and after March 1, 2012, the rate of Employer Contributions (and the resulting amount of Employer Contributions) that would otherwise be used to calculate a Participant's basic Pension shall be reduced if and to the extent the Participant's Employer has not agreed to make non-benefit responsive (supplemental funding) contributions to the Trust Fund at the full supplemental funding contribution rate. For this purpose, the "full supplemental funding contribution rate" shall mean the excess of (i) the contribution rate in effect as of January 1, 2010, increased by an additional 10 percent as of each following January 1 beginning with January 1, 2011 and ending with January 1, 2017 minus (ii) the contribution rate in effect as of January 1, 2010. The contribution rate in effect as of January 1, 2010 shall be determined under the collective bargaining agreement applicable to the Employer as of that

date, or the collective bargaining agreement that would have been applicable as of that date if the Employer had a collective bargaining agreement in effect with the Union as of that date. For this purpose, any increases in Employer Contributions required by any funding improvement plan or rehabilitation plan adopted by the Board of Trustees pursuant to ERISA § 305 and Code § 432 or schedule thereto shall be taken into account to determine the extent to which the Employer has agreed (or not agreed) to make such non-benefit responsive contributions at the full supplemental funding contribution rate.

- (6) From and after January 1, 2013, the amount of a Participant's basic Pension, expressed as a monthly amount payable in the form of a 5 Year Certain and Life Annuity commencing on his Normal Retirement Date, or Annuity Starting Date if later, shall be limited to 2.5% of his "three-year average contribution rate" multiplied by 50,000.
  - (A) For a Participant in Credited Employment during the period January 1, 2009 through December 31, 2011, his "three-year average contribution rate" shall be calculated by dividing (i) the total Employer Contributions resulting from his Credited Employment during the period from January 1, 2009 through December 31, 2011, excluding any non-benefit responsive Employer Contributions by (ii) the total number of hours for which Employer Contributions were made during that period, excluding any hours of Employer Contributions in excess of 2,000 hours in a calendar year.
  - (B) For a Participant not in Credited Employment during the period of January 1, 2009 through December 31, 2011, his "three-year average contribution rate" shall be calculated by dividing (i) the total Employer Contributions resulting from his Credited Employment for the three calendar year period following or coinciding with the date he commences, or recommences, Credited Employment after December 31, 2011, excluding any non-benefit responsive Employer Contributions; divided by (ii) the total number of hours for which Employer Contributions were made during that period, excluding any hours of Employer Contributions in excess of 2,000 hours in a calendar year.
  - (C) For purposes of determining the "three-year average contribution rate" for an apprentice, the Employer Contributions shall be an amount determined by using the journeyman contribution rate.
  - (D) For a Participant in Credited Employment during the period January 1, 2009 through December 31, 2011, said limitation shall not be less than his basic Pension calculated as of December 31, 2012 under the terms of the Plan then in effect.
  - (E) For a Participant not in Credited Employment during the period January 1, 2009 through December 31, 2011 and who

recommences Credited Employment after December 31, 2011, said limitation shall not be less than his basic Pension as of the date he recommences Credited Employment.

- (f) Accrued benefits of active and former Participants have been increased from time to time, with a history set forth in the Appendix. Additional increases may be granted in the future in the discretion of the Board of Trustees.

#### 4.02 Normal Retirement Pension

- (a) A Participant shall be eligible for a Normal Retirement Pension if he has attained his Normal Retirement Age.
- (b) An eligible Participant's Normal Retirement Pension shall be equal to his basic Pension calculated under Section 4.01.
- (c) The Normal Retirement Pension for a Participant who continues in Covered Employment after his Normal Retirement Date shall not be less than the actuarial equivalent of his Normal Retirement Pension as of his Normal Retirement Date calculated in accordance with applicable Treasury Regulations using 7% interest and no mortality.

#### 4.03 Reduced Normal Retirement Pension

Each Participant who retires from employment with all Employers after attaining age 65 and completing one Year of Credited Employment, but before satisfying the requirements for a Normal Retirement Pension under Section 6.01, shall be eligible for a single sum payment of the Employer Contributions made on his behalf payable as soon as reasonably practicable following the date he applies for payment; provided that the single sum payment does not exceed \$5,000.

#### 4.04 Early Retirement Pension

- (a) A Participant shall be eligible for an Early Retirement Pension if:
  - (1) his employment with all Employers terminates before his attainment of Normal Retirement Age and on or after the date on which he attains at least age 60 and is credited with at least 10 Years of Credited Employment; and
  - (2) at least 1,500 hours of Employer Contributions were made or due on his behalf for the 60 calendar months preceding said termination of employment.
- (b) If his Annuity Starting Date is on or after the date he attains age 63, an eligible Participant's Early Retirement Pension under this Section shall be equal to his basic Pension calculated under Section 4.01.
- (c) If his Annuity Starting Date is prior to the date he attains age 63, the Early Retirement Pension shall be equal to his basic Pension calculated under Section

4.01 reduced by 1/2 of one percent for each month by which his Annuity Starting Date precedes the first day of the calendar month coinciding with or next following the date the Participant would attain age 63.

- (d) If a Participant is described in Section 6.04 as a Participant who may qualify for a Disability Benefit because participation in the Plan ceased because of work with a prescribed governmental unit, and if such Participant would satisfy the eligibility requirements for an Early Retirement Pension under subsection (a) of this Section at the termination of employment with the governmental unit, he shall be eligible to receive an Early Retirement Pension under the provisions of this Section based on his basic Pension when his participation in the Plan ceased. For this purpose, such Participant shall be credited with .25 Year of Credited Employment for each full or partial calendar quarter of his employment with the governmental unit, and shall be treated as if 40 hours of Employer Contributions were made on his behalf during each calendar week of his employment with the governmental unit.
- (e) If a Participant ceases participation in the Plan before becoming eligible for an Early Retirement Pension under subsection (a) of this Section, but is employed within the geographical area covered by the Plan in employment covered by a collective bargaining agreement with a (contributing) Union and is a participant in a local pension plan as defined in said collective bargaining agreement, and if such Participant would satisfy the eligibility requirements for an Early Retirement Pension under subsection (a) of this Section at the termination of said employment, he shall be eligible to receive an Early Retirement Pension under the provisions of this Section based on his basic Pension when his participation in the Plan ceased. For this purpose, such Participant shall be credited with .25 Year of Credited Employment for each full or partial calendar quarter he is employed in said employment, and shall be treated as if 40 hours of Employer Contributions were made on his behalf during each calendar week of his employment in said employment.
- (f) This Section shall apply to a Participant whose Covered Employment terminated before July 1, 2014 (in place of the terms of the Plan in effect at such termination), unless the Participant is receiving an Early Retirement (or other) Pension under the terms of the Plan previously in effect (because payment began by June 1, 2014 or because application for payment was made by June 30, 2014 and the application was approved).

#### **4.05 Deferred Vested Pension**

- (a) A Participant shall have a nonforfeitable right (within the meaning of Code § 411) to 100 percent of his Accrued Benefit upon and after the date on which he has been credited with five Years of Credited Employment.
- (b) A Participant shall be eligible for a Deferred Vested Pension if he terminates from employment with all Employers before his attainment of Normal Retirement Age without eligibility for any other Pension and on or after the date on which he is credited with at least five Years of Credited Employment.

- (c) If his Annuity Starting Date is on (or after) his Normal Retirement Date, an eligible Participant's Deferred Vested Pension shall be equal to his basic Pension calculated under Section 4.01.
- (d) If his Annuity Starting Date is prior to his Normal Retirement Date, an eligible Participant's Deferred Vested Pension shall be reduced to the actuarial equivalent of the Deferred Vested Pension payable at the Normal Retirement Date using the 1983 Group Annuity Table for Males and interest at the rate of 7% compounded annually.
- (e) If a Participant ceases participation in the Plan before becoming eligible for a Deferred Vested Pension under subsection (b) of this Section, but is employed within the geographical area covered by the Plan in employment covered by a collective bargaining agreement with a (contributing) Union and is a participant in a local pension plan as defined in said collective bargaining agreement, and if such Participant would satisfy the eligibility requirements for a Deferred Vested Pension under subsection (b) of this Section at the termination of said employment, he shall be eligible to receive a Deferred Vested Pension under the provisions of this Section based on his basic Pension when his participation in the Plan ceased. For this purpose, such Participant shall be credited with .25 Year of Credited Employment for each full or partial calendar quarter he is employed in said employment. This Section shall not apply, however, if the Participant is eligible for an Early Retirement Pension at the termination of said employment.
- (f) This Section shall apply to a Participant whose Covered Employment terminated before July 1, 2014 (in place of the terms of the Plan in effect at such termination), unless the Participant is receiving a Deferred Vested (or other) Pension under the terms of the Plan previously in effect (because payment began by June 1, 2014 or because application for payment was made by June 30, 2014 and the application was approved).

#### 4.06 **Nonforfeitability of Normal Pension**

A Participant's right to a Normal Pension shall be nonforfeitable (within the meaning of Code § 411) upon and after his attainment of Normal Retirement Age while in Covered Employment.

#### 4.07 **Forfeitures**

- (a) Benefits are payable under this Plan only as provided for in the case of normal, or early retirement, termination with a deferred vested pension, disability or death.
- (b) In the event of a Participant's death at such time a benefit is not payable under the Plan or in the event a Participant's employment terminates without a vested pension, such Participant (or any person claiming under such Participant) shall have no right, title or interest in any benefit under the Plan.

- (c) Any gains resulting from forfeitures shall not be applied to increase any benefits to which a Participant or his spouse or beneficiary would otherwise receive under the Plan.

#### 4.08 **Non-Duplication of Pension Eligibility**

No Participant shall be eligible to receive a Pension under more than one provision of the Plan providing for the payment of Pensions.

#### 4.09 **Military Service (USERRA)**

- (a) Notwithstanding any contrary provisions, a Participant with reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) with respect to this Plan shall be provided with benefits with respect to qualified military service in accordance with Code § 414(u). For this purpose, Employer Contributions shall be deemed to have been made based upon the Hours of Service credited with respect to his qualified military service under Section 3.05 and the Employer Contribution rate(s) applicable during the period of his qualified military service.
- (b) No Employer shall be liable for making Employer Contributions to the Fund for the benefits and service credited to a Participant for a period of qualified military service protected by USERRA. Instead, the cost attributable to said benefits and service shall be borne by the Trust Fund.

#### 4.10 **Limitations on Benefits**

- (a) This Section sets forth the limitations on benefits required by Code § 415. This Section is intended to comply with the limitations of Code § 415 as interpreted by final regulations issued on April 5, 2007 generally effective for Limitation Years beginning on and after July 1, 2007. This Section shall be applied and interpreted accordingly, and to the extent so required, the limits of Code § 415 are incorporated herein by reference.
- (b) Notwithstanding any contrary provisions, the annual amount of a Participant's accrued benefit under the Plan attributable to Employer Contributions shall not exceed \$160,000 at any time during the Limitation Year; provided that as of January 1 of each calendar year and effective for the Limitation Year ending in or with said calendar year, the dollar amount as adjusted for cost-of-living increases by the Commissioner of Internal Revenue pursuant to Code § 415(d)(1) shall be substituted for the dollar amount specified in this subsection. Such adjusted dollar limitation shall apply to all Participants, whether active or not.
- (c) If a Participant's annuity starting date is before his attainment of age 62, the dollar limitation set forth in subsection (b) above shall be adjusted to an age 62 dollar limit as follows:
  - (1) Subject to paragraphs (2), (3) and (4) of this subsection, the age 62 dollar limit for this purpose shall be an amount of single life annuity payable as of the annuity starting date that has the same actuarial equivalent present

value of the dollar limitation payable as a deferred single life annuity at age 62, with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code § 415(b)(2)(E)(v) for purposes of the adjustment of the Code § 415 limitation for defined benefit plans and interest at the rate of five percent per annum.

- (2) If the Plan has an immediate single life annuity payable both at the annuity starting date and at age 62, the age 62 dollar limit, if less than the age 62 dollar limit determined under paragraph (1) of this subsection, shall be equal to the dollar limitation multiplied by the ratio of the amount of the immediate single life annuity payable under the Plan to the amount of single life annuity payable under the Plan at age 62, with both said amounts determined without applying the limitations of Code § 415.
  - (3) For purposes of determining the age 62 dollar limit, no adjustment shall be made under paragraph (1) of this subsection for the probability of the Participant's death after the annuity starting date and before age 62 to the extent a forfeiture does not occur upon the participant's death before the annuity starting date.
  - (4) Notwithstanding any contrary provisions, the age 62 dollar limit shall not decrease on account of an increase in age or the performance of additional service.
- (d) If a Participant's annuity starting date is after his attainment of age 65, the dollar limitation set forth in subsection (b) above shall be adjusted to an age 65 dollar limit as follows:
- (1) Subject to paragraphs (2) and (3) of this subsection, the age 65 dollar limit for this purpose shall be an amount of single life annuity payable as of the annuity starting date that has the same actuarial equivalent present value of the dollar limitation payable as a single life annuity at age 65, with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code § 415(b)(2)(E)(v) for purposes of the adjustment of the Code § 415 limitation for defined benefit plans and interest at the rate of five percent per annum.
  - (2) If the Plan has an immediate single life annuity payable both at the annuity starting date and at age 65, the age 65 dollar limit, if less than the age 65 dollar limit determined under paragraph (1) of this subsection, shall be equal to the dollar limitation multiplied by the ratio of (i) the amount of the immediate single life annuity payable to the Participant, computed disregarding the accruals after age 65, but including any actuarial adjustments, and without applying the limitations of Code § 415 to (ii) the amount of single life annuity that would be payable to an age 65 hypothetical participant with the same accrued benefit (with no increases for commencement after age 65) as the Participant, determined

disregarding the accruals after age 65 and without applying the limitations of Code § 415.

- (3) For purposes of determining the age 65 dollar limit, no adjustment shall be made under paragraph (1) of this subsection for the probability of the Participant's death after age 65 and before the annuity starting date to the extent a forfeiture does not occur upon the participant's death before the annuity starting date.
- (e) Excluding a joint and survivor annuity form of payment (where the spouse is the survivor annuitant) and the value of any ancillary benefits, if a Participant's Pension is paid in a form other than a single life annuity, it shall be adjusted to its actuarial equivalent on a single life annuity basis for the purpose of applying the dollar limitation set forth in subsection (b) above as follows:
- (1) Subject to paragraph (2) of this subsection, the actuarial equivalent single life annuity for purposes of this limitation shall be the greater of:
    - (A) the amount that would be payable to the Participant as of the same annuity starting date under the single life annuity form of payment of the Plan; or
    - (B) the amount that would be payable to the Participant as of the same annuity starting date under a single life annuity if determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code § 415(b)(2)(E)(v) for purposes of the adjustment of the Code § 415 limitation for defined benefit plans and interest at the rate of five percent per annum.
  - (2) For payment of a Pension in a single payment (or a form otherwise subject to Code § 417(e)(3)), the actuarial equivalent single life annuity for purposes of this limitation shall be the greatest of:
    - (A) the amount that would be payable to the Participant as of the same annuity starting date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors;
    - (B) the amount that would be payable to the Participant as of the same annuity starting date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code § 415(b)(2)(E)(v) for purposes of the adjustment of the Code § 415 limitation for defined benefit plans and interest at the rate of five and one-half percent per annum; and
    - (C) the amount that would be payable to the Participant as of the same annuity starting date under a single life annuity that has the

same present value as the actual form of payment (computed on the basis of the applicable mortality table and applicable interest rate), divided by 1.5.

- (f) If a Participant has less than ten years of participation, the dollar limitation set forth in subsection (b) above, as adjusted under subsections (c), (d) and (e) above, shall be multiplied by the ratio of his years of participation to ten but not by less than one-tenth. For this purpose, a year of participation shall mean the full or partial year of benefit accrual service credited for each accrual computation period in which (i) the Participant is credited with at least the number of hours of service (or the period of service) required to accrue a benefit for the accrual computation period and (ii) is a participant under the Plan's eligibility provisions on at least one day in the accrual computation period. If a Participant is permanently and totally disabled within the meaning of Code § 415(c)(3)(C)(i) for an accrual computation period, a year of participation shall be credited for the accrual computation period.
- (g) The annual benefit payable with respect to a Participant's Pension under the Plan attributable to Employer Contributions shall be deemed not to exceed the dollar limitation set forth in subsection (b) above if such annual benefit does not exceed \$10,000 for the Limitation Year (or a prior Limitation Year); provided that:
  - (1) the Participant has never participated in a tax qualified defined contribution plan maintained by the Employer as the result of a collective bargaining agreement with the Union; and
  - (2) if a Participant has less than ten years of service, said dollar limitation shall be multiplied by the ratio of his years of service to ten but not by less than one-tenth, with a year of service credited for this purpose for each accrual computation period in which the Participant is credited with at least the number of hours of service (or the period of service) required to accrue a benefit for the accrual computation period taking into account service with the Employer (or a predecessor employer).
- (h) If a Participant has multiple annuity starting dates within meaning of Code § 415, the limitations of this Section shall be applied as of each of the annuity starting dates taking into account the benefits that have been or will be provided at all of the annuity starting dates to the extent and in the manner required by Code § 415.
- (i) The Plan shall not be aggregated with another multiemployer plan (as defined in Code § 414(f)) or with a defined contribution plan for purposes of Code § 415. Also, only the benefits provided under the Plan by an Employer shall be taken into account under another plan maintained by the Employer that is not a multiemployer plan for Code § 415 purposes (which shall not include the compensation limitation in any case) and any reduction required by Code § 415 shall be made under such other plan.
- (j) For purposes of this Section:

- (1) "Employer" shall mean the Employer of the Participant, and any corporation included with the Employer in a controlled group of corporations (as determined under Code § 414(b) as modified by Code § 415(h)), any trade or business under common control with the Employer (as determined under Code § 414(c) as modified by Code § 415(h)), and any organization included with the Employer in an affiliated service groups (as determined under Code § 414(m)).
- (2) "Limitation Year" shall mean the Plan Year.
- (k) Notwithstanding any contrary provisions, and in accordance with final regulations issued under Code § 415 on April 5, 2007, the application of this Section as amended in accordance with said final regulations shall not reduce the amount of accrued benefit below the amount of the benefit accrued as of the last day of the Limitation Year immediately prior to the effective date of said final regulations for the Plan, as determined under the provisions of the Plan adopted and in effect before April 5, 2007 to the extent the same were in compliance with the requirements of Code § 415 in effect prior to the effective date of said final regulations for the Plan.

#### 4.11 2014 Rehabilitation Plan Pension and Benefits

- (a) For purposes of this Section:
  - (1) "2014 Rehabilitation Plan" shall mean the Rehabilitation Plan adopted by the Board of Trustees on April 4, 2014 (as revised June 13, 2014) pursuant to ERISA § 305 and Code § 432.
  - (2) "2014 Rehabilitation Plan Alternative Schedule Employer" shall mean an Employer subject to the Alternative Schedule under the 2014 Rehabilitation Plan during the period said Schedule applies to the Employer.
  - (2) "2014 Rehabilitation Plan Default Schedule Employer" shall mean an Employer subject to the Default Schedule under the 2014 Rehabilitation Plan during the period said Schedule applies to the Employer.
- (b) The provisions in this Section shall supersede all contrary provisions in the Plan.
- (c) For Credited Employment with a 2014 Rehabilitation Plan Default Schedule Employer from and after the first day of the calendar month following the calendar month the 2014 Rehabilitation Plan Default Schedule applies to said Employer, a Participant's basic Pension under Section 4.01 shall be a monthly amount payable in the form of a Single Life Annuity commencing on his Normal Retirement Date, or Annuity Starting Date if later, equal to 0.5% of his Employer Contributions resulting from said Credited Employment.
- (d) If a Participant was last employed by a 2014 Rehabilitation Plan Default Schedule Employer before his termination of employment with eligibility for an Early Retirement Pension under Section 4.04, his Early Retirement Pension under Section 4.04 shall be determined as follows:

- (1) If his Annuity Starting Date is on or after his Normal Retirement Date, the Early Retirement Pension shall be equal to his basic Pension calculated under Section 4.01.
  - (2) If his Annuity Starting Date is prior to his Normal Retirement Date, his Early Retirement Pension shall be reduced to the actuarial equivalent of the Early Retirement Pension payable at the Normal Retirement Date using the 1983 Group Annuity Table for Males and interest at the rate of 7% compounded annually.
- (e) If a Participant's Annuity Starting Date is on or after July 1, 2014, the following form of payment provisions shall apply under Section 5.03 to the payment of a Pension accrued on or after January 1, 2014 for Credited Employment with a 2014 Rehabilitation Plan Default Schedule Employer:
- (1) No 5 Year or 10 Year Certain and Life Annuity form of payment shall be available for such Pension.
  - (2) The pop-up provision and 60 month guarantee under Section 5.03(b)(1) and (2) shall not apply to the 50%, 75%, or 100% Joint and Survivor Annuity forms of payment payable with respect to such Pension.
  - (3) Such Pension payable under the 50%, 75%, or 100% Joint and Survivor Annuity forms of payment shall be the Actuarial Equivalent of the Pension payable under a Single Life Annuity form of payment determined by the 1983 Group Annuity Mortality Table, using male rates for Participants and female rates for Spouses, and interest at the rate of 7% compounded annually.
  - (4) The normal form of payment for such Pension for a Participant not married on the Annuity Starting Date shall be a Single Life Annuity.
- (f) A Participant shall be considered actively working or available to work for the purpose of determining his eligibility for a Disability Benefit under Section 6.01 only if he is actively working or available to work with a 2014 Rehabilitation Plan Alternative Schedule Employer at the time he suffers the Total Disability. For this purpose, a Participant shall be considered to be actively working or available to work with a 2014 Rehabilitation Plan Alternative Schedule Employer (which shall include for this purpose, an Employer not yet subject to a schedule under the 2014 Rehabilitation Plan) if he has been credited with a total of at least 250 hours of Credited Employment with a 2014 Rehabilitation Plan Alternative Schedule Employer in the two Plan Years preceding the date of disability or if he is receiving Workers' Compensation benefits relating to Credited Employment with a 2014 Rehabilitation Plan Alternative Schedule Employer.
- (g) A Participant shall be eligible to receive a Disability Benefit under Section 6.04 only if he was in Credited Employment with a 2014 Rehabilitation Plan Alternative Schedule Employer (which shall include for this purpose, an Employer not yet subject to a schedule under the 2014 Rehabilitation Plan) when he

ceased to participate in the Plan or his last Credited Employment before he ceased to participate in the Plan was with a 2014 Rehabilitation Plan Alternative Schedule Employer.

- (h) A Participant shall be eligible to receive a Disability Benefit under Section 6.05 only if he was in Credited Employment with a 2014 Rehabilitation Plan Alternative Schedule Employer (which shall include for this purpose, an Employer not yet subject to a schedule under the 2014 Rehabilitation Plan) when he ceased being an active Participant in the Plan or his last Credited Employment before he ceased being an active Participant in the Plan was with a 2014 Rehabilitation Plan Alternative Schedule Employer.
- (i) No pre-retirement death benefit shall be payable under Section 7.01 with respect to a Participant who dies while in Covered Employment with a 2014 Rehabilitation Plan Default Schedule Employer or whose last Covered Employment before death was with a 2014 Rehabilitation Plan Default Schedule Employer.
- (j) Notwithstanding any contrary provisions, to the extent required by Code § 432(f)(2) and ERISA § 305(f)(2), no lump sum or similar benefits shall be paid.
- (k) Effective as of the first day of the first Plan Year after the 2014 Plan Year that the Plan is not in critical status or endangered status within the meaning of ERISA § 305 and Code § 432 and before the 2014 Plan Year, referred to as "Emergence Date" in this subsection, pensions and benefits shall be determined as follows:
  - (1) A Participant's basic Pension for Credited Employment from and after the Emergence Date shall be determined under Section 4.01 with no change to the basic Pension determined under subsection (c) of this Section for Credited Employment with a 2014 Rehabilitation Plan Default Schedule Employer before the Emergence Date.
  - (2) The Early Retirement Pension for a Participant with an Annuity Starting Date on or after the Emergence Date shall be determined under Section 4.04 including the basic Pension determined under subsection (c) of this Section for Credited Employment with a 2014 Rehabilitation Plan Default Schedule Employer before the Emergence Date.
  - (3) The Disability Benefit for a Participant who incurs a Total Disability on or after the Emergence Date shall be determined under Section 6.01 and shall take into account hours of Credited Employment with a 2014 Rehabilitation Plan Default Schedule Employer before the Emergence Date to determine whether the Participant is actively working or available to work.
  - (4) The pre-retirement death benefit for a Participant who dies on or after the Emergence Date shall be determined under Section 7.01 without regard to whether his Covered Employment or last Covered Employment was with a 2014 Rehabilitation Plan Default Schedule Employer.

**ARTICLE V**  
**PAYMENT OF BENEFITS**

**5.01 In General**

- (a) Subject to Section 5.08, a Participant must file a proper application for payment of a Pension and the application approved by the Board of Trustees (or its designee) before payment may commence. Application by a Participant must be filed during the 180-day period ending on the Annuity Starting Date (and shall constitute a Participant's consent to the payment of benefits). An application may be withdrawn at any time before the Annuity Starting Date, or if later, by the end of the 7-day period following the date the Participant is provided with the required information regarding the payment of benefits.
- (b) To the extent and in the manner required by ERISA and the Code, a Participant shall be provided with the required information on the payment of a Pension when the Participant applies for the same, including (i) a general description of the material features for the payment of benefits and an explanation of the relative values of optional forms of benefit in a manner that satisfies the notice requirements of Code § 417(a)(3) and Treas. Reg. §1.414(a)(3)-1 (or its successor) and (ii) a notice of the Participant's right to defer the payment and the right to at least a 30-day period to consider his application and elections.
- (c) Except as otherwise specifically provided for in the Plan, a Pension shall be paid monthly as of the first day of each calendar month at the time and in the manner provided in this Article.
- (d) The last payment of a Pension payable for life shall be made on the first day of the calendar month in which the Participant's (or if applicable, a surviving Spouse's death) death occurs.
- (e) Marital Status for purposes of the Plan shall be determined and shall be subject to the following:
  - (1) For purposes of determining the form of payment payable to a Participant (under Section 5.03), a Participant shall be considered to be married if such Participant has a Spouse as of his Annuity Starting Date.
  - (2) For purposes of the qualified preretirement survivor annuity (under Article VII), a Participant shall be considered to be married if such Participant has been married to his Spouse throughout the one year period ending on the date of his death.
  - (3) A former Spouse of a Participant can be treated as the Spouse of the Participant to the extent provided for in a "qualified domestic relations order", as defined in Code § 414(p) and ERISA § 206(d)(3). In such case, any later Spouse of the Participant shall not be treated as the Spouse over said former Spouse.

- (4) The Board of Trustees shall be entitled to rely on the written representation last filed by the Participant prior to the Annuity Starting Date or date of death as to the Participant's marital status. Such reliance shall include the right to deny benefits to a person claiming to be the Spouse of a Participant in contradiction to the aforementioned representation of the Participant. Any payments made in good faith pursuant to the statements contained in an application for payments shall discharge all of the obligations of the Plan to the extent of such payments.
- (5) For purposes of determining whether a Participant has a spouse under the Plan, same-sex marriages shall be recognized from and after June 26, 2013 (and not before that date). The validity of a Participant's same-sex marriage entered into from June 26, 2013 through September 15, 2013 shall be based on the laws of the state in which the Participant was then domiciled. The validity of a Participant's same-sex marriage entered into on or after September 16, 2013 shall be based on the laws of the state in which the Participant's marriage was (or is) celebrated.

#### 5.02 Time of Payment

- (a) The Normal Retirement Pension shall be payable to a Participant as of the first day of the calendar month coinciding with or next following the date he applies for such Pension, regardless of whether he has retired; provided that he is eligible for such Pension and his application therefor is approved.
- (b) The Early Retirement Pension shall be payable to a Participant as of the first day of the calendar month coinciding with or next following the later of (i) the date of his retirement or (ii) the date he applies for such Pension; provided that he is eligible for such Pension and his application therefor is approved.
- (c) A Deferred Vested Pension shall be payable as follows:
  - (1) If the Participant has been credited with at least 10 Years of Credited Employment, the Deferred Vested Pension shall be payable to the Participant as of the first day of the calendar month coinciding with or next following the latest of (i) his attainment of age 60, (ii) the date he applies for such Pension, or (iii) the date he has retired and his employment with the Employers terminates; provided that he is eligible for such Pension and his application therefor is approved.
  - (2) If the Participant has been credited with less than 10 Years of Credited Employment, the Deferred Vested Pension shall be payable to the Participant as of the first day of the calendar month coinciding with or next following the latest of (i) his Normal Retirement Date, (ii) the date he applies for such Pension, or (iii) the date he has retired and his employment with the Employers terminates; provided that he is eligible for such Pension and his application therefor is approved.
  - (3) This subsection shall apply to a Participant whose Covered Employment terminated before July 1, 2014 (in place of the terms of the Plan in effect

at such termination), unless the Participant is receiving a Deferred Vested (or other) Pension under the terms of the Plan previously in effect (because payment began by June 1, 2014 or because application for payment was made by June 30, 2014 and the application was approved).

- (d) Notwithstanding the foregoing subsections of this Section, a Pension shall not be payable any earlier than 30 days after, nor later than 180 days after, the date the Participant is provided with the required information on the payment of a Pension; provided, however, the Pension shall be payable within the 30-day period following the date the Participant is provided with said information if the Participant then applies for the payment of benefits and the actual payment is not made within the 7-day period that begins after the date the Participant is provided with said information.

### 5.03 Forms of Payment

- (a) For Annuity Starting Dates on or after July 1, 2014, the forms for payment of a Pension to a Participant with a Spouse on the Annuity Starting Date (including a Participant whose Covered Employment terminated before July 1, 2014) shall be as follows:
  - (1) Single Life Annuity - Under the Single Life Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime with no amount payable after his death.
  - (2) 5 Year Certain and Life Annuity - Under the 5 Year Certain and Life Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime, with the provision that upon his death after his Annuity Starting Date, but before 60 monthly payments have been made, the balance of said monthly payments shall be continued to the beneficiary designated by the Participant when he elects this form of payment or the beneficiary subsequently designated by the Participant pursuant to Section 5.04.
  - (3) 10 Year Certain and Life Annuity - Under the 10 Year Certain and Life Annuity form of payment, the Pension shall be paid monthly to the Participant for his lifetime, with the provision that upon his death after his Annuity Starting Date, but before 120 monthly payments have been made, the balance of said monthly payments shall be continued to the beneficiary designated by the Participant when he elects this form of payment or the beneficiary subsequently designated by the Participant pursuant to Section 5.04.
  - (4) 50% Joint and Survivor Annuity – Under the 50% Joint and Survivor Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime, with the provision that upon his death after the Annuity Starting Date, 50 percent of the monthly payment previously payable to the Participant shall be continued to and for the lifetime of his surviving Spouse to whom he married on his Annuity Starting Date.

- (5) 75% Joint and Survivor Annuity – Under the 75% Joint and Survivor Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime, with the provision that upon his death after the Annuity Starting Date, 75 percent of the monthly payment previously payable to the Participant shall be continued to and for the lifetime of his surviving Spouse to whom he was married on his Annuity Starting Date.
  - (6) 100% Joint and Survivor Annuity – Under the 100% Joint and Survivor Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime, with the provision that upon his death after the Annuity Starting Date, 100 percent of the monthly payment previously payable to the Participant shall be continued to and for the lifetime of his surviving Spouse to whom he was married on his Annuity Starting Date.
- (b) Payment of the 50%, 75% and 100% Joint and Survivor Annuity form of payment shall be subject to the following provisions:
- (1) If the Spouse under the Joint and Survivor Annuity dies after the Annuity Starting Date and before the Participant, beginning with the calendar month following the Spouse's death, the Participant's monthly payment shall be increased to the amount it would have been if the Participant had elected the 5 Year Certain and Life Annuity form of payment.
  - (2) If the Participant and Spouse die before a total of 60 monthly payments have been made under the Joint and Survivor Annuity, the balance of the monthly payments shall be continued to the beneficiary designated for this purpose by the last to die of the Participant or Spouse.
- (c) For Annuity Starting Dates on or after July 1, 2014, the forms for payment of a Pension to a Participant without a Spouse on the Annuity Starting Date (including a Participant whose Covered Employment terminated before July 1, 2014) shall be as follows:
- (1) Single Life Annuity - Under the Single Life Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime with no amount payable after his death.
  - (2) 5 Year Certain and Life Annuity - Under the 5 Year Certain and Life Annuity form of payment, the Pension shall be paid to the Participant monthly for his lifetime, with the provision that upon his death after his Annuity Starting Date, but before 60 monthly payments have been made, the balance of said monthly payments shall be continued to the beneficiary designated by the Participant when he elects this form of payment or the beneficiary subsequently designated by the Participant pursuant to Section 5.04.
- (d) The Pension payable under the 50%, 75% and 100% Joint and Survivor Annuity, the Single Life Annuity, and the 10 Year Certain and Life Annuity shall be the Actuarial Equivalent of the Pension under the 5 Year Certain and Life Annuity by the factors set forth in Table III attached hereto.

- (e) The normal form of payment shall be:
  - (1) for a Participant with a Spouse on the Annuity Starting Date, a 50% Joint and Survivor Annuity; and
  - (2) for a Participant without a Spouse on the Annuity Starting Date, a 5 Year Certain and Life Annuity.

#### 5.04 Election of Form of Payment

- (a) During the 180-day period ending on the Annuity Starting Date, a Participant may elect a form of payment described in Section 5.03 by filing a written election with the Board of Trustees in the manner prescribed by the Board of Trustees. Said election may be made and revoked in writing at any time and any number of times during said 180-day period, but may not be made or revoked thereafter.
- (b) For a Participant married on the Annuity Starting Date, no election of a form of payment other than the 50%, 75% or 100% Joint and Survivor Annuity shall be effective unless said election specifies the elected form of payment and designates a specific beneficiary under the form of payment and either:
  - (1) the Participant's Spouse consents in writing to said election during the 180-day period, ending on the Annuity Starting Date and the Spouse's consent acknowledges the effect of said election and is witnessed by a notary public or by any person that may be designated for that purpose by the Board of Trustees; or
  - (2) the Participant establishes to the satisfaction of the Board of Trustees that (i) there is no Spouse, (ii) the Spouse cannot be located, or (iii) such other conditions exist as may be prescribed by regulations issued by the Secretary of the Treasury.
- (c) Spousal consent pursuant to subsection (b) of this Section to a Participant's election shall be effective only with respect to the Spouse granting said consent or with whom said spousal consent is otherwise established and shall be irrevocable by the Spouse with respect to said election.
- (d) If a Participant designates a trust as beneficiary under a form of payment, the Spouse need only consent to the designation of the trust as beneficiary and need not consent to the designation of trust beneficiaries or to any change in trust beneficiaries.
- (e) A Participant may change his designation of a beneficiary under the 5 Year or 10 Year Certain and Life Annuity at any time after his Annuity Starting Date; provided, however, that if the Participant was married on his Annuity Starting Date and designates a beneficiary other than the Spouse to whom he was married on his Annuity Starting Date, either (i) his Spouse consents to the designation in the manner prescribed by subsection (b) of this Section except for the 180-day consent period or (ii) his Spouse previously executed in the manner

prescribed by subsection (b) of this Section a general spousal consent which permits the Participant to change the beneficiary without further spousal consent and which acknowledges that the spouse voluntarily relinquished the right to limit spousal consent to a specific beneficiary.

- (f) If there is no beneficiary designated by the Participant or surviving at the death of the Participant under the 5 Year or 10 Year Certain and Life Annuity, the Participant shall be deemed to have designated the following beneficiaries, with priority in the order named, for the balance of any monthly payments due under said form of payment: (i) his surviving Spouse, and if none; and (ii) his estate.
- (g) If a beneficiary designated by the Participant under the 5 Year or 10 Year Certain and Life Annuity survives the Participant but dies before a total of 60 monthly payments or 120 monthly payments have been paid thereunder respectively, the remaining payments shall be paid to a beneficiary designated by the beneficiary who died while receiving the monthly payments. If said beneficiary has not designated a beneficiary or no designated beneficiary survives the death of said beneficiary, said beneficiary shall be deemed to have designated his estate as beneficiary.
- (h) Other than the spousal consent requirements set forth in this Section, the consent of the Participant's beneficiary or spouse to any election or revocation of a form of payment or any designation of a beneficiary or survivor annuitant, or revocation thereof or change thereto, shall not be required.

#### 5.05 **De Minimis Benefits**

Notwithstanding any contrary provisions, if the Actuarial Equivalent present value of the Pension payable to an eligible Participant does not exceed \$5,000 at the applicable Annuity Starting Date, the only form of payment shall be a single sum payment of said present value.

#### 5.06 **Re-Employment and Suspension of Pension**

- (a) If a Participant receiving a monthly Pension subsequently returns to work in Covered Employment on or after attaining age 65, the Participant shall continue to receive his monthly Pension during the month or months of such reemployment.
- (b) If (i) payment of a Participant's Pension began by June 1, 2014 or (ii) the Participant was eligible and applied for payment of the Pension by June 30, 2014 and his application for payment was approved, the Participant shall be treated as follows if he returns to work in Covered Employment prior to attaining age 65:
  - (1) For this purpose, Covered Employment refers to employment as defined under ERISA § 203(a)(3)(B).
  - (2) The Participant shall have the payment of his monthly Pension suspended in any calendar month in which his total hours for that calendar year exceed 450 hours. For any calendar months in which his

total hours for that calendar year do not exceed 450 hours, the payment of his monthly Pension shall continue.

- (3) The Participant may request a determination from the Board of Trustees of whether specific contemplated employment is employment that would result in the suspension of the payment of Pension. Such request shall be made in accordance with the Plan's claims and appeal procedures.
- (4) In the manner prescribed by ERISA, the Board of Trustees shall provide each Participant with the required notice of a suspension of his Pension in the first calendar month in which payments are withheld.
- (5) A Participant in receipt of a Pension shall provide the Board of Trustees with written notice of any employment that is or may be Covered Employment. Such notice shall be provided at least 15 days in advance of the commencement of any said employment. Upon request made from time-to-time, a Participant shall provide the Board of Trustees with access to reasonable information for the purpose of verifying the Participant's employment status. If a Participant is discovered to be employed in Covered Employment, but has not complied with said notice or verification provisions, the Board of Trustees shall presume that the Participant was engaged in Covered Employment for a total of 450 hours by February during any relevant year, unless the Participant demonstrates otherwise to the satisfaction of the Board of Trustees. If such Participant is or was employed in Covered Employment for any number of hours with a contractor at a building or construction site, the Board of Trustees shall presume that the Participant was engaged in Covered Employment for so long as the contractor has been and remains actively engaged at that building or construction site, unless the Participant demonstrates otherwise to the satisfaction of the Board of Trustees. Such presumptions shall continue in effect until written notice of the termination of Covered Employment is provided to the Board of Trustees.
- (6) Any Pension paid by the Plan for a calendar month suspendable under this subsection shall be deducted from the Pension payable after the Participant's termination of Covered Employment in an amount up to 25% of the monthly Pension which would be due but for such deduction.
- (7) The Participant must notify the Board of Trustees of the termination of his Covered Employment. The Participant's Pension shall payable as of the first day of the calendar month following the later of (i) the date his Covered Employment terminates or (ii) the date on which he notifies the Board of Trustees that his Covered Employment has terminated.
- (8) Following the Participant's termination of Covered Employment his monthly Pension shall be recomputed taking into account (i) the additional contributions which were earned and credited in those months during which payment of his monthly Pension was suspended (such contributions being used to determine the increase in his monthly

retirement benefit based upon his then attained age) and (ii) those months of Covered Employment during which payment of his monthly Pension suspended during the period of reemployment prior to attaining age 65 (such months of Covered Employment being used to determine the adjustment in his original retirement benefit). The Participant shall be given a new opportunity to elect a form of payment applicable to the entire recomputed monthly Pension in accordance with the terms of the Plan. Such recomputed Pension shall be determined as of the end of the Plan Year in which the Participant terminated Covered Employment and such adjusted Pension shall become payable as of the first month of the following Plan Year.

- (c) Unless subject to subsection (b) of this Section, a Participant receiving a Pension shall have payment of his Pension suspended for any calendar month in which he is in "disqualifying employment" prior to attaining age 65 as follows:
- (1) "Disqualifying employment" for this purpose shall mean (i) any type of employment with an Employer, (ii) any type of employment with an employer in the same or related business as an Employer, (iii) any employment or self-employment (including a sole proprietor, partner, independent contractor or consultant) in the construction industry, and (iv) any employment or self-employment (including a sole proprietor, partner, independent contractor or consultant) based on or using the skills related to or acquired by Credited Employment.
  - (2) The Participant may request a determination from the Board of Trustees of whether specific contemplated employment is disqualifying employment that would result in the suspension of the payment of Pension. Such request shall be made in accordance with the Plan's claims and appeal procedures.
  - (3) To the extent and in the manner prescribed by ERISA, the Board of Trustees shall provide each Participant with a notice of a suspension of his Pension.
  - (4) A Participant in receipt of a Pension shall provide the Board of Trustees with written notice of any employment that is or may be disqualifying employment. Such notice shall be provided at least 15 days in advance of the commencement of any said employment. Upon request made from time-to-time, a Participant shall provide the Board of Trustees with access to reasonable information for the purpose of verifying the Participant's employment status. If a Participant is discovered to be employed in disqualifying employment, but has not complied with said notice or verification provisions, the Board of Trustees shall presume that the Participant was engaged in disqualifying employment during the relevant period, unless the Participant demonstrates otherwise to the satisfaction of the Board of Trustees. If such Participant is or was employed in disqualifying employment with a contractor at a building or construction site, the Board of Trustees shall presume that the Participant was engaged in disqualifying employment for so long as the contractor has

been and remains actively engaged at that building or construction site, unless the Participant demonstrates otherwise to the satisfaction of the Board of Trustees.

- (5) Any Pension paid by the Plan for a calendar month suspendable under this subsection shall be deducted from the Pension payable after the Participant's termination of disqualifying employment in an amount up to 25% of the monthly Pension which would be due but for such deduction.
- (6) The Participant must notify the Board of Trustees of the termination of his disqualifying employment. The Participant's Pension shall be payable as of the first day of the calendar month following the later of (i) the date his disqualifying employment terminates or (ii) the date on which he notifies the Board of Trustees that his disqualifying employment has terminated.
- (7) Following the Participant's termination of disqualifying employment, his monthly Pension shall be recomputed for any period of Credited Employment by taking into account (i) any additional contributions which were earned and credited in those months during which payment of his monthly Pension was suspended (such contributions being used to determine the increase in his monthly retirement benefit based upon his then attained age) and (ii) those months of Credited Employment during which payment of his monthly Pension was suspended during the period of reemployment prior to attaining age 65 (such months of Covered Employment being used to determine the adjustment in his original retirement benefit).

#### **5.07 Direct Rollover Election**

- (a) A Distributee who is eligible to receive a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution in a Direct Rollover to an Eligible Retirement Plan specified by the Distributee.
- (b) Notwithstanding any contrary provisions of this Section (except as otherwise required by Code § 401(a)(31)), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least \$500, (ii) only one Eligible Retirement Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than \$200 (when aggregated with all other Eligible Rollover Distributions for the taxable year).
- (c) For purposes of this Section, the following terms shall have the meaning given to them in this subsection:
  - (1) "Direct Rollover" shall mean a payment by the Plan to the eligible retirement plan specified by the Distributee.

- (2) "Distributee" shall mean (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code § 414(p), with respect to the interest of the spouse or former spouse.
  - (3) "Eligible Retirement Plan" shall mean an individual retirement account (including a Roth IRA) described in Code § 408(a), an individual retirement annuity (including a Roth IRA) described in Code § 408(b), a qualified trust described in Code § 401(a), an annuity plan described in Code § 403(a), an annuity contract described in Code § 403(b), and an eligible deferred compensation plan described in Code § 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that will separately account for a direct rollover (from this Plan).
  - (4) "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the Distributee and the Distributee's designated beneficiary or for a specified period of ten years or more, (ii) any distribution to the extent such distribution is required under Code § 401(a)(9), (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), and (iv) any hardship distribution.
- (d) In conformance with Code § 402(c)(11), a beneficiary eligible to receive a distribution from the Plan on account of a Participant's death may elect to transfer said distribution in a direct rollover to an individual retirement plan (described in clause (i) or (ii) of Code § 402(c)(8) and including a Roth IRA) established by the beneficiary for this purpose, provided that (i) the beneficiary is not otherwise a Distributee, (ii) the beneficiary is a designated beneficiary as defined in Code § 401(a)(9)(E), and (iii) the distribution would otherwise be an Eligible Rollover Distribution but for the requirement that the distribution be made to a Distributee.
  - (e) An election and Direct Rollover under this Section shall be made in accordance with procedures prescribed by the Board of Trustees in conformance with Code § 401(a)(31).

#### **5.08 Required Time of Payment**

- (a) Payment of a Pension to a Participant entitled to the same shall, as required by Code § 401(a)(14), be made or commence no later than the 60<sup>th</sup> day after the latest of the close of the Plan Year in which (i) the Participant attains the earlier of age 65 or Normal Retirement Age, (ii) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan, or (iii) the Participant terminates Covered Employment; provided, however, subject to subsection (b) of this Section, (i) such Participant may elect a later date of

payment, and (ii) such Participant's failure to file an application for benefits shall be deemed to be such an election of a later date of payment.

- (b) Payment of a Participant's Pension shall, as required by and in the manner consistent with Code § 401(a)(9) (and Treas. Reg. § 1.401(a)(9)-2 through Treas. Reg. § 1.401(a)(9)-9, as the same may be amended from time to time), including the minimum distribution incidental benefit requirement of Code § 401(a)(9)(G), which shall supersede all inconsistent provisions herein, commence no later than:
  - (1) for a Participant who is a 5-percent owner within the meaning of Code § 416 with respect to the Plan Year ending in the calendar year in which he attains 70½, the April 1 of the calendar year following the calendar year in which the Participant attains 70½; and
  - (2) for all other Participants, the April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70½ or (ii) the calendar year in which the Participant retires from employment under the Plan.
- (c) As required by and in the manner consistent with Code § 401(a)(9) (and Treas. Reg. § 1.401(a)(9)-2 through Treas. Reg. § 1.401(a)(9)-9, as the same may be amended from time to time), including the minimum distribution incidental benefit requirement of Code § 401(a)(9)(G), which shall supersede all inconsistent provisions herein, the 5 Year and 10 Year Certain and Life Annuity form of payment shall be available to a Participant only if the respective certain period does not exceed the applicable distribution period under the Uniform Lifetime Table set forth in Treasury Regulation § 1.72-9 determined as follows:
  - (1) If the Participant is age 70 or older as of his birthday in the calendar year that contains his Annuity Starting Date, the applicable distribution period shall be equal to the distribution period under said Uniform Lifetime Table for an employee the same age as the Participant as of his birthday in that calendar year.
  - (2) If the Participant is younger than age 70 as of his birthday in the calendar year that contains his Annuity Starting Date, the applicable distribution period shall be equal to the distribution period under said Uniform Lifetime Table for an age 70 employee plus an additional period equal to 70 over the Participant's age as of his birthday in that calendar year.
- (d) If a Participant continues in employment after the April 1<sup>st</sup> following the calendar year in which he attains age 70½ and is not in receipt of a Pension, such Participant's Pension otherwise calculated for purposes of the Plan shall be increased on an Actuarial Equivalent basis for the period after said April 1<sup>st</sup> for which the Pension is not paid to the Participant. For a Participant who continues in employment after said April 1<sup>st</sup>, said increase shall reflect (i) the Pension that would have been paid if the Participant had retired and payment of the Pension accrued as of said April 1<sup>st</sup> had commenced on said April 1<sup>st</sup> plus (ii) any additional Pension accrued after said April 1<sup>st</sup> that would have been paid to the

Participant if retired. For a Participant who returns to employment after said April 1<sup>st</sup> and for whom the payment of Pension is suspended, said increase shall reflect (i) the Pension that would have been paid if the Participant had not so returned to said employment and had continued to receive a payment of his Pension plus (ii) any additional Pension accrued after the date of such return to said Employment that would have been paid to the Participant if retired. Any Actuarial Equivalent increase under this Section shall replace, and not be in addition to, any actuarial adjustment made pursuant to proposed Treas. Reg. § 1.411(c)-1(f)(2) (as the same may be finalized and any successor thereto).

#### **5.09 Failure to Provide Information**

- (a) Upon the failure of a Participant or a Spouse or beneficiary to provide the information requested or required to be provided under the Plan, the Administrator may postpone (if payment of a Pension has not yet commenced) or suspend (if payment of a Pension has commenced) the payment of Pension to said individual.
- (b) Once the Participant or Spouse or beneficiary whose Pension was postponed or suspended pursuant to subsection (a) of this Section provides the requested or required information, such postponed or suspended Pension shall be paid in accordance with the terms of the Plan.

#### **5.10 Forfeiture/Reinstatement of Benefits**

Notwithstanding any contrary provisions, a Participant's Pension shall be forfeited if the Board of Trustees is unable to locate the Participant or other individual to whom payment of such Pension is due. Any said forfeited Pension shall be restored as soon as practicable after valid claim is made therefor by such Participant or other individual.

#### **5.11 Incompetency**

If a Participant or other individual to whom an amount is payable under this Plan is legally incompetent, the Board of Trustees may cause payment of such amount to be made to the guardian, custodian or other legal representative for the benefit of such Participant or individual in such manner as the Board of Trustees determine is in accordance with the requirements of applicable law. Such payment, to the extent made, shall fully discharge the Board of Trustees and Plan from liability on account thereof.

### **ARTICLE VI**

#### **DISABILITY BENEFIT**

#### **6.01 Eligibility for Disability Benefit**

- (a) A Participant shall be eligible to receive a Disability Benefit if:
  - (1) he becomes Totally Disabled before attaining the Normal Retirement Age and satisfying the age and service requirements for an Early Retirement Pension;

- (2) he is credited with at least five Years, and effective January 1, 2015, ten Years of Credited Employment at the time of the Total Disability;
  - (3) he is actively working or available to work at the time of the Total Disability; and
  - (4) he has received a final award of Social Security disability benefits.
- (b) For this purpose:
- (1) Total Disability shall mean (i) effective January 1, 2015, as determined on the basis of evidence satisfactory to the Board of Trustees, a bodily injury or disease that prevents a Participant from engaging in any occupation or business for compensation, remuneration or profit and that is reasonably expected to continue beyond six months for an indefinite period or until death and (ii) prior to January 1, 2015, the final award of Social Security Disability Benefits.
  - (2) A Participant is considered to be actively working or available to work if he has been credited with a total of at least 250 hours of Credited Employment in the two Plan Years preceding the Total Disability or if he is receiving Workers' Compensation benefits relating to Credited Employment.

#### **6.02 Amount of Disability Benefit**

An eligible Participant's Disability Benefit shall be equal to his basic Pension calculated under Section 4.01, and if younger than age 60, reduced by 18 percent.

#### **6.03 Payment of Disability Benefit**

- (a) Written application for the payment of the Disability Benefit shall be made in accordance with the Plan's claims procedures, and payment shall be subject to the applicable provisions of the Plan.
- (b) The Disability Benefit shall be payable to an eligible Participant beginning with the later of the first day of the calendar month following the commencement of his Total Disability or the first calendar month of his entitlement to (payment of) Social Security disability benefits; provided, however, if a Participant applies for payment of the Disability Benefit more than six months after the later of the date of the determination of his Total Disability by his physician or the date of his Social Security disability benefits award, a retroactive payment of the Disability Benefit shall be limited to six monthly payments.
- (c) Prior to November 14, 2014, the Disability Benefit shall be paid in the form of a 5 Year Certain and Life Annuity.

- (d) Payment of a Disability Benefit to a Participant shall continue until the earliest of (i) his attainment of age 60, (ii) his death, or (iii) his recovery from Total Disability (i.e., no longer entitled to a Social Security disability benefits).
- (e) If payment of a Disability Benefit stops because of the Participant's attainment of age 60, the Participant shall thereupon be eligible to receive an Early Retirement Pension in accordance with Section 4.04 and the otherwise applicable terms of the Plan (without any reduction for the Disability Benefits paid to him).
- (f) If payment of a Disability Benefit stops because of the Participant's death on or after November 14, 2014, a death benefit shall be payable in accordance with Section 7.01, but reduced by the Disability Benefits paid to him, or Section 7.02 (without such reduction) and the otherwise applicable terms of the Plan.
- (g) If payment of a Disability Benefit stops because of a Participant's recovery from Total Disability before attainment of age 60 or death, the Participant shall thereupon be eligible for such Pension as his age and Years of Credited Employment shall entitle him under the terms of the Plan (without any reduction for the Disability Benefits paid to him).

#### **6.04 Government Employment**

- (a) A Participant who ceased to participate in the Plan prior to becoming Totally Disabled may still qualify for a Disability Benefit if:
  - (1) participation in the Plan ceased because the Participant began working for a governmental unit, which, while having a collective bargaining agreement with a Union, did not have a provision in the collective bargaining agreement for contributions to be made to the Trust Fund;
  - (2) while employed by the governmental unit, the former Participant continued to work at the same craft as he was engaged in while a Participant in the Plan; and
  - (3) the Total Disability giving rise to the request for a Disability Benefit occurred while in the employment of the governmental unit.
- (b) A person receiving a Disability Benefit pursuant to this provision shall be credited with only that service earned while a Participant in the Plan, and shall not be credited with any service for that period of time when employed with the governmental unit.

#### **6.05 Cessation of Contributions as a Result of Collective Bargaining**

- (a) A Participant who ceased being an active Participant in the Plan prior to becoming Totally Disabled may still qualify for a Disability Benefit if:
  - (1) participation in the Plan ceased because a Union negotiated a new collective bargaining agreement which resulted in the cessation of

- contributions to the Trust Fund and the commencement of contributions to a separate multi-employer defined benefit pension plan;
- (2) the Participant became and remains an active Participant in the separate multi-employer defined benefit pension plan;
  - (3) while employed by a contributing employer to the separate multi-employer defined benefit pension plan, the former Participant continues to work at the same craft as Participant was engaged in while a Participant in the Plan; and
  - (4) the Total Disability giving rise to the request for a Disability Benefit occurred while in the employment of a contributing employer to the separate multi-employer defined benefit pension plan.
- (b) A person receiving a Disability Benefit pursuant to this provision shall be credited with only that service earned while a Participant in the Plan and shall not be credited with any service for that period of time when employed by a contributing employer to the separate multi-employer defined benefit pension plan.

## **ARTICLE VII**

### **DEATH BENEFITS**

#### **7.01 Pre-Retirement Death Benefit**

- (a) A beneficiary of a Participant shall be eligible for the payment of a pre-retirement death benefit under this Section if:
  - (1) the Participant dies before his Annuity Starting Date; and
  - (2) if married, the Participant's Spouse is not eligible for a qualified preretirement survivor annuity under Section 7.02.
- (b) The pre-retirement death benefit shall be a single sum payment payable any time after the Participant's death equal to the Employer Contributions made on behalf of the Participant.
- (c) Written application for the payment of the pre-retirement death benefit shall be made in accordance with the Plan's claims procedures, and payment shall be subject to the applicable provisions of the Plan.
- (d) A Participant shall designate a beneficiary for the pre-retirement death benefit, and may change said beneficiary designation from time to time, in a written designation filed with the Board of Trustees in the manner and form prescribed by the Board of Trustees. If there is no beneficiary designated by the Participant or surviving at the Participant's death, the Participant shall be deemed to have designated the following beneficiaries: (i) his surviving Spouse; and if none, (ii) his estate.

- (e) A Beneficiary of a deceased Participant may designate a successor beneficiary for the pre-retirement death benefit, and may change said beneficiary designation from time to time, in a written designation filed with the Board of Trustees in the manner and form prescribed by the Board of Trustees. If there is no successor beneficiary designated by the originally designated Beneficiary or surviving at the death of the originally designated Beneficiary, the successor beneficiary shall be the estate of the originally designated Beneficiary.

## 7.02 **Qualified Preretirement Survivor Annuity**

- (a) The Spouse of a Participant shall be eligible for payment of a qualified preretirement survivor annuity under this Section if:
  - (1) the Participant dies before his Annuity Starting Date and has a Spouse on the date of his death (to whom he has been married for at least one year); and
  - (2) the Participant satisfies the age and/or service requirements to be eligible for a Pension (or is otherwise vested in his Accrued Benefit) as of the earlier of the date of his death or the date of his termination of Covered Employment.
- (b) The qualified preretirement survivor annuity shall be equal to the survivor annuity that would have been payable to the Spouse upon the Participant's death under the 50% Joint and Survivor Annuity form of payment calculated by assuming that (i) payment of the Participant's Pension commenced as of the date payment of the qualified preretirement survivor annuity commences and (ii) the Participant died after the payment of his Pension commenced; provided, however, if as of the date of his death, the Participant had elected the 75% or 100% Joint and Survivor Annuity form of payment, the qualified preretirement survivor annuity shall be calculated under the 75% or 100% Joint and Survivor Annuity.
- (c) The qualified preretirement survivor annuity shall be payable to an eligible Spouse:
  - (1) in the case of a Participant who dies after the earliest date payment of his Pension could have commenced, as of the first day of the calendar month coinciding with or next following the later of (i) the date of the Participant's death or (ii) the date the spouse applies for the qualified preretirement survivor annuity; and
  - (2) in the case of a Participant who dies before the earliest date payment of his Pension could have commenced, as of the first day of the calendar month coinciding with or next following the later of (i) the first day on which the Participant's Pension could have commenced had he survived or (ii) the date the spouse applies for the qualified preretirement survivor annuity.

- (d) Once approved, the qualified preretirement survivor annuity shall be paid monthly during the Spouse's lifetime commencing as of the date set forth in subsection (c) of this Section and ending with the last payment due on or before the Spouse's death.
- (e) Notwithstanding subsection (d) of this Section, if the Actuarial Equivalent present value of the qualified preretirement survivor annuity payable to an eligible Spouse does not exceed \$5,000 at the payment commencement date, said present value shall be paid to the Spouse in a single sum payment in lieu of the monthly payment of the qualified preretirement survivor annuity.

#### **7.03 Death in Qualified Military Service**

As and to the extent required by Code § 401(a)(37), a Participant who dies on or after January 1, 2007 while performing qualified military service (within the meaning of Code § 414(u)) and who would have been entitled to reemployment rights under the Plan under the Uniformed Services Employment and Reemployment Rights Act of 1994 at his death shall be treated as follows:

- (a) he shall be credited with Years of Credited Employment for the period of his qualified military service to determine whether he is vested in his Accrued Benefit for purposes of the death benefits payable under this Article; and
- (b) he shall be treated as if he had died while in employment with an Employer for purposes of the death benefits payable under this Article.

#### **7.04 Required Time of Payment**

As required by and in the manner consistent with Code § 401(a)(9) (and Treas. Reg. § 1.401(a)(9)-2 through Treas. Reg. § 1.401(a)(9)-9, as the same may be amended from time to time), including the minimum distribution incidental benefit requirement of Code § 401(a)(9)(G), which shall supersede all inconsistent provisions herein, payment of a death benefit shall be made to a beneficiary no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death, except that payment to the Participant's Spouse shall be made or begin no later than the later of (i) December 31 of the calendar year immediately following the calendar year in which the Participant dies or (ii) December 31 of the calendar year in which the Participant would have attained age 70½.

### **ARTICLE VIII**

#### **EMPLOYERS AND CONTRIBUTIONS**

#### **8.01 Employer Contributions**

Each Employer shall contribute to the Trust Fund the amounts specified in the Collective Bargaining Agreement entered into by (or for) such Employer or in a written participation agreement entered into with the Board of Trustees as they may be negotiated or renegotiated from time to time; provided, however, if such contributions are based on compensation, compensation shall be limited in the same manner as specified in Section 2.04(c). Each Employer shall forward such Employer Contributions to the Trust Fund at

such time or times and in such manner as the Board of Trustees may prescribe, together with such information as the Board of Trustees may require, and shall otherwise be bound by any collection provisions established for the same from time to time.

#### **8.02 Irrevocability of Contributions**

All contributions by an Employer to the Trust Fund shall be irrevocable; provided, however, to the extent and in the manner permitted by ERISA, the Board of Trustees may authorize a return of an overpayment of Employer Contributions made by reason of a mistake of fact or law.

#### **8.03 Participant Contributions**

No Participant shall be required or permitted to make any contribution to the Trust Fund.

#### **8.04 Reciprocal Agreements**

The Board of Trustees may enter into, continue, amend and terminate agreements or arrangements with the board of trustees of other multiemployer, defined benefit funds to reciprocate employer contributions to and from such other funds under such terms and conditions as the Board of Trustees believes appropriate. Employer contributions reciprocated to this Trust Fund pursuant to said agreements and arrangements shall be treated as Employer Contributions hereunder subject to all of the terms and provisions of the Plan. To the extent employer contributions are reciprocated to such other defined benefit fund, the employee/participant for whom said contributions are reciprocated shall look solely to said defined benefit fund for the benefits attributable to such reciprocated contributions and said benefits shall be determined solely by the terms and provisions of said defined benefit fund.

#### **8.05 Exclusion of Certain Employer Contributions**

Notwithstanding any contrary provisions, payments made or required to be made to the Trust Fund shall not be treated as Employer Contributions for purposes of calculating any benefits for or with respect to a Participant if and to the extent:

- (a) effective January 1, 2011, the Collective Bargaining Agreement or a written participation agreement under which the payments are made provides that said payments are not to be used in calculating benefits under the Plan;
- (b) effective January 1, 2011, a funding improvement plan or rehabilitation plan provides that said payments are not to be used in calculating benefits under the Plan;
- (c) as required by ERISA § 305 and Code § 432, the payments consist of the employer surcharge due thereunder; or
- (d) Section 4.01 provides that the payments are not to be used to calculate the Participant's basic Pension.

**ARTICLE IX**  
**PLAN ADMINISTRATION**

**9.01 Plan Administrator/Named Fiduciary**

- (a) The Plan shall be operated and administered by the Board of Trustees, and the Board of Trustees shall be the plan administrator and the plan sponsor for purposes of ERISA. The Board of Trustees shall have all of the powers, authority and discretion to carry out the provisions of the Plan; however, the details of administering the Plan may be vested by the Board of Trustees in an administrator/manager appointed by the Board of Trustees to serve at its will.
- (b) The Board of Trustees shall be the named fiduciary of the Plan for purposes of ERISA. The Board of Trustees may designate any other person as a named fiduciary by an instrument in writing signed by it, delivered to the designated named fiduciary, and acknowledged and accepted in writing by such designated fiduciary. Any such designation may be modified or amended by written agreement between the parties and may be revoked by either party by written notice delivered to the other party.
- (c) Any named fiduciaries who have joint and severable duties and responsibilities under the Plan may allocate such duties and responsibilities (other than the duty to invest all or a portion of the Trust Fund) to any one or more of them, and any named fiduciary may delegate to any person such responsibility he has with respect to the Plan (other than the duty to invest all or a portion of the Trust Fund). Any such allocation or delegation shall be made by written agreement between the parties, may be amended or modified by written agreement between such parties, and may be revoked by either party by written notice delivered to the other party.

**9.02 Powers and Duties**

- (a) The Board of Trustees shall have all the powers necessary to operate, administer and manage the Plan in accordance with its terms, including:
  - (1) to interpret and apply the terms of the Plan, including the right to remedy possible ambiguities, inconsistencies or omissions;
  - (2) to make and enforce rules and regulations for the administration and operation of the Plan;
  - (3) to reject any collective bargaining agreement of an Employer and all contributions due thereunder whenever the Board of Trustees determines that any provision of said collective bargaining agreement or practice of the Employer related to the employees covered by the collective bargaining agreement is inconsistent with the practices and rules of the Trust Fund or is adverse to the Trust Fund;

- (4) to determine and assess withdrawal liability in accordance with the requirements of ERISA, and to adopt, modify and apply such interpretations, rules and procedures as the Board of Trustees deems necessary or desirable for the determination and assessment of said withdrawal liability;
  - (5) to decide all questions, including factual questions, related to participation in the Plan, the eligibility for, and payment of, benefits hereunder;
  - (6) to prescribe procedures for filing an application for benefits and to review applications for review of denial thereof;
  - (7) to authorize the payment of Pensions and other benefits to the Participants, Spouses and Beneficiaries, including the right to adjust prospective payments of Pensions to recapture or compensate for any overpayments or underpayments theretofore made and the right to recapture said overpayments from the Participants, Spouses and Beneficiaries directly; and
  - (8) to maintain all necessary records for the administration of the Plan.
- (b) All determinations and actions of the Board of Trustees with respect to any matter relating to the Plan shall be final, conclusive and binding upon all persons.

#### **9.03 Compensation, Expenses and Liability**

- (a) Trustees receiving full-time pay from their Employer or the Union shall not receive compensation from the Trust Fund for the performance of their duties. The Trust Fund shall pay or reimburse the Trustees for all reasonable expenses which they may incur in the performance of their duties.
- (b) Except as required by ERISA or any other applicable law, no Trustee shall be personally liable upon any contract or other instrument made or executed by him or on his behalf in the administration of the Plan, and no Trustee shall be liable for any action in good faith taken or omitted, nor for any act or omission of any other Trustee or other person with duties or responsibilities under the Plan.
- (c) The Trustees shall be indemnified by the Trust Fund against all loss, liability and expenses to the maximum extent permitted by ERISA. The Trustees shall be permitted to procure any liability insurance (including waiver of recourse under fiduciary policies purchased by the Trust Fund) as permitted by law or regulation with respect to the performance of their duties.

#### **9.04 Claims, Appeals and Review Procedure**

- (a) Claims for benefits under the Plan shall be filed in accordance with the procedures established for this purpose and on forms made available upon request.

- (b) A claim for benefits shall be decided by the Administrative Manager within a reasonable period of time following the Plan's receipt of the claim, but not later than 90 days after receipt. The Administrative Manager shall notify the Board of Trustees of the decision.
- (c) If special circumstances require, the initial 90-day period to consider a claim may be extended for up to an additional 90 days. Written (or electronic) notice of an extension shall be provided to the claimant before the end of the applicable prior period. Such notice shall indicate the circumstances requiring the extension and the date by which the Plan expects to decide the claim.
- (d) If a claim for benefits is wholly or partially denied:
  - (1) Written (or electronic) notice of the denial shall be provided to the claimant by the date established by subsections (b) and (c) of this Section to decide the claim.
  - (2) The denial notice shall set forth (i) the specific reasons for the denial, (ii) specific references to the pertinent provisions of the Plan, (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation why it is necessary, (iv) an explanation of the procedures for review of the denied claim, including the applicable time limits, and (v) a statement of the claimant's right to bring a civil action under ERISA following an adverse determination upon review.
- (e) A claimant may appeal a denial of benefits to the Board of Trustees for review. Such appeal shall be made in writing no later than 60 days of the date of the denial. An appeal shall set forth all of the reasons the claim should not have been denied and identify and include all of the issues related to the claim for benefits. A claimant shall be entitled to review all relevant documents and to receive copies free of charge and to submit written documents, records and other information related to the claim and have the same taken into account whether or not previously submitted or considered.
- (f) If an appeal is timely filed, the Board of Trustees shall conduct a full and fair review of the claim and provide written (or electronic) notice of its decision on review to the claimant.
- (g) For so long as the Board of Trustees holds regularly scheduled meetings at least quarterly, the decision on review shall be made no later than the date of the first meeting of the Board of Trustees that follows the receipt of the application for review from the claimant. However, if received within 30 days preceding the date of the first meeting, the decision shall be made no later than the date of the second meeting of the Board of Trustees that follows the receipt of the application for review. If special circumstances require a further extension of time for processing, the decision on review shall be made no later than the third meeting of the Board of Trustees that follows the Plan's receipt of the request for review. A written (or electronic) notice of such extension that describes the special circumstances and the date by which the Board of Trustees expects to

decide the request for review shall be provided to the claimant before the commencement of any such extension. Written (or electronic) notice of the Board of Trustees' decision on review shall be provided to the claimant within five days of the meeting at which the decision is made.

- (h) If the Board of Trustees does not hold regularly scheduled meetings at least quarterly, the decision on review shall be made and written (or electronic) notice of the Board of Trustees decision provided to the claimant within a reasonable period of time following the receipt of the application for review from the claimant, but not later than 60 days after receipt. If special circumstances require, said initial 60-day period may be extended by an additional 60 days. A written (or electronic) notice of such extension that describes the special circumstances and the date by which the Board of Trustees expects to decide the request for review shall be provided to the claimant before the commencement of any such extension.
- (i) If the Board of Trustees' decision on the review of an appeal is adverse, the notice of the decision shall set forth (i) the specific reasons for the decision, (ii) specific references to the pertinent provisions of the Plan, (iii) a statement that the claimant is entitled to review all relevant documents and to receive copies free of charge, and (iv) a statement of the claimant's right to bring a civil action under ERISA.
- (j) At the claimant's expense, a duly authorized representative of a claimant may act on behalf of the claimant in filing a claim for benefits or requesting a review of any denial thereof. The Board of Trustees may establish reasonable procedures for determining whether an individual has been duly authorized to act on behalf of a claimant.
- (k) Effective January 1, 2015, the following provisions apply to a claim related to a Disability Benefit:
  - (1) The claim for the Disability Benefit shall be decided by the Chairman and Secretary of the Board of Trustees, and if they do not agree on the Disability Benefit claim, the claim shall be deemed denied and appropriate notice of the denied claim given to the Participant.
  - (2) A claim for the Disability Benefit shall be decided not later than 45 days after receipt of the claim.
  - (3) The initial 45-day period to consider the Disability Benefit claim may be initially extended for up to an additional 30 days and then for up to an additional 30 days after the initial extension if, in each case, the extension is necessary due to matters outside the control for the Plan. In addition to the circumstances requiring the extension and the date by which the Plan expects to decide the claim, the notice of such extension shall also explain (i) the standards on which entitlement to the benefit is based, (ii) the unresolved issues that prevent a decision on the claim, and (iii) any additional information needed to resolve said issues.

- (4) If the reason for extending a period to decide the Disability Benefit claim is due to the claimant's failure to submit information necessary to decide the claim, the claimant shall be so notified and shall be provided with at least a 45-day period to provide the material or information. In such case, the period to decide said claim shall be tolled until the date the claimant responds to the request for additional information.
- (5) The denial notice for the Disability Benefit claim shall include (i) any internal rule, guideline, protocol or other similar criterion relied on for the denial, or a statement that it was relied on and a copy will be provided free of charge upon the claimant's request and (ii) if the denial was based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the denial, applying the plan terms to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon the claimant's request.
- (6) A claimant may appeal a denial of a claim for the Disability Benefit to the Board of Trustees no later than 180 days of the date of the denial.
- (7) For a review of the Disability Benefit claim on appeal:
  - (A) The review shall be made by the Board of Trustees other than the Chairman and Secretary of the Board of Trustees, and it shall not afford any deference to the initial benefit determination.
  - (B) If the initial benefit determination was based on a medical judgment, the determination shall be made after consultation with a health care professional who has appropriate training and experience in the relevant field of medicine. Said health care professional shall not be an individual who was consulted with respect to the initial benefit determination or a subordinate of that individual.
  - (C) It shall provide for the identification of medical or vocational experts whose advice was obtained on behalf of the plan in connection with an adverse benefit determination, without regard to whether the advice was relied on in making the determination.
- (8) When the Board of Trustees does not hold regularly scheduled meetings at least quarterly, the decision on review of the Disability Benefit claim on appeal shall be made and written (or electronic) notice of decision provided to the claimant not later than 45 days after receipt. If special circumstances require, said initial 45-day period may be extended by an additional 45 days.
- (9) For the Disability Benefit claim, the notice of adverse decision by Board of Trustees on appeal shall also include (i) any internal rule, guideline, protocol or other similar criterion relied on for the decision, or a statement that it was relied on and a copy will be provided free of charge upon the

claimant's request and (ii) if the decision was based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the decision, applying the plan terms to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon the claimant's request.

- (l) Effective January 1, 2015, no legal action can be taken against the Plan or the Board of Trustees more than one year after a claim for benefits has been made. For this purpose, a claim for benefits is deemed to have been made on: (i) the date an application for benefits is denied on review by the Board of Trustees, if the claim is to recover benefits not paid by the Plan; (ii) the date benefits are suspended, if the claim is to recover benefits suspended under the Plan; or, (iii) the date of the benefit statement that was provided for the applicable period of Service, if the claim is in regard to the Board of Trustees' (or designee's) computation of service and benefits under the Plan.

#### **9.05 Information from Participants**

- (a) Each Employee, Participant and Spouse shall furnish the Board of Trustees in the form prescribed by it and at its request, such personal data, affidavits, authorizations to obtain information, or other information as the Board of Trustees deems necessary or desirable for the administration of the Plan.
- (b) Misstatements or misrepresentations by an Employee, Participant, or Spouse to the extent they affect their participation or benefits hereunder, shall be handled in accordance with the rules of the Board of Trustees. In no event shall the Plan be obligated to provide Pensions or benefits in excess of those which would have been provided had there been no misstatement or misrepresentation.

### **ARTICLE X**

#### **AMENDMENT; MERGER; TRANSFER; TERMINATION**

##### **10.01 Amendment**

- (a) The Board of Trustees reserves the right to amend the Plan at any time and for any reason. Any such amendment shall be in writing and formally adopted by a duly adopted resolution of the Board of Trustees or by the unanimous written concurrence of all of the Trustees then in office.
- (b) To the extent required by ERISA and the Code, no amendment shall reduce a Participant's accrued benefit.
- (c) No modification or amendment shall make it possible for any part of the Trust Fund to be used for, or diverted to purposes other than for the exclusive benefit of the Participants and Beneficiaries, or for the payment of the expenses of administration of the Plan and Trust Fund.

- (d) Any modification or amendment of the Plan may be made which the Board of Trustees deems necessary or appropriate to make the Plan conform to the requirements of any valid law or governmental regulation now or hereafter enacted or promulgated, or to qualify the Plan and the Trust Fund as exempt under existing or future federal, state or local income tax laws and regulations.

#### **10.02 Merger, Consolidation or Transfer of Assets**

The Plan can be merged with another plan, or its assets or liabilities transferred to another plan, only if each participant in the Plan would be entitled to a benefit immediately after the merger or transfer as if the plan then terminated which is at least equal to the benefit he would have been entitled to if the Plan had terminated immediately before such merger or transfer.

#### **10.03 Plan Termination**

- (a) The Board of Trustees reserves the right to terminate the Plan at any time and for any reason. Any such termination shall be formally adopted by a duly adopted resolution of the Board of Trustees or by the unanimous written concurrence of all of the Trustees then in office.
- (b) Upon a termination or partial termination of the Plan, as and to the extent required by Code § 411(d)(3), each affected employee shall be fully vested in his Accrued Benefit as of the date of such termination or partial termination to the extent then funded.
- (c) Upon the complete termination of the Plan, the assets of the Trust Fund, after providing for the expenses of the Plan, shall be allocated and distributed in the manner prescribed and to the extent permitted by ERISA and the Code and the applicable provisions of the Plan. The Trust Fund shall be the sole source of benefits under the Plan.
- (d) No part of the assets shall be returned to any Employer or inure to the benefit of any Employer.

### **ARTICLE XI**

#### **MISCELLANEOUS PROVISIONS**

#### **11.01 Participant's Rights**

- (a) The existence of the Plan shall not create or change any contract, express or implied, between the Employer and its Employees and shall not affect the Employer's right to take any action with respect to its Employees, including terminating their Employment at any time.
- (b) No person shall have any vested rights under the Plan and Trust Fund except to the extent that such rights may accrue to him as provided under the Plan. Furthermore, any person with vested rights under the Plan shall look solely to the Plan and Trust Fund and the assets thereunder for satisfaction of such vested rights. Except as

otherwise may be required by ERISA, and except for the liability for making Employer Contributions, the Employer, Union and Trustees (and their principals, officers, directors and employees) do not assume any liability or responsibility for the payment of benefits, or for the sufficiency of Plan assets to pay all benefits, and under no circumstances shall any liability or responsibility therefor be attached to the Employer, Union and Trustees (and their principals, officers, directors and employees).

### 11.02 Plan Assets

All assets of the Plan shall be held in trust pursuant to the terms of the Trust Agreement, which is incorporated herein by this reference.

### 11.03 Spendthrift Clause

- (a) As and to the extent required by ERISA and the Code, benefits and interests in the Plan shall not be anticipated, assigned, alienated, subject to attachment, garnishment, levy, execution, or other legal or equitable process, or otherwise be subject to the claims of creditors, and any attempt to do so shall be void.
- (b) Notwithstanding subsection (a) of this Section, all or a part of a Participant's benefits may be assigned and paid to an alternate payee (and the Participant's benefits correspondingly reduced, including the refund of accumulated Contributions death benefit, which shall be reduced by payments of the assigned benefit to the alternate payee) to the extent required and in the manner provided for under Code § 414(p) and ERISA § 206(d)(3) with respect to a "qualified domestic relations order" as said term is defined in Code § 414(p) and ERISA § 206(d)(3). All present value calculations for purposes of a qualified domestic relations order shall be made using the appropriate factors, including the applicable interest rate, of the Plan and, no payment shall be made prior to the Participant's "earliest retirement age" as said term is defined in Code § 414(p) and ERISA § 206(d)(3).
- (c) The Board of Trustees shall establish such procedures pursuant to Code § 414(p) and ERISA § 206(d)(3) as it deems necessary or desirable to determine the qualified status of domestic relations orders and to administer distributions under a qualified domestic relations orders, including procedures relating to:
  - (1) a Participant's eligibility to receive benefits during the period the Board of Trustees is determining whether a domestic relations order with respect to the Participant's benefits is a qualified domestic relations order and/or during the period after the Board of Trustees has been notified that a qualified domestic relations order is being sought with respect to the Participant's benefits; and
  - (2) the administration and payment of benefits to for alternate payees pursuant to qualified domestic relations orders.
- (d) Notwithstanding subsection (a) of this Section, all or part of a Participant's benefits may be offset against an amount that the Participant is ordered to pay to the Plan

under a judgment, order, decree or settlement described in Code § 401(a)(13)(C) issued or entered into on or after August 5, 1997.

**11.04 Costs**

All costs of administering the Plan, including the fees and expenses of the accountants, actuaries, legal counsel and other agents for the Plan or the Trustees, shall be paid from the Trust Fund and no responsibility or liability therefor shall be asserted against any Employer, the Union, or the Trustees.

**11.05 Separability**

The Articles and Sections of this document shall be deemed separable so that the invalidity of any portion hereof shall not affect the validity of the remainder.

**11.06 Gender and Number**

The use of the singular shall be interpreted to include the plural and the plural the singular, as the context shall require. The use of the masculine, feminine or neuter shall be interpreted to include the masculine, feminine or neuter, as the context shall require.

**11.07 Applicable Law**

To the extent not preempted by Federal law, the provisions of the Plan shall be governed and construed under the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, this amendment and restatement of the Plan has been duly executed on this 14<sup>th</sup> day of November 2014.

Union Trustees

By: 

Employer Trustees

By: 

**BUILDING TRADES PENSION FUND  
OF WESTERN PENNSYLVANIA**

**APPENDIX**

**History of Accrued Benefit Determinations and Benefit Improvements**

**1. Basic Formula**

- (a) \$.25 per month for each 250 hours of Credited Employment of five cents per hour unit of contribution made for a fiscal year, maximum 1000 hours per fiscal year, for the period September 1, 1955 through August 31, 1967
- (b) \$0.325 per month for each 250 hours of Credited Employment of five cents per hour unit of contribution made for a fiscal year, maximum 1000 hours per fiscal year, for the period September 1, 1967 through August 31, 1968
- (c) \$.375 per month for each 250 hours of Credited Employment of five cents per hour unit of contribution made for a fiscal year, maximum 1250 hours per fiscal year, for the period September 1, 1968 through August 31, 1971
- (d) \$.075 per month for each 50 hours of Credited Employment of five cents per hour unit of contribution made for a fiscal year, maximum 1250 hours per fiscal year, for the period September 1, 1971 through December 31, 1972
- (e) \$.075 per month for each 50 hours of Credited Employment of five cents per hour unit of contribution made for a fiscal year, maximum 1500 hours per fiscal year, for the period January 1, 1973 through December 31, 1980
- (f) An amount equal to 3% of the accumulated contributions resulting from Credited Employment on or after January 1, 1981 through December 31, 2003
- (g) An amount equal to 2.5% of the accumulated contributions resulting from Credited Employment on or after January 1, 2003 through December 31, 2005
- (h) An amount equal to 2% of the accumulated contributions resulting from Credited Employment on or after January 1, 2006

**2. Benefit Increases Granted to Active Participants and Deferred Vested Participants**

- (a) Effective January 1, 1975, the monthly Accrued Benefits earned during the period September 1, 1955 through August 31, 1971, were increased by fifteen percent for all Active Participants and Former Participants retiring after January 1, 1975.
- (b) Effective January 1, 1986, the total monthly Accrued Benefits earned as of December 31, 1985 were increased by ten percent for all Active Participants and Former Participants.

- (c) Effective January 1, 1989, the total monthly Accrued Benefits earned as of December 31, 1988 were increased by five percent for all Active Participants and Former Participants.
- (d) Effective January 1, 1992, the total monthly Accrued Benefits earned as of December 31, 1991 were increased by five percent for all Active Participants and Former Participants.
- (e) Effective January 1, 1996, the total monthly Accrued Benefits earned as of December 31, 1995 were increased by five percent for all Active Participants and Former Participants.
- (f) Effective January 1, 1997, the total monthly Accrued Benefits earned as of December 31, 1996 were increased by five percent for all Active Participants and Former Participants.
- (g) Effective January 1, 1998, the total monthly Accrued Benefits earned as of December 31, 1997 were increased by six percent for all Active Participants and Former Participants.
- (h) Effective January 1, 1999, the total monthly Accrued Benefits earned as of December 31, 1998 shall be increased by five percent for all Active Participants and Former Participants.
- (i) Effective January 1, 2000, the total monthly Accrued Benefits earned as of December 31, 1999 shall be increased by five percent for all Active Participants.

**3. Benefit Increases Granted to Retirees**

- (a) Effective January 1, 1986, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1986 were increased by 10 percent.
- (b) Effective January 1, 1989, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1989 were increased by five percent.
- (c) Effective January 1, 1993, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1993 were increased by five percent.
- (d) Effective January 1, 1996, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1996 were increased by five percent.

- (e) Effective January 1, 1997, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1997 were increased by five percent.
- (f) Effective January 1, 1998, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1998 were increased by six percent.
- (g) Effective January 1, 1999, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 1999 shall be increased by five percent, which will be reflected in the February 1, 1999 benefit check.
- (h) Effective January 1, 2000, the monthly retirement benefits for all Retirees, Disabled Participants, and Beneficiaries in pay status as of January 1, 2000 shall be increased by five percent, which will be reflected in the February 1, 2000 benefit check.
- (i) All Participants receiving a pension benefit as of December, 1999 will receive a 13<sup>th</sup> benefit check equal to the amount of their respective pension benefit for December, 1999, payable in December, 1999.

**4. Other Plan Improvements**

- (a) Effective January 1, 1997, the "popup" feature was added to the joint and survivor forms of payment.
- (b) Retirement eligibility and the reductions for early retirement have been enhanced or changed several times:
- (c) Effective January 1, 1986, the reduction for early retirement was changed from  $\frac{1}{2}$  of 1% to  $\frac{1}{4}$  of 1%. Effective January 1, 1998, it was further reduced to  $\frac{1}{8}$  of 1%.
- (d) Effective January 1, 2000, the age at which a participant could retire and receive full benefits was changed from 65 to 63; beginning on that date, reductions for retirement before 63 were measured from 63; and early retirement was permitted beginning at age 57.