

**PIPEFITTERS LOCAL 636**  
**DEFINED CONTRIBUTION PENSION PLAN**

**2019**

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**PIPEFITTERS LOCAL 636**  
**DEFINED CONTRIBUTION PENSION PLAN**

**WHEREAS**, the Union and the Association originally entered into a certain collective bargaining agreement which established the Pipefitters Local No. 636 Supplemental Retirement Trust and Plan, effective July 1, 1981, which required covered Employers to contribute to a defined contribution money purchase pension plan, established for the exclusive purpose of providing retirement benefits to the Employees covered by the collective bargaining agreement or their beneficiaries; and

**WHEREAS**, effective January 1, 1997, the parties agreed to amend the plan to a profit sharing plan, changed the name of the plan to the Pipefitters Local 636 Defined Contribution Pension Plan (the "Plan"), and permitted Participants of the Plan to exercise investment control over their accounts in the manner and according to the requirements of 29 CFR §2550.404(c)-1; and

**WHEREAS**, effective July 1, 1998, the parties amended the Plan to permit Participants of the Plan to elect to make employee wage deferrals into the Plan; and

**WHEREAS**, the Union and the Association amended and restated the Plan in November 2001;

**WHEREAS**, there have been subsequent amendments to the 2001 Plan Restatement;

**WHEREAS**, the Union and Association now desire to amend and restate the Plan;

**NOW, THEREFORE**, the Trustees of the Pipefitters Local No. 636 Defined Contribution Pension Plan, pursuant to the Amendment and Restatement of Pipefitters Local No. 636 Defined Contribution Pension Fund Trust Agreement, amend the Plan as follows:

**ARTICLE 1 – DEFINITIONS**

**Account** means the sum of the market values of the Participant Contribution Account and the Wage Reduction Contribution Account established for a Participant as determined on any date.

**Actuarial Equivalent** means a benefit of equal value to the benefit for which it is substituted, the value of both benefits shall be based on actuarial assumptions and factors which have been adopted by the Trustees.

**Administrator or Plan Manager** means a person or entity who may be designated by the Trustees to administer the Plan

**Annuity Starting Date** means the first day of the first period for which an amount is paid as an annuity, or in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such a benefit.

**Association** means the Mechanical Contractors Association of Detroit (formerly Metropolitan Detroit Plumbing and Mechanical Contractors Association, Inc.).

**Beneficiary** means, on the death of the Participant, the Participant's Qualified Surviving Spouse, or in the event that, at the time of his death, the Participant does not have a Qualified Surviving Spouse, the person designated by the Participant to receive payment of his Account. In the event a Participant is not survived by a Qualified Surviving Spouse or does not properly designate a person as his Beneficiary, the person or persons whom he designated as his Beneficiaries on the records of Pipefitters Local Union No. 636 shall be considered his Beneficiaries under this Plan. Failing all of the foregoing, the Participant's Beneficiary shall be, in the following order, the Participant's: (1) spouse; (2) children; (3) parents; (4) sibling; or (5) Estate.

Notwithstanding the above, upon a divorce, any prior designation of the ex-spouse as Beneficiary shall be null and void unless such designation in favor of the ex-spouse is made subsequent to the divorce.

**Break-in-Service** means the failure of a Participant to complete 100 Hours of Service in a 12-consecutive month period immediately preceding his application for benefits and the termination of the Participant's employment as a pipefitter, in the geographic jurisdiction of the Plan. Whenever a Participant who has incurred a Break-in-Service as defined herein applies for a distribution of his Account, such Participant shall be paid, as soon as is practical, his entire accumulated Account.

**Casual or Temporary Employee** means an Employee who is not regularly employed by an Employer operating in the jurisdiction of Pipefitters Local 636. Subject to Sections 6.5 and 6.6, the entire Account of any Casual or Temporary Employee whose employment has been terminated shall be paid to him in a single lump sum as soon as is practical after his termination of employment.

**Code** means the Internal Revenue Code of 1986, as amended.

**Collective Bargaining Agreement** means any contract entered into between the Union and the Association or any Employer under which the Employer has agreed to contribute to the Fund or any renewal or extension thereof.

**Compensation** means a Participant's wages as defined in Code Section 3401(a), all other payments of compensation by the Employer for a Plan Year for which the Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052, any elective deferrals (as defined in Code Section 402(g)(3)) and any amount which is contributed or deferred by an Employer at the election of a Participant and which is not includable in the gross income of the Participant by reason of Code Sections 125 or 457.

The amount of Compensation of each Employee that may be taken into account for Plan Years beginning before January 1, 1994 shall not exceed the first \$200,000 of any Employee's Compensation (as adjusted by the Secretary of Treasury in the same manner as under Code Section 415(d)), and for the Plan Years beginning after December 31, 1993 shall not exceed the first \$150,000 of any Employee's Compensation (adjusted as provided in Code Section 401(a)(17)(B)). In applying these limitations, for Plan Years beginning before January 1, 1997, the family group of a Highly Compensated Employee who is subject to the family member aggregation rules of Code Section 414(q)(6) because such Participant is either a five-percent owner of an Employer or one of the 10 Highly Compensated Employees paid the highest compensation during the Plan Year shall be treated as a single Participant, except that for this purpose, family members shall include only the affected Participant's spouse and any lineal descendants who have not attained age 19 before the close of the Plan Year. If, as a result of the application of such rules, the adjusted \$200,000 or \$150,000 limitation is exceeded, then the limitation shall be prorated among the affected family members in proportion to each such family member's Compensation prior to the application of this limitation.

For Plan Years beginning on or after January 1, 1998, for purposes of applying the limitations described in Section 4.6 of this Plan, compensation paid or made available during such Plan Years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4).

**Contributions** mean the discretionary and required payments made to the Fund by the Employers.

**Elective Deferrals** mean a Participant's Wage Reduction Contributions to the Plan, plus all Employer Contributions made on behalf of such Participant pursuant to an election to defer under any other qualified cash or deferred arrangement (as defined in Code Section 401(k)) to the extent not includable in gross income for the taxable year under Code Section 402(g)(3), any Employee Contribution to the extent not includable in gross income for the taxable year under Code Section 401(h)(1)(B), any eligible deferred compensation plan under Code Section 457, any plan as described under Code Section 501(c)(18), any Employer Contributions made on behalf of a Participant for the purchase of an annuity contract under Code Section 403(b) pursuant to a salary reduction agreement and any elective contribution under Code Section 408(p)(2)(A)(i).

**Employee** means:

- (a) any person who is actively employed by an Employer who is obligated to make Contributions to the Fund on his/her behalf;
- (b) any person employed by the Union for whom Contributions are made to the Fund;
- (c) any person employed by the Pipefitting Industry Training Trust Fund for whom Contributions are made to the Fund; or
- (d) any person who is classified as a Casual or Temporary Employee.

The Plan adopts the “alumni rule” as set forth in Treasury Regulation §1.410(b)-6(d)(2)(ii) for the purpose of defining a “collectively bargained employee” under the Internal Revenue Code.

**Employer** means:

- (a) any association, member of the Association, individual, partnership, corporation, trust, municipal or governmental corporation, board of education, or university or college governing board which employs Employees coming under the jurisdiction of the Union, and which has a collective bargaining agreement with the Union, and the terms of which require contributions to the Trust Fund;
- (b) the Union or an affiliate of the Union;
- (c) the Pipefitting Industry Training Trust Fund (“Apprentice Fund”);
- (d) any other employer who is obliged by a Collective Bargaining Agreement, or other written agreement satisfying the requirements of the National Labor Relations Act and acceptable to the Trustees, to make Contributions to the Fund.

The Union, its affiliates and the Apprentice Fund, are defined as Employers only for the purpose of enabling them to make contributions on behalf of Employees employed by them, and they shall never participate in the selection of Employer Trustees.

**ERISA** means the Employee Retirement Income Security Act of 1974, as amended.

**Highly Compensated Employee** means an:

- (a) Employee who, at any time during the Plan Year or the preceding Plan Year, was a five percent owner (as defined in Code Section 416(i)(1)) of the Employer; or
- (b) Employee who received “compensation” during the preceding Plan Year from the Employer in excess of \$100,000 effective January 1, 2007, subject to adjustment by the Secretary of Treasury pursuant to Code Section 415(d).

For purposes of this Section, “compensation” means compensation within the meaning of Code Section 415(c)(3).

**Hour of Service** means with respect to an Employee:

- (a) Each hour for which an Employee is directly or indirectly paid or entitled to payment by an Employer for the performance of duties or for reasons other than the performance of duties such as vacation, holiday, sickness, disability, layoff, jury duty, military service or leave of absence.

- (b) Each hour for which back pay has been awarded or agreed to by an Employer (irrespective of mitigation of damages).
- (c) Hours will not be credited under both (a) and (b) of this definition for the same period and the rules set forth in Department of Labor Regulations 2530.200b-2(b) and (c) are incorporated by reference.
- (d) Solely for determining whether or not a Break-in-Service has occurred, Hours of Service will be granted for Maternity/Paternity Leave for Plan Years commencing after December 31, 1984 to a maximum of 501 Hours of Service for any Maternity or Paternity Leave. The Hours of Service credited under this definition will be credited in the computation period in which the absence begins if the crediting is necessary to prevent a Break-in-Service in that period, or, in all other cases, in the following computation period. Hours of Service for Maternity/Paternity Leave are granted solely for purposes of determining whether a Break-in-Service has occurred for participation purposes. An Employee who is absent from work for Maternity/Paternity Leave reasons will receive credit for the Hours of Service which would otherwise have been credited to such Employee but for such absence, or in the case hours cannot be determined, eight Hours of Service per day of absence.

**Maternity/Paternity Leave** means an absence from work (a) by reason of the pregnancy of the Employee, (b) by reason of a birth of a child of the Employee, (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by such Employee, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

**Non-Highly Compensated Employee** means any Employee who is not a Highly Compensated Employee.

**Normal Retirement Age** means the day a Participant attains age 58.

**Participant** means any Employee who has completed one Hour of Service.

**Participant Contribution Account** means the account maintained for a Participant to record the contributions of the Employers made on behalf of the Participant pursuant to Section 5.1.

**Permanent and Total Disability** means a physical or mental condition of an Employee, which totally and for a period of one year or longer beyond the date of his application for a disability retirement benefit, in the opinion of a physician satisfactory to the Trustees, will prevent such Employee from engaging in any regular occupation or employment for remuneration or profit as a pipefitter, provided, however, that no Employee shall be deemed to have a permanent and total disability for the purpose of the Plan if his incapacity results from current use of illegal drugs, or if such incapacity was contracted, suffered or incurred while the Employee was engaged in a felonious enterprise involving moral turpitude or resulted therefrom, or resulted from an intentionally self-inflicted injury, or from service in the armed forces of any country, and no

disabled Employee shall be eligible to receive a disability retirement benefit under the Plan for the period during which he or she is maintained in a government-supported institution because of such disabling condition, at no charge to him, to his estate or to his relatives.

**Plan** means this document, the Pipefitters Local 636 Defined Contribution Pension Plan, as amended from time to time.

**Plan Year** means the calendar year.

**Qualified Domestic Relations Order** means any judgment, decree or order (including approval of a property settlement agreement), which meets the requirements of Code Section 414(p) and which relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of any Participant or former Participant, and which is made pursuant to a state domestic relations order (including a community property law), and which creates or recognizes the existence of an alternate payee's right to or assigns to an alternate payee the right to, receive all or a portion of the benefits payable to a Participant or former Participant under this Plan.

**Qualified Joint and Survivor Annuity** means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Qualified Surviving Spouse, if any, equal to 100% of the annuity which is payable during the joint lives of the Participant and the Qualified Surviving Spouse and which are equal to the actuarial equivalent of the Participant's Account as of the Annuity Starting Date.

**Qualified Pre-Retirement Survivor Annuity** means an immediate annuity for the life of the Participant's Qualified Surviving Spouse, the payments under which are equal to the actuarial equivalent of the Participant's Account as of the date of death.

**Qualified Surviving Spouse** means the spouse to whom the Participant has been legally married throughout the one year period ending on the earlier of: (a) the date of the Participant's benefit commences, or (b) the date of the Participant's death. An individual shall be considered the "legally married" spouse of the Participant if the marriage has met all requirements of a valid marriage contract in the state of marriage of such parties.

**Single Life Annuity** means an immediate annuity for the life of the Participant, the payments of which are equal to the actuarial equivalent of the Participant's Account as of the Annuity Starting Date.

**Trust** means the Trust created by the Trust Agreement.

**Trust Agreement or Trust** means the Pipefitters Local 636 Defined Contribution Trust Agreement, as amended.

**Trustee** means any one of the natural persons appointed by the Association or Union to administer this Trust and any Successor Trustee.

**Trust Fund or Fund** means the assets of the Trust, of whatever kind, nature and description.

**Union** means the Pipefitters, Refrigeration and Air Conditioning Service Local No. 636 of Metropolitan Detroit Area, Michigan.

**Valuation Date** means December 31 of each Plan Year, or such other dates during the Plan Year as of which the Trustees shall cause the Trust Fund and the individual Accounts to be valued on a market value basis.

**Wage Reduction Contribution Account** means the account maintained for a Participant to record the contributions of Employers on behalf of the Participant pursuant to Section 5.2.

**Wage Reduction Contributions** means an Employer's contributions to the Trust under Section 5.2.

## **ARTICLE 2 – PARTICIPATION IN THE PLAN**

Upon completion of one Hour of Service, an Employee shall become a Participant in the Plan and contributions shall be made to his Participant Contribution Account under the Trust as provided in Section 5.1. All Employees who complete one Hour of Service on or after July 1, 1998, shall be eligible to elect Wage Reduction Contributions, as provided in Section 5.2.

## **ARTICLE 3 – VESTING**

Each Participant shall at all times be immediately and fully vested and shall have a nonforfeitable right to the balance in his Participant Contribution Account and his Wage Reduction Contribution Account, as properly and correctly valued from time to time under the provisions of this Plan.

## **ARTICLE 4 – ALLOCATIONS TO PARTICIPANT ACCOUNTS**

### **4.1 Individual Accounts**

There shall be made on the books and records of the Trust sufficient entries to disclose the interest of each Participant and each Beneficiary in his Participant Contribution Account and Wage Reduction Contribution Account. Credits and charges shall be made to these Accounts in accordance with the allocation process described in this Article. The maintenance of individual Accounts is only for record keeping purposes. Segregation of the assets of the Trust to each Account shall not be required, and the fact that individual accounts are maintained shall not be construed to mean that any Participant or Beneficiary has title to any specific assets of the Trust.

#### **4.2      Valuation**

As of each Valuation Date, the Trustees shall cause each Participant's Contribution Account and Wage Reduction Contribution Account, the assets of which Account has been invested according to the directions of the Participant, to be valued on the basis of the fair market value of its assets and shall cause to be determined the net increase or decrease in value of the Account since the immediately preceding Valuation Date, due to all operating investment and other expenses properly attributable to that Account and due to investment gains and losses in that Account during the Plan Year ("Net Change"). The Net Change in each such Account shall be allocated to that Account as of the Valuation Date.

#### **4.3      Crediting Contributions**

As Employer Contributions and Wage Reduction Contributions are received, all Contributions made by the Employers shall be added into each Participant's Contribution Account, and all Wage Reduction Contributions shall be added into each Participant's Wage Reduction Account, so that all such contributions shall be available for investment at the direction of the Participant.

#### **4.4      Payments from Accounts**

All payments from a Participant's Contribution Account or Wage Reduction Contribution Account to or for the benefit of a Participant or Beneficiary shall be debited to his Participant Contribution Account or Wage Reduction Contribution Account, as the case may be.

#### **4.5      Requesting Distributions**

Whenever a Participant who is entitled by this Plan to do so requests distribution of his Account, the Trustees shall so distribute the Account in the amount credited to the Account as of the end of the most recent calendar quarter preceding the date of the request for distribution, or such other Valuation Dates as determined by the Trustees, plus the Net Change since such time. All Accounts must be maintained until at least one quarterly statement on the Account has been issued.

#### **4.6      Maximum Annual Additions**

- (a) Notwithstanding anything to the contrary contained herein, the total annual additions to a Participant's Account for a "limitation year" (herein defined as the Plan Year) will not exceed the lesser of \$40,000 or 100% of the Participant's total "compensation" for the limitation year, subject to adjustment annually as provided in Code Section 415(d) pursuant to Treasury Regulations. For purposes of this Section, "compensation" means compensation as defined in Code Section 415(c)(3) and its corresponding regulations, including, for Plan Years beginning after December 31, 1997, any elective deferral as defined in Code Section

402(g)(3) and amounts which are contributed by an Employer pursuant to a salary reduction agreement which are not includable in the gross income of the Participant under Code Sections 125 or 457.

For purposes of this section, payments made by the later of 2 ½ months after severance from employment or the end of the limitation year that includes the date of severance from employment are included in compensation for the limitation year if, absent a severance from employment, such payments would have been paid to the employee while the employee continued in employment with the employer are regular compensation for service during the employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation.

- (b) For purposes of this Article, "Annual Additions" shall mean the sum of the following amounts credited to a Participant's Accounts for the limitation year under this Plan and any other defined contribution plan to which an Employer contributes:
  - (1) Employer contributions,
  - (2) Employee contributions,
  - (3) Forfeitures,
  - (4) Amounts allocated after March 1, 1984, to an individual medical account as defined in Code Section 415(l)(2), and
  - (5) Amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)) under a welfare fund (as defined in Code Section 419(e)) maintained by an Employer.
- (c) All defined contribution plans maintained by an Employer will be aggregated for the purposes of determining the maximum annual additions and if the primary maximum annual additions limitation is violated, contributions to the other defined contribution plan(s) will be reduced first and then, to the extent necessary, contributions under this Plan will be reduced.
- (d) If, as a result of the allocation of forfeitures, a reasonable error in estimating a Participant's annual compensation, a reasonable error in determining the amount of elective deferrals (within the meaning of Code Section 402(g)(3)) that may be made with respect to any individual under the limits of Code Section 415 or under other limited facts and circumstances provided in Treasury Regulations, the annual additions for a Participant would cause the limitations of Code Section 415 applicable to that Participant for the limitation year to be exceeded, the excess amounts will be disposed of as follows:

- (1) Elective deferrals (within the meaning of Code Section 402(g)(3)) and gains attributable thereto will be distributed to a Participant to the extent that the distribution would reduce the excess amounts in the Participant's Account.
- (2) If, after the application of paragraph (1), an excess amount still exists, the excess amount in the Participant's Account will be allocated and reallocated to other Participants. However, if the allocation or reallocation of the excess amounts causes the limits of Code Section 415 to be exceeded with respect to each Participant for the limitation year, then the amounts must be held unallocated in a suspense account.
- (3) If a suspense account is in existence at any time during a particular limitation year, other than the limitation year described in paragraph (2), all amounts in the suspense account must be allocated and reallocated to Participant Accounts (subject to the limits of Code Section 415) before any Employer contributions may be made to the Plan for that limitation year.
- (4) The procedures outlined above in Section 4.6(d)(1)-(3) are effective only for limitation years beginning before July 1, 2007. The Employee Plans Compliance Resolution System (EPCRS) is the only correction method for correcting excess annual additions for limitation years beginning on or after July 1, 2007.

(e) For limitation years beginning prior to January 1, 2000, if the Participant is or was covered under a defined benefit plan and a defined contribution plan maintained by an Employer, the sum of the Participant's defined benefit plan and defined contribution plan fractions, as set forth below, may not exceed 1.0 in any limitation year. If in any limitation year the sum of the defined benefit plan and defined contribution plan fractions will exceed 1.0, the contributions under this Plan will be reduced so that the sum of such fractions equals 1.0.

- (1) The defined benefit plan fraction for any limitation year is a fraction, the numerator of which is the sum of the Participant's projected annual benefits under all defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of (A) 1.25 times the dollar limitation in effect for the limitation year under Section 415(b)(1)(A) of the Code; or (B) 1.4 times Participant's average compensation for the three consecutive years that produce the highest average.

Notwithstanding the above, if the Participant was a participant as of the first day of the first limitation year beginning after December 31, 1986 in one or more defined benefit plans maintained by an Employer which were in existence on May 6, 1986, the denominator of this fraction will not be

less than 125 percent of the sum of the annual benefits under such plans which the Participant had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 for all limitation years beginning before January 1, 1987.

(2) The defined contribution fraction is a fraction, the numerator of which is the sum of the annual additions to the Participant's account balances under all defined contribution plans maintained by the Employer (whether or not terminated) for the current and all prior limitation years, and the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior limitation year with the Employer: (a) 1.25 times the dollar limitation in effect for the limitation year under Section 415(c)(1)(A) of the Code; or (b) 1.4 times the amount which may be taken into account for the Participant for the limitation year under Section 415(c)(1)(B) of the Code.

Notwithstanding the above, if the Participant was a participant as of the end of the first day of the limitation year beginning after December 31, 1986 in one or more defined contributions plans maintained by an Employer which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of (a) the excess of the sum of the fractions or 1.0 times (b) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the Plan made after May 5, 1986, but using the Code Section 415 limitation applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987 will not be recomputed to treat all Employee contributions as annual additions.

(f) For purposes of this Section, any transition rules shall apply which are either: (1) prescribed by the Secretary of the Treasury under the Tax Equity and Fiscal Responsibility Act of 1982, or (2) elected by the Trustees under Section 415(e)(6) of the Code.

This section shall be interpreted consistently with IRC 415 and its corresponding regulations, including the IRC 415 definition of compensation and any amendments and/or corresponding regulations thereto, including those made pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act).

#### 4.7 Credit for Military Service

A person reemployed under this section shall be entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of qualified military service. Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and ending on the date which is equal to three times the period of the person's qualified military service, not to exceed five years.

Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credits with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

The following procedures shall be used to implement Section 414(u) of the Internal Revenue Code:

**Notification.** Prior to entering military service (i.e. service covered under the Uniformed Services Employment and Reemployment Act), a Participant is required to provide advance written or verbal notice to his employer unless giving such notice is precluded by military necessity or is otherwise impossible or unreasonable.

**Disclosure Requirement.** Upon application for re-employment, a Participant shall be required to provide documentation to establish the timeliness of his application for re-employment (A copy of the Participant's discharge papers shall be sufficient).

**Crediting Military Service.** To determine the number of hours to be credited for military service, the Board of Trustees shall review the Participant's work history during a period equal to at least two times the amount of time spent in military service.

**Allocation of Liability.** Contributions will be deposited into the individual account of each Participant who served in the military and satisfied the re-employment requirements. These contributions will be considered a Plan expense and subtracted from investment earnings before such earnings are allocated to individual accounts.

**Service and Discharge.** Credit will be given under this section only if service is for no more than five years, unless extended at the government's request, and the Participant is discharged under honorable conditions,

A Participant will only be entitled to the benefits of this section if he/she returns to work under the Collective Bargaining Agreement within the following time frames: (1) for uniformed service of less than 31 days, by the next work day after the end of service plus eight hours, or as soon as possible after the end of the eight-hour period if reporting earlier is impossible through no fault of the Participant; (2) for service of more than 30 days but less than 181 days, within 14 days of completing the service, or the next full calendar day if returning earlier is impossible through no fault of the Participant; or (3) for service of more than 180 days, within 90 days after completion of the service.

Notwithstanding the foregoing, the beneficiary of a Participant on a leave of absence to perform military service with reemployment rights under Section 414(u) of the Internal Revenue Code shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Participant died as an active Participant in accordance with Section 401(a)(37) of the Internal Revenue Code.

#### **4.8 Allocations of Excess Fund Assets**

With approval of the Trustees, excess assets of the Fund may be used to “make up” Employer Contributions on behalf of Participants whose employer has failed to make same for various reasons, including but not limited to, bankruptcy. Notwithstanding, Contributions will not be made up for any Participant who has an ownership and/or financial interest in the employer, or for contribution obligations after a strike authorization has been given.

### **ARTICLE 5 – CONTRIBUTIONS**

- 5.1** The Employers shall make contributions to the Trust in such amounts and at such times as are provided in the then current collective bargaining agreement between the Associations and the Union, or other written agreement requiring Contributions to the Fund. All contributions made by the Employers to the Trust pursuant to this Section shall be credited to a Participant’s Contribution Account and shall be used to pay benefits under the Plan or to pay expenses of the Trust and Plan. For Plan Years beginning on or after January 1, 1999, the contribution to the Participant Contribution Account of each Non-Highly Compensated Employee shall be equal to at least three percent (3%) of the Non-Highly Compensated Employee’s Compensation and the contributions plus earnings allocated to such contributions shall be subject to the distribution restrictions of Code Section 401(k)(2)(B).
- 5.2** Commencing July 1, 1998, a Participant eligible under Section 2.1 may elect, through payroll deductions in accordance with a wage reduction agreement filed with the Trustees, to have his hourly wage reduced by \$0.50, \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, or any other amount determined by the Participant and withheld by the Employer up to the IRS approved limits, during the applicable pay period and to have a corresponding amount contributed to the Trust on his behalf by an Employer as Wage Reduction Contributions. Wage reductions shall be applied to every hour for which a Participant is

paid by an Employer other than daily or weekly overtime hours. The Employers shall remit a Participant's Wage Reduction Contributions to the Trustees no later than the date required under Labor Regulation Section 2510.3-102. All Wage Reduction Contributions under this Section shall be allocated to the Participant's Wage Reduction Contribution Account and shall be used to pay benefits under the Plan or to pay expenses of the Plan and Trust.

5.3 Subject to the provisions of Section 5.2, a Participant may change, as of the first day of January or July of any Plan Year, the amount of his Wage Reduction Contributions by giving such advance written notice of the change to the Trustees as the Trustees may require.

A Participant may suspend his Wage Reduction Contributions at any time by giving such advance written notice to the Trustees as the Trustees may require. A Participant who has suspended his Wage Reduction Contributions may resume Wage Reduction Contributions as of the first day of any January or July by giving such advance written notice to the Trustees as the Trustees may require.

5.4 Notwithstanding any other provision of the Plan to the contrary, a Participant's Elective Deferrals may not exceed the dollar limitation contained in Code Section 402(g)(1) in effect at the beginning of such calendar year.

Elective Deferrals in excess of the limitation described in Code Section 402(g) and any income or loss allocable to such excess amount for the calendar year shall be distributed to Participants who claim excess Elective Deferrals for a calendar year no later than April 15 following the calendar year in which such excess Elective Deferrals are made. Prior to January 1, 2008, gap period income must be included in the distribution of excess deferrals to the extent the employee is or would be credited with allocable gain or loss on those excess deferrals for the gap period if the total account were to be distributed. This requirement is eliminated beginning for distribution of excess deferrals made on or after January 1, 2008.

The Participant's claim shall be in writing; shall be submitted to the Trustees no later than the March 1 following the close of the calendar year in which the excess Elective Deferral is made; shall specify the amount by which the Participant's Elective Deferrals exceed the limitation described in Code Section 402(g) for such calendar year; and shall be accompanied by the Participant's written statement that if such amounts are not distributed, such excess Elective Deferrals, when added to amounts deferred under other plans or arrangements described in Code Sections 401(k), 408(k), 403(b) or 501(c)(18), exceed the limit imposed on the Participant by Code Section 402(g) for the year in which the deferral occurred. Notwithstanding the foregoing, a Participant will be deemed to have notified the Trustees of an excess Elective Deferral to the extent that the individual has excess Elective Deferrals for the calendar year taking into account only Wage Reduction Contributions under the Plan.

- 5.5 For Plan Years beginning after December 31, 1998, contributions on behalf of Employees pursuant to Section 5.1 shall be used to satisfy the safe harbor contribution requirement of Code Section 401(k)(12)(C) for such Plan Year. Each eligible Employee for the Plan Year shall be given written notice of such Employee's rights and obligations under the Plan in accordance with Code Section 401(k)(12)(D). For purposes of this safe harbor, the Plan may use any permissible definition of compensation under Code Section 414(s) or as otherwise permitted by the Internal Revenue Service.
- 5.6 If it is determined that an Employee who has elected to make Wage Reduction Contributions under this Plan is a Highly Compensated Employee for a Plan Year, all Wage Reduction Contributions for such Employee to this Plan for the Plan Year shall immediately cease and be distributed to such Employee, if required for qualification purposes.

## **ARTICLE 6 – BENEFITS AND DISTRIBUTION OF BENEFITS**

### **6.1 Determination of Benefits upon Retirement**

Participant who attains Normal Retirement Age and who terminates employment as a pipefitter within the geographical jurisdiction of the Union may, as of the first day of the month coincident with, or next following the date on which he attains such age and terminates such employment, receive a normal retirement distribution of his entire Account balance in accordance with this Article.

### **6.2 Determination of Benefits in Event of Disability**

A Participant who is determined by the Trustees to be under a Permanent and Total Disability may elect a disability retirement as of the first day of the month following the month in which the Trustees determine that the Permanent and Total Disability began. Such date shall be called the Participant's disability retirement date.

The Trustees may require the Participant to submit to medical examination for the purpose of verifying his Permanent and Total Disability. A Participant who takes a disability retirement as provided in this Section shall be entitled to distribution of his entire Account balance in accordance with this Article.

Pursuant to MCL 418.354; MSA 17.237, §354(14) of the Michigan Workers' Compensation Act, payments made to disability pensioners under this Pension Plan shall not be coordinated with any worker's compensation payments paid or payable to the disability pensioner. This provision applies regardless of a disability pensioner's attainment of normal retirement age.

### **6.3 Determination of Benefits Upon Death**

On the death of the Participant, his entire Account shall be payable to the Qualified Surviving Spouse of the Participant, or if there is no Qualified Surviving Spouse, then to the Beneficiary of the Participant.

### **6.4 Maintenance of Account**

Except as provided in §6.5(g) or as required by §6.9, following the Participant's normal retirement date or disability retirement date, or following one Plan Year during which the Participant incurred a Break-in-Service, the Participant's Account shall continue to be maintained by the Trustees as directed by the Participant unless the Participant requests and applies for a distribution of his Account.

### **6.5 Distribution of Benefits**

- (a) The normal form of benefit for a Participant with a Qualified Surviving Spouse on his Annuity Starting Date shall be a Qualified Joint and Survivor Annuity. The normal form of benefit for a Participant who does not have a Qualified Surviving Spouse on his Annuity Starting Date shall be a Single Life Annuity.
- (b) A Participant who is eligible to receive a benefit under this Plan may elect by written notice to the Trustees to waive the normal form of benefit set forth in Section 6.5(a) and to take his benefit:
  - (1) In a single lump sum distribution of his entire Account balance, or
  - (2) In a series of equal monthly payments for a period of up to the greater of 20 years or a period certain not extending beyond the life expectancy of the Participant or the joint and survivor life expectancy of the Participant and a designated Beneficiary; provided, however, that a Participant shall not have the right to select monthly payments if such monthly payment would be less than \$100.00. For purposes of this Section, life expectancy and joint and survivor life expectancy are computed by use of the return multiples contained in Section 1.72-9 of the Income Tax Regulations. For purposes of this computation, life expectancies may not be recalculated.
  - (3) In the form of a 50% Qualified Joint and Survivor Annuity, which means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Qualified Surviving Spouse equal to 50% of the annuity payable during the life of the Participant and equal to the actuarial equivalent of the Participant's Account as of the Annuity Starting Date.
  - (4) In addition to the foregoing distribution options, a Participant who is eligible for a distribution under Article 7 due to a Break in Service may elect to receive a partial distribution of benefits once every six months. The partial distribution may be in any amount, but if the account balance

after the requested distribution is less than \$5,000, the entire balance will be distributed.

- (5) In partial distributions under the following circumstances:
  - (i) Retirees will be granted partial distributions upon request,
  - (ii) Surviving Spouses and beneficiaries can obtain partial distributions upon request once every six months. Such partial distributions can be in any amount, provided the account balance after the requested distribution would be at least \$5,000.00. If the account balance after the distribution would not be at least \$5,000.00, only a distribution of the entire amount will be allowed.
- (6) Surviving Spouses may also elect equal monthly installment payments as allowed in paragraph (b)(2) above.

(c) Any election to waive the Qualified Joint and Survivor Annuity must be made by the Participant in writing during the election period and be consented to by the Participant's Qualified Surviving Spouse. If the Qualified Surviving Spouse is legally incompetent to give consent, the Qualified Surviving Spouse's legal guardian, even if such guardian is the Participant, may give consent. Such election shall designate a Beneficiary (or a form of benefits) that may not be changed without spousal consent (unless the consent of the Qualified Surviving Spouse expressly permits designations by the Participant without the requirement of further consent by the Qualified Surviving Spouse). Such Qualified Surviving Spouse's consent shall be irrevocable and must acknowledge the effect of such election and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Board of Trustees that the required consent cannot be obtained because there is no Qualified Surviving Spouse, the Qualified Surviving Spouse cannot be located or other circumstances that may be prescribed by Regulations. The election made by the Participant and consented to by his Qualified Surviving Spouse may be revoked by the Participant in writing without the consent of the Qualified Surviving Spouse at any time during the election period. The number of revocations shall not be limited. Any new election must comply with the requirements of this subsection. A former Qualified Surviving Spouse's waiver shall not be binding on a new Qualified Surviving Spouse.

- (1) The election period to waive the Qualified Joint and Survivor Annuity shall be the 180-day period ending on the Annuity Starting Date.
- (2) With regard to the election, the Board of Trustees shall provide to the Participant no less than 30 days and no more than 180 days before the Annuity Starting Date a written explanation of:

- (A) The terms and conditions of the Qualified Joint and Survivor Annuity;
- (B) The Participant's right to make, and the effect of, an election to waive the Qualified Joint and Survivor Annuity;
- (C) The right of the Participant's Qualified Surviving Spouse to consent to any election to waive the Qualified Joint and Survivor Annuity; and
- (D) The right of the Participant to revoke such election and the effect of such revocation.

An election to waive the Single Life Annuity must comply with the provisions of this Section as if it were an election to waive the Qualified Joint and Survivor Annuity by a Participant with a Qualified Surviving Spouse, but without the spousal consent requirement.

- (d) Any distribution to a Participant who has a benefit which exceeds \$5,000 shall require such Participant's consent. With regard to this required consent:
  - (1) No consent shall be valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan that would satisfy the notice requirements of Code Section 417.
  - (2) The Participant must be informed of his right to defer receipt of the distribution. If a Participant fails to consent, it shall be deemed an election to defer the commencement of payment of any benefit. However, any election to defer the receipt of benefits shall not apply with respect to distributions which are required under Section 6.8.
  - (3) Notice of the rights specified under this paragraph shall be provided no less than 30 days and no more than 180 days before the Annuity Starting Date.
  - (4) Written consent of the Participant to the distribution must not be made before the Participant receives notice and must not be made more than 180 days before the Annuity Starting Date.
- (e) Notwithstanding anything in the Plan to the contrary, the written explanation may be provided after a Participant's Annuity Starting Date, in which case the election period set forth in Section 6.5(c)(1) shall not end before the 30th day after the date on which the written explanation is provided.
- (f) Notwithstanding anything in the Plan to the contrary, a Participant may elect (with any applicable spousal consent) to waive any requirement that the written

explanation be provided at least 30 days before the Annuity Starting Date (or to waive the 30-day requirement under Section 6.5(e)) if the distribution commences more than seven days after such explanation is provided.

(g) Notwithstanding any provision in this Plan to the contrary, if the value of a Participant's benefit derived from Employer contributions does not exceed \$5,000, the Trustees shall immediately distribute such benefit in a single lump sum without such Participant's consent when the Participant incurs a Break in Service. No distribution may be made under the preceding sentence after the Annuity Starting Date unless the Participant consents in writing to such distribution. Any written consent required under this paragraph must be obtained not more than 180 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(c).

In the event of a distribution greater than \$1,000 under this section, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution as a direct payment, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator.

## **6.6 Pre-Retirement Survivor Annuity**

(a) Unless otherwise elected as provided in this Section, if the entire interest of a Participant who is survived by a Qualified Surviving Spouse is to be distributed on account of the Participant's death, then such distribution shall be made to the Participant's Qualified Surviving Spouse in the form of a Pre-Retirement Survivor Annuity unless the Qualified Surviving Spouse requests payment in a lump sum or a rollover. Payment of such benefit must commence by the date the Participant would have attained Normal Retirement Age, unless the Qualified Surviving Spouse elects to have such annuity distributed immediately or at a later date. In the event that the entire interest of a Participant is not to be paid in the form of a Qualified Pre-Retirement Survivor Annuity on account of the Participant's death, the Participant's entire Account shall be paid to his Beneficiary in a single lump sum.

(b) Any election to waive the Qualified Pre-Retirement Survivor Annuity before the Participant's death must be made by the Participant in writing during the election period and shall require the Qualified Surviving Spouse's irrevocable consent in the same manner provided for in Section 6.5(c). Further, the Qualified Surviving Spouse's consent must acknowledge the specific nonspouse Beneficiary. Notwithstanding the foregoing, the nonspouse Beneficiary need not be acknowledged, provided the consent of the Qualified Surviving Spouse acknowledges that the Qualified Surviving Spouse has the right to limit consent only to a specific Beneficiary and that the Qualified Surviving Spouse voluntarily elects to relinquish such right.

- (c) The election period to waive the Qualified Pre-Retirement Survivor Annuity shall begin on the first day of the Plan Year in which the Participant attains the age 35 and end on the date of the Participant's death. In the event a Participant separates from service prior to the beginning of the election period, the election period shall begin on the date of such separation from service.
- (d) With regard to the election, the Trustees shall provide each Participant within the applicable period, with respect to such Participant (and consistent with Regulations), a written explanation of the Qualified Pre-Retirement Survivor Annuity containing comparable information to that required pursuant to Section 6.5(d). For the purposes of this paragraph, the term "applicable period" means, with respect to a Participant, whichever of the following periods ends last:
  - (1) The period beginning with the first day of the Plan Year in which the Participant attains the age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35;
  - (2) A reasonable period after the individual becomes a Participant;
  - (3) A reasonable period ending after the Plan no longer fully subsidizes the cost of the Qualified Pre-Retirement Survivor Annuity with respect to the Participant;
  - (4) A reasonable period ending after Code Section 401(a)(11) applies to the Participant; or
  - (5) A reasonable period after separation from service in the case of a Participant who separates before attaining age 35. For this purpose, the Trustees must provide the explanation beginning one year before the separation from service and ending one year after such separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

For purposes of applying this Section, a reasonable period ending after the enumerated events described in paragraphs (2), (3) and (4) is the end of the two year period beginning one year prior to the date the applicable event occurs and ending one year after that date.

- (e) If the present value of a Participant's interest derived from Employer contributions to be distributed on account of the Participant's death does not exceed \$5,000, the Board of Trustees shall direct the immediate distribution of such amount to the Participant's Qualified Surviving Spouse or Beneficiary, as the case may be. No distribution may be made under the preceding sentence after the Annuity Starting Date unless the Qualified Surviving Spouse or Beneficiary consents in writing. If the value exceeds \$5,000, an immediate distribution of the

## **6.7 Time of Distribution**

Unless a Participant otherwise elects as provided in the Plan, distribution of a Participant's Account shall commence no later than the 60th day after the close of the Plan Year in which occurs the latest of the following events:

- (a) the Participant attains Normal Retirement Age,
- (b) the tenth anniversary of the year in which the Participant commenced participation in the Plan, or
- (c) the Participant terminates service with the Employer.

## **6.8 Required Distribution**

Notwithstanding any provision of the Plan to the contrary, the Account of a Participant must be distributed or commence to be distributed no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70½; provided, however, that a Participant (other than a 5% owner) who has not retired by the end of the calendar year in which he attains age 70½ may elect to delay commencement of benefit distributions until no later than April 1 of the calendar year in which the Participant retires.

## **6.9 Minimum Distribution Requirements**

- (a) Effective Date. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (b) Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.

Notwithstanding section 6.9(b) of the Plan, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the participant or beneficiary chooses to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to receive the distributions described in the

preceding sentence. In addition, notwithstanding section 6.10 of the plan, and solely for purposes of applying the direct rollover provisions of the plan, 2009 RMDs and Extended 2009 RMDs will be treated as eligible rollover distributions.

- (c) Requirements of Treasury Regulations Incorporated. All distributions required under this Section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to Section 242(b)(2) of TEFRA.
- (e) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (f) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 ½, if later.
  - (2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this paragraph (f), other than paragraph (f)(1), will apply as if the surviving spouse were the Participant.

For purposes of this paragraph (f) and paragraphs (j) and (k), unless paragraph (f)(4) applies, distributions are considered to begin on the Participant's required beginning date. If paragraph (f)(4) applies, distributions are considered to begin

on the date distributions are required to begin to the surviving spouse under paragraph (f)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (f)(1)), the date distributions are considered to begin is the date distributions actually commence.

(g) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (h)(i)(j) and (k) below. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

(h) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

- (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
- (2) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(i) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under paragraph (h) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(j) Death On or After Distribution Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

(A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(k) Death Before Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in paragraph (j).

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph (f)(1), this paragraph (k) will apply as if the surviving spouse were the Participant.

(l) Designated beneficiary means the individual who is designated as the Beneficiary as defined in Article 1 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(m) Distribution calendar year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (f). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(n) Life expectancy means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(o) Participant's account balance means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of the dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(p) Required beginning date means the date specified in Section 6.8 of the Plan.

## 6.10 Eligible Rollover Distribution

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an Eligible Rollover

Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

- (a) Eligible Rollover Distribution: Any distribution of all or any portion of the benefit to the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the Distributee and the Distributee's designated beneficiary; or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); any distribution that is a hardship distribution; and 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 individual retirement account under IRC §408(a), Code, an individual retirement annuity under IRC §408(b), an annuity plan under IRC §403(a), a qualified trust under IRC §401(a), a Roth IRA, an annuity under IRC §403(b), or a governmental plan under IRC §457(b), that accepts the Distributee's Eligible Rollover Distribution. For a designated nonspouse beneficiary, an Eligible Retirement Plan is an inherited IRA under IRC §408(d)(3)(C).
- (c) Distributee: An Employee or former Employee, the Employee's or former Employee's spouse or surviving spouse, or a 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. A Distributee also includes an eligible designated nonspouse beneficiary.
- (d) Direct Rollover: Payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

## **6.11 Transfers From Qualified Plans**

- (a) Amounts may be transferred to this Plan from other qualified plans by Participants, provided that the trust from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax exempt status of the Plan or Fund or create adverse tax consequences for the Employer. The amounts transferred shall be considered an additional Accrued Benefit and shall be fully Vested at all times and shall not be subject to forfeiture for any reason.
- (b) Amounts transferred to this Plan shall be held by the Trustees pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraphs (c) and (d) of this Section.

(c) Except as permitted by Regulations (including Regulation 1.411(d)-4), amounts attributable to elective Contributions (as defined in Regulation 1.401(k)-1(g)(3)), including amounts treated as elective Contributions, which are transferred from another qualified plan in a plan-to-plan transfer shall be subject to the distribution limitations provided for in Regulation 1.401(k)-1(d).

(d) At Normal Retirement Date, or such other date when the Participant or his Beneficiary shall be entitled to receive benefits, the fair market value of the amounts transferred to this Plan shall be used to provide additional benefits to the Participant or his Beneficiary. Any distributions of the amounts transferred to this Plan shall be made in a manner which is consistent with the provisions of this Plan, including, but not limited to, all notice and consent requirements of Code Sections 417 and 411(a)(11) and the Regulations thereunder. Furthermore, such amounts shall be considered as part of a Participant's benefit in determining whether an involuntary cash-out of benefits without Participant consent may be made.

(e) The Trustees may direct that Participant transfers made after a valuation date be segregated into a separate account for each Participant in a federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate, or other short term debt security acceptable to the Trustees until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Pension Fund, to be determined by the Trustees.

(f) For purposes of this Section, the term "qualified plan" shall mean (i) any tax qualified plan under Code Section 401(a) and 403(b) excluding after-tax employee contributions; (ii) an annuity contract described in Section 403(a) of the Code, excluding after-tax employee contributions; (iii) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The term "amounts transferred from other qualified plans" shall mean: (i) amounts transferred to this Plan directly from another qualified plan; (ii) distributions from another qualified plan which are eligible rollover distributions and which are either transferred by the Participant to this Plan within 60 days following his receipt thereof or are transferred pursuant to a direct rollover; (iii) amounts transferred to this Plan from a conduit individual retirement account provided that the conduit individual retirement account has no assets other than assets which (A) were previously distributed to the Participant by another qualified plan as a lump sum distribution (B) were eligible for tax-free rollover to a qualified plan and (C) were deposited in such conduit individual retirement account within 60 days of receipt thereof and other than earnings on said assets; and (iv) amounts distributed to the Participant from a conduit individual retirement account meeting the requirements of clause (iii) above, and transferred by the Participant to this Plan within 60 days of his receipt thereof from such conduit individual retirement account.

- (g) Prior to accepting any transfers to which this Section applies, the Trustees may require the Participant to establish that the amounts to be transferred to this Plan meet the requirements of this Section and may also require the Participant to provide an opinion of counsel satisfactory to the Employer that the amounts to be transferred meet the requirements of this Section.
- (h) Notwithstanding anything herein to the contrary, a transfer directly to this Plan from another qualified plan (or a transaction having the effect of such a transfer) shall only be permitted if it will not result in the elimination or reduction of any "Section 411(d)(6) protected benefit".

## **6.12 Advance Distribution for Hardship**

- (a) Upon completion of an application approved by the Trustees, an Active Participant may receive a hardship distribution, subject to the limitations set forth in this section, for the following reasons:
  - (1) Expenses for medical care described in IRC §213(d) incurred by the Participant, his/her spouse, or any of his/her dependents (as defined in IRC §152) or necessary for these persons to obtain medical care described in §213(d);
  - (2) Costs directly related to the purchase of a principal residence for the Participant (excluding mortgage payments);
  - (3) Payment of tuition, related education fees, and room and board expenses, for the next 12 months of post-secondary education for the Participant, his/her spouse, or any of his/her dependents (as defined in IRC §152); or
  - (4) Payments necessary to prevent the eviction of the Participant from his/her principal residence or foreclosure on the mortgage on that residence.
  - (5) For burial and funeral expenses for the Participant's deceased parent, spouse, child or dependent.
- (b) The amount of the hardship distribution cannot exceed the amount necessary to satisfy the Participant's financial need, and is otherwise subject to the following minimums and maximums:
  - (1) minimum hardship distribution of \$1,000.00, and
  - (2) a maximum hardship distribution of up to the lesser of:
    - (A) \$50,000.00, reduced by any previous hardship distributions; or
    - (B)  $\frac{1}{2}$  of his/her current account balance.

After the amount available for distribution is determined, such amount may be adjusted to account for tax withholding and penalties. Such adjustment, if made, is only an estimate of taxes and penalties. The participant may be liable for additional taxes and penalties not withheld.

- (c) The monies available for hardship distribution are those attributable to:
  - (1) contributions made pursuant to §5.2, and
  - (2) Employer Contributions and earnings thereon, made on or after July 1, 1998 (excluding safe harbor contributions provided for in §5.5), and
  - (3) any rolled over contributions from a qualified plan made pursuant to §6.11.

The monies to be distributed will be withdrawn on a pro rata basis from each source of funds listed above.

- (d) For married Participants, spousal consent shall be required before any hardship distribution is made.
- (e) A Participant may receive a hardship distribution only once in any 12 month period.
- (f) A \$75.00 processing fee will be charged for each hardship distribution.

### **6.13 In-Service Distributions**

Upon attainment of age 59 1/2, an actively working Participant may receive an in-service distribution of this Account subject to the following restrictions:

- (a) Spousal consent must be obtained;
- (b) The distribution must be taken as a lump sum;
- (c) The minimum distribution that must be taken is \$5,000 or, if less, the Participant's account balance; and
- (d) Distributions will only be allowed only once every 6 months.

## **ARTICLE 7 – BENEFITS FOLLOWING A PRE-RETIREMENT TERMINATION OF EMPLOYMENT**

A Participant whose employment terminates as a pipefitter, within the geographical jurisdiction of the Plan, prior to his attainment of Normal Retirement Age, may, following a Break-in-Service, elect in writing delivered to the Trustees, to have his Account balance distributed under the provisions of Article 6. Notwithstanding the foregoing, a Casual or Temporary Employee may elect in writing delivered to the Trustees, to have his Account balance distributed under the provisions of Article 6 upon termination of employment irrespective of whether a Break-in-Service has occurred.

## **ARTICLE 8 – RETIREMENT**

Each Participant shall be eligible for retirement upon attaining his Normal Retirement Age, but may continue to work, if the Participant so desires. If the Participant continues to work subsequent to attaining his Normal Retirement Age, he shall continue to participate in this Trust and Plan in the same manner as he did prior to such date, but may then retire on any later date in accordance with the terms of the Plan and any applicable law.

## **ARTICLE 9 – CLAIMS AND APPEAL PROCEDURE**

### **9.1 Timing and Notification of Benefit Determination**

#### **(a) Retirement Benefits**

Claims for benefits under the Plan may be filed in writing with the Trustees. Written notice of the disposition of a claim shall be furnished to the claimant within 90 days after the application is filed.

This period may be extended by the Fund for up to 90 days, if special circumstances require an extension of the time for processing the claim. In such case, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90 day period. In no event shall such extension exceed 90 days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the plan expects to render the benefit determination.

#### **(b) Disability Benefits**

A claim for disability benefits includes an initial claim for disability benefits or any rescission of coverage of a disability benefit.

In the case of a claim for disability benefits, the Fund Office shall notify the claimant, in accordance with this Section of the Fund's adverse benefit

determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the Fund Office.

This period may be extended by the Fund for up to 30 days, provided that the Fund Office both determines that such an extension is necessary due to matters beyond the control of the Fund and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the plan expects to render a decision. If, prior to the end of the first 30-day extension period, the Fund Office determines that, due to matters beyond the control of the Fund, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional 30 days, provided that the Fund Office notifies the claimant, prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the plan expects to render a decision. In the case of any extension under this provision, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information.

## **9.2 Manner and Content of Notification of Benefit Determination**

The Fund Office shall provide a claimant with written or electronic notification of any adverse benefit determination (i.e. denial of claim).

Before the Fund can issue an adverse benefit determination based on new or additional evidence, the Fund must provide the Claimant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Fund (or at the direction of the Fund) in connection with the claim; such evidence must be provided as soon as possible and sufficiently in advance of the date on which the adverse benefit determination is required to be provided to give the Claimant a reasonable opportunity to respond prior to that date.

Before the Fund can issue an adverse benefit determination based on a new or additional rationale, the Claimant must be provided, free of charge, with the rationale. The rationale must be provided as soon as possible as sufficiently in advance of the date on which the notice of the adverse benefit determination is required to be provided, to give the claimant a reasonable opportunity to respond prior to that date.

The notification shall set forth, in a manner calculated to be understood by the claimant –

- (a) The specific reason or reasons for the adverse determination;
- (b) Reference to the specific plan provisions on which the determination is based;

- (c) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;
- (d) A description of the Fund's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under section 502(a) of ERISA following an adverse benefit determination on review; and
- (e) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request or, if applicable, a statement that such rules or guidelines do not exist.

With respect to an adverse benefit determination regarding disability benefits, the determination must also include the following:

- (a) An explanation of the basis for disagreeing with any of the following:
  - (i) The health care professionals that treated the Claimant;
  - (ii) The advice of the health professional obtained by the Plan; or
  - (iii) A disability determination from the Social Security Administration.
- (b) A statement that the Claimant is entitled to receive, free of charge and upon request, reasonable access to copies of all documents, records, and other information relevant to the Claimant's claim for benefits.
- (c) If the denial was based on medical necessity or experimental treatment, the denial must include either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claim or statement or a statement that such explanation will be provided free of charge upon request.
- (d) The denial must be in a culturally and linguistically appropriate manner.

### **9.3 Appeal of Adverse Benefit Determination**

- (a) Appeals must be forwarded to and received by the Fund Office within 60 days (180 days for appeals involving disability benefits) following receipt of a notification of an adverse benefit determination (i.e. denial of claim). As part of any such appeal, a claimant may submit written comments, documents, records, and other information relating to the claim for benefits.

- (b) A claimant, free of charge and upon request, shall be provided reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.
- (c) Upon appeal, the Trustees will review all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- (d) If the appeal is a denial of disability benefits:
  - (1) A review on appeal will not afford deference to the initial denial and an individual who made the initial denial, or a subordinate of such individual will not decide an appeal.
  - (2) In deciding an appeal of a benefit based on medical judgment, the fiduciary deciding the appeal shall consult with a health care professional who has appropriate training in the field of medicine involved (and who was not involved in reviewing the initial claim);
  - (3) A plan must provide for the identification of any medical or vocational experts whose advice was obtained by the plan in connection with the initial denial, regardless of whether the advice was relied upon.

#### **9.4 Trustees Decision on Appeal**

##### **(a) Timing of Decision**

The Trustees shall make a benefit determination on appeal no later than the date of the board meeting that immediately follows the Fund Office's receipt of an appeal, unless the appeal is filed within 30 days preceding the date of such meeting. In such case, the benefit determination may be made no later than the date of the second board meeting following the Fund Office's receipt of the request for review.

If special circumstances require a further extension of time for processing, a benefit determination shall be rendered not later than the third board meeting following the Fund Office's receipt of the request for review. If such an extension of time for review is required because of special circumstances, the Fund Office shall provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Fund Office shall notify the claimant of its decision on appeal but not later than 5 days after the benefit determination is made.

**(b) Manner and Content of Notification of Trustees Notice of Decision on Appeal**

The Fund Office shall provide a claimant with written or electronic notification of any adverse benefit determination on review. The notification shall set forth, in a manner calculated to be understood by the claimant –

- (1) The specific reason or reasons for the adverse determination;
- (2) Reference to the specific plan provisions on which the determination is based;
- (3) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
- (4) A statement of the claimant's right to bring a civil action under section 502(a) of ERISA; and
- (5) A statement describing any contractual limitation period that applies to the Claimant's right to bring an action under ERISA §502(a) and the calendar date on which such contractual limitation expires;
- (6) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request.
- (7) The following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency."

Before the Fund can issue a notice of decision on appeal with respect to disability benefits based on new or additional evidence, the Fund must provide the Claimant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Fund (or at the direction of the Fund) in connection with the claim; such evidence must be provided as soon as possible and sufficiently in advance of the date on which the notice of decision on appeal is required to be provided to give the Claimant a reasonable opportunity to respond prior to that date.

Before the Fund can issue a notice of decision on appeal with respect to disability benefits based on a new or additional rationale, the Claimant must be provided,

free of charge, with the rationale. The rationale must be provided as soon as possible and sufficiently in advance of the date on which the notice of decision on appeal is required to be provided to give the claimant a reasonable opportunity to respond prior to that date.

In addition to the above, a notice of decision on appeal pertaining to a claim for disability benefits will include the following:

- (1) An explanation of the basis for disagreeing with any of the following:
  - (i) The health care professionals that treated the Claimant;
  - (ii) The advice of the health professional obtained by the Plan; or
  - (iii) A disability determination from the Social Security Administration.
- (2) If the denial was based on medical necessity or experimental treatment, the denial must include either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claim or statement or a statement that such explanation will be provided free of charge upon request.
- (3) The benefit denial must be in a culturally and linguistically appropriate manner.

#### **9.5 Discretion of Trustees**

The Trustees have full discretionary authority to determine eligibility for benefits, interpret plan documents, and determine the amount of benefits due. Their decision, if not in conflict with any applicable law or government regulation, shall be final and conclusive.

#### **9.6 Timely Submission of Appeals**

All appeals must be timely submitted. A participant or dependent who does not timely submit an appeal waives his/her right to have the benefit denial further reviewed by the Fund or in a court of law.

#### **9.7 Limitations of Actions**

No action may be brought to recover benefits allegedly due under the terms of the Plan more than 180 days following the Notice of Decision on Appeal.

## **9.8 Failure to Follow Claim Procedures**

If the Plan fails to follow claims procedures with respect to any claim for benefits, the claimant is deemed to have exhausted administrative remedies and is entitled to pursue all remedies under ERISA §502(a) on the basis that the Plan has failed to provide a reasonable claims procedure that would yield a decision on the merits.

In addition to the above, if the Plan fails to strictly adhere to all procedures with respect to a claim for disability benefits and the claimant chooses to pursue remedies under ERISA §502(a), the claim is deemed denied on review without the exercise of discretion by the Trustees.

Notwithstanding the above, the internal claims and appeals process will not be deemed exhausted based on de minimis violations that do not cause, and are not likely to cause, prejudice or harm to the Claimant so long as the Plan demonstrates that the violation was for good cause or due to matters beyond the control of the Plan and that the violation occurred in the context of an ongoing, good faith exchange of information between the Plan and the Claimant.

The Claimant may request a written explanation of the violation from the Plan, and the Plan must provide such explanation within 10 days, including a specific description of its bases, if any, for asserting that the violation should not cause the internal claims and appeals process to be deemed exhausted.

If a court rejects the Claimant's request for immediate review on the basis that the Plan met the standards for the exception to the deemed exhaustion rule, the Claimant has the right to resubmit and pursue the internal appeal of the claim. In such a case, within a reasonable time and after the court rejects the claim for immediate review (not to exceed ten days), the Plan shall provide the Claimant with the notice of the opportunity to resubmit and pursue the internal appeal of the claim. Time periods for refiling the claim shall begin to run upon Claimant's receipt of such notice.

## **9.9 Avoiding Conflicts of Interest**

The Plan must ensure that all claims and appeals are adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Accordingly, decisions regarding hiring, compensation, termination, promotion, or other similar matters with respect to any individual (such as claims adjudicator or medical expert) must not be made based upon the likelihood that the individual will support the denial of benefits.

## ARTICLE 10 – MISCELLANEOUS

### **10.1    Headings**

The heading to the Articles of this Agreement are inserted for reference only and are not to be taken as limiting, extending or modifying the provisions of this Agreement. All persons accepting benefits under this Plan shall be deemed to have consented to the terms of this Plan.

### **10.2    Separability**

All questions pertaining to the validity of this Agreement, its construction and administration shall be determined in accordance with the laws of the United States and the laws of the State of Michigan except to the extent preempted by federal law. If for any reason, any provision of this Plan is or shall be hereafter determined by decision, act or regulation of a court or agency of government which has jurisdiction, to be in any respect invalid, it shall not nullify any of the other terms and provisions of this Plan, and in order to prevent the invalidity of such provision or provisions, then the said provision or provisions shall be deemed automatically amended to conform with such rule, law, regulation, act or decision.

### **10.3    Gender and Number**

The use of any word in this Plan in the masculine gender is also intended to be in the feminine gender, and vice versa, where appropriate. The use of any word in this Plan in the singular is also intended to be in the plural, and vice versa, where appropriate.

### **10.4    Non-Alienation of Benefits**

No benefit payable under this Plan shall be subject in any manner to alienation, sale transfer, assignment, pledge or encumbrance. Any attempt to alienate, sell, transfer, assign, pledge or otherwise encumber shall be void. Neither the Pension Fund nor any pension benefit shall in any manner be liable for or subject to the debts or liabilities of any Participant or Beneficiary entitled to pension benefits. This provision shall not restrict a Participant from designating a Beneficiary or his estate to receive any benefits that may be payable hereunder upon his death.

For purposes of this Section, the creation of assignment or recognition of a right to any benefit payment with respect to any Participant, Vested Former Participant, Disability Retiree or Retiree pursuant to a “qualified domestic relations order”, as defined in Section 414(p) of the Code, shall not be treated as an assignment or alienation of benefits payable under this Plan. The Trustees shall adopt written procedures for determining whether an order is a qualified domestic relations order and shall provide for the payment of benefits to the alternate payee in accordance with the applicable requirements of any such qualified domestic relations order, in accordance with Section 414(p) of the Code.

## **10.5 Qualified Domestic Relations Order Distribution**

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any “alternate payee” under a “qualified domestic relations order.” Furthermore, a distribution to an “alternate payee” shall be permitted if such distribution is authorized by a “qualified domestic relations order,” even if the affected Participant has not separated from service and has not reached the Earliest Retirement Age. For the purposes of this Section, “alternate payee” and qualified domestic relations order” shall have the meaning set forth under Code Section 414(p).

## **10.6 Reciprocity Agreements.**

The Trustees may enter into reciprocity agreements. Reciprocated money received by the Fund under any such reciprocity agreement, whether from a defined benefit or defined contribution fund, will be allocated pursuant to policies and procedures adopted by the Trustees.

# **ARTICLE 11 – INTERNAL REVENUE SERVICE APPROVAL**

This Plan may be submitted to the Internal Revenue Service for such approval as may be necessary to establish that the Plan qualifies under the applicable provisions of the Code. Any modification or amendment of the Plan may be made retroactively, if necessary or appropriate, to qualify or maintain the Plan as meeting such applicable requirements of the Code, as now in effect or hereafter amended, or any other applicable provisions of the Federal laws, including, without limitation, ERISA, as now in effect or hereafter amended or adopted and the regulations issued hereunder.

# **ARTICLE 12 – FINANCING OF THE PLAN**

## **12.1 Contributions to the Fund**

Pursuant to certain duly executed Collective Bargaining Agreements, a Trust Agreement has been executed by the Trustees, the Union and the Association, under the terms of which a Fund has been established to receive and hold Contributions payable by the Employers under the Plan interest and other income and from which they are to be paid the benefits provided under the Plan, and the expenses of operation of the Plan.

## **12.2 Funding and Payment of Benefits**

The amount of Employer Contributions shall be determined by the terms of the Collective Bargaining Agreement between the Employer and the Union and shall not be less than or exceed the limits prescribed by law.

### **12.3 Contributions Irrevocable**

The Employers shall have no right, title or interest in the Contributions made to the Fund and no part of the Fund shall revert to the Employers.

### **12.4 Unclaimed Benefits**

If any benefit payment approved by the Trustees or required to be distributed under the Plan remains unclaimed for a period of two years, such benefit payment will revert to and become the property of the Fund. However, if a claim is made by a Participant or Beneficiary for an unclaimed benefit to which he/she is entitled under the terms of this Plan after the two year period, then such benefit shall be reinstated by the Trustees.

In the event any other payment issued by the Fund, for any reason, has not been redeemed by the payee for a period 24 months, or such lesser time set forth on the payment issued by the Fund, such payment is void and reverts to the Plan as a plan asset.

### **12.5 Rights Limited To Those Rights Granted By Plan**

No Participant, Vested Former Participant, Retiree, Beneficiary, or any person claiming by or through any such person, shall have any right, interest or title to any benefits under the Trust Agreement, the Plan, or the Fund, except as such right, interest or title shall have been specifically granted pursuant to the terms of the Plan or Fund.

## **ARTICLE 13 – AMENDMENT OF PLAN**

### **13.1 Right to Amend**

The Trustees have the right to amend this Plan pursuant to authority granted by the Trust.

### **13.2 Prohibited Reduction**

An amendment to this Plan may not reduce the amount of benefit accrued to any Participant unless,

- (a) Such Amendment as necessary to establish or maintain the qualification of this Plan under the Internal Revenue Code, or to conform the Plan to the requirements of ERISA, or
- (b) If not so necessary, and the amendment is effective retroactively, such amendment is in accordance with other sections of the Plan.

### **13.3 Merger**

The Plan may not be merged or consolidated with, nor may its assets or liabilities be transferred to, any other plan unless each Participant, Retiree, Vested Former Participant, Spouse or Beneficiary would, if the resulting Plan were then terminated would 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 the Plan had then been terminated.

## **ARTICLE 14 – TERMINATION OF PLAN**

### **14.1 Termination of Plan**

This Plan may be terminated upon a majority vote of all Trustees but only on the condition that there no longer exists a Collective Bargaining Agreement between a Union and any Employer, requiring Contributions to this Plan. This Plan may also be terminated by a written agreement, executed by and between the Union and the Association.

### **14.2 Termination**

Upon the full or partial termination of the Plan, the Trustees shall direct the distribution of the assets of the Trust Fund to Participants in a manner which is consistent with and satisfies the provisions of Article 6. Distributions to a Participant shall be made in cash or through the purchase of irrevocable nontransferable deferred commitments from an insurer. Except as permitted by Regulations, the termination of the Plan shall not result in the reduction of IRC §411(d)(6) protected benefits, in accordance with Section 13.2.

### **14.3 Exclusive Benefit of Employees and Beneficiaries**

In effecting the foregoing allocation, the Trustees shall make every reasonable effort to locate any former Employees entitled to or who would be entitled to or who would be entitled upon timely application to a deferred vested retirement benefit, but if any such former Employee has not been located within one year after the date of termination of the Plan, his benefits shall be deemed forfeited for all purposes. However, if a claim is made by a Participant or Beneficiary for an unclaimed benefit, then such benefit shall be reinstated by the Trustees. Such allocations shall be accomplished through either,

- (a) continuance of the Fund under a new Fund, or
- (b) purchase of insurance annuity contracts; provided, however, that the Trustees, upon finding that it is not practicable nor desirable under the circumstances to do either of the foregoing with respect to some or all of the groups listed above, may, with the unanimous consent of all the Trustees, provide for some allocation of a part or all of the assets of the Fund other than the continuance of a Fund or the

purchase of insurance annuity contracts with respect to any or all of such groups; provided, however, that no change shall be effected in the order of precedence and basis for allocation above established.

In the event of the termination of this Agreement, no part of the corpus or income of the Pension Fund can be used for, or diverted to, purposes other than the exclusive benefit of the Employees, retired Employees, terminated Employees and Beneficiaries covered by the Plan at such termination.

#### **ARTICLE 15 – RIGHT TO RECOVER OVERPAYMENTS**

The Fund has the right to recover from any Participant, Pensioner, Spouse, Surviving Spouse, Beneficiary, or other payee any amounts paid by the Fund which were not properly owing under the terms of the Plan, whether such amounts were paid by mistake, fraud, or any other reason. The Fund has the right to pursue the payee (including the Participant/Pensioner and his/her Spouse jointly and severally), for the full amount due and owing under this provision. At the Fund's sole option, it may enforce this provision by offsetting future benefits until the amount owed has been recovered.

This Plan has been adopted by the Trustees on February 08, 2020.

#### **UNION TRUSTEES**

Terry Griffith  
Steven C Spurlock  
Martin J. Elwart

#### **EMPLOYER TRUSTEES**

Jeff Hgt  
Christopher Freeman  
John Evans

W2387226