

PLAN OF THE
LOCAL UNION 513 PENSION FUND
RULES AND REGULATIONS

AMENDED AND RESTATED AS OF JANUARY 1, 2015

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LOCAL UNION 513 PENSION PLAN

Amended and Restated January 1, 2015

PREAMBLE

This document constitutes the written Plan Document adopted by the Board of Trustees of the Local Union 513 Pension Plan under the terms of the Agreement and Declaration of Trust in order to establish provisions which determine the eligibility of Participants for the benefits provided by the Local Union 513 Pension Plan and to prescribe the amount, extent, conditions, and methods of payment of such benefits.

ARTICLE 1

Definitions

Section 1.1. Actuarial Equivalence and Actuarial Present Value.

- a. "Actuarial Equivalence" means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provision in which that phrase is used or, if not otherwise specified, based on the assumptions described in this section.
- b. When converting benefits to lump sums prior to January 1, 2008, their Actuarial Present Value shall be determined based on the "applicable interest rate" and "applicable mortality table" determined as follows. The "applicable interest rate" shall be determined under Section 417(e)(3)(A)(ii)(II) of the Internal Revenue Code ("IRC") for the January preceding the Plan Year which contains the Annuity Starting Date. The "applicable mortality table" shall be the table prescribed by the Secretary of the Treasury under Section 417(e)(3)(A)(ii)(I) of the IRC. When converting benefits to lump sums after January 1, 2008, their Actuarial Present Value shall be determined using the "applicable interest rate" and "applicable mortality table" set out in Section 417(e)(3)(B) and (C) of the IRC.
- c. For converting the normal form of benefit to all optional forms, except for adjustments described in Sections 7.11(a) and 6.4, and for lump sum payments, unless otherwise specified in the Plan, the Actuarial Present Value of a benefit shall be determined using the interest rate of 7% and the mortality table described below:
 1. When computing payments to an alternate payee pursuant to a Qualified Domestic Relations Order (that specifically provides for the division of a Disability Pension) when payments commence due to the commencement of a Disability Pension to the Participant, the mortality assumption used for the Participant shall be the 1965 Railroad Retirement Board - Disabled Life Table.

2. In all other cases, the mortality assumption shall be based on the 1971 Group Annuity Mortality Table weighted as follows:
 - A. for a Participant's benefit, 100% male and 0% female;
 - B. for the benefit of a Participant's Spouse or former Spouse, beneficiary, or any other case, 0% male and 100% female; and
 - C. in any other case, 50% male and 50% female.

Section 1.2. Annuity Starting Date or Effective Date.

- a. The "Annuity Starting Date" or "Effective Date," is the date as of which benefits are calculated and paid under the Plan. Except as provided in subsections (b), (c), and (d) of this section, the Annuity Starting Date shall be the first day of the month after or coincident with the later of:
 1. the first day of the month following submission by the Participant of a completed application for benefits, or
 2. 30 days after the Plan provides the Participant with a written explanation of the available benefit payment options, including the effect of a Husband-and-Wife Pension for married Participants.
- b. The 30-day period referred to in subsection (a)(2) above shall be inapplicable under either of the following circumstances:
 1. if the entire benefit is payable in a single sum pursuant to Section 3.19;
 2. if the Participant and the Participant's Qualified Spouse, if any, waive the 30-day period in writing, provided that the first benefit payment in such case will not be made less than 8 days after the written explanation was provided.
- c. The Annuity Starting Date shall not be later than the Participant's Required Beginning Date, and all distributions under the Plan will meet the requirements of Treas. Reg. 1.401(a)(9)-2 through 1.401(a)(9)-9, including the incidental benefit requirements of IRC 401(a)(9)(G).
- d. The Annuity Starting Date for a Beneficiary or alternate payee under a Qualified Domestic Relations Order will be determined as stated in Subsections 1.2(a), (b) and (c) above, except that references to the Husband-and-Wife Pension and spousal consent do not apply.

Section 1.3. Beneficiary.

"Beneficiary" means a person eligible to receive benefits under the Plan because of his/her designation for such benefits by a Participant or Pensioner, in writing, or made eligible to receive benefits by provisions of this Plan in accordance with Section 3.21.

Section 1.4. Collective Bargaining or Agreement or CBA.

"Collective Bargaining Agreement" means a written agreement between the Union and an employer which requires contributions to be made to the Fund.

Section 1.5. Continuous Employment.

"Continuous Employment" means any period of Service not separated by a quit, discharge, or other termination of employment between the periods.

Section 1.6. Contributing Employer.

"Contributing Employer" means any employer signatory to a CBA with the Union requiring contributions to this Fund, or any employer, the Union, or any other labor organization, signatory to any other agreement requiring contributions to this Fund, provided the employer has been accepted as a Contributing Employer by the Trustees.

Section 1.7. Contribution Period.

"Contribution Period" means the period during which an employer is a Contributing Employer with respect to Employees.

Section 1.8. Covered Employment.

"Covered Employment" means employment of an Employee by a Contributing Employer for which contributions are due the Fund, including employment prior to the Contribution Period, which if performed during the Contribution Period would have resulted in contributions being due to the Fund.

Section 1.9. Effective Contribution Rate.

- a. "Effective Contribution Rate" means the established hourly contribution rate paid to the Fund by a Contributing Employer on behalf of a Participant for his hours of Work in Covered Employment used to calculate his pension benefit for each Period of Accrual.
- b. Prior to May 1, 1986, for each Period of Accrual, the "Effective Contribution Rate" is the highest hourly contribution rate at which a Participant earned one Pension Credit. A Pension Credit earned at more than one hourly contribution rate shall be considered as earned at the lowest hourly contribution rate.
- c. Effective May 1, 1986, for each Period of Accrual, the "Effective Contribution Rate" is the highest hourly contribution rate at which a Participant was credited with at least 1,500 hours of Work for which contributions were required to be paid to the Fund in a period no greater than 12 consecutive months. If a Participant is credited with at least 1,500 hours of Work in a 12 consecutive month-period at more than one hourly contribution rate, the Participant's hourly contribution rate shall be considered the lowest hourly contribution rate for such Work.

If a Participant has not otherwise established an Effective Contribution Rate for a Period of Accrual because he was not credited with at least 1,500 hours of Work for which contributions were required to be paid in any 12 consecutive months during that Period of Accrual, and that period of accrual was terminated due to the effect of Section 1.18(a)(5), then his Effective Contribution Rate for that Period of Accrual will be determined as though the end of that period of accrual was determined without regard to Section 1.18(a)(5).

If a Participant has not otherwise established an Effective Contribution Rate for a Period of Accrual because he was not credited with at least 1,500 hours of Work for which contributions were required to be paid in any 12 consecutive months during that Period of Accrual, even as extended under the preceding paragraph, then his Effective Contribution Rate for that Period of Accrual will be the lowest hourly contribution rate at which a Participant was credited with any hours of Work during that Period of Accrual.

Section 1.10. Employee.

"Employee" means a person who is an employee of a Contributing Employer for whom employer contributions are required to be made to the Fund under a CBA or any other written agreement. The employees of the Union for whom the Union contributes to this Fund under a written agreement are also Employees under this Plan. The term "Employee" includes a leased employee of a Contributing Employer, within the meaning of Section 414(n) of the IRC, who otherwise meets the

conditions for participation, vesting and/or benefit accrual under the Plan.

Section 1.11. Fiscal Year.

"Fiscal Year" means the period from May 1 through the next April 30 and is the period for which various governmental reports are required to be filed by the Plan Administrator.

Section 1.12. Gender.

Except as the context may specifically require otherwise, use of the masculine gender shall be understood to include both masculine and feminine genders.

Section 1.13. Normal Retirement Age.

"Normal Retirement Age" means age 62, or, if later, the age of the Participant on the tenth anniversary of his participation. Notwithstanding the foregoing, for a Participant who completes one or more hours of Service after April 30, 1989, "Normal Retirement Age" means age 62, or, if later, the age of the Participant on the fifth anniversary of his participation. In calculating the fifth and tenth anniversary of participation, participation before a Permanent Break in Service shall not be counted.

Section 1.14. Participant.

"Participant" means an Employee who meets the requirements for participation in the Plan as set forth in Article 2.

Section 1.15. Pension Fund or Trust Fund or Fund.

"Pension Fund," "Trust Fund" or "Fund" means the Local Union 513 Pension Fund established under the Trust Agreement.

Section 1.16. Pension Plan or Plan.

"Pension Plan" or "Plan" means the Plan evidenced by this Plan document, as it may be amended from time to time by the Trustees. This Plan shall be known as Local Union 513 Pension Plan.

Section 1.17. Pensioner.

"Pensioner" means a person to whom a pension under this Plan is being paid or to whom a pension would be paid but for time for administrative processing.

Section 1.18. Period of Accrual.

- a. Effective May 1, 1986, "Period of Accrual" means any Plan Credit Year or number of consecutive Plan Credit Years during the Contribution Period during which a Participant earns any Pension Credit based on his hours of Work in Covered Employment. A Period of Accrual will be considered as ended on the day before the earliest to occur of the following; provided that, in no event, will any Period of Accrual be considered to end before April 30, 1986, and none will start after April 30, 1999:
 1. The beginning of any period of three or more Plan Credit Years during which a Participant failed to earn at least one-quarter Pension Credit; provided that any Accrual Grace Period, as defined below, shall not be counted toward such three-year period.
 2. A Participant's Annuity Starting Date.
 3. The day a Participant earns at least one-quarter Pension Credit through his contribution hours at an hourly contribution rate less than the Effective Contribution Rate previously established by the Participant for that Period of Accrual.
 4. The day a Participant changes collective bargaining units and earns at least one-quarter Pension Credit through his contribution hours at an hourly contribution rate higher than the Effective Contribution Rate previously established by the Participant for that Period of Accrual.
 5. May 1, 1999.
- b. An Accrual Grace Period shall be determined as follows:
 1. Accrual Grace Period Coincident With Break in Service Grace Period.

A Participant shall be allowed an Accrual Grace Period for any period which would be allowed as a Grace Period for purposes of Breaks in Service under the provisions of Subsections 5.4(a), (b), (c) and (d) of this Plan.

2. Accrual Grace Period While Unemployed.

A Participant shall be allowed an Accrual Grace Period for a Plan Credit Year if, at all times during such Plan Credit Year, the Participant:

- A. maintains registration for Work with the Union in accordance with the Union's work referral procedures; and
- B. remains available for Work in Covered Employment; and
- C. does not refuse any Work in Covered Employment offered to the Participant for which the Participant is qualified.

An Accrual Grace Period allowed under this Paragraph 1.18(b)(2) shall extend for a maximum of three consecutive Plan Credit Years.

- c. The next succeeding Period of Accrual will begin in the next succeeding Plan Credit Year in which the Participant earns any Pension Credit based on his hours of Work in covered Employment. In no event, however, will a Period of Accrual begin after April 30, 1999. If the Participant earns five (5) or more Pension Credits during any Period of Accrual, all previously earned Pension Credits will be considered as being earned in that Period of Accrual for the purpose of determining the benefit amount.
- d. A Permanent Break in Service as defined in Subsection 5.3(c) will cancel all Periods of Accrual prior to the Permanent Break in Service. A Participant who returns to Work in Covered Employment following a Permanent Break in Service shall begin a new Period of Accrual.

Section 1.19. Plan Credit Year.

"Plan Credit Year" means the twelve-month period from May 1 through the next April 30. For purposes of ERISA regulations, the Plan Credit Year shall serve as the vesting computation period, the benefit accrual computation period, and, after the initial period of employment, the computation period for eligibility to participate in the Plan.

Section 1.20. Qualified Domestic Relations Order.

"Qualified Domestic Relations Order" shall have the meaning given under Section 206(d)(3) of ERISA and Section 414(p) of the IRC.

Section 1.21. Required Beginning Date.

Beginning April 1, 1988, a Participant's "Required Beginning Date" is April 1 of the calendar year following the calendar year in which the Participant reaches age 70-1/2; provided, however, that for a Participant who reaches age 70-1/2 before 1988, other than a 5% owner, the Required Beginning Date is April 1 of the calendar year in which the Participant ceases Work in Covered Employment, if that is later.

Section 1.22. Service.

Each Employee will be credited with an hour of "Service" for:

- a. each hour for which an Employee is directly or indirectly paid or entitled to payment by a Contributing Employer for the performance of duties. These hours shall be credited to the Employee for the computation period or periods in which the duties are performed; and
- b. each hour for which an Employee is paid, or entitled to payment, by a Contributing Employer, directly or indirectly, without performance of duties, including payments for disability from the Welfare Fund of Engineers Local 513, but excluding any time compensated under a workers' compensation or unemployment compensation law, excluding any hours of non-work time in excess of 501 in any one continuous period. Two periods of paid non-work time shall be deemed continuous if they are compensated for the same reason (e.g., disability) and are not separated by at least ninety days. These hours shall be credited to the Employee for the computation period or periods in which the non-performance period occurred; and
- c. each hour for which back pay, irrespective of mitigation of damage, has been either awarded or agreed to by a Contributing Employer. These hours shall be credited to the Employee for the computation period or periods in which the loss was incurred rather than the period in which payment was made or received.

Section 1.23. Trust Agreement.

"Trust Agreement" means the Trust Indenture of Local Union 513 Pension Fund dated effective as of October 27, 1963, restated effective as of December 31, 1975, and as may thereafter be amended.

Section 1.24. Trustees.

"Trustees" means the Board of Trustees as established and constituted from time to time in accordance with the Trust Agreement.

Section 1.25. Union.

"Union" means Local Union 513, affiliated with the International Union of Operating Engineers, AFL-CIO.

Section 1.26. Work.

"Work" means each hour for which an Employee is paid, or entitled to payment, by a Contributing Employer while in Covered Employment.

Section 1.27. Other Terms.

Additional terms are defined in other sections of the Plan as follows:

TERM	SECTION
a. ERISA	2.1
b. Regular Pension	3.3 and 3.4
c. Early Retirement Pension	3.5 and 3.6
d. Deferred Pension	3.7 and 3.8
e. Disability Pension	3.9 - 3.15
f. Pro-Rata Pension	4.1
g. Pension Credits	5.1
h. Year of Vesting Service	5.2
i. Break in Service (One-Year Break in Service, Permanent Break in Service)	5.3
j. Qualified Spouse	6.1
k. Husband-and-Wife Pension	6.2
l. Vested Status	7.9

ARTICLE 2

Participation

Section 2.1. Purpose.

This article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as "ERISA"). It should be noted that once an Employee has become a Participant, the provisions of this Plan may give him credit in accordance with the rules of the Plan for some or all of his Service before he became a Participant.

Section 2.2. Participation.

An Employee who is engaged in Covered Employment during the Contribution Period shall become a Participant in the Plan retroactive to the first day of the Plan Credit Year in which he has 375 hours of Work in Covered Employment for which contributions are required to be made on his behalf. The required hours may also be completed with any hours of Service in other employment with a Contributing Employer if such employment is Continuous Employment with the Employee's Covered Employment with that Contributing Employer.

Section 2.3. Termination of Participation.

An Employee who incurs a One-Year Break in Service as defined in Section 5.3(b) shall cease to be a Participant as of the last day of the Plan Credit Year which constituted the One-Year Break, unless such Participant is a Pensioner, or has acquired the right to a pension (other than for disability), whether immediate or deferred.

Section 2.4. Reinstatement of Participation.

An Employee who has lost his status as a Participant in accordance with Section 2.3 shall again become a Participant by meeting the requirements of Section 2.2 on the basis of Service after the date on which his participation terminated. An Employee who meets these requirements shall be considered a Participant retroactively as of his re-employment commencement date in Covered Employment.

The re-employment commencement date is the first day the Employee is credited with an hour of Service after the Plan Credit Year in which he incurred his last One-Year Break in Service.

ARTICLE 3

Pension Eligibility and Amounts

Section 3.1. General.

This article sets forth the eligibility conditions and benefit amounts for the pensions provided by this Plan. The accumulation and retention of Pension Credits and years of Vesting Service for eligibility are subject to the provisions of Article 5. The benefit amounts are subject to reduction on account of the Husband-and-Wife Pension as provided in Article 6. Entitlement of an eligible Participant to receive pension benefits is subject to his retirement and application for benefits, as provided in Article 7.

Section 3.2. Special Benefit at or After Normal Retirement Age.

- a. A Participant who has attained Normal Retirement Age shall be eligible for a Deferred Pension regardless of his number of Pension Credits or Years of Vesting Service, determined in accordance with Section 3.8.
- b. An individual will not be a Participant at Normal Retirement Age, and, therefore, will not be entitled to a benefit under Subsection (a) above, unless any prior One-Year Break in Service has been repaired in accordance with Section 2.4.

Section 3.3. Regular Pension — Eligibility.

A Participant may retire on a Regular Pension if he meets the following requirements:

- a. he has attained age 62, and
- b. he has at least 10 Pension Credits.

Section 3.4. Regular Pension — Amount.

- a. Benefits Accrued through April 30, 1999.
 1. The monthly amount of the Regular Pension is the sum of the amount determined in paragraph (b) below and the sum of the products of the Participant's Pension Credits earned during each Period of Accrual multiplied by the accrual rate which corresponds to the Effective Contribution Rate established during each Period of Accrual. Effective Contribution Rates and

corresponding accrual rates are shown in the following schedules. No more than 25 Pension Credits will be recognized for purposes of determining the Regular Pension amount, subject to the following exceptions:

- 30 Pension Credits maximum, for Participants who retire on or after May 1, 1985, with at least one Pension Credit earned after May 1, 1984, and 1/4 Pension Credit earned at a contribution rate of \$2.30 or higher;
- 31 Pension Credits maximum, for Participants who retire on or after May 1, 1990, with at least one Pension Credit earned at a contribution rate of \$2.70 or higher; and
- 32 Pension Credits maximum, for Participants who retire with at least one hour of Work in Covered Employment at a contribution rate of \$2.85 or higher.

In the event a Participant has earned more than the maximum number of Pension Credits which may be recognized for purposes of determining the Regular Pension amount, the Pension Credits utilized will be those Pension Credits with the accrual rates which will produce the greatest amount of benefits.

2. Notwithstanding Subsection 3.4(a), a Participant who earns at least one Pension Credit after May 1, 1984, and retires after earning at least one-quarter Pension Credit at an hourly contribution rate of \$2.30, will have a maximum of 30 Pension Credits for all Periods of Accrual recognized for purposes of determining the monthly amount of a Regular Pension.
3. Notwithstanding Subsection 3.4(a) above, a Participant who retires at an Effective Contribution Rate of \$.20 or \$.30 will have a maximum of 30 Pension Credits for all Periods of Accrual recognized for purposes of determining the monthly amount of a Regular Pension.
4. Notwithstanding Subsection 3.4(a), a Participant who works at least one hour after May 1, 1990, at an hourly contribution rate of \$2.80, will have a maximum of 31 Pension Credits for all Periods of Accrual recognized for purposes of determining the monthly amount of a Regular Pension.

CONSTRUCTION EMPLOYEES
ACCRUAL RATE PER PENSION CREDIT FOR PENSION EFFECTIVE:

Effective Contribution Rate	After 5/1/88	After 5/1/87	After 5/1/85	On or ⁽¹⁾ After 5/1/84	On or ⁽²⁾ After 8/1/83	After 5/1/83	After 5/1/81	On or ⁽³⁾ After 10/1/80	On or ⁽⁴⁾ After 10/1/79	On or ⁽⁵⁾ After 10/1/78	Before 5/1/77
1.00	-	-	\$24.50	-	-	\$23.11	\$24.00	\$20.00	\$18.80	\$17.80	\$16.20
1.25	-	-	27.27	-	-	25.92	28.30 ⁽⁶⁾	-	-	-	-
1.50	-	-	-	\$36.72	\$34.16	30.56	-	-	-	-	-
1.70	-	-	-	36.72	34.16	-	-	-	-	-	-
2.00	-	-	-	36.72	-	-	-	-	-	-	-
2.30	-	-	38.92 ⁽¹¹⁾	38.92*	-	-	-	-	-	-	-
2.60	-	-	\$43.35	-	-	-	-	-	-	-	-
2.70	-	-	46.65 ⁽¹²⁾	-	-	-	-	-	-	-	-
2.80	-	-	48.38 ⁽¹³⁾	-	-	-	-	-	-	-	-
2.85	\$50.00 ⁽¹⁴⁾	-	-	-	-	-	-	-	-	-	-
3.00	50.50 ⁽¹⁵⁾	-	-	-	-	-	-	-	-	-	-
3.10	53.00 ⁽¹⁶⁾	-	-	-	-	-	-	-	-	-	-
3.35	56.90 ⁽¹⁷⁾	-	-	-	-	-	-	-	-	-	-
3.65	63.00 ⁽¹⁸⁾	-	-	-	-	-	-	-	-	-	-
4.10	68.60 ⁽¹⁹⁾	-	-	-	-	-	-	-	-	-	-
4.40	70.00 ⁽²⁰⁾	-	-	-	-	-	-	-	-	-	-

CONSTRUCTION EMPLOYEES CONTD

1. For Participants who have at least 1,500 hours of contributions at the rate of \$2.60 or higher.
2. For Participants who have at least one Pension Credit after May 1, 1984.
3. For Participants who earn at least one Pension Credit after May 1, 1983 at a rate of \$1.50 or higher.
4. For Participants who earn at least one Pension Credit after May 1, 1981 at the rate of \$1.50 or higher.
5. For Participants who earn at least one Pension Credit after May 1, 1982.
6. For Participants who have earned at least one Pension Credit after May 1, 1981.
7. For Participants who have earned at least one Pension Credit after October 1, 1980.
8. For Participants who have earned at least one Pension Credit after October 1, 1979.
9. For Participants who have earned at least one Pension Credit after May 1, 1997.
10. Effective May 1, 1982 for Participants who earn at least one Pension Credit after May 1, 1981.
11. For Participants who earn at least 1/4 of a pension credit after May 1, 1981.
12. Effective May 1, 1988 for Participants who have at least one hour or more at the hourly contribution rate of \$2.00 or higher after May 1, 1985.
13. Effective May 1, 1990 for Participants who have at least one Pension Credit at the rate of \$2.70 or higher.
14. Effective May 1, 1991 for Participants who have at least one hour or more at the hourly contribution rate of \$2.85 or higher.
15. Effective May 1, 1992 for Participants who have at least one hour or more at the hourly contribution rate of \$3.00 or higher.
16. Effective May 1, 1993 for Participants who have at least one hour or more at the hourly contribution rate of \$2.85 or higher and one hour or more at the \$3.10 rate.
17. Effective May 1, 1994 for Participants who have at least one Pension Credit at the hourly contribution rate of \$3.00 or higher and one hour or more at the \$3.35 rate.
18. Effective May 1, 1996 for Participants who have at least one Pension Credit at the hourly contribution rate of \$3.35 or higher and one hour or more at the \$3.65 rate.
19. Effective May 1, 1997 for Participants who have at least one Pension Credit at the hourly contribution rate of \$3.65 or higher after May 1, 1996 and one hour or more at the \$4.10 rate.
20. Effective May 1, 1998 for Participants who have at least one Pension Credit at the hourly contribution rate of \$4.10 or higher after May 1, 1997, and one hour or more at the \$4.40 rate.

NON-CONSTRUCTION EMPLOYEES

As of May 1, 1996

Effective Contribution Rate	Accrual Rate Per Pension Credit
1.00	24.50
1.10	25.69
1.15	26.29
1.20	26.89
1.25	27.47
1.30	29.32
1.35	31.17
1.40	33.02
1.50	36.72
1.60	37.16
1.70	40.08
1.75	40.78
1.80	41.48
1.90	42.88
2.00	44.28
2.10	44.28
2.30	44.28
2.50	48.13 ¹
2.55	48.20 ¹
2.60	48.25 ¹
2.80	48.38 ¹
2.85	50.00 ²
3.00	50.50 ²
3.10	53.00 ²
3.20	56.10 ²
3.35	60.90 ²
3.40	61.00 ²
3.45	62.30 ³
3.50	63.00 ³
3.55	63.50 ³
3.65	65.10 ³
3.80	65.90 ³
3.85	66.50 ³
3.95	68.30 ³
4.20	68.90 ⁴
4.25	69.00 ⁴

- (1) This rate applies if a Participant earns one Pension Credit at the \$2.00 rate or higher and works at the \$2.30 contribution rate after May 1, 1993.
- (2) Effective May 1, 1994, this accrual rate applies if a Participant works at least one hour of Service at the applicable contribution rate and had earned at least one Pension Credit at the immediately preceding accrual rate.
- (3) Effective May 1, 1996, this rate applies if a Participant works at least one hour of Service at the applicable contribution rate and has at least one Pension Credit at the Participant's immediately preceding accrual rate.
- (4) Effective May 1, 1998, this rate applies if a Participant works at least one hour of Service at the applicable contribution rate and has at least one Pension Credit at the Participant's immediately preceding accrual rate.

5. Notwithstanding Subsection 3.4(a), a Participant who works at least one hour after May 1, 1991, at an hourly contribution rate of \$2.85, will have a maximum of 32 Pension Credits for all Periods of Accrual recognized for purposes of determining the monthly amount of a Regular Pension.

b. The monthly amount of the Regular Pension accrued for the period beginning May 1, 1999, will be the total contributions required to be made to the Plan by the Participant's Employer for Service by the Participant during each period indicated below multiplied by the corresponding percentage.

Contribution Period	Accrual Percentage Rate
May 1, 1999 through April 30, 2000	1.20%
May 1, 2000 through April 30, 2003	1.40%
May 1, 2003 through April 30, 2010	2.40%
May 1, 2010 through April 30, 2013	1.40%
May 1, 2013 and after, for retirements on and after that date	1.00%

Effective May 1, 2007, the first \$0.30 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2008, the first \$0.50 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2009, the first \$1.50 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2010, the first \$2.00 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2011, the first \$2.50 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2013, the first \$2.75 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2014, the first \$3.00 of each hourly contribution will not be included in the above calculation of benefit accruals.

Effective May 1, 2015, the first \$3.25 of each hourly contribution will not be included in the above calculation of benefit accruals.

c. A 10% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of October 1, 1978. Participants eligible for the immediate payment of benefits as of October 1, 1978, who have not earned at least one Pension Credit after May 1, 1977, received a 10% increase in their monthly pension amount as calculated at retirement.

A 6% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of October 1, 1979.

A 6% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of October 1, 1980.

A 7% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of August 1, 1981.

An 8% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1982.

An 8% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of April 30, 1983.

An 8% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of July 31, 1983.

An 8% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of April 30, 1984.

A 6% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of February 28, 1985.

A 3.8% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1988.

A 5% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1991.

A 4.5% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1992.

A 1.5% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1993.

A 5% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1994.

A 3% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1996.

A 3% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1997.

A 3% increase in the monthly pension amount was extended to Pensioners and Beneficiaries on the rolls as of May 1, 1998.

An additional one-time payment was made to Retirees and Beneficiaries on the rolls as of April 30, 1999, at the same time and in the same amount as their regular benefit payment for December, 1999.

An additional one-time payment was made to Retirees and Beneficiaries on the rolls as of April 30, 2000, at the same time and in the same amount as their regular benefit payment for December, 2000.

An additional one-time payment was made to Retirees and Beneficiaries on the rolls as of December 1, 2002, in the same amount as their regular benefit payment for December, 2002, which will be paid on January 28, 2003.

A 5% increase in the monthly pension amount payable May 1, 2003, and thereafter, was extended to Pensioners and Beneficiaries on the rolls as of December 1, 2003.

The monthly pension amount payable to Pensioners and Beneficiaries on the rolls as of December 1, 2003, was increased retroactive to May 1, 2003, by 5% of the amount payable without taking into account the effect of the first 5% increase payable to the same group of retirees with the same effective date, which was implemented as part of Amendment #5 to the May 1, 2001 Restatement.

An additional one-time payment of \$1,000 was made on December 2, 2006 to retirees and beneficiaries receiving a benefit from the Fund as of December 1, 2006.

An additional one-time payment of \$1,000 was made on December 3, 2007 to retirees and beneficiaries receiving a benefit from the Fund as of December 1, 2007.

Section 3.5. Early Retirement Pension - Eligibility.

A Participant shall be entitled to retire on an Early Retirement Pension if he meets the following requirements:

- a. he has attained age 55, and
- b. he has at least 10 Pension Credits and for Annuity Starting Dates on or after May 1, 2000, has earned Vested Status.

Section 3.6. Early Retirement Pension - Amount.

The monthly amount of the Early Retirement Pension is the amount of the Regular Pension reduced by one-half of one percent for each month by which the commencement of the pension precedes age 62.

For Early Retirement Pensions effective on or after May 1, 1985, the monthly amount of the Regular Pension shall be reduced by one-fourth of one percent for each month by which the commencement of the pension precedes age 62, providing the following requirements are met:

- a. the Participant earned at least one (1) Pension Credit after May 1, 1984, and
- b. at least one-fourth (1/4) Pension Credit was earned at an hourly contribution rate of \$2.30.

Section 3.7. Deferred Pension - Eligibility.

A Participant shall be entitled to a Deferred Pension if he has attained Normal Retirement Age.

A Non-Bargained Employee shall be entitled to a Deferred Pension provided he meets the vesting requirements in Article 10, Non-Bargained Employees.

Section 3.8. Deferred Pension - Amount.

The monthly amount of the Deferred Pension payable at Normal Retirement Age shall be determined in accordance with Section 3.4, based on the accrual rate and accrual percentage rate in effect when the Participant last earned any Pension Credit.

If a Participant is a Non-Bargained Employee, the monthly amount of the Deferred Pension payable at Normal Retirement Age shall be determined in accordance with Article 10, Non-Bargained Employees.

Section 3.9. Disability Pension - Eligibility and Commencement.

A Participant may retire on a Disability Pension provided he is totally disabled as provided in Section 3.12, has at least 5 Pension Credits, and if his disability occurs on or after May 1, 2009, he worked a total of at least 500 hours in Covered Employment during the 36 months prior to the month during which his disability occurred. A Disability Pension shall commence the first day of the month following the month in which the Participant completes his application for a Disability Pension, provided that his application for a Disability Pension is approved by the Trustees.

If, at the time an application for a Disability Pension is approved by the Trustees, the Participant has begun receiving an Early Retirement Pension, and if the effective date of the disability is prior to the effective date of the Early Retirement Pension, then the Early Retirement Pension may be rescinded in favor of the Disability Pension. When the Disability Pension is put into pay status, the Participant will receive an adjustment representing the excess of the retroactive Disability Pension benefits owed over the Early Retirement Pension benefits received, adjusted for interest. If the effective date of the disability is not prior to the effective date of the Early Retirement Pension, then the Early Retirement Pension may not be rescinded and the Disability Pension will not be payable.

However, if the Participant does not submit an application for a Disability Pension and a copy of his notice of eligibility for a Social Security disability benefit (or other such evidence of Total Disability) within six (6) months of receipt of such evidence, then the Early Retirement Pension will be converted to a Disability Pension effective with the beginning of the month when such evidence was submitted. The requirement that the effective date of the disability be prior to the effective date of the Early Retirement Pension still applies.

Section 3.10. Disability Pension - Amount.

The monthly amount of the Disability Pension is the same as the Regular Pension subject to any adjustment for optional forms of payment.

Section 3.11. Non-Auxiliary Disability Benefit.

- a. Notwithstanding any provision of the Plan to the contrary, effective as of May 1, 1989, the Disability Pension shall be paid as a Husband-and-Wife Pension, subject to a waiver in accordance with Section 6.2(e), or any other actuarially equivalent benefit payment form that would be available to the Participant under the Plan if he were retiring at Normal Retirement Age (or, if the Participant is then eligible for it, Early Retirement).
- b. In converting the accrued benefit of a Participant retiring with a Disability Pension to actuarially equivalent alternate payment forms, the factors set forth in Section 6.4 shall be used.

Section 3.12. Disability Defined.

A Participant shall be considered totally disabled only if the Board of Trustees finds there is Proof of Total Disability and the Participant is prevented thereby from engaging in any gainful pursuit in Covered Employment.

Section 3.13. Earnings by a Disability Pensioner.

A Disability Pensioner shall report all and any earnings from gainful pursuit in Covered Employment to the Trustees, in writing, within fifteen (15) days after the end of any month in which he had such earnings. If a Disability Pensioner fails to make timely reports as required in this section, he shall be disqualified for benefits for twelve (12) months in addition to the month or months in which he has earnings from gainful pursuit in Covered Employment. This penalty shall apply to each such violation unless the Trustees determine there were extenuating circumstances which prevented the Participant from making such timely filings.

Section 3.14. Proof of Total Disability.

- a. The Trustees may accept the certification of any duly licensed medical practitioner acceptable to the Board of Trustees that the Participant is totally disabled, or the Trustees may require that the Participant applying for a Disability Pension submit to an examination by a physician or physicians selected by the Trustees, and additionally may require such Participant to submit to re-examination periodically, as the Trustees may direct. The Trustees shall accept as evidence of total disability, a determination by the Social Security Administration that the Participant is entitled to a Social Security Disability Benefit in connection with his Old Age and Survivors Insurance coverage.
- b. Disability Pension payments shall cease if the Disability Pensioner ceases to be totally disabled.
- c. The determination of the Board of Trustees, in their discretion, of total disability shall be final and binding on all concerned.

Section 3.15. Cessation of Total Disability.

Any Participant retiring under the Disability Pension Provisions of the Plan who subsequently ceases to be totally disabled may:

- a. apply for an Early Retirement or Regular Pension, provided he has fulfilled the requirements for such benefit. The benefit shall become payable for the month immediately following the month in which the Disability Pension shall terminate, and the amount shall be based on the then-attained age of the Pensioner, or
- b. return to Covered Employment and resume the accrual of Pension Credits.

Section 3.16. Death Benefits prior to Retirement.

a. Eligibility.

If a non-vested Participant dies before beginning to receive any pension benefits, and such Participant has previously accumulated at least five Pension Credits which resulted solely from contributions made on his behalf by Employers, a death benefit shall be payable in one lump sum to his Beneficiary.

b. Amount.

The amount of such Death Benefit shall be 50% of the contributions which the Trust Fund has received on behalf of such Participant from Employers, but in no event more than the maximum amount in accordance with the following schedule:

Pension Credits Earned during the Contribution Period	Maximum Death Benefit
5 but less than 7	\$6,000
7 but less than 9	\$8,000
9 or more Pension Credits	\$10,000

c. Written application.

A written application for a death payment must be made to the Trustees by the applicant(s) within 24 months from the date of death of the Participant on a form supplied by the Trustees.

d. The lump sum death benefits described in this section are not payable if a Husband-and-Wife Pension or a Pre-retirement Surviving Spouse Pension is in effect under Article 6, or if monthly death benefits under Section 7.12 are in effect.

Section 3.17. Non-duplication.

Only one pension or death benefit is payable under this Plan, except that a Disability Pensioner who recovers may be entitled to a different kind of pension and a Pensioner may also receive a pension as the Spouse of a deceased Pensioner.

Section 3.18. Rounding of Benefit Amounts.

A benefit amount calculated under this Plan which is not an exact multiple of a dollar, shall be rounded by raising it to the next higher dollar and the rounded amount shall be payable.

Section 3.19. Small Benefit Cashouts.

Notwithstanding any other provision of this Plan, if the Actuarial Present Value of a benefit payable under the Plan is \$1,000 or less as of the date payment would start, the Trustees may pay it in a single sum equal to that value. If the Actuarial Present Value of the benefit is greater than \$1,000 but not greater than \$5,000, the Trustees may pay it in a single sum equal to that value only with the written consent of the distributee (and his spouse, where applicable). This section shall not apply after payment of the Participant's pension has begun, unless the Participant (and his spouse, where applicable) or Beneficiary consents in writing to the single-sum distribution.

Section 3.20. Death Benefit.

Notwithstanding any other provision in the Plan, payment of Death Benefits will commence within a reasonable time after receiving the application and death certificate.

- a. If the Death Benefit is being paid to a Beneficiary other than the Participant's Spouse, payments shall either:
 1. be completed by December 31 of the fifth calendar year following the year of the Participant's death, or
 2. commence no later than the end of the year following the Participant's death and be paid out over a period no greater than the Beneficiary's life or life expectancy, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, except that payments can continue until the end of the fifth calendar year following the year of the Participant's death, if longer.
- b. If there is no Beneficiary, payment of Death Benefits shall be completed no later than December 31 of the fifth calendar year following the year of the Participant's death.
- c. If the Beneficiary is the Participant's Spouse, Death Benefit payments shall commence no later than December 31 of the year the Participant would have attained age 70-1/2, paid over the life or life expectancy of the Spouse, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, and benefits shall be actuarially increased for the delay.

Section 3.21. Order of Beneficiary Payments.

- a. As used herein, the term "Beneficiary" means the person or persons designated by a Participant or Pensioner in the most recent designation form filed with the Trustees. If no person is so named, or if the person so named is a former spouse of the Participant or Pensioner whose beneficiary designation was filed before the entry of the divorce decree, or if the person or persons so designated do not survive the Participant or Pensioner, the person or persons in the first of the following successive classes of persons surviving at the death of the Participant shall be deemed the Beneficiary (except as provided in Section 3.16):
 1. Beneficiary (if any) designated by the Participant or Pensioner and in effect for the Welfare Fund of Engineers Local 513;
 2. widow or widower;
 3. children;
 4. parents;
 5. estate of the Participant or the Pensioner.
- b. If the Trustees are unable to make such payments within two years after any benefits become payable to a Beneficiary because the identity or whereabouts of such person or persons cannot be ascertained, the Trustees shall direct that such payments be forfeited and all liability for the payment thereof shall terminate. In any such case, the funds released as a result of such forfeiture shall be administered in the same manner as termination of service prior to vesting under Section 5.3.
- c. If benefits become payable to any Beneficiary who is under the age of twenty-one (21) years, the Trustees in their discretion may appoint any adult person as custodian for such Beneficiary under the Missouri Transfers to Minors Law or similar statute and may pay the Beneficiary's benefits to such custodian.

Section 3.22. Facility of Payment.

If any person entitled to payments under this Plan shall be under a legal disability or, in the sole judgment of the Trustees, shall otherwise be unable to apply such payments to his own best interest and advantage, the Trustees, in their discretion, may direct such payments to be made:

- a. to his court-appointed guardian or conservator, if any, or
- b. to his spouse, another member of his family, or to any other person to be expended for his benefit, or
- c. to an adult person designated by the Trustees as a custodian for him under the Missouri Transfers to Minors Law or similar statute, or

- d. to an adult person designated by the Trustees as a personal custodian for him under the Missouri Personal Custodian Law or similar statute.

Any payment made by the Plan in accordance with the above provisions shall fully discharge the Plan to the extent of such payments.

ARTICLE 4 **Pro-Rata Pensions**

Section 4.1. Purpose.

Pro-Rata Pensions are provided under this retirement Plan for employees who would otherwise lack sufficient service credit to be eligible for any pension because their years of employment were divided between different pension plans, or, if eligible, whose pensions would be a lesser amount because of such divisions of employment.

Section 4.2. Related Pension Plan.

By resolution duly adopted, the Trustees recognize each other pension plan which has executed the Pension Reciprocity Agreement for Operating Engineers Pension Funds and which has adopted Article 4 of such Reciprocity Agreement as a Related Pension Plan.

Section 4.3. Related Hours.

The term "Related Hours" means hours of employment which are creditable under a Related Plan for both pension credit and benefit accrual purposes, and includes hours of employment before the Effective Date of this Agreement.

Section 4.4. Related Credit.

The term "Related Credit" means service creditable to any Employee under a Related Plan and certified by the Related Plan to this Plan, including service before the Effective Date of this Agreement to the extent creditable under this Plan.

Section 4.5. Combined Pension Credit.

The term "Combined Pension Credit" means the total of an Employee's Related Credit plus the Credited Service accumulated under this Plan. For the purpose of determining eligibility for a Pro-Rata Pension, the maximum "Combined Pension Credit" counted in any calendar (Plan) year shall be no more than the Credited Service available under the terms of this Plan.

Section 4.6. Eligibility.

An Employee shall be eligible for a Pro-Rata Pension under this Plan if he satisfies all the following requirements:

- a. he has retired and is not performing work for which contributions are being made to the Related Plan; and
- b. he would be eligible for any type of pension under this Plan, including a Disability Pension and vested or Deferred Pension, if his Combined Pension Credits were treated as Credited Service under this Plan; and
- c. he has at least one year of Credited Service based upon actual employment after his Effective Date of Coverage for which contributions have been made to this Plan; and
- d. he waives his right to any other pension he may otherwise be entitled to from this Plan.

Section 4.7. Benefit Amount.

The amount of the Pro-Rata Pension shall be determined in the same manner as applicable to the calculation of regular pension benefits based on the years of Credited Service under this Plan and the Employer contributions to this Plan on behalf of the Employee. No payment shall be received from this Plan for Related Credits.

Section 4.8. Payment.

The payment of a Pro-Rata Pension shall be subject to all of the conditions applicable to other types of pensions under this Plan.

Section 4.9. Break in Service.

Related hours shall be counted when determining whether an Employee has satisfied the requirements of this Plan in order to prevent cancellation of his accumulated Credited Service.

Section 4.10. Pre-Retirement Death Benefits.

Related Credits shall be limited to determining an Employee's eligibility for monthly pension benefits to a Pensioner (including a Disability Pension and Vesting in a Deferred Pension) or to monthly payment guarantees to the survivor of a Pensioner.

Section 4.11. Effective Date.

This article and the payment of Pro-Rata Pensions hereunder became effective on February 22, 1973.

ARTICLE 5

Pension Credits and Years of Vesting Service

Section 5.1. Pension Credits.

a. For Employment before May 1, 1976.

1. During the Contribution Period.

For periods during the Contribution Period but before May 1, 1976, a Participant shall be credited with Pension Credits on the basis of his hours in Covered Employment on which contributions to the Pension Fund were made in accordance with the following schedule:

Hours of Work in Covered Employment During Plan Credit Year	Pension Credit
Less than 375 hours	No Pension Credit
375 to 749 hours	$\frac{1}{4}$ Pension Credit
750 to 1,124 hours	$\frac{1}{2}$ Pension Credit
1,125 to 1,499 hours	$\frac{3}{4}$ Pension Credit
1,500 or more hours	1 Pension Credit

2. Before the Contribution Period.

A. Participant shall be credited with Pension Credits up to a maximum of 15 Pension Credits for periods before the Contribution Period on the basis of his Work in Covered Employment.

B. For a Participant to be entitled to any Pension Credit prior to the Contribution Period, he must have been actively engaged in Covered Employment for sufficient time to have accumulated at least four quarters of Pension Credit in the five-year period subsequent to May 1, 1963. An exception to this requirement shall be made with respect to a Participant who was unable to accumulate four quarters of Pension Credit in such five-year period if the reason he was unable to perform work in Covered Employment was because he was disabled. In such case, the Participant shall be granted Pension Credit if the total contributions received by the Fund on his behalf, in the six years immediately following May 1, 1963, would entitle him to four quarters of Pension Credit.

- C. It is recognized that it may be difficult or impossible to obtain reliable records of hours of employment for all years prior to the Contribution Period. Therefore, Pension Credits may be determined by the Trustees on the basis of the best evidence available which may be obtained from Union records, employment records, Social Security records, or otherwise. With respect to any year for which none of these records may produce completely satisfactory evidence to the Trustees, a presumption is established that a Participant who qualifies for Pension Credits, in accordance with the requirements set forth in the preceding sections of this article, was engaged in Covered Employment for the number of months in that year during which he was eligible for referral to Covered Employment, unless evidence is available to the contrary which makes it apparent he was not engaged in Covered Employment.
- D. Pension Credit prior to the Contribution Period will not be granted to Participants for any period which precedes two consecutive calendar years during which he was not engaged in Covered Employment.
- E. The decision of the Trustees with respect to the amount of Pension Credit to be granted any Participant shall be binding on all concerned.

b. Employment after April 30, 1976, but before May 1, 1997.

1. For periods after April 30, 1976, but before May 1, 1997, a Participant shall be credited with Pension Credit on the basis of his hours of Work in covered Employment on which contributions to the Pension Fund were made in accordance with the following schedule:

Hours of Work in Covered Employment during Plan Credit Year	Pension Credit
Less than 375 hours	No Pension Credit
At least 375 hours	$\frac{1}{4}$ Pension Credit
At least 501 hours	$\frac{1}{2}$ Pension Credit
At least 1,001 hours	$\frac{3}{4}$ Pension Credit
At least 1,500 hours	1 Pension Credit

2. Effective May 1, 1977, a Participant who works in Covered Employment for more than:
 - 375 but less than 501 hours; or
 - 501 but less than 1,001 hours; or

1,001 but less than 1,500 hours; or
1,500 hours

in any Plan Credit Year beginning May 1, 1977, shall have such excess hours worked after that date "banked" for use in any years thereafter when he does not work in Covered Employment enough hours to earn a full Pension Credit. This provision is subject to the following provisions:

A. The maximum number of hours which can be "banked" for a Participant under the Plan is 1,500.

B. Hours in a Participant's "bank" shall be applied only at the earlier of retirement or death. If a Participant's hours worked in Covered Employment in any Plan Credit Year, plus any Non-Work Credits that may be applicable are not enough to earn one full Pension Credit, the hours in the "bank" may be used to earn additional Pension Credit. However, no "banked" hours can be applied to any Plan Credit Year in which the Participant did not work in Covered Employment (including any Non-Work Credit) a total of at least 375 hours. In no event shall the total number of a Participant's Pension Credits at retirement or death exceed the number of full Plan Credit years during which the Participant was employed in Covered Employment.

3. For purposes of compliance with Regulation 2530 of the Department of Labor, if in a Plan Credit Year a Participant completes a Year of Vesting Service but less than 375 hours of work in Covered Employment, he shall be credited with a pro-rated portion of the full benefit accrual he could have earned during such Plan Credit Year in the ratio of his actual hours of work in Covered Employment to 2,000.

c Employment after April 30, 1997.

1. For periods after April 30, 1997, a Participant shall be credited with Pension Credit on the basis of his hours of Work in Covered Employment on which contributions to the Pension Fund were made in accordance with the following schedule:

Hours of Work in Covered Employment during Plan Credit Year	Pension Credit
Less than 375 hours	No Pension Credit
At least 375 hours	$\frac{1}{4}$ Pension Credit
At least 501 hours	$\frac{1}{2}$ Pension Credit

At least 1,001 hours	$\frac{3}{4}$ Pension Credit
At least 1,400 hours	1 Pension Credit

2. Effective May 1, 1997, a Participant who works in Covered Employment for more than:

375 but less than 501 hours; or
 501 but less than 1,001 hours; or
 1,001 but less than 1,400 hours; or
 1,400 hours

in any Plan Credit Year beginning May 1, 1997, shall have such excess hours worked after that date "banked" for use in any years thereafter when he does not work in Covered Employment enough hours to earn a full Pension Credit. This provision is subject to the following provisions:

- A. The maximum number of hours which can be "banked" for a Participant under the Plan is 2,250.
- B. Hours in a Participant's "bank" shall be applied only at the earlier of retirement or death. If a Participant's hours worked in Covered Employment in any Plan Credit Year plus any Non-Work Credits that may be applicable are not enough to earn one full Pension Credit, the hours in the "bank" may be used to earn additional Pension Credit. However, no "banked" hours can be applied to any Plan Credit Year in which the Participant did not work in Covered Employment (including any Non-Work Credit) a total of at least 375 hours. In no event shall the total number of a Participant's Pension Credits at retirement or death exceed the number of full Plan Credit Years during which the Participant was employed in Covered Employment.

3. For purposes of compliance with Regulation 2530 of the Department of Labor, if in a Plan Credit Year a Participant completes a Year of Vesting Service but less than 375 hours of work in Covered Employment, he shall be credited with a pro-rated portion of the full benefit accrual he could have earned during such Plan Credit Year in the ratio of his actual hours of work in Covered Employment to 2,000.

d. Credits for Non-Work Periods.

A Participant, who has prior Pension Credits shall receive further credit for periods of absence from Covered Employment under the following circumstances:

1. During periods of disability arising in Covered Employment for which workers' compensation benefits were received by the Participant up to eight quarters of Pension Credit over the full period of his participation in the Plan.
2. Pension Credit and Vesting Service will be granted to Participant for time spent in the Armed Forces of the United States in accordance with applicable federal law.

To obtain such credit, an Employee who left Covered Employment to enter such military service shall apply for re-employment with his Employer within the time prescribed by law. Furthermore, he must call his claim for credit for military service to the attention of the Trustees and be prepared to supply the evidence that the Trustees will need in order to determine his rights.

3. A Participant shall not be entitled to receive additional non-working Pension Credits or Vesting Service for the same non-work period for which he had already received Pension Credits or Vesting Service by virtue of Employer Contributions made on his behalf.
4. A Participant who receives Pension Credits under this Subsection 5.1(d) for non-work periods after April 30, 1999, shall also receive corresponding benefit accruals. The amount of such accruals shall be determined by multiplying the hourly contribution rate of the Contributing Employer for whom the Participant worked most recently by the minimum number of hours required to earn the number of Pension Credits which the Participant has been granted for this period. The additional monthly accrued benefit is then obtained by multiplying this result by the appropriate Accrual percentage in Subsection 3.4(b).

Section 5.2. Years of Vesting Service.

a. General Rule.

A Participant shall be credited with one Year of Vesting Service for each Plan Credit Year during the Contribution Period, including periods before he became a Participant, in which he completed at least 1,000 hours of Service in Covered Employment. This rule is subject to the following subsections.

b. Additions.

If a Participant works for a Contributing Employer in a job not covered by this Plan and such employment is continuous with his Employment with that Employer in Covered Employment, his hours of Service in such non-covered jobs during the Contribution period

after April 30, 1976, shall be counted toward a Year of Vesting Service. Effective May 1, 2005, hours of work in a bargaining unit represented by the Union which are not hours of Covered Employment shall be included in the hours used for determining Vesting Credit.

c. **Exceptions.**

A Participant shall not be entitled to credit toward a Year of Vesting Service for the following periods:

1. Years preceding a Permanent Break in Service as defined in Subsection 5.3(d) for periods prior to May 1, 1976.
2. Years preceding a Permanent Break in Service as defined in Subsection 5.3(c).

Section 5.3. Breaks in Service.

a. **General.**

If a person has a Break in Service before he acquires the right to a pension, whether immediate or deferred, it has the effect of canceling his standing under the Plan, that is, his participation, his previously credited Years of Vesting Service, and his previous Pension Credits. However, after May 1, 1976, a Break may be temporary, subject to repair by a sufficient amount of subsequent service. A longer Break may be permanent.

b. **One-Year Break in Service.**

1. A person has a One-Year Break in Service in any Plan Credit Year in which he fails to complete 375 hours of Service or earn one-quarter of a Pension Credit.
2. Time of employment with a Contributing Employer in non-covered employment after April 30, 1976, if creditable under Section 5.2(b), shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
3. Solely for the purpose of determining whether a One-Year Break in Service has occurred, the absence of an Employee from Service by reason of
 - A. her pregnancy,
 - B. birth of a child of the Employee,
 - C. placement of a child with the Employee in connection with his or her adoption of the child, or

D. care for such child for a period beginning immediately after such birth or placement

shall be credited as hours of Service to the extent that hours of Service would have been credited but for such absence (or, where that cannot be determined, eight hours of Service per day of absence) to a maximum of 501 hours for each such pregnancy, childbirth, or placement. The hours so credited shall be applied to the Plan Credit Year in which such absence begins, if doing so will prevent the Employee from incurring a One-Year Break in Service in that Plan Credit Year; otherwise, they shall be applied to the next Plan Credit Year. The Trustees may require, as a condition of granting such credit, that the Employee establish in timely fashion and to the satisfaction of the Trustees that the Employee is entitled to such credit. This subsection shall apply only to absences that begin after April 30, 1987.

4. A One-Year Break in Service is repairable, in the sense that its effects are eliminated if, before incurring a Permanent Break in Service, the Employee subsequently became a Participant, as provided in Section 2.4. In such case, previously earned Years of Vesting Service and Pension Credits shall be restored. However, nothing in this paragraph (4) shall change the effect of a Permanent Break in Service.

c. Permanent Break in Service after April 30, 1976.

A person has a Permanent Break in Service if he has consecutive One-Year Breaks in Service, including at least one after April 30, 1976, that equal or exceed the number of full Years of Vesting Service or full Pension Credits earned during the Contribution Period, whichever is greater, with which he has been credited.

In any event, however, a person shall not incur a Permanent Break in Service after April 30, 1987, until his consecutive One-Year Breaks equal at least five.

d. Permanent Break in Service before May 1, 1976.

A person shall have incurred a Permanent Break in Service if before May 1, 1976, he failed to earn one-quarter Pension Credit in three consecutive Plan Credit Years unless, before incurring a Permanent Break in Service, he earned 15 Pension Credits.

e. Effect of Permanent Break in Service.

If an Employee has a Permanent Break in Service before he retires with a pension or before he attains Vested Status as defined in Section 7.9, his previous Pension Credits, Years of Vesting Service and his participation are canceled, with new participation being subject to the provisions of Section 2.2.

Section 5.4. Grace Periods.

It is recognized that under defined circumstances, a Break in Service should not occur at the end of a specified period, and a Grace Period should be recognized. A Participant shall be granted a Grace Period if he failed to work the required hours in the specified period of years because of the following:

a. Grace Period on Account of Disability.

A Participant shall be allowed a Grace Period of up to three consecutive years during which the Employee failed to earn Pension Credits because of total disability.

Total disability, for the purpose of this section of the Plan, means total disability, as defined in Section 3.12, determined by the Trustees, in their discretion. In order to secure the benefit of a Grace Period, an Employee must give written notice to the Trustees and no Grace Period shall be granted for any time prior to one year before the receipt of such written notice unless the Trustees find there were extenuating circumstances which prevented a timely filing.

b. Grace Periods on Account of Employment in a Supervisory Capacity or Employment by the Union or by the International Union with Whom the Union is Affiliated.

During the Contribution Period, a Participant shall be allowed a Grace Period if he is promoted by an Employer to an employment category not covered by the Agreement in effect between the Employer and the Union or if he accepts full-time employment with the Union or the International Union with whom the Union is affiliated. In such instances, the duration of the Grace Period shall be for the entire length of such employment.

c. Grace Periods on Account of Work Other Than Covered Employment.

A Participant who earned at least one Pension Credit during the Contribution Period shall be allowed a Grace Period if he is employed by an employer under a Collective Bargaining Agreement with the Union which does not require contributions to the Pension Fund. The Grace Period for such a Participant shall be for the duration of such employment, provided he returns to Covered Employment within one year from the cessation of such other employment and, subsequently, earns at least five Pension Credits prior to his retirement.

d. Family and Medical Leave Act.

Any leave of absence granted by an Employer, up to 12 weeks, that qualifies under the Family and Medical Leave Act (FMLA) shall not be counted in determining a Break in Service for purposes of eligibility and vesting.

e. Effect of Grace Periods.

The granting of Grace Periods as outlined in the preceding subsections of this section are not intended to add to the Pension Credits of a Participant but are merely set forth to define the circumstances which may be used to determine whether a Break in Service has occurred.

ARTICLE 6

Husband-and-Wife and Pre-retirement

Surviving Spouse Pensions

Section 6.1. General.

- a. If the Annuity Starting Date of a pension payable to a married Participant is after December 31, 1984, the benefit will be paid as a 50% Husband-and-Wife Pension unless:
 1. the Participant and Spouse elect otherwise in accordance with Subsection 6.2(e); or
 2. the Spouse is not a Qualified Spouse as defined below; or
 3. the benefit is payable only in a single sum, under Section 3.19.

If a Participant with a vested right to a pension under the Plan dies after August 22, 1984, while married to a Qualified Spouse, but before his Annuity Starting Date, a Pre-retirement Surviving Spouse Pension shall be payable subject to the conditions in this article.

Except as provided in Section 3.19, benefits will be paid in the form of a single life annuity to the surviving spouse.

- c. For purposes of the Plan, a Spouse is a person to whom a Participant is considered married under applicable law. To the extent required in a Qualified Domestic Relations Order, the Participant's former Spouse shall also be deemed a Spouse.
- d. To be eligible to receive the survivor's pension in accordance with a Husband-and-Wife Pension or a Pre-retirement Surviving Spouse Pension, the Spouse must be a "Qualified Spouse." A Spouse is a Qualified Spouse if the Participant and Spouse were married throughout the one-year period ending on the earlier of the Participant's Annuity Starting Date or the date of the Participant's death. A former Spouse shall also be treated as a Qualified Spouse, if the Participant and the former spouse were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations Order. Finally, a Spouse is also a Qualified Spouse if the Participant and Spouse became married within the year immediately preceding the Participant's Annuity Starting Date and they were married for at least a year before his death.
- e. When a Husband-and-Wife Pension or a Pre-retirement Surviving Spouse Pension is in effect, the Guaranteed Period of Pension Payments provided by Section 7.12 and the Death Benefit prior to Retirement provided by the Section 3.16 shall not apply.

Section 6.2. Husband-and-Wife Pension at Retirement.

- a. The pension of a Participant who is married to a Qualified Spouse on the Annuity Starting Date of his pension shall be paid in the form of a 50% Husband-and-Wife Pension, unless a valid waiver of that form of payment has been filed with the Trustees.
- b. Under a Husband-and-Wife Pension, the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the latter will receive a monthly benefit for her lifetime of 50%, 75%, or 100% of the Participant's adjusted monthly amount, whichever the Participant has elected under this section. The Participant's monthly amount shall be a percentage of the full monthly amount otherwise payable as a single-life pension after adjustment as provided for in Section 6.4. For purposes of Treasury Regulation 1.401(a)-20 Q&A 16, the 50% Husband-and-Wife Pension is designated as the Plan's Qualified Joint and Survivor Annuity and shall be payable unless the Participant has elected otherwise.
- c. A Husband-and-Wife Pension may not be revoked after payments have begun, nor will the Pensioner's benefits be increased by reason of subsequent divorce of the Spouse from the Pensioner or, except as provided below, the Spouse predeceasing the Pensioner. If the spouse of a Pensioner who has elected a Husband-and-Wife Pension predeceases the Participant on or after May 1, 2001, but before August 5, 2008, then effective with the first payment due after the spouse's death, the Pensioner's pension amount shall revert to the amount that would have been payable had the Husband-and-Wife Pension been waived at the time of retirement and the 36-month certain option been selected, adjusted for any subsequent adjustment for benefits payable to retirees. If the Spouse of a Pensioner who has elected a Husband-and-Wife Pension predeceases the Pensioner on or after August 5, 2008, then effective with the first payments due after the Fund office has received a copy of the Spouse's death certificate, the Pensioner's pension shall increase to the amount that would have been payable had the Husband-and-Wife Pension been waived at the time of retirement and the 36-month option been selected, adjusted for any subsequent adjustment for benefits payable to retirees, but in such case no period certain shall apply and all benefits shall cease at the death of the Pensioner.
- d. A retiring Participant requesting a benefit under the Plan shall be furnished with a written explanation by the Trustees of:
 1. the material features and an explanation of the relative values of the optional forms of benefit available under the Plan; and
 2. requirements for spousal consent; and

3. the Participant's right to revoke a waiver of a Husband-and-Wife Pension.

The written explanation provided under this Subsection (d) shall be furnished in a manner that will satisfy the notice requirements of Section 417(a)(3) of the IRC and Treas. Reg. 1.417(a)(3)-1.

- e. The 50% Husband-and-Wife Pension may be waived in favor of another form of distribution only as follows:
 1. The Participant must file the waiver with the Trustees, in writing, in such form as the Trustees may prescribe, within 180 days before the Annuity Starting Date, and the Participant's spouse must acknowledge the effect of the waiver and consent to it in writing, witnessed by a notary public or a Plan representative. Thereafter, the Participant cannot elect a different form of benefit (other than a 50% Husband-and-Wife Pension) without the written consent of his spouse.
 2. Spousal consent to a waiver is not required if the Participant establishes to the satisfaction of the Trustees that:
 - A. he or she has no Qualified Spouse; or;
 - B. the spouse whose consent would be required cannot be located; or
 - C. consent of the spouse cannot be obtained because of extenuating circumstances, as provided in the Treasury Regulations.
 3. A waiver is valid only if the written explanation referred to in Section 6.2(d) has been provided to the Participant before the waiver is filed and no earlier than 180 days before the Annuity Starting Date. The Participant may revoke a waiver at any time prior to the first benefit payment.
 4. A spouse's consent to a waiver of the 50% Husband-and-Wife Pension shall be effective only with respect to that spouse, and shall be irrevocable unless the Participant revokes the waiver to which it relates.
 5. A waiver of the Husband-and-Wife Pension described in this section shall be void if someone other than the Participant's Qualified Spouse is named as Beneficiary under the Plan for any share of the Participant's benefit that would otherwise be payable as a death benefit under the Husband-and-Wife Pension, unless the spouse has acknowledged the designation of the non-spouse Beneficiary in connection with her consent to the Participant's waiver of the Husband-and-Wife Pension in writing, witnessed by a notary public or Plan representative.
 6. Subject to the requirements for documentation described above, a Participant

must file with the Trustees, before his Annuity Starting Date, a written representation upon which the Trustees are entitled to rely concerning the Participant's marital status which, if false, gives the Trustees the right to adjust the dollar amount of the pension payments made to the alleged surviving spouse so as to recover any benefits which may have been erroneously paid.

Section 6.3. Pre-retirement Surviving Spouse Pension.

- a. If a Participant who has a Qualified Spouse dies after August 22, 1984, and before the Effective Date of his pension, a Pre-retirement Surviving Spouse Pension shall be paid to his surviving spouse, provided:
 1. he has attained Vested Status or earned sufficient Pension Credit to be eligible for a pension; and
 2. he completed at least one hour of Service after January 1, 1976.
- b. If a Participant described in Section 6.3(a) died at or after age 55, his surviving Qualified Spouse shall be entitled to a Pre-retirement Surviving Spouse Pension beginning the month following the month in which the Participant died. The amount of this benefit shall be 50% of the pension the Participant would have been eligible to receive at Normal Retirement Age, reduced in accordance with Section 6.4 for payment under the 50% Husband-and-Wife form, and further reduced for each month the Participant is younger than Normal Retirement Age on the date of his death, in accordance with Section 3.6.
- c. If a Participant described in Subsection (a) died before age 55, the surviving Qualified Spouse shall be entitled to a Pre-retirement Surviving Spouse Pension commencing with the month following the month in which the Participant died, and the amount of such pension shall be determined as if the Participant left Covered Employment on the earlier of the date he or she last worked in Covered Employment or the date of death, retired on a 50% Husband-and-Wife Pension upon reaching age 55, and died on the last day of the month in which age 55 was reached.
- d. The Spouse may elect in writing, filed with the Trustees, and on whatever form they may prescribe, to defer commencement of the Pre-retirement Surviving Spouse Pension until a specified date that is no later than the first of the month following the date the Participant would have reached Normal Retirement Age in accordance in Section 6.7.

If for any reason payments have not sooner begun as prescribed in this subsection, payment of the Pre-retirement Surviving Spouse Pension must commence by no later than December 31 of the calendar year in which the Participant would have attained age 70-1/2, or, if later, December 31 of the calendar year following the year of the Participant's death. If the Trustees confirm the identity and whereabouts of a

surviving spouse who has not applied for benefits by that time, payments to that surviving spouse in the form of a single life annuity will nevertheless begin as of that date, subject to the provisions of small benefit cashout in Section 3.19.

- e. The amount of the Pre-retirement Surviving Spouse Pension shall be determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified.
- f. Notwithstanding any other provision of this section, a Pre-retirement Surviving Spouse Pension shall be paid in accordance with Section 3.19.

Section 6.4. Adjustment of Pension Amount.

Any pension which becomes effective on January 1, 1984 or later in the form of a Husband-and-Wife Pension or Pre-retirement Surviving Spouse Pension shall be adjusted by multiplying the full amount otherwise payable (after making any other adjustments required if payments start before the Participant has reached Normal Retirement Age), by the following factors:

- a. 50% Husband-and-Wife (Non-Disability Pensioner).
89% plus 0.4% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, or minus 0.4% for each year that the spouse's age is less than the Participant's age on the Annuity Starting Date.
- b. 50% Husband-and-Wife (Disability Pensioner).
79% plus 0.4% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, or minus 0.4% for each year that the spouse's age is less than the Participant's age on the Annuity Starting Date.
- c. 100% Husband-and-Wife (Non-Disability Pensioner).
80% plus 0.6% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, or minus 0.6% for each year that the spouse's age is less than the Participant's age on the Annuity Starting Date.
- d. 100% Husband-and-Wife (Disability Pensioner).
65% plus 0.6% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, or minus 0.6% for each year that the spouse's age is less than the Participant's age on the Annuity Starting date.
- e. 75% Husband-and-Wife (Non-Disability Pensioner).

84.5% plus 0.5% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, minus 0.5% for each year that the spouse's age is less than the Participant's age on the Annuity Starting Date.

- f. 75% Husband-and-Wife (Disability Pensioner).

72% plus 0.5% for each year that the spouse's age is greater than the Participant's age on the Annuity Starting Date, or minus 0.5% for each year that the spouse's age is less than the Participant's age on the Annuity Starting Date.

Section 6.5. Relation to a Qualified Domestic Relations Order.

Any rights of a former spouse or other alternate payee under a Qualified Domestic Relations Order with respect to a Participant's pension, shall take precedence over those of any later spouse of the Participant under this article.

Section 6.6. Trustees' Reliance.

The Trustees shall be entitled to rely upon written representations, consents, and revocations submitted by Participants, Spouses or other parties in making determinations under this article and, unless such reliance is arbitrary or capricious, the Trustees' determinations shall be final and binding, and shall discharge the Fund and the Trustees from liability to the extent of the payments made. If the Plan is administered in a manner consistent with the fiduciary standards of Part 4 of Title I of ERISA, neither the Trustees nor the Fund shall be liable under this article for duplicate benefits with respect to the same Participant, or for surviving spouse benefits in excess of the Actuarial Present Value of the benefits described in this article, determined as of the Annuity Starting Date or, if earlier, the date of the Participant's death.

Section 6.7. Benefit Adjustments if Payment of Pre-retirement Surviving Spouse Pension Postponed.

- a. Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for the Pre-retirement Surviving Spouse Pension is after the Participant's earliest retirement date, the benefit shall be determined as if the Participant had died on the surviving Spouse's Annuity Starting Date after retiring with a 50% Husband-and-Wife Pension the day before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have applied as of that date.
- b. If a surviving spouse dies before the Annuity Starting Date for the Pre-retirement Surviving Spouse Pension, that benefit will be forfeited and there will be no payments to any other party.

- c Notwithstanding any other provision of the Plan, all survivor benefits shall comply with the limits of Section 401(a)(9) of the IRC and the incidental benefit rule and the regulations prescribed under them, including Sections 1.401(a)(9)-1 and 1.401(a)(9)-2 of the Treasury Regulations.

Section 6.8. Conversion to Husband-and-Wife Pension.

If a retired Participant is receiving a pension that is not in the form of a Husband-and-Wife pension because the Participant did not have a Qualified Spouse at the Annuity Starting Date, and if the Participant has a Spouse at any later date, the Participant may make an irrevocable election to convert the unpaid remainder of the Participant's pension to a Husband-and-Wife pension, provided that:

- (1) the Participant's spouse would be a Qualified Spouse if the conversion date were the Annuity Starting Date, and
- (2) no Qualified Domestic Relations Order is in effect with respect to the Participant's pension, and no person except the Participant has an interest in the Participant's pension at the conversion date.

The election shall be exercised by the Participant in writing on a form provided by the Trustees, and shall be effective as of the first day of the month following the month in which the executed election form is delivered to the Trustees and all other conditions of exercise are fulfilled. Upon exercise of this election, the Participant's pension shall be converted to a Husband-and-Wife pension that has Actuarial Equivalence to the unpaid remainder of the Participant's original pension as of the conversion date. Such Actuarial Equivalence shall be determined on annual interest of 7% and the mortality table specified in Section 1.1(c)(2).

ARTICLE 7

Application, Benefit Payments, Retirement, and Benefit Suspensions

Section 7.1. Applications.

A pension must be applied for in writing on a form prescribed by the Trustees in advance of the date pension payments commence.

Section 7.2. Information and Proof.

Every Participant or Pensioner shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If a person makes a willfully false statement material to an application or furnishes fraudulent information or proof, benefits not vested under this Plan (as defined in Section 7.9) may be denied, suspended or discontinued as determined by the Trustees. The Trustees shall have the right to recover any benefit payments made in reliance on any false or fraudulent statement, information or proof submitted by a Participant or Pensioner.

Section 7.3. Action of Trustees.

The Trustees shall, subject to the requirements of the law, be the sole judges of the standard of proof required in any case, and the application and interpretation of this Plan, and decisions of the Trustees, in their discretion, shall be final and binding on all parties.

All questions or controversies of whatsoever character arising in any matter or between any parties or persons in connection with this Plan or its operation, whether as to any claim for benefits, as to the construction of the language of this Plan or any rules and regulations adopted by the Trustees, or as to any writing, decision, instrument or account in connection with the operation of the Plan or otherwise, shall be submitted to the Board of Trustees for decision. In the event a claim for benefits has been denied, no lawsuit or other action against the Fund or its Trustees may be filed until the matter has been submitted for review under the ERISA-mandated review procedure set forth in Section 7.4. The decision on review shall be binding upon all persons dealing with the Plan or claiming any benefit hereunder, except to the extent that such decision may be determined to be arbitrary or capricious by a court or by an arbitrator having jurisdiction over such matter.

Section 7.4. Right of Appeal.

If a Claimant's application for benefits under this Plan has been denied, in whole or in part, a written notice will be mailed to the Claimant setting forth the specific reasons for the denial, specific reference

to pertinent Plan provisions on which the denial was based, a description of any additional material or information necessary for the Claimant to perfect his claim, an explanation of why such material or information is necessary, and an explanation of the Plan's Review Procedure.

Any Claimant whose claim has been denied in whole or in part may request a full and fair review by filing a written application with the Fund Office not more than 180 days after receipt by the Claimant of written notification of denial of the claim.

Any claimant appealing the denial of his claim (hereinafter referred to as the "Appellant") shall be entitled to be represented by a duly authorized representative without expense to the Plan, and the Appellant or his representative may review pertinent documents and submit issues and comments in writing. No Appellant or representative shall be entitled, as a matter of right, to appear personally before the Board of Trustees and no hearing shall be required to be held in connection with any such review.

The review will be decided by the Board of Trustees.

The decision on a review shall be made promptly, and shall not ordinarily be made later than 60 days after the Plan's receipt of a request for review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. Written notice of the extension shall be furnished to the Claimant prior to the commencement of the extension.

If the decision on a claim or the decision on a review is not furnished within the time limits set forth herein, the claim or the review shall be deemed to have been denied. No claim shall be deemed to have been denied until the Claimant has exhausted all of the procedures set forth herein.

While claimants have the right to bring timely legal action for benefits under ERISA, no action at law or in equity may be brought by any Participant or Beneficiary after the expiration of three (3) years from the date the Board of Trustees provides written notice of a decision on an appeal of an adverse benefit determination. Failure to bring an action within this three (3) year period shall forever bar such action. Any action at law or in equity, brought by a Participant or Beneficiary, must be brought in the United States District Court for the Eastern District of Missouri.

Section 7.5. Benefit Payments Generally.

- a. A Participant who is eligible to receive benefits under this Plan and makes application in accordance with the rules of this Pension Plan shall be entitled upon retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan.
- b. Benefit payments shall be payable commencing with the Annuity Starting Date, except as otherwise provided in the Plan.

- c. A Participant may elect in writing filed with the Trustees to defer payment of his benefit, provided no such election filed on or after January 1, 1988, shall postpone commencement of benefits beyond the Required Beginning Date.
 - i. Effective May 1, 2004, if the date on which a pension benefit is first actually sent to a retiree is later than the retiree's Annuity Starting Date, then the initial payment to the retiree shall include interest in addition to the pension benefits that were due for earlier months. Interest for each overdue payment shall be determined for each month between the month for which such payment was payable and the month it was actually made. The rate of interest for any month during this interval shall be equal to 1/12th of the annual "applicable interest rate" defined in Section 1.1(b) for the Plan Year containing that month.
- d. Effective January 1, 2003, if the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date, and then converted as of the Annuity Starting Date to the applicable benefit payment form. The actuarial increase will be applied whether or not the Participant engaged in "Disqualifying Employment" (as defined in Section 7.6(b)).

The actuarial increase shall be 1% per month for the first sixty (60) months after Normal Retirement Age and 1.5% per month for each month thereafter. In particular, the actuarial increase shall be 1% per month for the first sixty (60) months after the date the increased benefits were first payable, and 1.5% per month for each month thereafter.

- e. Effective as of May 1, 1989, any additional benefits earned by a Participant in Covered Employment after the Annuity Starting Date shall be determined at the end of each Plan Credit Year and shall be payable commencing May 1 following the end of the Plan Credit Year in which it accrued.

If a Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, the increase in such additional benefits will start from the date they would first have been paid rather than Normal Retirement Age.

- f. If a Participant whose correct mailing address is contained in Fund records fails to file a completed application for benefits, the Fund will start the Participant's benefit payments on the Required Beginning Date, as follows:
 - 1. If the Actuarial Present Value of the Participant's benefit is not more than \$1,000, the benefit may be paid in a single sum in accordance with Section 3.19.
 - 2. In any other case, the benefit shall be paid in the form of a 50% Husband-

and-Wife Pension calculated on the assumptions that the Participant is, and has been married for at least one year by the date payments start and that the Participant is three (3) years older than the Spouse.

3. The benefit payment form will be irrevocable once it begins, with the sole exception that it may be changed later to a single-life annuity if the Participant proves he did not have a Qualified Spouse (including an alternate payee under a Qualified Domestic Relations Order) on the Required Beginning Date, and the amounts of future benefit payments will be adjusted based on the actual difference between the ages of the Participant and Spouse, if proven to be different from the assumption.
4. Federal, state and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by the Trustees to be appropriate for the protection of the Fund and the Participant.

- g. Benefit payments that are not paid to or claimed by a Participant or Beneficiary in accordance with the Required Beginning Date will be forfeited, subject to reinstatement if the Participant or Beneficiary appears and demonstrates his or her entitlement to benefits.
- h. Unless the Participant elects otherwise in writing, the payment of Benefits under the Plan to a Participant shall commence no later than the sixtieth (60th) day after the close of the Plan Year in which the last of the following occurs:
 1. The Participant attains Normal Retirement Age;
 2. The Fifth (5th) anniversary of the Participant's initial participation in the Plan; or
 3. The Participant terminates service with any Employer that contributes to the Plan.

Section 7.6. Suspension of Benefits.

- a. Before Normal Retirement Age.

The monthly benefit shall be suspended for any month in which the Participant is employed in Disqualifying Employment before he has attained Normal Retirement Age. "Disqualifying Employment" for the period before Normal Retirement Age is employment or self-employment with a Contributing Employer or with a company related to a Contributing Employer, or with a company which employs Operating Engineers. There shall be no limits to the geographic area covered for each

of the employment situations described above.

b. After Normal Retirement Age.

1. If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any month in which he worked or was paid for more than 40 hours in "Disqualifying Employment." "Disqualifying Employment" for the period on or after Normal Retirement Age means employment or self-employment of the type that is described below.
 - A. in the same industry in which Employees were employed and accruing benefits under the Plan at the time pension benefits commenced or would have commenced if the Pensioner had not remained in or returned to such work; and
 - B. in the same "trade" or "craft" in which the Pensioner was employed at any time while covered by the Plan or supervisory activities relating to such trade or craft. Trade or craft extends to any job or occupation using the same skill or skills; and
 - C. in the same "geographic area covered by the Fund," which means the state or metropolitan statistical area in which Covered Employment was performed when the Pensioner's pension commenced or would have commenced but for the employment.
2. If a retired Participant re-enters Covered Employment to an extent sufficient to cause a suspension of benefits, and his pension payments are subsequently resumed, the industry and geographic area covered by the Fund "when the Participant's pension commenced" may be defined by the Trustees as the industry and area covered by the Fund when his pension was resumed.
3. Paid non-work time shall be counted toward the measure of 40 hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a Workers' Compensation or temporary disability law shall not be counted.
4. Notwithstanding any other provision of this section, as of April 1 of the calendar year following the calendar year in which a Participant attains age 70-1/2, no employment shall be considered Disqualifying Employment with respect to such Participant.

c. Definition of Suspension.

"Suspension of benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments,

pursuant to Section 7.6(f).

d. Notices.

1. Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including the identity of the industries and geographic area covered by the Fund. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant if there has been any material change in the suspension rules or the identity of the industries or geographic area covered by the Fund.
2. A Pensioner shall notify the Trustees in writing within 30 days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such work (that is, whether or not less than 41 hours in a month). If a Pensioner younger than Normal Retirement Age fails to give any such notice within 30 days, he shall, after he returns to retirement, be disqualified for benefits up to an additional 6 months. If a Pensioner has worked in Disqualifying Employment in any month and has failed to give timely notice to the Trustees of such employment, the Trustees shall be entitled to presume that he worked for more than 40 hours in such month and any subsequent month before the Participant gives notice that he has ceased Disqualifying Employment. The Participant shall have the right to overcome such presumption by establishing that his work was not, in fact, an appropriate basis under the Plan for suspension of his benefits. The Trustees shall inform all retirees at least once every 12 months of the reemployment notification requirements and the presumptions set forth in this subsection.
3. A Pensioner whose pension has been suspended shall notify the Trustees when Disqualifying Employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Trustees.
4. A Participant may ask the Trustees whether a particular employment will be disqualifying. The Trustees shall provide the Participant with its determination.
5. The Trustees shall inform a Participant of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld.

e. Review.

A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension. The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be

disqualifying.

f Resumption of Benefit Payments.

1. Benefits shall be resumed four months after the last month for which benefits were suspended, with payments for Pensioners who resume retirement on or after Normal Retirement Age beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of Section 7.6(d)(3).
2. Overpayments attributable to payments made for any months for which the Participant had Disqualifying Employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attains Normal Retirement Age shall not exceed 25% of the pension amount (before deduction), except that the Plan may withhold up to 100% of the first payment made upon resumption after a suspension. A Participant who resumes retirement before Normal Retirement Age shall have 100% of his benefit withheld until the amount of overpayments is recovered or, if earlier, until he reaches Normal Retirement Age at which time a monthly deduction of 25% shall apply. If a Pensioner dies before recovery of overpayments has been completed, deductions shall be made from the benefits payable to his contingent annuitant, subject to the 25% limitation on the rate of deduction.

g Temporary Non-applicability of Suspension of Benefits.

The Trustees may, from time to time, in their discretion, designate periods of time during which the suspension of benefits provisions of the Plan will not be applied on account of labor shortages or other conditions.

h. Benefits will not be suspended in the case of a retiree who works in Disqualifying Employment for any number of hours during a period in which no active employee on the out of work list is available who possesses the specialized skills necessary to perform the work, as described by the Chairman and Secretary, and the retiree does possess such skills.

Section 7.7. Re-computation of Benefit Payments Following Suspension.

a. 1 A Pensioner (except a disability pensioner) who returns to Covered Employment and earns any additional accrual in quarterly increments, shall have his pension recalculated as of the following May 1. If such a Pensioner resumes receiving pension payments during a Plan Credit Year, the monthly payment will be the amount calculated as of the prior May 1, and the monthly amount shall be adjusted as of the following May 1, as

described below. Such additional accrual shall be computed at the then-current accrual rate and shall not increase prior accruals.

2. Each May 1, the benefit calculation will be based on the Employee's then-attained age and will include any additional accrual in quarterly increments earned during the prior Plan Credit Year, reduced by the actuarial equivalent of any pension payments made prior to Normal Retirement Age. The amount of such reduction shall be calculated by dividing the amount of the Pensioner's payments prior to Normal Retirement Age by the factor in Appendix B that corresponds to the Participant's age when payments resume. In no event will the new monthly benefit be less than the prior monthly amount.
- b. A 50% or 100% Husband-and-Wife Pension in effect immediately prior to suspension of benefits, and any other benefit following the death of the Pensioner, shall remain effective if the Pensioner's death occurs while his benefits are in suspension.
- c. A Pensioner who returns to Covered Employment and earns additional accrual as described in Section 7.7(a) above shall be entitled to a new election as to form of benefit payment for such additional accrual; provided, however, that the first election on or after Normal Retirement Age shall apply to any and all subsequent accruals.
- d. In no event, however, shall any adjustment of benefit amount under this article result in forfeiture of a Participant's Normal Retirement Benefit or of its actuarial equivalent in violation of Section 203(a)(3)(B) of ERISA.

Section 7.8. Benefits to Survivors.

Pension benefits accrued but not paid during the lifetime of a Pensioner shall be paid in the order of payment as outlined in Section 3.21, and any payment so made will be a complete discharge of the obligations of the Trustees to the extent of and as to such payments.

Section 7.9. Vested Status or Non-forfeitality.

- a. The Employee Retirement Income Security Act requires that certain of the benefits under this Plan be vested (in the term used in the Act, "non- forfeitable").
- b. Vested Status is earned as follows:
 1. A Participant's right to his accrued retirement benefit is non- forfeitable upon his attainment of Normal Retirement Age.

2. A Participant acquires Vested Status after completion of 5 Years of Vesting Service. A Participant who performs work in non-bargained Work acquires vested status in accordance with Section 10.4.
- c. ERISA also provides certain limitations on any Plan amendment that may change the Plan's vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant's Vested Status if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires Vested Status, unless each Participant who has credit for at least three Years of Vesting Service at the time the amendment is adopted or effective (whichever is later) is given the option of achieving Vested Status on the basis of the pre-amendment schedule. That option may be exercised within 60 days after the latest of the following dates:
 1. When the amendment was adopted,
 2. When the amendment became effective, or
 3. When the Participant was given written notice of the amendment.
- d. For purposes of applying the provisions of this section and of determining when a Participant has acquired non-forfeitable rights, as defined under the law, the vesting schedule of this Plan consists of 100 percent non-forfeitability for a Participant who has completed the required number of Years of Vesting Service. While this Plan provides Regular, Deferred, Early Retirement and Disability Pensions on the basis of requirements that may be met by some Participants who have not completed the required number of Years of Vesting Service, such eligibility rules represent provisions of the Plan above and beyond its vesting schedule.

Section 7.10. Optional Forms of Benefits.

Unless otherwise specified, any optional form of benefit under this Plan is intended to be at least the Actuarial Equivalent of the Participant's non-forfeitable accrued benefit payable at Normal Retirement Age or, if later, the Annuity Starting Date.

Section 7.11. Level Income Option.

- a. A Participant retiring on an Early Retirement Pension before age 62, may elect to have his pension increased until age 62, according to the age at which he expects to receive his Social Security benefit, and reduced thereafter, in order to approximate a pension before age 62, as nearly equal as possible to his combined retirement income after that age. The adjustment in amount shall be made on the basis of actuarial equivalence based on the factors shown in Appendix A.

- b. The Participant who retires with the Level Income Option benefit must secure from the Social Security Administration the amount of the retirement benefit which Social Security expects to pay to him at age 62. The Participant shall file with the Trustees the estimate of such amount provided by the Social Security Administration and the Trustees shall rely on the reported Social Security benefit amount in calculating the Pension amounts to be paid from the Plan.
- c. Once the Level Income Option Pension benefit payments from the Plan begin for the Participant, there will, thereafter, be no changes in the amount of the monthly benefits paid by the Plan regardless of the amount paid by Social Security.
- d. If payment is to be made on the basis of the Level Income Option and the Husband-and-Wife Pension, adjustment for the Husband-and-Wife Pension shall be made first and the adjusted amount shall then be further adjusted for the Level Income Option. Upon the death of the Participant, the amount payable to the surviving spouse under the Husband-and-Wife Pension shall be the amount determined before any adjustment for the Level Income Option.
- e. If a Participant dies while receiving payments under the Level Income Option and the Husband-and-Wife Pension is not in effect, the Beneficiary shall receive benefits under the provisions of Section 7.12 for guaranteed pension payments, as determined on the following basis:
 1. If the total amount paid under the Level Income Option prior to the Participant's death is less than the total of guaranteed payments of the Early Retirement Pension under Section 7.12, as determined without adjustment for the Level Income Option, the Beneficiary shall receive a monthly benefit. The amount of the monthly benefit shall be equal to the Early Retirement Pension payable under the option selected under Section 7.12, without adjustment for the Level Income Option. The benefit to the Beneficiary shall continue until the total amount paid to the Participant and the Beneficiary is equal to the total amount that would have been guaranteed under Section 7.12, without regard to the Level Income Option.
 2. If the total amount paid under the Level Income Option prior to the Participant's death is equal to or greater than the total of guaranteed payments of the Early Retirement Pension under Section 7.12, as determined without adjustment for the Level Income Option, no further benefits shall be payable to the Beneficiary.
- f. The following rules apply to the election of the Level Income Option:
 1. The Level Income Option may only be elected by an Employee whose Annuity Starting Date is on or after July 1, 1989.

2. The Level Income Option may not be elected if it would result in a monthly pension after Social Security payments begin of less than \$25 from the Local Union 513 Pension Fund or if an Employee is age 62 or older on the Annuity Starting Date.
3. The Level Income Option may not be elected by an Employee who is applying for a Disability Pension from the Local Union 513 Pension Fund.

Section 7.12. Guaranteed Period of Pension Payments.

- a. A Participant who retires with a Regular, Early Retirement or Disability Pension that is not in the form of a Husband-and-Wife Pension is guaranteed that if he should die before receiving 36 monthly payments of his pension, his monthly pension payments will continue to his Beneficiary as defined in Section 1.3, until a total of 36 payments have been made including the payments made to the Participant.
- b. A Participant who retires with a Regular or Early Retirement Pension that is not in the form of a Husband-and-Wife Pension may elect to increase the total number of payments guaranteed to be paid to him and his beneficiary to 60 or 120 instead of 36, by indicating such an election on the form submitted to the Trustees in connection with Section 7.1. The amount of the monthly payments payable to a Participant making such an election will be reduced by the appropriate factor from Appendix C.
- c. In the event of the death of a Vested Participant who dies before beginning to receive pension benefits, the Beneficiary of that Participant will receive 36 monthly payments, in the amount described in paragraph (d) below, commencing with the month following the month of the Participant's death.
- d. If the Participant, on the day preceding his death, meets all the requirements for a Deferred, Regular, or Early Retirement Pension (except filing application for the pension), the amount of payments to the Beneficiary shall be the amount the Participant would have received if he had retired on the day preceding his death. Otherwise, the amount of payments to the Beneficiary shall be the amount of Early Retirement Pension the Participant would have received if there had been no minimum number of Pension Credits required for an Early Retirement Pension, and if the Participant, on the day before his death, had attained the greater of 55 years or his actual age and retired that same day.
- e. When a Husband-and-Wife Pension or a Pre-retirement Surviving Spouse Pension under Article 6 is in effect, the guaranteed payments of this section are not applicable.

Section 7.13. Non-Assignment of Benefits.

A Participant, Pensioner or Beneficiary entitled to any benefits under the Plan does not have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or impair in any manner his or her legal or beneficial interest, or any interest in the assets of the Fund; and none of the benefits payable from the Fund are available for payment of the debts of any Participant, Pensioner or Beneficiary entitled to benefits hereunder nor subject to attachment or execution or process in any court action or proceeding. Notwithstanding the foregoing, benefits shall be paid in accordance with the applicable requirements of any "Qualified Domestic Relations Order."

Section 7.14. No Rights to Assets.

No person other than the Trustees of the Pension Fund shall have any right, title or interest in any of the income, or property of any funds received or held by or for the account of the Pension Fund, and no person shall have any right to benefits provided by the Pension Plan except as expressly provided herein.

Section 7.15. Maximum Limitation.

Notwithstanding any other provision of this Plan, the annual retirement benefit to which an Employee shall be entitled hereunder shall not exceed the maximum amount permitted under Section 415 of the IRC, as the same shall be amended from time to time, the provisions of which are expressly incorporated herein by reference.

Section 7.16. Notification of Continued Existence.

Each Pensioner receiving monthly pension benefits hereunder or disabled employee shall submit from time to time, upon request of the Trustees, a sworn statement of his existence including a statement that he has not engaged in Disqualifying Employment and is retired. If such statement is not submitted within 60 days after a request is mailed to the last address of the Pensioner or disabled Employee appearing on the records of the Trustees, all future pension benefits will be suspended until such statement is submitted and approved by the Trustees. Each Pensioner receiving a Disability Pension shall submit, from time to time, upon request of the Trustees, satisfactory evidence of his continued total and permanent disability.

Section 7.17. Mergers.

In the case of any merger or consolidation with, or transfer of assets or liabilities to any other plan, each Participant shall (if the Trust Fund is then terminated) receive a benefit immediately after the

merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if this Trust Fund had then terminated). This section shall apply only to the extent and limitations thereon determined by the Pension Benefit Guaranty Corporation.

ARTICLE 8

Miscellaneous

Section 8.1. Non-Reversion.

It is expressly understood that in no event shall any of the corpus or assets of the Pension Fund revert to the Employers or be subject to any claim of any kind or nature by the Employers, except for the return of an erroneous contribution within the time limits prescribed by law.

Section 8.2. Limitation of Liability.

This Pension Plan has been established on the basis of an actuarial calculation which has established, to the extent possible, that the contributions will, if continued, be sufficient to maintain the Plan on a permanent basis, fulfilling the funding requirements of ERISA. Except for liabilities which may result from provision of ERISA or the IRC, nothing in this Plan shall be construed to impose any obligation to contribute beyond the obligation of the Employer to make contributions and other payments as stipulated in its Collective Bargaining Agreement, or other written agreement requiring contributions to the Fund.

There shall be no liability upon the Trustees, individually or collectively, or upon the Union to provide the benefits established by this Pension Plan if the Pension Fund does not have assets to make such payments.

Section 8.3. New Employers.

No new Contributing Employer may be admitted to participation in the Pension Fund and this Pension Plan, except upon approval by the Trustees. The participation of any such new Employer shall be subject to such terms and conditions as the Trustees may lawfully prescribe including, but not limited to, the imposition of waiting periods in connection with the commencement of benefits, a requirement for retroactive contributions, or the application of modified benefit conditions and amounts. In adopting applicable terms or conditions, the Trustees shall take into account such requirements as they, in their sole discretion, may deem necessary to preserve the actuarial soundness of the Pension Fund and to preserve an equitable relationship with the contributions required from other contributing Employers and the benefits provided to their Employees.

Section 8.4. Termination.

- a. Right to Terminate.

The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. The rights of all affected Participants to benefits accrued to the date of termination, partial termination, or discontinuance to the extent funded as of such date shall be non-forfeitable.

b. Priorities of Allocation.

In the event of termination of the Trust Agreement, the assets then remaining in the Fund, after providing for any administrative expenses, shall be allocated among Pensioners, Beneficiaries, and Participants in the following order:

1. First, in the case of the benefits payable as a pension:
 - A. in the case of the pension of a Participant or Beneficiary which was in pay status as of the beginning of the three-year period ending on the termination date of the Trust Agreement to each such pension, based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which such pension would be the least. The lowest pension in pay status during the three-year period shall be considered the pension in pay status for such period.
 - B. in the case of a pension of a Participant or Beneficiary which would have been in pay status as of the beginning of such three-year period if the Participant had retired prior to the beginning of the three-year period and if his pension had commenced (in the standard form) as of the beginning of such period, to each such pension based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which the pension would be the least.
2. Second, to all other benefits, (if any) of the individual under the Plan guaranteed under Title IV or ERISA.
3. Third, to all other vested benefits under this Plan.
4. Fourth, to all benefits under this Plan.

c. Allocation Procedure.

For purposes of Subsection (b) hereof:

1. The amount allocated under any paragraph of subsection (b) with respect to any benefit shall be properly adjusted for any allocation of assets with respect to that benefit under a prior paragraph of that subsection.
2. If the assets available for allocation under any paragraph of subsection

(b) (other than paragraphs (3) and (4)) are insufficient to satisfy in full the benefits of all individuals which are described in that paragraph, the assets shall be allocated pro-rata among such individuals on the basis of the present value (as of the termination date) of their respective benefits described in that paragraph.

3. This paragraph applies if the assets available for allocation under paragraph (b)(3) are not sufficient to satisfy in full the benefits of individuals described in that paragraph.
 - A. If this paragraph applies, except as provided in subparagraph (B) below, the assets shall be allocated to the benefits of individuals described in paragraph (b)(3) on the basis of the benefits described in such paragraph (b)(3) under the Plan at the beginning of the five-year period ending on the date of the Plan termination.
 - B. If the assets available for allocation under subparagraph (A) above are sufficient to satisfy in full the benefits described in such paragraph (without regard to this subparagraph), then for purposes of subparagraph (A) benefits of individuals described in such paragraph shall be determined on the basis of the Plan as amended by the most recent Plan amendment effective during such five-year period under which the assets available for allocation are sufficient to satisfy in full the benefits of individuals described in subparagraph (A) on the basis of the Plan.

Section. 8.5. Death Benefits Under USERRA.

A Participant who dies on or after January 1, 2007, while in USERRA qualified military service, shall be treated as if he had returned to active employment before his death, thus, the Plan will provide any death-related benefits the Plan provides for Participants who are actively employed at the time of death.

ARTICLE 9

Amendments

Section 9.1. Amendments.

This Plan may be amended at any time by the Trustees, consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant, except:

- a. as necessary to establish or maintain the qualification of the Plan or the Trust Fund under the IRC and to maintain compliance of the Plan with the requirements of ERISA, or
- b. if the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(c)(8) of the IRC, and the Secretary of Labor has been notified of such amendment and has either approved of it or, within 90 days after the date on which such notice was filed, failed to disapprove.

Section 9.2. Amendment Procedure.

Amendments to the Plan shall be adopted by action of the Trustees at a regular or special meeting of the Trustees, and shall be recorded in the Minutes of such meeting, or in a formal document executed by the Trustees as an amendment to the Plan document.

Any such amendment to the Plan shall become effective upon adoption or, if a different effective date is specified by the Trustees, on such specified date. If an amendment to the Plan is recorded in the Minutes of the meeting at which it is adopted, the amendment shall be given effect as recorded in the Minutes. If such amendment to the Plan is thereafter incorporated in a formal document executed by the Trustees as an amendment to the Plan document, the provisions of the formal document shall, upon execution, supersede the provisions of the meeting Minutes with respect to such amendment to the Plan.

ARTICLE 10

Non-Bargained Employees

Section 10.1. Employer.

For purposes of identifying Highly Compensated Employees and applying the rules on participation, vesting and statutory limits on benefits under the Fund for such employees, but not for determining covered service, the term "Employer" includes all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the IRC and all other businesses aggregated with the Employer under Section 414(o) of the IRC. For this purpose, an "Employer" also includes all corporations, trades or businesses under common control with the Employer within the meaning of Sections 414(b) and (c) of the IRC.

For all other purposes, the term "Employer" shall have the meaning stated at Section 1.6.

Section 10.2. Non-Bargained Employee.

A "Non-Bargained Employee" means a person who is employed by an Employer and who is not covered by a Collective Bargaining Agreement, but is covered by another written agreement requiring Employer contributions on his or her behalf.

Section 10.3. Highly Compensated Employee.

A Highly Compensated Employee is a Highly Compensated Active Employee or a Highly Compensated Former Employee of an Employer. Whether an individual is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that individual's compensation from or status with respect to that Employer.

A Highly Compensated Active Employee is an employee of the Employer who performs service for the Employer during the Determination Year and who:

- a. received compensation from the Employer in excess of \$110,000 during the Look-Back Year (as adjusted under Section 414(q) of the IRC) and, if the Employer elects, was a member of the top-paid group of employees (those whose compensation was among the highest 20% of all employees of that Employer);

or

- b. is a 5% owner of the Employer at any time during the Look-Back Year or the Determination Year.

A Highly Compensated Former Employee is an employee who separated from service (or was deemed

to have separated) before the Determination Year, and was a Highly Compensated Active Employee either for the separation year or for any Determination Year ending on or after the individual's 55th birthday. For the purposes of this section,

1. The "Determination Year" is the Plan Year for which the test is being applied.
2. The "Look-Back Year" is the 12-month period immediately preceding that Plan Year.
3. An Employer may elect to make the Look-Back Year calculation for a Determination Year on the basis of the calendar year ending with or within the applicable Determination Year, in accordance with Treasury Regulation Section 1.414(q)-1T.

Section 10.4. Vesting for Non-Bargained Employee.

- a. Non-Bargained Employees.

A Non-Bargained Employee who has at least one hour of Service after April 30, 1988, will attain Vested Status after accumulating five Years of Vesting Service in Non-Bargained Work, as defined below.

- b. Transfer Between Bargained and Non-Bargained Status.

If a Participant has worked at different times in employment covered by a Collective Bargaining Agreement ("Bargained Work") and leaves such Bargained Work and continues to work for an Employer in Continuous Employment ("Non-Bargained Work") the following rules shall apply:

1. The maximum credit a Participant may receive for any Plan Credit Year is one Year of Vesting Service. If a Participant works part of a Plan Credit Year in Non-Bargained Work and part of a Plan Credit Year in Bargained Work, the Participant will receive credit for the Plan Credit Year as a bargained year if the majority of the hours of Service were in Bargained Work; and conversely, the Participant will receive credit for that Plan Credit Year as a Non-Bargained Year if the majority of hours of Service were in Non-Bargained Work; provided, however, if an Employee works 1,000 hours of Service in Non-Bargained Work in a Plan Credit Year the Employee shall receive credit for that year as a Year of Vesting Service in Non-Bargained Work.
2. A Participant to whom this subsection (b) applies will acquire Vested Status when the Participant's combined years of Vesting Service attributable to Bargained Work and Non-Bargained Work equal ten, or if sooner, when the Participant's Years of Vesting Service attributable to Non-Bargained Work equal five.

c. Break in Service.

Years of Vesting Service prior to a Permanent Break in Service do not count in determining a Participant's Vested Status.

Section 10.5. Nondiscrimination, Coverage, and Participation.

- a. Effective May 1, 1989, participation in the Plan by Non-Bargained Employees shall be in compliance with Section 401(a)(4) (nondiscrimination rules), 410(b) (coverage rules), and 401(a)(26) (minimum participation rules) of the IRC.
- b. A Non-Bargained, Highly Compensated Employee shall not receive any Pension Credit (although vesting credit may be earned) for any Plan Credit Year in which the Employer fails to meet the requirements of Sections 410(b) and 401(a)(26) of the IRC with respect to coverage and participation of Non-Bargained Employees. Section 401(a)(26) applies during any Plan Credit Year in which there are less than 50 Participants, including Participants covered by a Collective Bargaining Agreement.

ARTICLE 11

Top Heavy Provisions

Section 11.1. Definitions.

For purposes of this article, the following words and phrases shall have the meaning stated below unless a different meaning is clearly required by the context:

a. **Key Employee.**

"Key Employee" means an Employee or former Employee (and the beneficiaries of such Employee) meeting the definition of "Key Employee" contained in Section 416(i)(1) of the IRC and Section 1.416-1 of the Treasury Regulations.

b. **Non-Key Employee.**

"Non-Key Employee" means any Employee who is not a Key Employee.

c. **Annual Compensation.**

(i) "Annual Compensation" means compensation as defined in Section 415(c)(3) of the IRC and the applicable regulations issued thereunder, but in no event more than \$200,000 per calendar year for any Plan Year beginning after December 31, 2001, as adjusted annually by the Commissioner under Section 401(a)(17) of the IRC.

(ii) In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1994, the Annual Compensation of each Employee taken into account under the Plan shall not exceed the OBRA '93 Annual Compensation limit. The OBRA '93 Annual Compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the IRC. The cost-of-living adjustment in effect for a Plan Year applies to any period not exceeding 12 months, over which compensation is determined (determination period) beginning in such Plan Year. If a determination period consists of fewer than 12 months, the OBRA '93 Annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

(iii) For Plan Years beginning on or after January 1, 1994, any reference in this Plan to the limitation under Section 401(a)(17) of the IRC shall mean the OBRA '93 Annual Compensation limit set forth in this provision.

- (iv) If compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the compensation for that prior determination period is subject to the OBRA '93 Annual Compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the OBRA '93 Annual Compensation limit is \$150,000.
- d. Determination Date.

"Determination Date" means, with respect to any Plan Credit Year, the last day of the preceding Plan Credit Year, or in the case of the first Plan Credit Year of any Plan, the last day of such Plan Credit Year.

Section 11.2. Top Heavy Plan Requirements.

Effective January 1, 1984, for any Top Heavy Plan Credit Year, the Plan shall provide the following:

- a. Special vesting requirements of Section 416(b) of the IRC pursuant to Section 11.4.
- b. Special minimum benefit requirements of Section 416(c) of the IRC pursuant to Section 11.5.

Section 11.3. Determination of Top Heavy Status.

- a. This Plan shall be a Top Heavy Plan for any Plan Credit Year commencing after December 31, 1983, in which, as of the Determination Date,
 - 1. the present value of accrued benefits of Key Employees and
 - 2. the sum of the aggregate accounts of Key Employees under this Plan and all plans of an Aggregation Group exceeds sixty percent (60%) of the present value of accrued benefits and the aggregate accounts of all Key Employees and Non-Key Employees under this Plan and all plans of an Aggregation Group, taking into account all distributions made during a 1-year period ending on the most recent determination date and not taking into account any accrued benefit or account balance of an individual who has not performed services for the employer during a 1-year period ending on the determination date, except that in the case of a distribution made for a reason other than severance from employment, death or disability, this provision shall be applied by substituting 5-year period for 1-year period.

If any Participant is a Non-Key Employee for a Plan Credit Year, but such Participant was a Key Employee for any prior Plan Credit Year, such Participant's present value of accrued benefits and/or aggregate account balance shall not be taken into account for purposes of determining whether this Plan is a Top Heavy or Super Top Heavy Plan (or whether any Aggregation Group which includes this Plan is a Top Heavy Group). In addition, for Plan Credit Years beginning after December 31, 1984, if a Participant or former Participant has not received any Annual Compensation from any Employer maintaining the Plan (other than benefits under the Plan) at any time during the five-year period ending on the Determination Date, the aggregate account and/or present value of accrued benefit for such Participant or former Participant shall not be taken into account for the purposes of determining whether this Plan is a Top Heavy Plan or Super Top Heavy Plan.

- b. This Plan shall be a "Super Top Heavy Plan" for any Plan Credit Year commencing after December 31, 1983, in which, as of the Determination Date:
 - 1. the present value of accrued benefits of Key Employees and
 - 2. the sum of the aggregate accounts of Key Employees under this Plan and all plans of an Aggregation Group exceeds ninety percent (90%) of the present value of accrued benefits and the aggregate accounts of all Key Employees and Non-Key Employees under this Plan and all plans of an Aggregation Group.
- c. A Participant's aggregate account as of the Determination Date shall be determined under applicable provisions of the defined contribution plan used in determining Top Heavy Plan status.
- d. "Aggregation Group" means either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined.
 - 1. In determining a Required Aggregation Group hereunder, each plan of an Employer in which a Key Employee is a Participant, and each other plan of an Employer which enables any plan in which a Key Employee participates to meet the requirements of Section 401(a)(4) or 410 of the IRC, will be required to be aggregated. Such group shall be known as a "Required Aggregation Group."
 - 2. An Employer may also include any other plan not required to be included in the Required Aggregation Group, provided the resulting group, taken as a whole, would continue to satisfy the provisions of Section 401(a)(4) and 410 of the IRC. Such group shall be known as a "Permissive Aggregation Group."

In the case of a Permissive Aggregation Group, only a plan that is part of the

Required Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is a Top Heavy Group. No plan in the Permissive Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is not a Top Heavy Group.

3. Only those plans of an Employer in which the Determination Dates fall within the same calendar year shall be aggregated in order to determine whether such plans are Top Heavy Plans.
- e. In the case of a defined benefit plan, a Participant's present value of accrued benefits shall be determined:
 1. as of the most recent actuarial valuation date which is the most recent valuation date within a twelve-month period ending on the Determination Date,
 2. for the first Plan Credit Year as if:
 - A. the Participant terminated service as of the Determination Date; or
 - B. the Participant terminated service as of the actuarial valuation date, but taking into account the estimated present value of accrued benefits as of the Determination Date.
 3. for any other Plan Credit Year, as if the Participant terminated service as of the actuarial valuation date,
 4. the actuarial valuation date must be the same date used for computing the defined benefit plan minimum funding costs, regardless of whether a valuation is performed in the Plan Credit Year.
- f. The calculation of a Participant's present value of accrued benefit as of a Determination Date shall be the sum of the following:
 1. the present value of accrued benefit using actuarial assumptions stated in the most recent actuarial valuation;
 2. any Plan distributions made within the Plan Credit Year that includes the Determination Date or within four preceding Plan Credit Years. However, in the case of distributions made after the valuation date and prior to the Determination Date, such distributions are not included as distributions for Top Heavy purposes to the extent such distributions are already included in the Participant's present value of accrued benefit as of the valuation date.

Notwithstanding anything herein to the contrary, all distributions, including

distributions made prior to January 1, 1984, and distributions under a terminated plan which if it had not been terminated, would have been required to be included in an Aggregation Group, will be counted.

3. any Employee contributions, whether voluntary or mandatory. However, amounts attributable to tax deductible Qualified Voluntary Employee Contributions shall not be considered to be a part of the Participant's present value of accrued benefits;
4. with respect to unrelated rollovers and plan-to-plan transfers (ones which are both initiated by the Employee and made from a plan maintained by one Employer to a plan maintained by another Employer), if this Plan provides for rollovers or plan-to-plan transfers, it shall always consider such rollover or plan-to-plan transfers as a distribution for purposes of this section. If this Plan is the plan accepting such rollovers or plan-to-plan transfers, it shall not consider such rollovers or plan-to-plan transfers accepted after December 31, 1983, as part of the Participant's present value of accrued benefits. However, rollovers or plan-to-plan transfers accepted prior to January 1, 1984, shall be considered as part of the Participant's present value of accrued benefits; and
5. with respect to related rollovers and plan-to-plan transfers (ones either not initiated by the Employee or made to a plan maintained by the same Employer), if this Plan provides the rollover or plan-to-plan transfer, it shall not be counted as a distribution for purposes of this section. If this Plan is the plan accepting such rollover or plan-to-plan transfer, it shall consider such rollover or plan-to-plan transfer as part of the Participant's present value of accrued benefits, irrespective of the date on which such rollover or plan-to-plan transfer is accepted.

g. "Top Heavy Group" means an Aggregation Group in which, as of the Determination Date, the sum of:

1. the present value of accrued benefits of Key Employees under all defined benefit plans included in the group, and
2. the aggregate accounts of Key Employees under all defined contribution plans included in the group exceeds sixty percent (60%) of a similar sum determined for all Participants.

h. Notwithstanding anything herein to the contrary, the effective date otherwise provided for herein for the application of Section 416 of the IRC to this Plan (Plan Credit Years beginning after December 31, 1983) shall be extended in accordance with any federal law or regulatory authority.

Section 11.4. Top Heavy Vesting.

a. Notwithstanding the determination of Vested Status in accordance with Section 7.9 of the Plan for any Top Heavy Plan Credit Year, the vested portion of any Participant's accrued benefit shall be determined on the basis of the Participant's number of Years of Vesting Service according to the following schedule:

Vesting Schedule

Years of Vesting Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6 or more	100%

b. If, in any subsequent Plan Credit Year, the Plan ceases to be a Top Heavy Plan, the Trustees may elect to:

1. continue to apply this vesting schedule in determining the vested portion of any Participant's accrued benefit, or
2. revert to the vesting schedule in effect before this Plan became a Top Heavy Plan pursuant to Section 411(a)(10) of the IRC. The non-forfeitable percentage of the accrued benefit before the Plan ceased being Top Heavy, therefore must not be reduced and any Participant with three or more Years of Vesting Service must be given the option of remaining under the Top Heavy vesting schedule. Any such reversion shall be treated as a Plan amendment.

c. The Top Heavy vesting schedule does not apply to the accrued benefit of any Employee who does not have one Hour of Service after the Plan has initially become a Top Heavy Plan and such Employee's accrued benefit attributable to Employer contributions will be determined without regard to this article.

Section 11.5. Top Heavy Benefit Requirements.

a. The minimum accrued benefit derived from Employer contributions to be provided under the section for each Non-Key Employee who is a Participant shall equal the product of:

1. one-twelfth (1/12th) of Annual Compensation averaged over the five consecutive "limitation years" (or actual number of "limitation years" if less) which produces the highest average, and
2. the lesser of
 - A. two percent (2%) multiplied by Years of Vesting Service, or
 - B. twenty percent (20%).

b. For purposes of providing the minimum benefit under Section 416 of the IRC, a Non-Key Employee who is not a Participant solely because:

1. his Annual Compensation is below a stated amount, or
2. he declined to make mandatory contributions to the Plan, will be considered to be a Participant.

c. For purposes of this section, Years of Vesting Service for any Plan Credit Year ending prior to January 1, 1984, or for any Plan Credit Year during which the Plan was not a Top Heavy Plan, shall be disregarded.

d. For purposes of this section, Annual Compensation for any "Limitation Year" ending prior to January 1, 1984, or subsequent to the last "Limitation Year" during which the Plan is a Top Heavy Plan shall be disregarded. The term "Limitation Year" means the Plan Credit Year.

e. For purposes of this section, Annual Compensation shall have the meaning set forth in Section 1.415(c)-2 of the Treasury Regulations, but in no event more than \$\$200,000 per calendar year for any Plan Year beginning after December 31, 2001, as adjusted annually by the Commissioner under Section 401(a)(17) of the IRC. On or after January 1, 1994, Annual Compensation shall not exceed \$150,000, as adjusted annually by the Internal Revenue Service.

f. If the Plan provides for the normal retirement benefit to be paid in a form other than a single life annuity, the accrued benefit under this section shall be the Actuarial Equivalent of the minimum accrued benefit under Subsection (a) above pursuant to Section 1.1 of the Plan.

g. If payment of the minimum accrued benefit commences at a date other than Normal Retirement Age, the minimum accrued benefit shall be adjusted in accordance with Section 7.5 of the Plan.

h. If a Non-Key Employee participates in this Plan and a defined contribution plan included in a Required Aggregation Group which is Top Heavy, the minimum benefits

shall be provided under this Plan.

- i. To the extent required to be non-forfeitable under Section 7.9 of the Plan, the minimum accrued benefit under this section may not be forfeited under Sections 411(a)(3)(B) or 411(a)(3)(D) of the IRC.

ARTICLE 12

Rollovers

Section 12.1. Rollovers.

- a. **Eligible Rollover Distribution.** An “Eligible Rollover Distribution” is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is: (i) one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the IRC; and (iii) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- b. **Eligible Retirement Plan.** An “Eligible Retirement Plan” is an individual retirement account described in Section 408(a) of the IRC, an individual retirement annuity described in Section 408(b) of the IRC, an annuity plan described in Section 403(a) of the IRC, an annuity contract described in Section 403(b) of the IRC, an eligible deferred compensation plan described in Section 457(b) of the IRC which is maintained by an eligible employer described in Section 457(e)(1)(A), or a qualified trust described in Section 401(a) of the IRC, that accepts the Distributee’s Eligible Rollover Distribution. As of January 1, 2008, an Eligible Retirement Plan shall also include a Roth IRS under 408A of the Code.
- c. **Distributee.** A “Distributee” includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving Spouse and Employee’s Spouse or former Spouse who is the alternate payee under a Qualified Domestic Relations Order, are Distributees with regard to the interest of the Spouse or former Spouse. Effective January 1, 2010, a designated Beneficiary of an Employee or former Employee, who is not the Employee’s or former Employee’s Spouse, may be a Distributee to the extent provided for in Section 402(c)(11) of the IRC.
- d. **Direct Rollover.** A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

IN WITNESS WHEREOF, the Trustees have hereby adopted the Local Union 513 Pension Fund Rules and Regulations Amended and Restated Effective January 1, 2015, by affixing their signatures as of this 10th day of December, 2014.

Union Trustees

Robert P. Koenig
David Goffman

Employer Trustees

Jay Schuttehennich
WES DODD
Charles P. Hordum

APPENDIX A
Level Income Option Factors
Social Security Paid at Age 62

Retiree's Age	Factor
55	.552
56	.598
57	.647
58	.703
59	.764
60	.833
61	.908

APPENDIX B

Annuity Factors for Converting Pension Payments Prior to Suspension of Benefits

Age:	Years	Months									
		0	1	2	3	4	5	6	7	8	9
55	154.88	154.62	154.36	154.11	153.85	153.59	153.33	153.07	152.81	152.56	152.30
56	151.78	151.51	151.24	150.97	150.70	150.43	150.16	149.88	149.61	149.34	149.07
57	148.53	148.26	147.99	147.72	147.45	147.18	146.91	146.63	146.36	146.09	145.82
58	145.28	145.01	144.73	144.46	144.18	143.91	143.63	143.36	143.08	142.81	142.53
59	141.98	141.70	141.42	141.15	140.87	140.59	140.31	140.03	139.75	139.48	139.20
60	138.64	138.36	138.08	137.80	137.52	137.24	136.96	136.67	136.39	136.11	135.83
61	135.27	134.99	134.70	134.42	134.13	133.85	133.57	133.28	133.00	132.71	132.43
62	131.86	131.57	131.29	131.00	130.72	130.43	130.15	129.86	129.57	129.29	129.00
63	128.43	128.14	127.86	127.57	127.28	127.00	126.71	126.42	126.14	125.85	125.56
64	124.99	124.70	124.42	124.13	123.84	123.56	123.27	122.98	122.70	122.41	122.12
65	121.55	121.26	120.98	120.69	120.40	120.12	119.83	119.54	119.26	118.97	118.68
66	118.11	117.83	117.54	117.26	116.97	116.69	116.41	116.12	115.84	115.55	115.27
67	114.70	114.42	114.13	113.85	113.56	113.28	113.00	112.71	112.43	112.14	111.86
68	111.29	111.00	110.71	110.43	110.14	109.85	109.56	109.27	108.98	108.70	108.41
69	107.83	107.55	107.27	106.99	106.71	106.43	106.15	105.86	105.58	105.30	105.02
70	104.46										104.74

APPENDIX C
Adjustment Factors for Benefits
Payable Under Extended Guarantee Periods

Age	5-Year Guarantee Period	10-Year Guarantee Period
30	0.99965	0.99811
31	0.99963	0.99796
32	0.9996	0.99779
33	0.99956	0.99761
34	0.99952	0.99739
35	0.99948	0.99715
36	0.99943	0.99686
37	0.99938	0.99653
38	0.99932	0.99612
39	0.99925	0.99564
40	0.99915	0.99507
41	0.99904	0.9944
42	0.9989	0.99361
43	0.99873	0.99271
44	0.99854	0.99172
45	0.99833	0.99061
46	0.99809	0.98941
47	0.99783	0.9881
48	0.99754	0.98668
49	0.99723	0.98516
50	0.99689	0.98352
51	0.99653	0.98175
52	0.99614	0.97984
53	0.99572	0.97774
54	0.99527	0.97544
55	0.99478	0.97288
56	0.99423	0.97001
57	0.99359	0.96677
58	0.99286	0.96308
59	0.99202	0.95887
60	0.99106	0.95411
61	0.98997	0.94876
62	0.98873	0.94273
63	0.98729	0.93594
64	0.98562	0.92833
65	0.98369	0.91992

66	0.9815	0.91075
67	0.97901	0.90088
68	0.97622	0.89035
69	0.97316	0.87915
70	0.9699	0.86733