

ROOFERS UNION LOCAL 30 COMBINED ANNUITY PLAN
AS AMENDED AND RESTATED
EFFECTIVE DECEMBER 31, 2014

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RESTATEST EFFECTIVE DECEMBER 31, 2014

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ARTICLE I

General Definitions

- 1.1 Annuity Fund or Fund. "Annuity Fund" or "Fund" means the assets held under the Trust Agreement.
- 1.2 "Code" means the Internal Revenue Code of 1986 as amended thereafter from time to time.
- 1.3 Compensation. Compensation in excess of \$200,000 shall be disregarded. Such amount shall be adjusted at the same time and in such manner as permitted under Code Section 415(d), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with such calendar year and the first adjustment to the \$200,000 limitation shall be effective on January 1, 1990. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

In applying this limitation, the family group of a Highly Compensated Participant 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 the Employer or one of the ten (10) Highly Compensated Employees paid the greatest Compensation during the 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 nineteen (19) before the close of the year. If as a result of the application of such rules the adjusted \$200,000 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 or, the limitation shall be adjusted in accordance with any other method permitted by Regulation. The preceding paragraph shall not apply to Plan Years commencing on or after January 1, 1997.

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

Compensation with respect to any Participant means such Participant's wages for the Plan Year within the meaning of Code Section 3401(a) (for the purposes of income tax

withholding at the source). Effective for Plan Years commencing on or after January 1, 1998, Compensation also shall include any, elective deferral (as defined in Section 402(g)(3) of the Code), and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includable in the gross income of the Employee by reason of Section 125, 132(0)(4) or 457 of the Code.

The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

Compensation also includes any payments made to the Participant at a time when he is a former employee provided:

- (a) The payments are made by the later of 2 1/2 months after severance from employment or the end of the limitation year that includes the date of severance from employment;
- (b) Such payments would have been made to the former employee, absent a severance of employment, if the employee had continued in employment with the employer; and,
- (c) Such payments are regular compensation for services performed during the employee's regular working hours, compensation for services performed outside the employee's regular working hours (such as overtime), commissions, bonuses, or other similar compensation.

- 1.4 Contribution Amount. "Contribution Amount" means for a person in any Plan Year the amount of money contributed to the Plan on account of such person's work in Covered Employment during such Plan Year in accordance with the terms of the applicable collective bargaining agreement plus any amounts required on account of qualified military service in accordance with Section 414(u) of the Code.
- 1.5 Covered Employment. "Covered Employment" means employment with respect to which contributions to the Annuity Fund are required.
- 1.6 Effective Date. "Effective Date" means August 1, 1989.
- 1.7 Employee. "Employee" means any employee of an Employer with respect to whom Employer Contributions are required to be made to the Fund.
- 1.8 Employer. "Employer" means an individual proprietorship, a partnership, or a

corporation which is a party to, or otherwise bound by a collective bargaining agreement with the Union providing for the making of payments to the Trust Fund with respect to Employees represented by the Union; provided, however, that solely for the purposes of making contributions to the Fund, the Union and the Trustees are each deemed to be an Employer.

1.9 Hours of Service. "Hours of Service" means for a person in any Plan Year the number of hours he worked at Covered Employment during such Plan Year, plus 40 hours times the number of weeks in such Plan Year, if any, for which such person:

- (a) received Weekly Income Benefits from either the Commercial Plan of the Roofers Union Local 30 Combined Health and Welfare Plan or the Residential Plan of the Roofers Union Local 30 Combined Health and Welfare Plan, or
- (b) received Workers' Compensation Benefits on account of an occupational injury or disease incurred in the course of work in Covered Employment, or
- (c) served in the Armed Forces of the United States provided, however, that if such a person fails to seek, or make himself available for work in Covered Employment within the time provided by law for the protection of his re-employment rights following military service, then the Contribution Amount otherwise credited under this paragraph (c) shall be cancelled.

Hours of Service shall also include any hours required to be credited pursuant to Section 2530.200(b), (c), and (f) of the United States Department of Labor Regulations, which are incorporated herein by reference.

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Code effective as of December 12, 1994. Effective January 1, 2007, if a Participant dies while performing qualified military service, the period of such service shall be treated as Credited Service but only for the purposes of determining the Participant's vested status under Section 2.8 of this Plan.

1.10 Leased Employee. "Leased Employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6) on a substantially full time basis for a period of at least one year, and such services are of a type historically performed by employees in the business field of the recipient employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A Leased Employee shall not be considered an Employee of the recipient if:

- (a) such employee is covered by a money purchase pension plan providing:

- (i) a non-integrated employer contribution rate of at least 10% of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code Sections 125, 402(a)(8), 402(h) or 403(b);
 - (ii) immediate participation; and
 - (iii) full and immediate vesting.
- (b) Leased Employees do not constitute more than 20% of the recipient's non-highly compensated work force.

Notwithstanding anything else in this document, Leased Employees are excluded from participation in this Plan.

- 1.11 Married. "Married" or "Marries" means a legal relationship between two individuals who are lawfully married pursuant to an official marriage license or similar document issued by any state (meaning any domestic or foreign jurisdiction having the legal authority to sanction marriages), without regard to the law of the state in which the individuals are currently domiciled, but the terms do not include civil unions, domestic partnerships, or any other status unless such status is fully equivalent to marriage under the law of the issuing state.
- 1.12 Plan. "Plan" means the Composition Roofers Union Local 30 Combined Annuity Plan established effective August 1, 1989, the terms of which are contained herein. The Plan is designated as a Profit-Sharing Plan in accordance with Section 401(a)(27) of the Internal Revenue Code.
- 1.13 Plan Year. "Plan Year" means the twelve month period beginning January 1 and ending December 31. However, the five month period beginning August 1, 1989 and ending December 31, 1989 shall be the first Plan Year.
- 1.14 Spouse. "Spouse" means the spouse to whom a Participant is Married, as defined herein.
- 1.15 Surviving Spouse. "Surviving Spouse" means a Spouse, as defined herein, who survives a Participant.
- 1.16 Trust Agreement. "Trust Agreement" means the Declaration of Trust effective August 1, 1989, by and between the Union and the Roofing and Sheet Metal Contractors' Association, as amended from time to time.
- 1.17 Trustees. "Trustees" means the individuals who are appointed pursuant to the terms of the Trust Agreement.

1.18 Union. "Union" means the Composition Roofers Union Local 30 of the United Slate, Tile and Composition Roofers, Damp and Waterproof Workers' Association, AFL-CIO.

1.19 Qualified Education Expenses. "Qualified Education Expenses" means the cost of tuition, room and board, books, supplies equipment, or other fees paid to a post-secondary institution in connection with the enrollment of an Active Participant or a Dependent of an Active Participant as a full-time student at the post-secondary institution. "Qualified Education Expenses" does not mean repayment of student loans.

1.20 Dependent. "Dependent" means any of the following individuals with respect to an Active Participant:

- (a) the legal Spouse;
- (b) a child (natural, adopted, foster or step) under the age of 19 who is not Married;
- (c) a child (natural, adopted, foster or step) who is not Married and who is 25 years of age or younger provided he or she is a full-time student (as certified by the registrar of an accredited post-secondary institution);
- (d) a child of any age who is incapable of taking care of himself or herself due to a physical or mental handicap and who is completely dependent on the Active Participant for support; and
- (e) a child that the Active Participant is required to support under a Qualified Domestic Relations Order ("QDRO").

ARTICLE II

Definitions Relating To Participation

2.1 Active Participant. Each person for whom contributions are required to be made to the Fund shall become an Active Participant of the Plan on the date such contributions are first required. An Active Participant shall cease to be an Active Participant on the earliest of:

- (a) the date of death,
- (b) the date such Active Participant retires with a Normal, Early, or Disability Benefit pursuant to Article IV of this Plan, and
- (c) the last day of the first Plan Year in which no contributions to the Fund are required to be made on such Active Participant's behalf.

2.2 Credited Service. Each Active Participant will be granted one year of "Credited Service" for each Plan Year in which he has 800 or more Hours of Service. Each Active

Participant who has 200 or more but less than 800 Hours of Service in a Plan Year will be granted Credited Service for that Plan Year according to the following schedule:

<u>Hours of Service In Plan Year</u>	<u>Credited Service</u>
Less than 200	None
200-399	$\frac{1}{4}$ year
400-599	$\frac{1}{2}$ year
600-799	$\frac{3}{4}$ year
800 or more	1 year

Credited Service shall include service credited under:

- (a) the Composition Roofers Union Local 30 Pension Plan prior to August 1, 1989,
- (b) the Residential Reroofers Union Local 30-B Pension Plan prior to December 1, 1989,
- (c) the National Roofing Industry Pension Plan prior to or subsequent to the time the participant was an Active Participant in this Plan, and
- (d) any pension plan prior to a person's participation in this Plan if contributions were made pursuant to collective bargaining agreements with the United Union of Roofers, Waterproofers and Allied Workers, or any of its affiliate locals.

2.3 Disabled Participant. An Active Participant who has two or more years of Credited Service and who suffers a total and permanent disability from work in the commercial and residential roofing industry shall become a Disabled Participant on the first day of the month after the onset of such disability.

2.4 Inactive Participant. An Active Participant who has less than two years of Credited Service and who ceases to be an Active Participant other than by death and who does not become a Disabled participant shall become an inactive Participant. An inactive Participant shall cease to be an Inactive Participant on the earliest to occur of the following four dates:

- (a) The date of his death.
- (b) The end of a period of consecutive Plan years in each of which the Inactive Participant had no Hours of Service, with the number of Plan Years in such period being equal to the greater of five (5) and such Inactive Participant's Credited Service and his Account Balance will be cancelled; provided, however, a person shall be credited with not less than 100 Hours of Service in the Plan Year in which such person ceased to be an Active Participant by reason of pregnancy or in order to give birth or to adopt a child or to care for a child immediately after birth or adoption placement and shall also be credited with not less than 100 Hours of Service in the subsequent Plan Year; and provided however, that hours credited under this provision are only for purposes of

determining whether or not a person ceases to be an inactive Participant and shall not be counted for purposes of benefit accrual or vesting.

(c) The date the Inactive Participant again becomes an Active Participant, in which event he will retain his Credited Service and his Account Balance.

(d) The date the Account Balance of such Inactive Participant equals zero.

2.5 Account Balance. "Account Balance" means for each Active Participant during the Plan Year in which he first becomes an Active Participant the Contribution Amount for that Plan Year. As of December 31 of each Plan Year, each Participant's Account Balance shall be redetermined in accordance with Article III hereof. During each Plan Year following the Participant's first year of participation, the Account Balance prior to December 31 of that year shall be equal to his Account Balance at January 1 plus his Contribution Amount for that year.

2.6 Normal Retirement Date and Normal Retirement Age. "Normal Retirement Date" means for a person the later of:

(a) His 62nd birthday, and

(b) The date as of which he first has two years of Credited Service.

"Normal Retirement Age" means for a person his age on his Normal Retirement Date.

2.7 Early Retirement Date and Early Retirement Age. "Early Retirement Date" means for a person the later of:

(a) His 50th birthday, and

(b) The date as of which he first has two years of Credited Service.

"Early Retirement Age" means for a person his age on his Early Retirement Date.

2.8 Vested Participant. A participant who has completed two or more years of Credited Service or who has attained his Normal Retirement Age shall thereupon become a Vested Participant and shall have a nonforfeitable right to 100% of his Account Balance. A Vested Participant shall cease to be a Vested Participant on the date of his death or upon the complete distribution of his Account Balance. Following retirement, a Vested Participant who accumulates a positive Account Balance shall be entitled to receive no more than one complete distribution of such Account Balance every twelve months.

ARTICLE III

Redetermination of Account Balances

- 3.1 As of December 31 of each Plan Year, the Plan's assets shall be valued at market value and allocated among the individual Account Balances of the Participants in accordance with the provisions of this Article III.
- 3.2 The Account Balance as of December 31 of any given Plan Year for a person who received a complete distribution of his benefits during such Plan Year shall be zero.
- 3.3 The Account Balance as of December 31 of any given Plan Year for a person who did not receive a complete distribution or forfeiture of his benefits during such Plan Year shall be determined as:
 - (a) Such person's Account Balance as of December 31 of the preceding Plan Year,
 - (b) Plus such person's Contribution Amount for such Plan Year,
 - (c) Less (i) or (ii), whichever is smaller, where:
 - (i) equals (a) + (b) above, and
 - (ii) equals \$25.00,
 - (d) Less the amount of any distribution received during the Plan Year,
 - (e) Plus such person's Percentage Allocation for such Plan Year pursuant to Section 3.4 of this Article III (positive or negative).
- 3.4 The Percentage Allocation for any given person for a given Plan Year shall be the product of:
 - (a) Such person's Account Balance as of December 31 of the preceding Plan Year, less the amounts determined pursuant to (c) and (d) of Section 3.3, and
 - (b) The ratio of (i) to (ii) below, where
 - (i) Equals the Plan's investment earnings for the Plan Year (including realized and unrealized gains and losses), plus forfeitures during the Plan Year, plus the sum for all Participants of the amounts determined pursuant to (c) of Section 3.3, less expenses for such Plan Year, and
 - (ii) Equals the Total Account Balance as of December 31 of the preceding Plan Year for all persons other than those described in Section 3.2, less the amounts determined pursuant to (c) and (d) of Section 3.3, less forfeitures

during such Plan Year.

ARTICLE IV

Benefits

- 4.1 Normal Retirement Benefit. A person who ceases to be an Active Participant on or after his Normal Retirement Date shall be eligible to receive his Account Balance in accordance with the terms of Article V.
- 4.2 Early Retirement Benefit. A person who ceases to be an Active Participant on or after his Early Retirement Date shall be eligible to receive his Account Balance in accordance with the terms of Article V.
- 4.3 Disability Retirement Benefit. A person who becomes a Disabled Participant shall be eligible to receive his Account Balance in accordance with the of Article V.
- 4.4 Death Benefit. At the death of an Employee or former Employee who had either two or more years of Credited Service at the time of his death or who died within a period of six (6) years following the plan year in which he last worked in Covered Employment, his Account Balance shall be payable to his Surviving Spouse if he was Married at the time of his death; otherwise to his named beneficiary.
- 4.5 Deferred Vested Benefit. A Vested Participant who is not eligible for a benefit under Section 4.1, 4.2, or 4.3 of this Article IV shall be eligible to receive his Account Balance in accordance with Article V at any time on or after his Early Retirement Date.
- 4.6 Hardship Withdrawals.
 - (a) An Active Participant with two or more years of Credited Service may elect to withdraw a portion of his Account Balance in accordance with the provision below:
 - (i) The purpose of withdrawing a portion of the Account Balance is either:
 - (1) To pay for the Qualified Education Expenses of an Active Participant or a Dependent as a full-time student at a post-secondary institution;
 - (2) To pay the un-reimbursed or uninsured medical or funeral expenses of an Active Participant or a Dependent;
 - (3) To pay the funeral expenses of a parent, parent-in-law, or child (without regard to Dependent status) of an Active Participant; or,
 - (4) To purchase, or pay for the construction of, or to prevent

foreclosure on, or to pay uninsured casualty loss on a primary residence.

(ii) The amount of the withdrawal shall not be less than \$2,000 or more than the lesser of \$50,000 or 50% of the Active Participant's Account Balance as of the date of the withdrawal.

(iii) No Active Participant is permitted to take more than one withdrawal every sixty months for the purpose of purchasing or constructing a primary residence.

(iv) No Active Participant is permitted to take more than one withdrawal every twenty-four months for the purpose of preventing foreclosure or paying uninsured casualty loss on a primary residence

(v) An Active Participant may take withdrawals on an as needed basis for the purpose of paying Qualified Education Expenses or for the purpose of paying unreimbursed or uninsured medical or funeral expenses.

(vi) An Active Participant requesting a withdrawal in accordance with this Section must furnish evidence satisfactory to the Trustees that the withdrawal is for one of the purposes indicated in item (i) above.

(1) In the case of a withdrawal to prevent foreclosure on a primary residence, satisfactory evidence includes, but is not limited to, evidence that the Active Participant or his legal Spouse is the borrower with respect to the mortgage at issue.

(2) In the case of a withdrawal to pay Qualified Education Expenses, satisfactory evidence includes, but is not limited to:

A. evidence that an undergraduate student will be enrolled for a period of no less than fifteen consecutive weeks during which the student will complete 600 clock hours, 16 semester hours, or 24 quarter hours of instruction (as set forth in the Higher Education Act of 1965, 20 U.S.C. 1088).

B. evidence that a post-associate or graduate student will be enrolled for a period of no less than ten consecutive weeks during which the student will complete 300 clock hours, 8 semester hours, or 12 quarter hours of instruction (as set forth in the Higher Education Act of 1965, 20 U.S.C. 1088).

(b) An Active Participant who has attained age 50 and has 20 or more years of

Credited Service may elect to withdraw all or a portion of his or her Account Balance in accordance with the provisions below:

- (i) The Active Participant faces financial hardship of sufficient severity that the Participant is confronted by present or impending financial ruin or his family is clearly endangered by present or impending want or privation.
- (ii) The Active Participant submits detailed evidence establishing the following:
 - (1) The Participant has exhausted all other financial resources and/or other sources of relief;
 - (2) The Participant's financial circumstances threaten the health, safety and well-being of the Participant and/or the Participant's Dependents.
- (iii) The amount of the withdrawal shall be no greater than the minimum amount necessary to address the specific financial need of the Active Participant (up to 100% of the Participant's Account Balance as of the date of the withdrawal).
- (iv) No Active Participant is permitted to take more than one withdrawal described under subsection 4.6(b) during his or her lifetime.

4.7 Separation Withdrawals. A Vested Participant may elect to withdraw his Account Balance upon:

- (a) separation for a period of two consecutive years or more from all work within the commercial and residential roofing industry (other than employment for a labor organization) in the geographic jurisdiction of the Plan, and
- (b) a period of two (2) years with no work for which contributions to the Plan are required.

4.8 Partial Withdrawals. A Participant with 2 or more years of Credited Service may elect to withdraw a portion of his or her Account Balance in accordance with the provisions below:

- (a) A Participant who has an individual Account Balance of \$100,000 or more may withdraw up to 20% of the total value of his or her individual Account balance. A Participant who has an individual account balance of less than \$100,000 may withdraw up to 10% of the total value of his or her individual Account Balance.
- (b) In no case shall a withdrawal pursuant to this Section 4.7 be less than \$2,000 or greater than \$50,000.

- (c) A Participant shall be limited to one withdrawal pursuant to this Section 4.7 per each period of 24 consecutive months.
- (d) A Participant shall be limited to an aggregate lifetime total of \$100,000 in withdrawals pursuant to this Section 4.7.
- (e) In the case of a Participant with fewer than 60 months of participation in the Plan such a Participant shall only be permitted to take a withdrawal from the portion of his or her individual Account Balance that is attributable to contributions (including gains and losses thereon) that the Plan has held for a period of 24 months or longer.

ARTICLE V

Distribution of Benefits

- 5.1 Normal Form of Benefit. The Normal Form of Benefit shall be a single sum amount equal to the Participant's Account Balance as of the date of distribution.
- 5.2 Payment of Benefits. Unless the Participant otherwise elects, the payment of benefits under the Plan to an eligible Participant will be made not later than the 60th day after the close of the Plan Year in which:
 - (a) The Participant attains the earlier of age 62 or his Normal Retirement Age, or
 - (b) The Participant ceases to be an Active Participant, whichever is later.
- 5.3
 - (a) Required Distribution. Distribution of benefit from this Plan shall begin no later than April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2 or retires, whichever is later. Benefits shall be paid over a period which shall not exceed either the life of the employee or the lives of such participant and his designated beneficiary or, if benefits are paid over a fixed number of years, such number of years shall not exceed the life expectancy of the Participant and the Participant's Spouse (if Married). In the case of an annuity payable other than over a lifetime, the life expectancy may be redetermined but not more frequently than annually. Distribution of benefits payable on account of the death of a participant who had begun to receive benefits shall be made at least as rapidly as under the method of distribution in effect prior to the Participant's death. Furthermore, distribution of benefits payable on account of the death of a Participant who had not begun to receive benefits must be made within the five-year period following the Participant's death; provided, however, that if benefits are to be paid to the beneficiary designated by the Participant, then distribution may be made over either the

lifetime of such designated beneficiary or over a period certain not to exceed the life expectancy of such designated beneficiary with such distribution commencing no later than one year after the Participant's death.

(b) Modification of Minimum Distribution Requirements.

1. General Rules.

- A. Effective Date. The provisions of this Subsection (b) will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- B. Precedence. The requirements of this article will take precedence over any inconsistent provisions of the plan.
- C. Requirements of Treasury Regulations Incorporated. All distributions required under this article 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 article, 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.

2. Time and Manner of Distribution.

- A. 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.
- B. 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:
 - (i) 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^{1/2}, if later.
 - (ii) 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.

- (iii) 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.
- (iv) 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 begins, this Subparagraph 2(B), other than Subparagraph 2(B)(i) will apply as if the Surviving Spouse were the participant.

For purposes of this Subparagraph 2(B) and Paragraph 4, unless Subparagraph 2(B)(iv) applies, distributions are considered to begin on the participant's required beginning date. If Subparagraph 2(B)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under Subparagraph 2(B)(i). 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 Subparagraph 2(B)(i)), the date distributions are considered to begin is the date distributions actually commence.

C. 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 3 and 4 of this Subsection. 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.

3. Required Minimum Distributions during Participant's Lifetime.

A. 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:

- (i) 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
- (ii) 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.

B. Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Paragraph 3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the participant's date of death.

4. Required Minimum Distributions after Participant's Death.

A. Death On or After Date Distributions Begin.

- (i) 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:
 - (1) 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.
 - (2) 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.

- (3) 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.
- (ii) 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.

B. Death Before Date Distributions Begin.

- (i) 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 Subparagraph 4(A).
- (ii) 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.

(iii) 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 Subparagraph 2(B)(i), this Subparagraph 4(C) will apply as if the Surviving Spouse were the participant.

5. Definitions.

- A. Designated beneficiary. The individual who is designated as the beneficiary under Section 6.3 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.
- B. Distribution calendar year. 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 Subparagraph 2(B). 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.
- C. Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- D. Participant's account balance. 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 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.

E. Required Beginning Date. The date specified in Section 5.3(a) of the plan.

5.4 Direct Rollovers

(a) 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 plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions

"Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; 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). A distribution on account of hardship shall not be considered an eligible rollover distribution.

"Eligible Retirement Plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, a Section 403(b) annuity contract, or an eligible Section 457(b) governmental plan, that accepts that distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the Surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

"Distributee" includes an employee or former employee. In addition, the employee's or former employee's Surviving Spouse and the employee's or former employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. Distributee shall also include the beneficiary of a Participant (subject to the limitations of Section 402(c)(11) of the Code).

"Direct Rollover" is a payment by the plan to the eligible retirement plan specified by the distributee.

Effective for distributions made after December 31, 2001, an "Eligible Retirement Plan" shall also mean an annuity contract described in Section 403(b) of the Code and 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 and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a Surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

Effective for distributions made after December 31, 2001, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

5.5 Rollovers into Plan

A participant may rollover a distribution from an annuity plan described in Section 403(a) of the Code or a qualified trust described in Section 401(a) of the Code except that no rollover will be accepted from a defined benefit plan, a defined contribution plan subject to Section 412 of the Code, or any other form of defined contribution plan that is subject to the survivor annuity requirements of the Code. Such rollovers will be deemed to be contributions to the Composition Roofers Union Local 30 Annuity Plan and will be subject to the rules of the Plan including the crediting of interest and distribution rules.

Beginning on January 1, 2003, the plan will accept a direct rollover of an eligible rollover distribution from a qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions. The plan will not accept a participant contribution of an eligible rollover distribution from any plan.

ARTICLE VI

Administration

6.1 Named Fiduciary. The Trustees shall have the authority to control and manage the operation and administration of the Plan and shall be the named fiduciary of the Plan referred to in Section 402(a)(1) of the Employee Retirement Income Security Act of 1974.

The Board shall have the right to decide in their sole and exclusive discretion all questions arising from or respecting the interpretation, application or administration of the Plan, including, but not limited to:

- (1) The rules of eligibility for benefits or services furnished by the Plan;

- (2) The rules for participation in the Plan;
- (3) The resolution of factual disputes in benefit or beneficiary issues or disputes;

and such decisions by the Board shall be conclusive and binding upon all Participants, dependents and/or beneficiaries.

6.2 Application for Benefits - Denial of Claims and Appeals Procedures. Any person who claims entitlement benefits from the Plan must make application therefor on a form furnished or approved by the Trustees and must furnish such proof of his entitlement to benefits as the Trustees may reasonably require.

- (a) If a person makes application for benefits under the Plan and his claim for payment of the benefits is wholly or partially denied, the Plan shall, within ninety (90) days of the date the claim for benefit was filed, provide notice in writing to such person setting forth the specific reason or reasons for denying payment of the benefits stated as clearly as it is feasible in a manner calculated to be understood by that individual. The notice shall also make specific reference to the pertinent Plan provision upon which the denial is based and shall describe any provision upon which the denial is based and shall describe any additional material or information necessary for the claim to be honored along with an explanation of why such material or information is necessary. The notice of denial also shall include 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. A person whose claim has been denied has a right within sixty (60) days of written notification of claim denial or, if earlier, expiration of the time for a timely initial determination, to request review by the Trustees of the claim denial. The Trustees will decide the issue on the basis of the merits of the case and the decision of the Trustees shall be final and binding on all parties. A full and fair review and decision on a request for review ordinarily will be made by the Trustees at or before the next regular quarterly meeting of the Board of Trustees scheduled at least thirty (30) days after the request for review is received. If special circumstances require an extension of time for processing, a decision may be delayed until the next regularly scheduled quarterly meeting of the Board of Trustees. Written notice of the extension will be mailed to the claimant within the original period. The decision of the Trustees shall be in writing and shall be rendered not later than 120 days after the request for a hearing. This decision shall also include specific reasons for the decision and specific references to the Plan provisions upon which the decision was made. The decision shall also include 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, and a statement regarding the claimant's right to bring a civil action under Section 502(a) of ERISA.
- (b) If a claim involves a claim for a disability withdrawal, the following additional rules apply.

- (i) A claimant will be notified of the Plan's benefit determination within a reasonable period of time after the receipt of the claim, but not later than 45 days after receipt of the claim by the Plan. This period may be extended by the Plan for up to 30 days provided that the extension is necessary due to matters beyond the control of the Plan and the claimant is notified prior to the expiration of the initial 45-day period. The notice to the claimant shall state the reason for the extension and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, due to matters beyond the control of the Plan, a decision cannot be made within that extension period, the Plan may extend the time for decision up to 30 more days upon notice to the claimant of the reasons for the extension and the date on which the Plan expects to render a decision. If the extension is necessary due to the failure of the claimant to submit the information necessary to decide the claim, the notice of extension must describe the required information. The claimant will then have 45 days from receipt of the notice within which to provide the specified information.
- (ii) A determination to deny a disability withdrawal shall: (A) disclose any internal rule, guideline, protocol or similar criteria relied upon in making an adverse determination or include 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, and (B) provide 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.
- (iii) A request for review of a claim for a disability withdrawal may be submitted to the Trustees within one-hundred eighty (180) days after written denial of the claim or, if earlier, expiration of the time for a timely initial determination.
- (iv) An adverse determination will be reviewed by a Plan consultant who has no role in the initial claim denial and the review will be an independent one without giving the original denial any special consideration. The review shall take into account 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. If a medical judgment is involved, the person reviewing the claimant's appeal will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment and who has no role in the initial claim denial. The medical or vocational experts whose advice was obtained will be identified.

6.3 **Beneficiary.** Each person with respect to whom benefits from the Plan may be payable at death shall name a beneficiary to receive any such benefit on a form furnished by or approved by the Trustees. Any such person shall during his lifetime have the right to change his beneficiary by filing written notice to that effect on a form furnished or approved by the Trustees. Such change shall take effect on receipt of such notice by the Trustees. Any payment made from the Plan prior to the receipt of notice of change of beneficiary shall to the extent of such payment relieve the Plan of its obligation.

If benefits are payable from the Plan at the death of a person but no beneficiary named by the person is surviving to receive the benefit, the benefit shall be payable to such Participant's estate.

6.4 **Minority or Incompetence of a Person Entitled to Benefits.** In the event that it is determined that a person who is entitled to benefits from the Plan is a minor or is unable to care for his affairs because of illness, accident, or incompetency, either mental or physical, any payments due such person may, unless claim shall have been made therefore by a legally appointed guardian, committee or other legal representative of such person, be paid in the sole discretion of the Trustees to an individual or an institution who appears to the Trustees to assume responsibility for the care, custody or support of such person and such payment shall to the extent thereof release the Plan from any further obligation or liability.

6.5 **Non-Assignment of Benefits.** To the end of making it impossible for persons entitled to benefits from the Plan improvidently to imperil the provisions made for their support and welfare by directly anticipating, pledging or disposing of their benefits hereunder, it is hereby expressly stipulated that no such person shall have any right to assign, alienate, transfer, sell, hypothecate, mortgage, encumber, pledge, commute, or anticipate any such benefits, and that such benefits except to comply with a Qualified Domestic Relations Order shall not in any way be subject to any legal process to levy execution upon, or attachment or garnishment proceedings against the same for the payment of any claims against any such person, nor shall such payments be subject to the jurisdiction of any bankruptcy court or insolvency proceedings by operation of law or otherwise, and any such assignment, etc. shall be void and of no effect whatsoever.

6.6 **Qualified Domestic Relations Order.** If the Plan is required to make payments to an alternate payee under a Qualified Domestic Relations Order then the benefits otherwise payable to a Participant and if applicable, his beneficiaries, shall be adjusted so that the sum total of benefits payable to the Participant, his beneficiaries and any alternate payee is equal to the benefits that would have been paid in the absence of the Qualified Domestic Relations Order.

6.7 **Interpretation of Plan and Trust Agreement.** The Trustees shall have the sole and absolute discretion to determine eligibility for benefits under the Plan and to construe and interpret the provisions of the Plan and Trust Agreement, including, but not limited to, doubtful or disputed terms, and to make factual determinations with respect thereto. The decision of

the Trustees shall be final and binding unless it is arbitrary and capricious.

6.8 Non-Diversion of Contributions. It shall be impossible at any time for any part of the corpus of income of trust assets to be used for or diverted to purposes other than the exclusive benefit of participants or their beneficiaries provided, however, that this Section shall not be construed to prohibit the return of an employer contribution within six months after the Trustees determine that the contribution was made by a mistake of fact or law.

ARTICLE VII

Amendment and Termination

7.1 Right of Amendment or Termination. The Trustees may amend or terminate this Plan at any time in accordance with the Trust Agreement, provided however that in the event of a full or partial termination or in the event of a complete discontinuance of contributions, all benefits shall become vested to the extent funded.

7.2 Allocation of Assets in Case of Termination of the Plan. In the event of the termination of the Plan for any reason, the assets of the Annuity Fund shall be liquidated and allocated to or for the exclusive benefit of the Participants. Assets allocated to or for any Participant shall be equal to his Account Balance on the date of the Plan's termination reduced, if applicable, by the Participant's allocated share of expenses connected with such termination.

7.3 Merger, Consolidation, or Asset and Liability Transfer.

- (a) In the event that this Plan and the Trust merges or consolidates with, or transfers its assets or liabilities to, any other plan of deferred compensation qualified under Section 401(a) of the Code, no Participant herein shall have his Accrued Benefit reduced, where for purposes of this Plan Accrued Benefit shall mean Account Balance.
- (b) The Fund may accept transfers of all or any of the assets held in respect to another Plan or Trust provided the following requirements are satisfied:
 - (1) The other Plan is a Plan which is qualified under Section 401(a) of the Internal Revenue Code;
 - (2) The Board of Trustees agrees to accept said transfer, and
 - (3) The transferred assets consist of cash or other property acceptable to the Board of Trustees.

The Board of Trustees shall credit the fair market value of such, transferred assets to a separate account in the name of the Active Participant on whose behalf such assets were

transferred as of the date of the transfer. The interest of the Participant in such account shall be treated as an Employer Contribution for purposes of determining the Participant's Account Balance in the Plan Year in which such transfer is made.

7.4 Anti-Cutback Provision. No Plan amendment shall have the effect of reducing the accrued benefit of any participant, any early retirement benefit or subsidy, or any optional form of benefit, or adversely affect the non-forfeitable interest of any Participant.

ARTICLE VIII

Limitations on Benefit

8.1 Basic Limitation. Effective as of January 1, 1995, the maximum annual addition for a Participant under this Plan in any Plan Year shall not exceed the limits imposed by Code Section 415 and applicable regulations as amended from time to time. The maximum annual addition is the lesser of \$40,000 or 100% of the Participant's compensation (and such maximum shall be adjusted from time-to-time in accordance with Section 415). If a Participant's total annual additions for a Plan Year beginning on or after January 1, 2008 would exceed the maximum annual addition for that Plan Year, annual additions with respect to the Participant shall be frozen or reduced so that the annual additions with respect to the Participant do not exceed the maximum annual addition for that Plan Year.

If a Participant also participates in another tax-qualified defined contribution plan ("Other Plan") of an Employer that is not a multiemployer plan, only the annual additions under this Plan that are provided by the Employer are aggregated with the annual additions under the Other Plan. In the event that the aggregate annual addition in any Plan Year by a Participant exceeds the limits under section 415 of the Code and the Treasury Regulations as a result of the mandatory aggregation of the annual additions under this Plan with the annual additions under the Other Plan maintained by the Employer, the annual additions under the Other Plan shall be reduced to the extent necessary to comply with section 415 of the Code and the Treasury Regulations.

For purposes of this Section 8.1 the term "annual addition" means the sum of (i) employer contributions, (ii) employee contributions, and (iii) forfeitures and shall be determined in accordance with Internal Revenue Code Section 415(c)(2) and applicable regulations.

ARTICLE IX

Top-Heavy Plan Provisions

This Article IX applies only to those Employees covered by the Plan who are not included in a unit of employees covered, by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers where retirement benefits are the subject of good faith bargaining between such employee representatives and such employer or employers.

9.1 The following words and phrases as used herein have the following meanings unless a different meaning is plainly required by the context:

- (a) "Accrued Pension" of a given Employee means the sum of:
 - (i) His Account Balance under this Plan;
 - (ii) The present value of such Employee's Accrued Benefit under any Defined Benefit Plan to which his Employer contributes on his behalf, determined in the same manner as actuarial equivalent forms of benefits are determined under that Plan;
 - (iii) The aggregate distributions made with respect to such Employee (including a beneficiary of such Employee) under the Plan during the five-year period ending on the Determination Date.

The term "Accrued Pension" shall not include any amount held or distributed on behalf of any Employee who is a former Key Employee, or any amount attributable to qualified voluntary employee contributions within the meaning of Section 219(e)(2) of the Internal Revenue Code (hereinafter the "Code").

For plan years beginning after December 31, 2001, the present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the plan and any plan aggregated with the plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account."

- (b) "Aggregation Group" means (i) a Required Aggregation Group, or (ii) a Permissive Aggregation Group.
- (c) "Defined Benefit Plan" means any tax-qualified employee pension benefit plan which is not a Defined Contribution Plan.
- (d) "Defined Contribution Plan" means a tax-qualified employee pension benefit plan which provides for an individual account for each, eligible employee and for benefits based solely on the amount contributed to the eligible employees account, and any income, expenses, gains and losses, and any forfeitures of accounts of

other eligible employees which may be allocated to such eligible employee's account.

- (e) "Determination Date" means the last day of the preceding Plan Year or, in the case of the first Plan Year, the last day of the first Plan Year;
- (f) "Former Key Employees" means an Employee who is a Non-Key Employee with respect to the Plan for the Plan Year if such Employee was Key Employee with respect to the Plan for any prior Plan Year.
- (g) "Key Employee" means an Employee in the Plan (including a beneficiary of such Employee), with respect to the Plan Year, who at any time during the Plan Year which includes the Determination Date or any of the four preceding Plan Years is (or was):
 - (i) An officer of the Employer; however, the maximum number of officers may not exceed (i) three if there are less than 30 employees, (ii) ten percent (10%) of the employees if there are more than 30 but less than 500 employees, or (iii) 50 if there are more than 500 employees. Officer shall only include those administrative executives who regularly and continuously serve as such. Title shall not be determinative of officer status.
 - (ii) One of the ten employees owning (or considered as owning within the meaning of Section 318 of the Code) the largest interests in the Employer and who have compensation equal to or greater than the maximum dollar limitation of Section 415(c)(1)(A) of the Code.
 - (iii) A person who owns (or is considered as owning within the meaning of Section 318 of the Code) more than 5% of the outstanding stock of the Employer or more than 5% of the total combined voting power of all stock of the Employer; or
 - (iv) A person who has an annual compensation from the Employer of more than \$150,000 and who would be described in Subsection (g)(iii) if "1%" were substituted for "5%" each time it appears in Subsection (g)(iii).

For purposes of this Section (g), Section 318(a)(2)(c) of the Code shall be applied by substituting "5%" for "50%". In addition, for purposes of determining ownership in the Employer under this Section (g), Section (f) shall not apply.

For plan years beginning after December 31, 2001, Key Employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than \$130,000 (as adjusted under Section 416(i)(1) of the Code for plan years beginning after December 31,

2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

- (h) "Non-Key Employees" means an Employee in the Plan (including a Beneficiary of such Employee) who is not a Key Employee with respect to the Plan for the Plan Year.
- (i) "Permissive Aggregation Group" means:
 - (i) Each plan of the Employer included in a Required Aggregation Group; and
 - (ii) Each other plan of the Employer if the group of plans consisting of such plan and the plan or plans described in Subsection (j)(i), when considered as a single plan, meets the requirements of Section 401(1)(4) and Section 410 of the Code.
- (j) "Required Aggregation Group" means:
 - (i) Each plan of the Employer, including terminated plans, in which a Key Employee participants in the Plan Year containing the determination date or in any of the four preceding Plan Years; and
 - (ii) Each other plan of the Employer which enables any plan described in Subsection (j)(i) to meet the requirements of Section 401(a)(4) or Section 410 of the Code.
- (k) "Super Top-Heavy Plan" means the Plan if it would be a Top-Heavy Plan if "90%" were substituted for "60%" each time it appears in Section (1) and Section (m).

Notwithstanding anything in this Plan to the contrary, Section 416(h) of the Code shall not apply to Plan Years commencing on or after January 1, 2000.

- (1) "Top-Heavy Group" means an Aggregation Group in which, as of the Determination Date, the sum of:
 - (i) The aggregate of the Account Balances of Key Employees under all Defined Contribution Plans included in such Aggregation Group, and
 - (ii) The aggregate of the present value of cumulative accrued benefits for Key Employees under all Defined Benefit Plans included in such Aggregation

Group

exceeds 60% of the sum of such aggregates determined for all Employees.

(m) "Top-Heavy Plan" means the Plan, if as of the Determination Date:

- (i) The aggregate of the Account Balances of Employees who are Key Employees exceeds 60% of the aggregate of the Account Balances of all Employees; or
- (ii) The Plan is part of a Required Aggregation Group which is a Top-Heavy Group.

Notwithstanding Subsection (m)(i) and Subsection (m)(ii), the Plan shall not be considered a Top-Heavy Plan for any Plan Year in which the Plan is a part of a Required Aggregation Group or a Permissive Aggregation Group which is not a Top-Heavy Group.

(n) "Top-Heavy Valuation Date" means the Determination Date.

9.2 Notwithstanding anything in the Plan to the contrary, if the Plan is a Top-Heavy Plan within the meaning of Section 9.1(m) and Section 416(g) of the Code for any Plan Year, then the Plan shall meet the requirements of Section 9.3, Section 9.4 and Section 9.5 for each such Plan Year, and the Plan shall also meet the requirements of Section 9.6.

9.3 Minimum Vesting Requirements, if the Plan is a Top-Heavy Plan for a Plan Year, then an Employee shall have a vested interest in his Accrued Pension as follows:

<u>Years of Credited Service</u>	<u>Vested Interest</u>
Less than Two	0%
Two or More	100%

9.4 The Plan shall provide a minimum contribution amount for a Plan Year in which the Plan is a Top Heavy Plan for each Employee who has not separated from service as of the end of that Plan Year and who is a Non-Key Employee in amount which, when added to any forfeitures allocated to such Non-Key Employee is not less than 3% of such Non-Key Employee's Compensation for the year.

For plan years beginning after December 31, 2001, employer matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the plan. The preceding sentence shall apply with respect to matching contributions under the plan or, if the plan provides that the minimum contribution requirement shall be met in another plan, such other plan. Employer matching contributions that are used to satisfy the minimum contribution

requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of Section 401(m) of the Code.

- 9.5 Distributions to Key Employees. Any benefit due a Key Employee under the Plan shall be paid in accordance with the Plan; provided that in no event shall distribution to such Key Employee be made or begin, regardless as to whether such Key Employee has retired or terminated his employment, later than the end of the calendar year in which the Key Employee attains age 70 $\frac{1}{2}$.
- 9.6 Change in Top-Heavy Status. If the Plan becomes a Top-Heavy Plan and subsequently ceases to be a Top-Heavy Plan, the two year regular vesting provision shall continue to apply in determining the vested percentage of the Accrued Pension of any Employee who had at least five years of Credited Service as of the last day of the last Plan Year in which the Plan was a Top-Heavy Plan. For all other Employees, the vesting schedule in Section 10.3 shall apply only to their Accrued Pension as of such last day.
- 9.7 Cancellation of Section. In the event that it should subsequently be determined by statute, Supreme Court decision, ruling by the Commissioner of Internal Revenue, or otherwise that the provisions of this Article IX are no longer necessary to qualify the Plan under the Internal Revenue Code, this Article IX shall become ineffective without amendment to the Plan.

IN WITNESS WHEREOF, the Board of Trustees of ROOFERS LOCAL UNION 30 COMBINED ANNUITY PLAN has caused this instrument to be signed by their duly authorized representatives this ____ day of ___, ____.

UNION TRUSTEES

Shay McCullough
Tom Golus

MANAGEMENT TRUSTEES

R. H. H. H.
Tom Golus
John B. B.