

SHEET METAL WORKERS LOCAL NO. 33 CLEVELAND DISTRICT PENSION PLAN

(As Amended and Restated Effective May 1, 2021)

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**SHEET METAL WORKERS LOCAL NO. 33 CLEVELAND DISTRICT
PENSION PLAN**

(As Amended and Restated Effective May 1, 2021)

This Restated Pension Plan, made as of this 18th day of August 2021, by the Board of Trustees of the Sheet Metal Workers Local No. 33 Cleveland District Pension Plan (hereinafter called "Trustees" or "Board of Trustees") is to be effective May 1, 2021.

WITNESSETH THAT:

WHEREAS, the Trustees have previously established a pension plan for the benefit of Employees covered thereunder, the terms of which are set forth in a written agreement currently designated as the Sheet Metal Workers Local No. 33 Cleveland District Pension Plan (hereinafter "Plan" or "Pension Plan"), which agreement was originally effective on December 31, 1961, and subsequently last restated effective May 1, 2014, and amended from time to time (such agreement, as theretofore amended or restated, being hereinafter referred to as the "Predecessor Plan."); and

WHEREAS, Article XI, Section 11.1 of the Pension Plan provides that the Plan may be amended by the Trustees;

WHEREAS, it is the desire of the Trustees to revise, amend, restate and replace the Predecessor Plan in order to include in one document all amendments thereto, including those amendments necessary to continue to maintain said Plan and Restated Trust as a qualified Plan and Trust under Sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as amended.

WHEREAS, the provisions of this Restated Pension Plan shall apply to Members who terminate employment or retire on or after the Restatement date of May 1, 2021, and prior Plan provisions and amendments shall apply to those Members who terminated or retired prior to the Restatement date.

NOW THEREFORE, the Pension Plan shall be amended to read as follows:

1. The Predecessor Plan be, and hereby is, superseded by this Agreement, which revises, amends, restates and replaces the Predecessor Plan, effective as of May 1, 2021. This restatement of the Predecessor Plan is intended to include the legal changes Cumulative List of Changes in Plan Qualification Requirements ("Cumulative Lists") under Internal Revenue Service Notice 2015-84, Notice 2016-80, Notice 2017-37, Notice 2018-91, Notice 2019-64 and Notice 2020-14, and changes prescribed by the Internal Revenue Service on its Operational Compliance List under Internal Revenue Service Procedure 2016-37, as periodically updated since 2016.

2. The Trustees shall take such action as may be necessary to cause the Pension Plan previously provided for under the Predecessor Plan to be continued in orderly fashion, without interruption or termination, in accordance with the terms and conditions set forth in this Agreement.

3. Except as specifically provided herein, or as subsequently provided by the Trustees, anything in this Agreement to the contrary notwithstanding, the rights of any Employee under the Predecessor Plan who has retired or otherwise left Covered Employment prior to the effective date of this Agreement shall be totally inapplicable to such Employees, except for the limited purpose of providing for the continued retention by the Trustees of any undistributed interests of such former Employees and the ultimate distribution of such interests exclusively in accordance with the terms of said Predecessor Plan and related trust agreement.

4. Except as specifically provided herein, or as subsequently provided by the Trustees, anything in this Agreement to the contrary notwithstanding, the replacement of the Predecessor Plan by this Plan shall not increase or enhance the vested interests of former Employees under said Predecessor Plan or otherwise entitle such Employees to any distribution thereunder. Such replacement shall similarly not result in the reversion of any assets held under the terms of the Predecessor Plan or related Trust Agreement into the possession, ownership or control of any contributing employers thereunder.

5. The provisions of this Plan shall apply only to an Employee who terminated employment or retired on or after the effective date of this Restatement. The eligibility of Benefit rights, if any, of a former Employee and the eligibility or Benefit rights, if any, which an Employee covered by the Plan on April 30, 2021 has earned to that date shall be determined in accordance with the prior provisions of the Plan.

ARTICLE I - DEFINITIONS

1.1 Accrued Benefit

Means the normal form of benefit which a Member or former Member has earned at any point in time, based on such person's years of Credited Service and the benefit accrual rate applicable to those years of Credited Service.

1.2 Actuarial Equivalent

Means the process of determining an actuarial equivalence or an Actuarial Equivalent. Such determination shall be made by using the following:

- (a) Mortality: the 1984 Unisex Pensioner Mortality Table set back 4 years;
- (b) Interest: 7%; and
- (c) Ages: determined in full years and completed months.

Effective for lump sum distributions with an Annuity Starting Date before May 1, 2000, the Actuarial Equivalent lump sum value shall be determined by using the immediate and deferred annuity interest rates used (as in effect as of the Annuity Starting Date) by the Pension Benefit

Guaranty Corporation for purposes of determining the present value of a lump sum distribution on Plan termination.

Effective for lump sum distributions with an Annuity Starting Date between May 1, 2000 and April 30, 2008, the Actuarial Equivalent lump sum value shall not be less than the present value calculated by using the following mortality table and interest rate:

- (a) the mortality table which is prescribed for use during the Plan Year that contains the Annuity Starting Date pursuant to Treasury regulations under Code Section 417(e) and which, until modified or superseded, is the table set forth in Internal Revenue Service Revenue Ruling 95-6; and
- (b) the annual rate of interest on 30-year Treasury securities, as specified by the Commissioner of Internal Revenue, for the month of March (as published in April) immediately preceding the Plan Year that contains the Annuity Starting Date.

Effective for lump sum distributions with an Annuity Starting Date on or after May 1, 2008, the Actuarial Equivalent lump sum value shall be determined by using the Applicable Mortality Table and the Applicable Interest Rate prescribed under Section 9.1(d).

1.3 Actuary

Means independent, qualified actuary who is an Enrolled Actuary pursuant to the provisions of ERISA, or a firm of independent actuaries, selected by the Trustees at least one (1) of whose members meets the preceding requirements.

1.4 Annuity Starting Date

- (a) Means date as of which benefits are calculated and paid under the Plan and shall be the first day of the first month after or coincident with the later of:
 - (i) the month following the month in which the claimant has fulfilled all of the conditions for entitlement to benefits, including the filing of an application for benefits; or
 - (ii) thirty (30) days after the Plan advises the Member of the available benefit payment options.
- (b) Notwithstanding subsection (a) above, the Annuity Starting Date may occur and benefits may begin before the end of the 30-day period, provided:
 - (i) the Member and Spouse, if any, consent in writing to the commencement of payments before the end of the 30-day period and distribution of the Pension begins more than seven days after the written explanation was provided to the Member and Spouse,

- (ii) the Member's benefit was previously being paid because of an election after the Normal Retirement Age, or
 - (iii) the benefit is being paid out automatically as a lump sum under the provisions of the Plan.
- (c) Notwithstanding subsection (a) above, a Member who has attained Normal Retirement Age and consented to waive the 30-day period in accordance with subsection (b)(i) above, may elect an Annuity Starting Date that is retroactive to the first day of any month following the date he or she had both attained Normal Retirement Age and fulfilled all of the conditions for entitlement to benefits except for the filing of an application (hereinafter referred to as a Retroactive Annuity Starting Date).
 - (i) A Retroactive Annuity Starting Date is an Annuity Starting Date that is affirmatively elected by a Member that occurs on or before the date the written explanation of benefit options described in Section 4.2 is provided to the Member if required.
 - (ii) Benefits payable under a Retroactive Annuity Starting Date shall consist of an initial single sum payment of benefits attributable to the period beginning on the Member's Retroactive Annuity Starting Date and ending prior to the first of the month benefit payments commence. Such single sum shall include interest at an appropriate rate from the date the missed payment or payments would have been made to the date of the actual make-up payment. The Board of Trustees has determined the interest rate to be 4% simple interest which shall remain in effect until such time as changed by a motion adopted by the Board. Monthly payments made subsequent to the lump sum payment shall be in the amount that would have been paid to the Member had payments actually commenced on the Member's Retroactive Annuity Starting Date.
 - (iii) A Member who otherwise satisfies the conditions of subsection (i) but who does not affirmatively elect a Retroactive Annuity Starting Date shall have his benefit calculated under the terms, conditions, and circumstances applicable to his or her Annuity Starting Date as determined under Section 1.4(a) in lieu of benefit payments described in subsection (ii) above. In the case of a Member who retires after Normal Retirement Age, the benefit shall be actuarially increased based on the provisions contained in Section 7.7.
 - (iv) The calculation of benefits (whether under Subsection 1.4(c)(ii) or (c)(iii) above) shall not include periods during which the Member

was not retired or benefits were otherwise subject to suspension under Article VI or Sections 3.7, 3.13, or 3.19.

- (v) Any election of the benefit under Subsection 1.4(c)(iii) shall be subject to the notice and consent requirements including but not limited to those of Code Sections 401(a) and 417 and regulations issued thereunder, including requirements specific to the election of retroactive payments under Treasury Regulation Section 1.417(e)-1.
 - (vi) For purposes of satisfying the 30-day waiver requirement under Section 1.4(b)(i) and the consent requirements of Sections 4.1 and 12.8, the Annuity Starting Date as defined in Section 1.4(a) shall be used instead of the Retroactive Annuity Starting Date.
 - (vii) Notwithstanding any other provision contained herein, this Section 1.4 shall be interpreted with the intent of complying with the retroactive Annuity Starting Date requirements of Treasury Regulation Sections 1.417(e)-1(b)(3)(iv), 1.417(e)-1(b)(3)(v), and 1.417(e)-1(b)(3)(vi).
- (d) The Annuity Starting Date will not be later than the Member's Required Beginning Date.
 - (e) The Annuity Starting Date for a Beneficiary or Alternate Payee under a Qualified Domestic Relations Order (within the meaning of ERISA Section 206(d)(3) and Code Section 414(p)) will be determined as stated in Subsections (a) and (b), except that references to the Spousal Pension and spousal consent do not apply.

1.5 Association

Means SMACA-Cleveland, Ohio (Sheet Metal and Air Conditioning Contractors Association), and other contractors contributing to the Plan under a Collective Bargaining Agreement with the Union.

1.6 Alternate Payee

An Alternate Payee is a Spouse, former Spouse, Child or other dependent of a Member who is recognized by a domestic relations order as having a right to receive all or a portion of the Benefits of a Plan Member according to Code Section 414(q) and ERISA Section 206(d).

1.7 Beneficiary

Means a Member's Spouse, unless such Spouse has consented in writing to a non-Spouse Beneficiary person designated by the Member as set forth under the terms of this Plan. In the event the Member does not have a Spouse, or if he or she does and the Spouse consents to a non-Spouse

Beneficiary (as provided herein), then the Beneficiary shall be the person the Member has designated on a form that is on file with the Plan at the time of the Member's death. The Beneficiary (Spouse or non-Spouse) shall be entitled to receive benefits which may be payable upon or after the Member's death. To the extent the rights of a Member are stated or limited by the terms of this instrument, the Beneficiary shall be deemed bound thereby.

1.8 Board Trustees or Trustees

Means the entity comprised of an equal number of Union trustees and management trustees, which is responsible for administering the Plan. The Board of Trustees shall be the "named fiduciary" and "administrator" as such terms are used in ERISA.

1.9 Break in Service

Means, prior to May 1, 1976, the loss of service for vesting and benefit accrual purposes based on the provisions of the Plan in effect at the particular time. After April 30, 1976, Break in Service means the failure to complete more than 350 Hours of Service during a Plan Year, except that for purposes of determining eligibility for a disability benefit, a Break in Service shall not occur if a Member:

- (a) is unable to work as a result of an injury incurred while working in employment covered under the Plan; and
- (b) is receiving Workers' Compensation; and
- (c) has met the age and service requirements for disability as of the time such Member became unable to work.

Moreover, it shall not be considered a Break in Service if the Member is unable to earn 350 Hours of Service during a Plan Year under the following circumstances:

- (a) due to qualified Military Service (Provided the Plan Administrator is notified in a satisfactory manner),
- (b) by reason of pregnancy of the Member,
- (c) by reason of a birth of a child of the Member,
- (d) by reason of placement of a child with the Member in connection with the adoption of such child by the Member (including placement with the Member for a trial period prior to adoption), or
- (e) for purposes of caring for such child for a period beginning immediately following such birth or placement.

If the Member's inability to earn 350 Hours of Service in a Plan Year is due to any of the conditions set forth in subsections (b) through (e) above, the Member shall be credited with Hours of Service, provided that either—

- (i) the Administrator has reasonable access to the relevant information; or
- (ii) the Member furnishes to the Administrator such information as the Administrator may reasonably require to establish that the absence from work is for one of the reasons referred to above and the number of days for which there was such an absence.

The Hours of Service shall be credited to the Plan Year in which the period of absence begins if but for such crediting there would be a one (1) year Break in Service for such Plan Year. Otherwise, the Hours of Service shall be credited to the next following Plan Year. The Hours of Service to be credited are the Hours of Service which otherwise would have been credited to the Member but for such absence. In no event, however, shall more than three hundred fifty (350) Hours of Service be credited for such period of absence in which no actual Service is performed.

1.10 Child or Children

Means a Member's biological or legally adopted child or children and does not include step-children or foster children.

1.11 Code

Means the Internal Revenue Code of 1986, as amended from time to time. Any reference to any section of the Code shall be deemed to include any applicable regulations and rulings pertaining to such section and shall also be deemed a reference to comparable provisions of future laws.

1.12 Collective Bargaining Agreement

Means a written agreement between the Union and an Employer which requires contributions to the Fund.

1.13 Covered Employment

Means:

- (a) employment as a journeyman, which employment is covered by a Collective Bargaining Agreement or stipulation of agreement entered into between an Employer or Employers and the Union, and which Collective Bargaining Agreement or stipulation of agreement is effective in Ashtabula, Cuyahoga, Geauga or Lake Counties; and
- (b) employment as an elected full-time Employee of the Union; and

- (c) employment as a journeyman working within the jurisdiction of the Union, where such journeyman was a Member of the Plan on April 30, 1998, and continues to be a Member of the Plan, subject to the provisions of Section 1.9; and
- (d) employment as an instructor at a Joint Apprentice Training Center sponsored by, or otherwise affiliated with, the Union and in accordance with a Participation Agreement executed between the JATC and the Trustees.

1.14 Credited Service

As used in this Plan with respect to a Member means the sum of (a) Past Service, if any, and (b) Current Service as defined in this Article I.

1.15 Current Service

Means any Hour of Service for which a contribution is made to the Plan on behalf of a Member. One year of Current Service shall be granted for each Plan Year in which a Member completes 350 or more Hours of Service.

1.16 Disqualifying Employment

Means any employment in the Sheet Metal Industry which is not Covered Employment; provided, however, that, the term “Disqualifying Employment” shall not include:

- (a) Employment as a “salted” organizer; or
- (b) Employment in a related building trade; provided, however, that such employment is on referral, and authorized, by the Union; or
- (c) Employment in the Sheet Metal Industry, where such employment is covered by a Collective Bargaining Agreement or stipulation of agreement between a union, other than the Union, and an Employer or Employers, and where such employment occurs outside the jurisdiction of the Union; or
- (d) Employment as an instructor teaching sheet metal work for a secondary vocational school or high school (this exclusion does not apply to a teaching position at any post-secondary college, apprenticeship program or school). As used herein “secondary vocational school” or “high school” includes schools offering a high school diploma and typically educating students age 18 and under; or
- (e) Employment as a consultant for a company that is transitioning ownership if the requirements of this paragraph (e) are met. Members who were previous owners of a company transitioning ownership may remain temporarily

employed by that company as a consultant during transition under this subsection as they transition to retirement. Such Members shall remain eligible for their applicable pension during their employment as a consultant during the transition in ownership. Members engaging in such consulting work are prohibited from supervising jobs or attending job sites but are permitted to have business relationships to aid in the transition to new ownership.

1.17 Early Retirement Date

Means the first day of the month in which the Member turns 55 if the Member's birthday falls on or between the 1st and the 15th of that month. If the Member's birthday falls after the 15th of the month in which the Member was born, the Early Retirement Date shall mean the 1st of the month following the month in which the Member turns 55.

1.18 Employee

Means:

- (a) A person who is an employee of an Employer and is covered by a Collective Bargaining Agreement.
- (b) A Non-bargained Employee whose participation is not covered by a Collective Bargaining Agreement but is covered by a written agreement requiring contributions to the Pension Fund (i.e., a "Participation Agreement"). Such Non-bargained Employees include employees of this Trust Fund, the Union or an apprenticeship fund affiliated with the Union for whom the Trustees or Union agree in writing to contribute to the Trust Fund at the rate fixed for contributions for any other Employer. Non-bargained Employees of an apprenticeship fund affiliated with the Union may only participate in this Plan if they qualified as a vested participant in the Plan prior to beginning their employment with the apprenticeship fund.
- (c) Any person who worked as a collective bargaining employee and a non-collective bargaining employee for Employers under the Collective Bargaining Agreement if more than one-half (1/2) the person's work during the Plan Year was as a collectively bargained employee.
- (d) Any person who had been covered by a Collective Bargaining Agreement and who continues to work for Employers party to a Collective Bargaining Agreement if the Employer has entered into a Participation Agreement with the Trust Fund covering such persons.
- (e) Any leased employee, which 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 (1) year, and such services are performed under the recipient's primary direction or control. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient Employer.

A leased employee shall not be considered an employee of the recipient if:

- (i) such employee is covered by a money purchase pension plan providing:
 - (1) immediate participation;
 - (2) full and immediate vesting; and
 - (3) a nonintegrated 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 excludible from the Employee's gross income under Code Sections 125, 402(e)(3), 402(h), or 403(b); and
- (ii) leased employees do not constitute more than 20% of the recipient's non-highly compensated workforce.

The term "Employee" shall not include:

- (a) a sole proprietor who is a Contributing Employer;
- (b) a partner who is a Contributing Employer, regardless of the size of the partnership interest; or
- (c) anyone else whose ownership would, in the opinion of the Trustees, jeopardize the Plan's tax-exempt status or violate provisions of the Employee Retirement Income Security Act of 1974.

1.19 Employer

Means any individual firm, association, partnership or corporation which is a member of the Association or is bound by a Collective Bargaining Agreement or stipulation of agreement to make contributions to the Plan.

1.20 ERISA

Means the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.21 Fund or Trust Fund

Means the Trust Fund created in accordance with Article VIII and also referred to as the Trust.

1.22 Highly Compensated Employee

Means:

- (a) Highly compensated active Employees and highly compensated former Employees of an Employer. Whether an individual is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that individual's compensation form or status with respect to that Employer.
- (b) Any employee who:
 - (i) received compensation from the Employer in excess of \$130,000 annually (as indexed for increases in the cost of living in accordance with regulations prescribed by the Secretary of Treasury); and
 - (ii) is a 5% owner at any time during the look back year or the determination year.
- (c) The "determination year" is the Plan Year for which the test is being applied, and the look-back year is the twelve (12) month period immediately preceding that Plan Year.

1.23 Hour of Service

Means each hour for which an Employee is paid or entitled to payment by an Employer who is obligated to make contributions to the Fund for the performance of duties as an Employee in Covered Employment or for the performance of duties for the same Employer in noncovered employment immediately preceding or immediately following employment as an Employee in Covered Employment with said Employer. Hour of Service, as defined in the preceding sentence, shall also include each hour for which back pay has been either awarded or agreed to by said Employer (irrespective of mitigation of damages). Each such Hour of Service shall be credited to the applicable Plan Year with respect to which the hours were paid or payable. Hours of Service credited for the performance of duties in noncovered employment shall be determined pursuant to regulations of the U.S. Department of Labor which can be found at 29 C.F.R. Section 2530-200b-2(b) and (c) or any successor thereto, which are hereby incorporated by reference.

For periods commencing on or after January 1, 1985, and to the extent not already credited, Hours of Service shall be credited solely for purposes of determining whether a Break in Service has occurred with respect to an Employee who is absent from work regardless of whether the Employee is paid for such absence:

- (a) by reason of pregnancy of the Employee,
- (b) by reason of the birth of a child of the Employee,
- (c) by reason of 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.

For purposes of Section 1.9, Hour of Service also means each hour for which an Employee is paid, or entitled to payment under the Collective Bargaining Agreement, by an Employer who is obligated to make contributions to the Fund, for a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability) layoff, jury duty, military duty or leave of absence. No more than 350 hours of service need to be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). Such hours shall be calculated and credited in accordance with the regulation cited above.

Hours of Service shall be credited for such purpose pursuant to Code Section 411(a)(6)(E). Further, the Employer may request that the Employee furnish any information the Employer may require to establish that the absence is for reasons specified herein and the number of days for which there was such an absence. In the event such information is not submitted in a timely manner, no Hours of Service shall be credited pursuant to this paragraph.

1.24 Member

Means an individual who satisfies the eligibility requirements set forth in Section 2.1 and is accruing service under the Plan. Member also refers to a person who is no longer accruing service, but who had attained benefit eligibility under the Plan at the date he or she ceased to accrue service, including a person who is retired.

1.25 Military Service

Notwithstanding any provision to the contrary, an Employee's benefit shall include hours of service owed for periods of qualified Military Service in the Armed Forces of the United States consistent with and to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended ("USERRA"), and Code Section 414(u), as amended. Military Service shall be counted for purposes of crediting an Employee provided the

requirements of Section 2.4 are met. The Member must have reemployment rights under USERRA in order for the period of Military Service to be recognized.

1.26 Normal Retirement Age

Means age 65 or, if later, the age of the Member on the fifth anniversary of his or her participation.

1.27 Normal Retirement Date

Means the first day of any month in which the Member turns 65 if the Member's birthday falls on or between the 1st and the 15th of that month, or when he or she actually retires, if later. If the Member's birthday falls after the 15th of the month in which the Member was born, the Normal Retirement Date shall mean the 1st of the month following the month in which the Member turns 65. The accrued retirement benefit of a Member shall be non-forfeitable and fully vested upon attainment of age 65.

1.28 Partial Withdrawal

Means the situation which occurs when an Employer's obligation to contribute to the Plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of this Fund.

1.29 Past Service

Means the actual number of years and completed months of work performed within the jurisdiction of the Union prior to the original effective date of the Plan and after initiation as a journeyman but limited in any event to 15 years. Past Service shall be credited only to journeymen covered by Collective Bargaining Agreements in Ashtabula, Lake, Geauga and Cuyahoga County and who became Members of the Plan as of December 31, 1961.

1.30 Plan

Means the Sheet Metal Workers Local No. 33, Cleveland District Pension Plan, formerly known as the Sheet Metal Workers Local No. 65 Pension Plan.

1.31 Plan Administrator or Administrator

Means the Board of Trustees, which has the duties specified in the Plan.

1.32 Plan Year

Means the twelve (12) month period beginning May 1 of each Year ending the following April 30.

1.33 Qualified Domestic Relations Order or QDRO

Means a domestic relations order as defined by Code Section 414(p) and ERISA Section 206(d), and must contain the following information:

- (a) the name and last mailing address of the Member and the name and mailing address of each Alternate Payee under the Order;
- (b) the amount or percentage of the Member's Benefits to be paid to any Alternate Payee or the manner in which such amount or percentage is to be determined,
- (c) the number of payments or the period to which the Order applies, and
- (d) each plan to which the Order relates.

1.34 Required Beginning Date

The term "Required Beginning Date" shall mean the date on which Required Minimum Distributions ("RMDs") must commence. For RMDs required to be made after December 31, 2019, "Required Beginning Date" shall mean April 1st of the calendar year following the later of (a) the calendar year in which the Member attains age 72 or (b) the calendar year in which the Member retires (as set forth in Code Section 401(a)(9)(C)). For RMDs required to be made before December 31, 2019, "Required Beginning Date" shall mean April 1st of the calendar year following the later of (a) the calendar year in which the Member attains age 70 ½ or (b) the calendar year in which the Member retires (as set forth in Code Section 401(a)(9)(C)).

1.35 Service in the Uniformed Services

Means the performance of duty on a voluntary or involuntary basis in a Uniformed Service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a Member is absent from Covered Service for the purpose of an examination to determine the fitness of the Member to perform any such duty.

1.36 Sheet Metal Industry

Means any and all types of work—

- (a) covered by Collective Bargaining Agreements or stipulations of agreement entered into between the Union and an Employer or Employers;
- (b) under the trade jurisdiction of the Union;
- (c) in a related building trade; or

- (d) to which a sheet metal worker has been assigned or referred, or which a sheet metal worker can perform because of his or her skills and training as a sheet metal worker.

1.37 Special Early Retirement Date

For Members who have earned 3,500 or more Hours of Service in the sixty (60) consecutive months immediately preceding their actual retirement, means the first day of any month on or after the Member's 55th birthday when he or she actually retires.

1.38 Spouse

Means, with respect to any Member, that person, if any, who—

- (a) is recognized as legally married to the Member by a domestic or foreign jurisdiction whose laws authorized the marriage at the time the Member and such person entered into the marital relationship; and
- (b) has not been declared legally separated from the Member by any judicial order.

The term “Spouse” may include a person of the opposite or same gender as the Member. The former Spouse of a Member shall be treated as a “Spouse” under the Plan only if and to the extent required under a Qualified Domestic Relations Order, as described in this Plan.

1.39 Uniformed Services

Means the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or emergency.

1.40 Union

Means the Sheet Metal, Air, Rail and Transportation Workers Local Union No. 33, Cleveland District.

1.41 Vesting Service

Means the elapsed period of time as a Member in the Plan from and after the effective date of the Plan to the Member's retirement, disability, death or termination of membership in the Plan.

Effective May 1, 2007 for all new Employees hired on or after May 1, 2007, an Employee must reach Normal Retirement Age or have 5 years of Vesting Service to be vested in the Plan.

ARTICLE II - PARTICIPATION

2.1 Participation

- (a) All journeymen covered by Collective Bargaining Agreements or stipulations of agreement in Ashtabula, Cuyahoga, Geauga and Lake Counties, between an Employer or Employers and the Union, all elected full time Employees of the Union, as well as all journeymen working within the jurisdiction of the Union who were Members of the Plan on April 30, 2002, shall continue as Members subject to the provisions of Section 1.9.
- (b) Each person who was not a Member on May 1, 2002 and who subsequently becomes employed under a Collective Bargaining Agreement, stipulation of agreement or within the jurisdiction of the Union as described in (a) above, shall become a Member of the Plan on the first day an Employer is required to make Contributions to the Trust on his or her behalf.

2.2 Termination of Participation

Participation in the Plan shall end when either of the following occurs:

- (a) Retirement or Total and Permanent disability (as defined in Article III);
- (b) death, (as defined in Article V); or
- (c) the occurrence of two consecutive one year Breaks in Service (or effective for all new Employees hired on or after May 1, 2007, the lesser of (1) five consecutive one year Breaks in Service or (2) the number of consecutive one year Breaks in Service that equals the aggregate number of years of service before such period) as defined in Section 1.9.

2.3 Reinstatement of Participation

If a Member terminated his or her membership in the Plan for a reason other than death, disability or retirement and if such termination occurs prior to the completion of two years of Vesting Service (or five years of Vesting Service, effective for all new Employees hired on and after May 1, 2007), he or she shall not be entitled to any benefits from the Plan and he or she will forfeit his or her Credited Service. However, if such former member is subsequently reemployed in a position covered by Section 2.1 and completes 350 or more Hours of Service in a Plan Year, he or she shall again become a Member of the Plan as of the date of such re-employment and all prior Credited Service and retirement benefits accrued in his or her account as of the date of his or her termination shall be reinstated except for benefits forfeited under the provisions of the Plan in effect prior to May 1, 1976.

2.4 Military Service

- (a) Service in the Armed Forces of the United States shall be credited to the extent required by law. To protect his or her full rights, an Employee who left Covered Employment to enter such Military Service should apply for re-employment with his or her Employer within the time prescribed by law. Furthermore, he or she must call his or her claim for credit for Military Service to the attention of the Trustees and be prepared to supply the evidence that the Trustees will need in order to determine his or her rights.
- (b) If an Employee leaves Covered Employment to enter active service in the Armed Forces of the United States, the period of such Military Service, for up to five years, shall not be counted toward a Break in Service. Moreover, if he or she returns to Work in Covered Employment (or makes himself available for Covered Employment) within the time periods set forth in subsection (c) below, after his or her separation from Military Service, the period of such Military Service shall, for up to five years, be credited toward Years of Vesting Service. Additionally, effective for any Military Service on or after December 12, 1994, the Member will receive Pension Credit for any qualified period of Military Service if the Member meets the Reemployment requirements set forth in subsection (c) below.
- (c) If a Member returns to Work in Covered Employment (or makes himself available for Covered Employment) after his or her honorable discharge from Military Service, the period of such Military Service shall be credited. The time period for a reemployment deadline varies depending upon the time period of the Member's Military Service. If the Service was less than 31 days, then the Member must be reemployed within 1 day after discharge. If the Military Service was less than 180 days, then the Member must be reemployed within 14 days after discharge. If the Military Service was more than 180 days, then the Member must be reemployed within 90 days after discharge.

However, the Employer is responsible for notifying the Fund Office of the reemployment within 30 days of the date that the Member is reemployed.

- (d) A Member who reenters Covered Employment on or after December 12, 1994, will be credited with Hours of Service during his or her Service in the Uniformed Services. This weekly or annual credit calculation for the period of his or her absence will be determined based upon the average hours worked over the period of the 36 consecutive months prior to entering the Military Service.
- (e) A Member who claims entitlement to Hours for Service in the Uniformed Services shall submit such documentation as the Trustees may require to demonstrate the Member's return to Covered Employment in a timely

fashion, that the Member did not exceed the limitations on the time allowed in Service in the Uniformed Services, and that the Member's entitlement to benefits has not otherwise terminated in accordance with Federal Law. No hours shall be credited to a Member for Service in the Uniformed Services if the Member's separation from the Uniformed Services was by a dishonorable or bad conduct discharge, or under other than honorable conditions.

- (f) The funds required to pay for the hours credited to a Member under this Section shall be allocated from general assets of the Fund, and no individual Employer will be liable to make contributions for such hours.
- (g) In the case of a Member who dies while performing qualified Military Service on or after January 1, 2007, benefits and Years of Vesting Service shall be provided as follows:
 - (1) The Member's survivors shall be entitled to any additional benefits provided under the Plan as if the Member had resumed employment with the Employer in accordance with the Uniformed Services Employment and Reemployment Rights Act ("USERRA") and then terminated employment with the Employer on account of death.
 - (2) The Member shall be treated as if the Member had resumed employment with the Employer in accordance with USERRA on the day preceding death and had terminated employment with the Employer on the actual date of death. All individuals performing qualified Military Service with respect to the Employer who die as a result of performing qualified Military Service prior to reemployment by the Employer shall be credited with service and benefits on reasonably equivalent terms.

ARTICLE III - RETIREMENT BENEFITS

3.1 Classes of Benefits

The following seven (7) classes of benefits are payable under this Plan:

- (a) Normal Retirement Pension Benefit
- (b) Early Retirement Pension Benefit
- (c) Special Early Retirement Pension Benefit
- (d) 55/30 Retirement Pension Benefit
- (e) Total and Permanent Disability Retirement Benefit

- (f) Industry-Related Disability Retirement Benefit
- (g) Deferred Vested Pension Benefit

For information on Death Benefits, please see Article V.

3.2 General

This Article sets forth the eligibility conditions and benefit amounts for the pensions provided by the Plan. The benefit amounts are subject to reduction on account of the Spousal Pension (Article IV). Entitlement of the Member to receive pension benefits is subject to his retirement and application for benefits, as provided in Article VII.

The pension benefits noted in Section 3.1(a)-(d) all require a Member to be “completely retired from employment.” For the purposes of this Article III, a Member is considered to have “completely retired from employment” if the Member, as of his or her effective retirement date, is:

- (a) Not engaged in Covered Employment (See Section 1.13 hereof) with an Employer;
- (b) There is no reasonable expectation that the Member will engage in Covered Employment with any Employer following the Member’s effective date of retirement; and
- (c) The Member is not engaged in Disqualifying Employment (See Section 1.16 hereof), nor is there any reason to suspect the Member will engage in Disqualifying Employment following his or her effective retirement date.

3.3 Normal Retirement Pension Benefit – Eligibility

A Member who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for a Normal Retirement Pension Benefit provided he or she meets both of the following requirements:

- (a) The Member has reached Normal Retirement Age, as defined in Section 1.27 of Article I; and
- (b) The Member has made application for a Normal Retirement Benefit on a form prescribed by the Trustees and the Trustees have approved the application.

3.4 Normal Retirement Pension Benefit – Amount

The Normal Retirement Pension Benefit shall be a monthly benefit equal to the sum of a Member’s Past Service Benefit, if any, and his or her Current Service Benefit as follows:

(a) Past Service Benefit

The amount of monthly Past Service benefit which will be provided for each Member who retires or terminates his or her employment with a vested right on or after May 1, 1975 and who became a Member of the Plan as of December 31, 1961 shall be \$1.25 multiplied by the number of years and fractions thereof of his or her credited Past Service.

Anything contained in this Section 3.4 to the contrary notwithstanding, effective May 1, 1990, any Member who performs at least one hour of employment in Disqualifying Employment on or after May 1, 1990 shall lose his or her Past Service Benefit, hereunder; provided, however, that such loss of a Member's Past Service Benefit shall not decrease such Member's accrued normal retirement benefit such that it will be less than the normal retirement benefit such Member had accrued as of the day immediately preceding the effective date of May 1, 1990.

(b) Current Service Benefit

(i) Members Who Retire After May 1, 1984 and Prior to May 1, 1986

The Monthly Current Service benefit of a Member who retires on or after May 1, 1984 but prior to May 1, 1986 shall be an amount equal to two and one-quarter percent (2.25%) of the aggregate contributions made to the Plan on behalf of such Member.

(ii) Members Who Retire After May 1, 1986 and Prior to September 1, 1988

The Monthly Current Service benefit of a Member who retires on or after May 1, 1986 but prior to September 1, 1988 shall be an amount equal to two and one-half percent (2.50%) of the aggregate contributions made to the Plan on behalf of such Member.

(iii) Members Who Retire After September 1, 1988 and Prior to May 1, 1990

The Monthly Current Service benefit of a Member who retires on or after September 1, 1988 but prior to May 1, 1990 shall be an amount equal to two and six-tenths percent (2.60%) of the aggregate contributions made to the Plan on behalf of such Member.

(iv) Members Who Retire After May 1, 1990 and Prior to May 1, 1992

The Monthly Current Service benefit of a Member who retires on or after May 1, 1990 but prior to May 1, 1992 shall be an amount equal

to two and seven-tenths percent (2.70%) of the aggregate contributions made to the Plan on behalf of such Member.

(v) Members Who Retire After May 1, 1992 and Prior to May 1, 1998

The Monthly Current Service benefit of a Member who retires on or after May 1, 1992 but prior to May 1, 1998 shall be an amount equal to two and eight-tenths percent (2.80%) of the aggregate contributions made to the Plan on behalf of such Member.

(vi) Members Who Retire After May 1, 1998 and Prior to November 1, 1999

The Monthly Current Service benefit of a Member who retires on or after May 1, 1998 but prior to November 1, 1999 shall be an amount equal to three and two-tenths percent (3.20%) of the aggregate contributions made to the Plan on behalf of such Member.

(vii) Members Who Retire After November 1, 1999 and Prior to December 1, 2001

The Monthly Current Service benefit of a Member who retires on or after November 1, 1999 but prior to December 1, 2001 shall be an amount equal to three and six-tenths percent (3.60%) of the aggregate contributions made to the Plan on behalf of such Member.

(viii) Members Who Retire After December 1, 2001 and Prior to September 1, 2010

The Monthly Current Service benefit of a Member who retires on or after December 1, 2001 but prior to September 1, 2010 shall be an amount equal to three and six-tenths percent (3.60%) of the aggregate contributions made to the Plan on behalf of such Member up to a maximum of \$2.60 per hour of contributions.

(ix) Members Who Retire After September 1, 2010 and Prior to May 1, 2020

The Monthly Current Service benefit of a Member who retires on or after September 1, 2010, but prior to May 1, 2020, shall be an amount equal to the sum of (a), (b), and (c) below:

- (a) three and six-tenths percent (3.60%) of the aggregate contributions made to the Plan on behalf of such Member for Hours of Service performed prior to September 1, 2010 up to a maximum of \$2.60 per hour of contributions; and

- (b) one and three-tenths percent (1.30%) of all of the contributions made to the Plan on behalf of such Member for Hours of Service performed on or after September 1, 2010 and prior to June 1, 2013; and
- (c) one and two-tenths percent (1.20%) of all of the contributions made to the Plan on behalf of such Member for Hours of Service performed on or after June 1, 2013 but prior to May 1, 2020.

(x) Members Who Retire After May 1, 2020

The Monthly Current Service benefit of a Member who retires on or after May 1, 2020 shall be an amount equal to the sum of (a), (b), (c) and (d) below:

- (a) three and six-tenths percent (3.60%) of the aggregate contributions made to the Plan on behalf of such Member for Hours of Service performed prior to September 1, 2010 up to a maximum of \$2.60 per hour of contributions; and
- (b) one and three-tenths percent (1.30%) of all of the contributions made to the Plan on behalf of such Member for Hours of Service performed on or after September 1, 2010 and prior to June 1, 2013; and
- (c) one and two-tenths percent (1.20%) of all of the contributions made to the Plan on behalf of such Member for Hours of Service performed on or after June 1, 2013 but prior to May 1, 2020; and
- (d) one and one-tenth percent (1.10%) of all of the contributions made to the Plan on behalf of such Member for Hours of Service performed on or after May 1, 2020.

3.5 Limitation on Aggregate Contributions for Determining Normal Retirement Benefits

Effective for all retirements on or after December 1, 2001, the aggregate contributions used in determining any benefit payable under this Plan shall be the Contributions actually paid to the Plan under the terms of the applicable Collective Bargaining Agreement less any contributions determined by the Board of Trustees as necessary to fund the cost of the 55/30 Retirement Pension Benefit.

Between December 1, 2001 and September 1, 2010, the aggregate contribution did not include anything above \$2.60. After September 1, 2010, the limitation is removed.

3.6 Early Retirement Pension Benefit – Eligibility

A Member who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for an Early Retirement Benefit provided he or she meets the following:

- (a) the Member has reached Early Retirement Benefit Date, as defined in Section 1.17 of Article I; and
- (b) the Member has applied for an Early Retirement Pension Benefit on a form prescribed by the Trustees and the Trustees have approved the application.

3.7 Early Retirement Pension Benefit - Amount

The Early Retirement Pension Benefit payable to a Member who retires at an Early Retirement Date will be at his or her option either a deferred retirement benefit commencing on his or her Normal Retirement Date, or a retirement benefit commencing at his or her Early Retirement Date or on the first day of any month following his or her Early Retirement Date but prior to his or her Normal Retirement Date, as follows:

- (a) A Member who retires at an Early Retirement Date and elects a deferred retirement benefit beginning at his or her Normal Retirement Date shall be entitled to the monthly Past Service benefit and monthly Current Service benefit which he or she has accrued at the time of early retirement.
- (b) A Member who retires at an Early Retirement Date and who elects commencement of his or her retirement benefit payments beginning at his or her Early Retirement Date but prior to his or her Normal Retirement Age, shall be entitled to the benefit described in paragraph (a) above reduced by one-half of one percent (0.5%) for each of the months by which commencement of payments begins prior to the Normal Retirement Date.

Notwithstanding the foregoing, effective May 1, 1990, for every calendar quarter in which a Member performs at least one hour of employment in Disqualifying Employment after such effective date, the Early Retirement Date of said Member shall be delayed six (6) months; provided, however, that in no event will a Member's receipt of his or her early retirement benefit be deferred beyond his or her Normal Retirement Date.

3.8 Special Early Retirement Pension Benefit - Eligibility

A Member who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for a Special Early Retirement Pension Benefit, provided he or she meets the following:

- (a) The Member has earned 3,500 or more Hours of Service in the sixty (60) consecutive months immediately preceding his or her retirement date; and
- (b) The Member attains age 55; and
- (c) The Member has applied for a Special Early Retirement Pension Benefit on a form prescribed by the Trustees, and the Trustees have approved the application.

3.9 Special Early Retirement Pension Benefit – Amount

The Special Early Retirement Benefit payable to a Member who retires at a Special Early Retirement Date will be at his or her option either a deferred retirement benefit commencing at his or her Normal Retirement Date, or a retirement benefit commencing on his or her Special Early Retirement Date or on the first day of any month following his or her Special Early Retirement Date but prior to his or her Normal Retirement Date, as follows:

- (a) A Member who retires at a Special Early Retirement Date and elects a deferred retirement benefit beginning at his or her Normal Retirement Date shall be entitled to the monthly Past Service benefit and monthly Current Service benefit which he or she has accrued at the time of retirement.
- (b) A Member who retires at a Special Early Retirement Date and who elects commencement of retirement benefit payments beginning at his or her Special Early Retirement Date but prior to his or her Normal Retirement Date, shall be entitled to the benefit described in (a) above reduced by one quarter of one percent (0.25%) for each of the first forty-eight (48) months by which commencement of payments begins prior to Normal Retirement Age, further reduced by five-twelfths of one percent (0.4167%) for each of the next twelve (12) months by which commencement of payments begins prior to Normal Retirement Age, and further reduced by one-half of one percent (0.50%) for each of the next sixty (60) months by which commencement of payments begins prior to Normal Retirement Age.

Notwithstanding the foregoing, effective May 1, 1990, for every calendar quarter in which a Member performs at least one hour of employment in Disqualifying Employment after such effective date, the Special Early Retirement Date of said Member shall be delayed six (6) months; provided, however, that in no event will a Member's receipt of his or her early retirement benefit be deferred beyond his or her Normal Retirement Date.

3.10 55/30 Retirement Pension Benefit – Eligibility

Effective May 1, 2013, a Member who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for a 55/30 Retirement Pension Benefit, provided he or she meets the following requirements:

- (a) The Member attains age 55; and

- (b) The Member has 30 separate years of service in Covered Employment which may be evidenced by participation under Collective Bargaining Agreements of the Sheet Metal Workers Local Union No. 33, Cleveland District; provided however, that prior to January 1, 1988 participation under the Collective Bargaining Agreements with the Sheet Metal Workers Local Union No. 65 shall be counted as well; and
- (c) The Member has at least 46,000 hours of contributions paid into the Plan; and
- (d) The Member has at least 3,500 hours of contributions paid into the Plan during the five (5) years immediately preceding his or her retirement date; provided, however, that this requirement shall not apply to Members who are employed by the international SMART Union (the International Association of Sheet Metal, Air, Rail and Transportation Workers) immediately prior to their retirement date; and
- (e) The Member has worked for a period of not less than 24 full calendar months either—
 - (i) after September 1, 2010; or
 - (ii) under a Collective Bargaining Agreement which previously provided for the supplemental contribution rate to be paid to the Plan, which is determined by the Board of Trustees from time to time as being necessary to support the actual cost of the 55/30 Retirement Pension Benefit.

For purposes of clarification, the earliest date upon which a Member may retire under this benefit is December 1, 2003.

On or after December 1, 2003, the Member must have at least two (2) years under the Current Service rules in the Plan under a Collective Bargaining Agreement which provides for the supplemental contribution rate to be paid to the Plan.

On or after September 1, 2010, the Member must have either—

- (i) at least two (2) years under the Current Service rules in the Plan under a Collective Bargaining Agreement which provides for the supplemental contribution rate to be paid to the Plan; or
- (ii) at least two (2) years under the Current Service rules in the Plan under a Collective Bargaining Agreement on or after September 1, 2010.

3.11 55/30 Retirement Pension Benefit – Amount

The 55/30 Retirement Pension Benefit payable to a Member who retires will be equal to his or her Normal Retirement Benefit as determined under Section 3.4. Notwithstanding the foregoing, for every calendar quarter in which a Member performs at least one hour of employment in Disqualifying Employment after such effective date, the 55/30 Retirement Date of said Member shall be delayed six (6) months; provided, however, that in no event will a Member's receipt of his or her early retirement benefit be deferred beyond his or her Normal Retirement Date.

3.12 Definition of Total and Permanent Disability or Totally and Permanently Disabled

Total and Permanent Disability or Totally and Permanently Disabled means personal disablement resulting from bodily or mental injury or disease (excluding disability which (a) was contracted, suffered or incurred while the Member was engaged in or resulted from his or her having engaged in a criminal enterprise, or (b) resulted from his or her habitual drunkenness or addiction to narcotics, or (c) resulted from intentionally self-inflicted injury) which in the opinion of the Trustees results in the Member being awarded a Social Security Disability benefits by the Social Security Administration.

3.13 Total and Permanent Disability Retirement Benefit - Eligibility

Any Member who meets the following shall be eligible to receive a disability benefit:

- (a) Has become Totally and Permanently Disabled as determined in accordance with Section 3.18, and
- (b) Has accrued 10 years of Credited Service, and
- (c) Has worked at least 350 hours in Covered Employment in the 24-month period prior to the date the disability began, and
- (d) Has been awarded a Social Security Disability Award.

Anything contained in this Section 3.13 to the contrary notwithstanding, effective May 1, 1990, any Member who has performed at least one hour of Disqualifying Employment on or after May 1, 1990, shall not be entitled to receive a total and permanent disability benefit, hereunder; provided, however, that in the event a Member ceases working in Disqualifying Employment and, once again, engages in Covered Employment, such Member, in the event he or she becomes totally and permanently disabled, may be entitled to receive a disability benefit, hereunder, if such Member; earns at least 10 years of Credited Service after his or her cessation of engagement in Disqualifying Employment; and satisfies the remaining requirements of this Section 3.13 after his or her cessation of engagement in Disqualifying Employment.

In the event a Member becomes entitled to receipt of a Total and Permanent Disability Benefit after his or her cessation of engagement in Disqualifying Employment, as hereinbefore set

forth, the amount of such total permanent disability benefit shall be determined in accordance with the provisions of Section 3.14, hereunder, but shall be based solely on the future service benefit such Member accrues after his or her cessation of engagement in Disqualifying Employment.

3.14 Total and Permanent Disability Retirement Benefit – Amount

In the event of Total and Permanent Disability, a Member will be entitled to a monthly benefit commencing as of the first day of the month following such disability or the first day of the month following application for disability benefits, whichever is later, and continuing for the remainder of his or her life, or until recovery from disability, whichever first occurs. The monthly disability will be equal to the Past Service and current service benefits which the disabled Member has accrued as of the date of disability. If the Member is married after attainment of age 55, his or her Total and Permanent Disability Retirement Benefit shall be paid in accordance with Section 4.1 unless he or she makes a specific election of a different form of payment.

3.15 Definition of Industry-Related Disability

Industry-Related Disability means a personal disablement resulting from bodily or mental injury or disease (excluding disability which (a) was contracted, suffered or incurred while the Member was engaged in or resulted from his or her having engaged in a criminal enterprise, or (b) resulted from his or her habitual drunkenness or addiction to narcotics, or (c) resulted from intentionally self-inflicted injury) which in the opinion of the Trustees presumably will permanently, continuously and wholly prevent the Member from returning to employment in the Sheet Metal Industry but not prevent that Member from returning to employment in another field for which they are qualified by education, training or experience.

3.16 Industry-Related Disability Retirement Benefit – Eligibility

Any Member who meets the following on or after November 1, 2003 shall be eligible to receive an Industry Related Disability Benefit:

- (a) Has suffered an Industry-Related Disability as determined by the Trustees on the basis of objective medical evidence, and
- (b) Has been determined totally and permanently unable to return to employment in the Sheet Metal Industry, but is capable of gainful pursuit or performing employment in another field; and
- (c) Has accrued at least 10 years of Credited Service; and
- (d) Has worked at least 350 hours in Covered Employment in the 24 month period prior to the date the disability began.

3.17 Industry-Related Disability Benefit – Amount

In the event of an Industry-Related Disability, a Member will be entitled to a monthly benefit commencing as of the first day of the month following such disability or the first day of the month following application for Industry Related Benefits, whichever is later, and continuing for the remainder of his or her life, or until recovery from disability, whichever occurs first.

The monthly Industry-Related Disability Benefit will be equal to the amount of the Early Retirement Pension Benefit the Member would be entitled to if the Member were age 55 at the time his or her Industry-Related Disability Benefit begins. If the Member's benefit begins after attaining age 55, the monthly amount will be equal to the Early Retirement Benefit or other benefit for which the Member is eligible.

If a Member is receiving an Industry Related Disability Benefit and is then awarded a Social Security Disability, the Member's disability benefit will be increased to the Total and Permanent Disability Retirement benefit. This benefit is equal to the Past Service and current service benefits which the disabled Member has accrued as of the date of disability.

3.18 Determination of Total and Permanent Disability and Industry-Related Disability

The determination of whether a Member has incurred a Total and Permanent Disability or an Industry-Related Disability, or of whether a Member continues to suffer from such disability, shall be made by the Trustees (in accordance with the terms of the Plan and the provisions of the any administrative policy established by the Trustees). When an application has been made to the Trustees for Total and Permanent or Industry-Related Disability benefits, the Trustees shall approve or disapprove such applications, as appropriate. The Trustees may engage a physician or physicians to examine a Member at any reasonable time and place for the purpose of making necessary findings as to the physical or mental condition of such Member. The cost of said medical examinations shall be paid from the Fund. In addition, if the Trustees find that a Member is eligible for disability benefits, the Trustees may, at any reasonable time and place, but not more often than twice per year, require a disabled Member who has been receiving disability benefits to be examined by a physician or physicians for the purpose of determining whether such disabled Member continues to be Totally and Permanently or Industry-Related disabled. To this purpose, the Trustees may engage a physician or physicians to examine the Member, and the Fund shall pay the cost of the medical examinations. The determination of Total and Permanent Disability or Industry-Related Disability is within the sole discretion of the Board of Trustees and such determination shall not be reversed by any reviewing court absent a finding that such determination was arbitrary and capricious.

3.19 Deferred Vested Pension Benefit

If a Member terminates his or her membership for a reason other than death, disability or retirement after the Member has completed two years of Vesting Service (or five years of Vesting Service for new Employees hired on or after May 1, 2007), he or she shall be entitled to a deferred benefit commencing at his or her Normal Retirement Date equal to the monthly Past Service benefit

and monthly Current Service which he or she has accrued as of the date of his or her termination of Covered Employment.

Such Member may elect to have his or her benefit commence at any date after attainment of age 55. In such event, the benefit beginning at such earlier date shall be reduced as described in paragraph (b) of Section 3.7.

Anything contained in this Section 3.19 to the contrary notwithstanding, effective May 1, 1990, for every calendar quarter during which a Member performs at least one hour of Disqualifying Employment on or after May 1, 1990, the effective date of the commencement of such Member's deferred vested benefit shall be delayed six (6) months; provided, however, that in no event will a Member's receipt of his or her deferred vested benefit be delayed beyond his or her Normal Retirement Date.

3.20 Deferred Vested Pension Benefit – Amount of Pensioner Increases

(a) Prior to May 1, 1984

Except as otherwise provided in this Section 3.20(a), the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to May 1, 1984 shall be provided and paid in accordance with the provisions of the Plan in effect immediately prior to May 1, 1984.

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the month of April 1984 shall receive a 10% increase in his or her monthly retirement benefit effective as of May 1, 1984.

The vested pension of each pension for a Member whose Plan participation terminated prior to May 1, 1984 with a vested right to a retirement benefit and whose benefit is not yet in pay status shall be increased by 10% effective as of May 1, 1984.

(b) After May 1, 1984 but Prior to May 1, 1986

Except as otherwise stated in this Section 3.20(b), the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to May 1, 1986 shall be provided and paid in accordance with the provisions of the Plan in effect immediately prior to May 1, 1986.

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the month of April 1986 shall receive a 5% increase in his or her monthly retirement benefit effective as of May 1, 1986.

The vested pension of each person whose Plan participation terminated prior to May 1, 1986 with a vested right to a retirement benefit and whose benefit is not yet in pay status shall be increased by 5% effective as of May 1, 1986.

(c) Prior to September 1, 1988

Except as otherwise provided in this Section 3.20(c), the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to September 1, 1988 shall be provided and paid in accordance with the provisions of the Plan in effect immediately prior to September 1, 1988.

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the month of August, 1988 shall receive a four percent (4%) increase in his or her monthly retirement benefit effective September 1, 1988.

The Vested Pension Benefit of each person whose Plan participation terminated prior to September 1, 1988 with a vested right to a retirement benefit and whose benefit is not yet in pay status shall be increased by four percent (4%) effective as of September 1, 1988.

(d) After September 1, 1988 but Prior to May 1, 1990

Except as otherwise provided in this Section 3.20(d), the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to May 1, 1990 shall be provided and paid in accordance with the provisions of the Plan in effect immediately prior to May 1, 1990.

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the month of August 1988 shall receive a three and eighty-five one-hundredth percent (3.85%) increase in his or her monthly retirement benefit effective September 1, 1988.

The Vested Pension Benefit of each person whose Plan membership terminated prior to May 1, 1990 with a vested right to a retirement benefit and whose benefit is not yet in pay status shall be increased by three and eighty-five one-hundredths percent (3.85%) effective as of May 1, 1990.

(e) After May 1, 1990 but Prior to May 1, 1992

Except as otherwise provided in this Section 3.20(e), the benefits to be provided by the Plan for Members who had retired or terminated

participation in the Plan prior to May 1, 1992 shall be provided and paid in accordance with the provisions of the Plan in effect prior to May 1, 1992.

Each retired Member or Beneficiary of a Deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the month of April 1992 shall receive a three and seven-tenths percent (3.7%) increase in his or her monthly retirement benefit effective May 1, 1992.

The Vested Pension Benefit of each person whose Plan participation terminated prior to May 1, 1992 with a Vested right to a retirement benefit and whose benefit is not yet in pay status shall be increased by three and seven tenths percent (3.7%) effective as of May 1, 1992.

- (f) After May 1, 1992 but prior to May 1, 1995 – Except as otherwise provided in this Section 3.20(f) the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to May 1, 1995 shall be provided and paid in accordance with the provisions of the Plan effect prior to May 1, 1995.

Each retired Member or Beneficiary of the deceased retired Member who received or is entitled to receive a monthly retirement benefit payment for the month of May 1995 shall receive a 7.14% increase in their monthly retirement benefit effective May 1, 1995. However, the increase shall not apply to Alternate Payees under a Qualified Domestic Relations Order unless that order specifies otherwise.

- (g) After May 1, 1992 but Prior to May 1, 1998

Except as otherwise provided in this Section 3.20(g), the benefits to be provided by the Plan for Members who had retired or terminated participation in the Plan prior to May 1, 1998 shall be provided and paid in accordance with the provisions of the Plan in effect prior to May 1, 1998.

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the Month of May 1998 shall receive a three percent (3.0%) increase in this monthly retirement benefit effective May 1, 1998. However, if the amount of such 3.0% increase is less than \$5.00, the increase shall be \$5.00 per Month.

- (h) After December 1, 2001

Each retired Member or Beneficiary of a deceased retired Member who received or was entitled to receive a monthly retirement benefit payment for the Month of December 2001 shall receive a twenty-five dollar (\$25.00) increase in this monthly retirement benefit effective December 1, 2001. If

the Beneficiary's benefit is paid under the Joint and Survivor annuity, the Beneficiary will receive 50% of the monthly benefit increase.

ARTICLE IV - FORMS OF BENEFIT PAYMENT

4.1 Normal Form of Benefits

The monthly retirement benefit calculated under the provisions of Article III for retirement shall be paid as follows:

- (a) Life Annuity. A single Member, or a Member who has not been married for at least one year at the date of retirement, shall receive a monthly income commencing at retirement date and continuing for the Member's lifetime.
- (b) Spousal Pension. A Member who has been married for at least one year at the date of retirement shall receive a monthly income commencing at retirement date and continuing for the Member's lifetime as well as a survivor monthly income for the Member's Spouse's lifetime in the event the Member predeceases his or her Spouse.

It is specifically provided that the Spouse of the Member shall consent in writing to any form of payment other than that provided under this Section 4.1(b), and such consent shall acknowledge the effect of the waiver, consent to it in writing, be signed by the Spouse, and be witnessed by a representative of the Plan or a notary public.

The Plan may accept an election other than that provided hereunder without the consent of the Spouse if there is no Spouse, the Spouse cannot be located, or such other circumstances as may be described by regulations. Any Spousal consent shall only be applicable to the Spouse granting such consent.

(i) 50% Spousal Pensions

For all Members who retired prior to May 1, 2000, or Members with a Deferred Vested Pension Benefit who do not earn a Year of Credited Service after May 1, 2000, the Normal form of benefit for a married Member under this Section 4.1 is a 50% Spousal Pension. A 50% Spousal Pension is an immediate annuity for the life of the Member with a survivor annuity for the life of the Spouse which is equal to 50% of the amount of the annuity which is payable during the Joint lives of the Member and Spouse. The 50% Spousal pension shall provide a reduced monthly benefit which shall be actuarially equivalent to the Normal, Early, Special Early, 55/30, disability, or Deferred pension Benefit to which the Member is otherwise entitled. The factor used to determine the amount of monthly benefit shall be taken from a Table of Factors prepared by the Plan Actuary. The

amount of each monthly benefit shall be calculated by multiplying the appropriate factor from the Table of Factors by the Monthly amount of the Normal, Early, Special Early, 55/30, disability, or Deferred Vested Pension Benefit. The 50% Spousal Pension shall provide a monthly benefit to the Member for his or her life. Upon the Member's death, monthly benefits shall commence to the Surviving Spouse in an amount equal to fifty percent (50%) of the deceased Member's monthly benefit and shall continue for the life of the Spouse.

Effective as of May 1990, if a Member and his or her Spouse elect a 50% Spousal Pension with the Pop-up, and the Member's Spouse should die before the Member, the benefit commencing with the first of the month following the Spouse's death will revert to the Normal Form of Benefit described under Section 4.1(a). If the Member should die before the Spouse, the Spouse will receive 50% of the amount payable to this Member during his or her life for the Spouse's lifetime plus the lump sum death benefit payable under Section 5.2(d).

Effective May 1, 2008, for all individuals who meet the definition of Member contained in the first sentence of Section 1.24 who retire on or after May 1, 2008, a 50% Spousal Pension, as outlined in this section, may be elected under the Plan as a qualified optional survivor annuity. The Normal Form of benefit under the Plan for a married Member remains the 75% Spousal Pension. However, if a Member elects to receive the Qualified Optional Survivor Annuity 50% Spousal Pension both the Member and his or her Spouse must give written notice to that effect in accordance with Section 4.2.

(ii) 75% Spousal Option

For all individuals who meet the definition of Member contained in the first sentence of Section 1.24 who retire on or after May 1, 2000, the Normal Form of benefit for a Married Member under this Section 4.1(b) is a 75% Spousal Pension.

A 75% Spousal Pension is an immediate annuity for the life of the Member with a Survivor annuity for the life of the Spouse which is equal to 75% of the amount of the annuity which is payable during the Member's life.

For Members who retire or become disabled with an Annuity Starting Date prior to September 1, 2010, this benefit is equal to the actual dollar amount of the Normal Form of Benefit described under Section 4.1(b) without reduction, provided that if the Member should die

before the Spouse, the Spouse will receive 75% of the amount payable to the Member during his or her life for the Spouse's lifetime. For Members who retire or become disabled with an Annuity Starting Date on or after September 1, 2010, the 75% Spousal pension shall provide a reduced monthly benefit which shall be actuarially equivalent to the form of benefit set forth in Section 4.1(a). The factor used to determine the amount of monthly benefit shall be taken from a Table of Factors prepared by the Plan Actuary. The amount of each monthly benefit shall be calculated by multiplying the appropriate factor from the Table of Factors by the form of benefit set forth in Section 4.1(a).

Once the payments begin under the 75% Spousal Pension, they may not be revoked. In the event that the Member's Spouse predeceases the Member, the Member shall receive a monthly benefit for the remainder of his or her life which shall be equal to his or her full, unreduced retirement benefit. These adjusted payments will commence beginning with the first month following the month of the Member's Spouse's death.

4.2 Election of the Spousal Pension

No less than thirty (30) days and no more than one hundred eighty (180) days prior to the Annuity Starting Date, each Member and his or her Spouse shall be given a written notice to the effect that benefits thereafter payable will be in the form specified in Section 4.1(b) unless the Member, with the consent of his or her Spouse, elects to the contrary prior to the commencement of payments. The notice shall describe, in a manner intended to be understood by the Member and his or her Spouse, the terms and conditions of the Spousal Pension specified in Section 4.1(b) and shall include a general explanation of the following:

- (a) the terms and conditions of the Spousal Pension;
- (b) the optional forms of benefit available under the Plan;
- (c) the eligibility conditions for the Plan's optional forms of benefit;
- (d) the Member's right to waive the 75% Spousal Option;
- (e) the rights of the Member's Spouse with respect to the Member's election of an optional form of benefit;
- (f) the financial effect of electing the optional form of benefit, including the amounts and timing of payments to the Member under the form of benefit during the Member's lifetime, and the amounts and timing of payments after the Member's death;

- (g) the relative value of the optional forms of benefit available under the Plan as compared to the 75% Spousal Option;
- (h) the Member's right to revoke an election of an optional form of benefit and the effect of such revocation;
- (i) any other material features of the Plan's optional forms of benefit;
- (j) the Member's right to defer a distribution of his or her pension; and
- (k) the consequences of the Member's failure to defer receipt of a distribution of his or her pension.

A Member and Spouse may consent in writing, to the commencement of payments before the end of the 30-day period. However, distribution cannot begin sooner than the 8th day.

Unless waiver is made, Members and Spouses must wait at least 30 days following the date they are given the written explanation of the Spousal Pension before distribution may commence.

In the event a Member or his or her Spouse request additional information, as permitted under the terms of the notice, commencement of benefits for any purpose hereunder shall not begin until at least 180 days following the Member' receipt of such additional information unless the Member with the consent of his or her Spouse, specifically elects earlier commencement.

Pursuant to the provisions of this Section 4.2, each Member, with the consent of his or her Spouse, shall have the right to elect to have his or her retirement benefit paid under any of the options provided in Section 4.3 in lieu of the applicable retirement benefit otherwise set forth in Section 4.1. The amount of any optional retirement benefit shall be the Actuarial Equivalent of the amount of such retirement benefit that otherwise would have been payable to him as provided for in Section 4.1.

A Member who desires to have his or her retirement benefit paid under one of the optional forms provided shall make such an election by written request on forms provided by the Administrator. An election by a Member to receive his or her retirement benefit under any of the optional methods of payment may be revoked by such Member in writing to the Administrator at any time prior to the commencement of his or her retirement benefit payments. Any such election or revocation will be subject to the approval of the Administrator with the exception of election of the Normal Form as provided in Section 4.1(a) or in the case of rejection of the Spousal Pension as provided in Section 4.1(b). After retirement benefits have commenced, no future elections or revocations of an optional form will be permitted under any circumstances.

4.3 Optional Forms of Payment

In lieu of the form of benefit as defined in Section 4.1, a Member may elect, on or before his or her Annuity Starting Date, and in a manner consistent with the procedures described in Section 4.2 any optional form of retirement benefit other than a lump sum distribution (except to the extent

such a lump sum is permitted according to Section 12.6), the value of which is the Actuarial Equivalent to the value of the retirement benefit to which he or she would otherwise be entitled, except anything contained in this Section 4.3 to the contrary.

Effective as of May 1, 1990, if a Member has a Spouse to whom he or she has been married at least one year at the time of his or her Annuity Starting Date, in addition to the optional forms described above, he or she may elect monthly income commencing at his or her Early or Normal Retirement Date and payable during the joint lifetimes of the Member and his or her Spouse, which such monthly income shall be the Actuarial Equivalent of the Normal Form of Benefit described under Section 4.1(a). However, if the Member's Spouse should die before the Member, the benefit commencing with the first of the month following the Spouse's death will revert to the Normal Form of Benefit described under Section 4.1(a). If the Member should die before the Spouse, the Spouse will receive 50% of the amount payable to the Member during his or her life for the Spouse's lifetime plus the lump sum death benefit payable under Section 5.2(b).

Any individual who meets the definition of Member contained in the first sentence of Section 1.24 who has either retired on or after May 1, 2000, may elect on or before his or her Annuity Starting Date, in a manner consistent with the procedures described in Section 4.3, any of the following optional forms of retirement benefit:

- (a) for Members who retire with an Annuity Starting Date prior to September 1, 2010, a benefit which is equal to the actual dollar amount of the Normal Form of Benefit described under Section 4.1(a) without reduction, provided that if the Member should die before the Spouse, the Spouse will receive 75% of the amount payable to the Member during his or her life for the Spouse's lifetime.
- (b) for Members who retire with an Annuity Starting Date on or after September 1, 2010, a benefit which is reduced from the actual dollar amount of the Normal Form of Benefit described under Section 4.1(a), provided that if the Member should die before the Spouse, the Spouse will receive an amount equal to 75% of the reduced amount payable to the Member during his or her life for the Spouse's lifetime. The amount of the reduction shall be an amount necessary to reduce the benefit so that it is actuarially equivalent to the form of benefit set forth in Section 4.1(a). The factor used to determine the amount of monthly benefit shall be taken from a Table of Factors prepared by the Plan Actuary. The amount of each monthly benefit shall be calculated by multiplying the appropriate factor from the Table of Factors by the form of benefit set forth in Section 4.1(a).
- (c) a benefit which is reduced from the actual dollar amount of the Normal Form of Benefit described under Section 4.1(a), provided that if the Member should die before the Spouse, the Spouse will receive an amount equal to 100% of the reduced amount payable to the Member during his or her life for the Spouse's lifetime. The amount of the reduction shall be an amount necessary to reduce the benefit so that it is actuarially equivalent to the form

of benefit set forth in Section 4.1(a). The factor used to determine the amount of monthly benefit shall be taken from a Table of Factors prepared by the Plan Actuary. The amount of each monthly benefit shall be calculated by multiplying the appropriate factor from the Table of Factors by the form of benefit set forth in Section 4.1(a).

4.4 100% Spousal Pension Option

Any individual who meets the definition of Member contained in the first sentence of Section 1.24 who has either retired on or after May 1, 2000, may elect on or before his or her Annuity Starting Date with his or her Spouse's written consent under Section 4.2; to receive his or her benefit in the form of a 100% Spousal Pension Option as an optional form of payment.

The 100% Spousal Pension shall provide a reduced monthly benefit which shall be actuarially equivalent to the Normal, Early, Special Early, Total and Permanent Disability or Deferred Vested Pension to which the Member is otherwise entitled.

Once the payments begin under the 100% Spousal Pension, they may not be revoked. In the event that the Member's Spouse predeceases the Member, the Member shall receive a monthly benefit for the remainder of his or her life which shall be equal to his or her full, unreduced retirement benefit. These adjusted payments will commence beginning with the first month following the month of the Member's Spouse's death.

4.5 Social Security Level Income Option

- (a) A Member retiring on an Early Retirement Pension, Special Early Retirement Pension or 55/30 Retirement Pension may elect to have his or her Pension increased until the age at which he or she reaches Full Retirement Age as specified under applicable Social Security Administration rules and regulations in effect as of the time the Member retires from the Plan and reduced thereafter to approximate a Pension before receipt of Social Security benefits and as nearly equal as possible to his or her combined Pension and Social Security retirement income after that age. The amount of the adjustment shall be calculated on the basis of actuarial equivalence as established by the Trustees. If the Member's Full Retirement Age as specified under applicable Social Security Administration rules includes months of age after an annual age (i.e., age 66 and 6 months), factors used to calculate the Social Security Level Income Option will be based on the closest birthdate (i.e., for someone with a Full Retirement Age for Social Security of 66 years and 6 months, the Plan will calculate the Level Income Option assuming an age of 66 years).
- (b) Election of the Social Security Level Income Option must be made in writing on a form prescribed by the Trustees and filed with the Trustees in advance of the first month for which benefits are payable. The Member is required to provide the Fund office with the amount of Social Security benefit to which

such Member will become entitled. Once elected, the Social Security Level Income Option may not be revoked. However, in the event the Member dies before this election becomes effective, the provisions of Section 4.1 shall be applicable.

- (c) A Member receiving his or her benefit in the form of a Spousal Pension may also elect the Social Security Level Income Option. Should the Member die before his or her Qualified Spouse, the Spouse will receive a lifetime monthly benefit equal to a percentage of the amount of the Member's pension as adjusted for the Spousal Pension as determined under Section 3.6 to 3.10 (whichever is applicable) and based on the Member's age at the time he or she retired. In addition, if the aggregate contributions made to the Fund on behalf of the Member exceed the greater of (1) the aggregate of pension payments the Member would have received if his or her pension had been paid as a normal form of benefit (single-life annuity), or (2) the aggregate of pension payments made to the Member under the Social Security Level Income Option, then his or her surviving Spouse shall receive a lump sum payment at the time of the Member's death equal to the difference between the aggregate contributions made to the Fund on behalf of the Member and the greater of (1) or (2), above.
- (d) If a Member receiving benefits under this option returns to work in Covered Employment, he or she cannot again elect the Social Security Level Income Option upon leaving Covered Employment. Such Member's future pension benefits will be actuarially adjusted to take into account the amount previously overpaid under the Social Security level Income Option.

ARTICLE V - DEATH BENEFITS

5.1 Death Before Retirement

In the event of the death of a Member on or after August 23, 1984, and subsequent to the time any contributions on his or her behalf have commenced but prior to his or her retirement or other termination of membership, death benefits shall be as follows:

- (a) In the event of the death of a Member who is not married at the time of his or her death or who was not married during the entire 12 month period ending on the date of his or her death, the Member's Beneficiary shall be entitled to a cash distribution of the aggregate contributions made to the Fund on behalf of the Member; provided, however, if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Beneficiary shall be entitled, in lieu of a cash distribution, to a life annuity with monthly payment amounts equal to the Actuarial Equivalent of the aggregate contributions made on behalf of the

Member until the Plan emerges from critical status. After the Plan emerges from critical status, the Beneficiary may request that he or she be paid a lump sum equal to the aggregate contributions made to the Fund on behalf of the Member less any and all payments made in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.

- (b) In the event of the death of a Member who was married through the 12-month period ending on the date of his or her death and whose death occurs on or after the date he or she has accrued two years of Credited Service (or 5 years of Credited Service if participation in the Plan began on or after May 1, 2007) but prior to the date he or she meets the requirements for early retirement specified in Section 3.6, the Member's Spouse shall be entitled to elect a Qualified Pre-Retirement Survivor Annuity ("QPSA").
 - (i) For these purposes, a QPSA is a monthly pension payable during the Spouse's lifetime beginning as of the first day of the month following the date the Member would have been eligible for early retirement under Section 3.6, and equal to the amount the Spouse would have been entitled to receive if the Member had retired on the day preceding his or her death and elected immediate commencement of payment in the form of a qualified joint and survivor annuity, or
 - (ii) A lump sum payment actuarially equivalent to the present value of the benefit set forth above in subsection (i) of this Section 5.1(b); provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Spouse shall not be entitled to make an election under this Section 5.1(b)(ii) until the Plan emerges from critical status, at which time the Spouse may elect to receive be entitled to a lump sum actuarially equivalent to the present value of the benefit set forth above in subsection (i) less any and all payments made pursuant to that provision in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period, and
 - (iii) A cash distribution equal to the aggregate of contributions made to the Fund on behalf of the Member; provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Spouse shall only be entitled to a benefit in the form of a life annuity with a monthly amount equal to the Actuarial Equivalent of the total contributions made on behalf of the Member until the Plan emerges from critical status. After the Plan emerges

from critical status, the Spouse may request that he or she be paid a lump sum equal to the aggregate contributions made to the Fund on behalf of the Member less any and all payments made pursuant to this provision in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.

- (c) In the event of the death of a Member who was married throughout the 12 month period ending on the date of his or her death and whose death occurs on or after the date when he or she has met the requirements for early retirement specified in Section 3.6, one of the following benefits shall be paid:
 - (i) The Member's Spouse will receive a pension commencing with the first day of the month coincident with or otherwise next following the Member's death and continuing during his or her remaining lifetime in an amount which is equal to the greater of:
 - (4) the amount of monthly lifetime income that can be provided to the Spouse from the aggregate contributions made to the Fund on behalf of the Member; or
 - (5) an amount of monthly pension payable during the Spouse's lifetime equal to the amount the Spouse would have been entitled to receive if the Member had retired on the day preceding his or her death and had elected immediate commencement of payments in the form of a qualified joint and survivor annuity.

Provided that the Plan has not sent notice of certification of the Plan as in critical status prior to the death of the Member and in lieu of the monthly income described above, the Spouse shall have the option of electing a cash distribution equal to the aggregate contributions made to the Fund on behalf of the Member and, in addition thereto shall receive a monthly pension equal to the amount by which the monthly pension determined under (2) above exceeds the monthly pension determined under (1) above, if any. Provided, however, that if the monthly benefit due the Spouse is less than \$20 a month, the Spouse is further permitted to elect to take a cash settlement of his or her entire benefit entitlement. Moreover, if the benefit set forth in this paragraph was not available because the Plan was in critical status operating under an Adoption and/or Rehabilitation Plan period, after the Plan emerges from critical status, the Spouse may elect a cash distribution of the benefit set forth in this paragraph less any and all payments made pursuant to section (1) or (2) above while the Plan was operating during an Adoption and/or Rehabilitation Period.

- (ii) If someone other than the surviving Spouse has been named as the designated Beneficiary for the refund of contributions upon the death of the Member (with the consent of such Spouse), such designated Beneficiary shall receive a cash payment equal to the aggregate contributions made to the Fund on behalf of the Member and the surviving Spouse shall receive a monthly life income equal to the amount, if any, by which the monthly amount determined under (i)(2) above exceeds the amount determined under (i)(1) above. The surviving Spouse shall have the same cash settlement option with respect to his or her entitlement to monthly income as described in (i) above. Notwithstanding the above, no Beneficiary or Spouse shall be entitled to a lump sum distribution if, prior to the Member's death—
 - (1) the Plan has been certified in critical status,
 - (2) the Plan is operating during an Adoption and/or Rehabilitation Period, and
 - (3) the Plan has sent notice of such certification.

In such circumstances, the Beneficiary or Spouse shall be entitled to a life annuity with a monthly amount equal to the Actuarial Equivalent of the cash settlement option set forth above until the Plan emerges from critical status, at which time the Beneficiary or Spouse may elect to receive a lump sum distribution set forth above minus any and all payments previously received pursuant to this sentence.

- (d) Anything contained in this Section 5.1 to the contrary notwithstanding, effective May 1, 1990, if a Member should perform at least one hour of Disqualifying Employment on or after May 1, 1990, such Member's Beneficiary or Spouse, as appropriate, shall lose any entitlement to receive a cash distribution of the aggregate contributions made to the Fund on behalf of such Member, or that portion of the death benefit attributable to such aggregate contributions; provided however, that in the event such Member ceases working in Disqualifying Employment, and where such Member, once again, subsequently engages in Covered Employment, such Member's Spouse or Beneficiary, as appropriate, in the event of such Member's death prior to retirement, shall be entitled to receive a cash distribution (as provided under Subsection 5.1(a) or 5.1(b)(ii), as appropriate) of the aggregate contributions made to the Fund on behalf of such Member with respect to Covered Employment such Member engaged in after the cessation of his or her Disqualifying Employment, or that portion of the death benefit attributable to such aggregate contributions.

5.2 Death After Retirement

Upon the death of a Member after retirement on or after August 23, 1984, death benefits shall be paid as follows:

- (a) If a nonmarried Member's pension was being paid as a Normal Form benefit (single life annuity), his or her designated Beneficiary shall receive a cash distribution equal to the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate pension payments made to the Member prior to his or her death; provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Beneficiary shall be entitled, in lieu of a cash distribution, to a life annuity with monthly payment amounts equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate pension payments made to the Member prior to his or her death. After the Plan emerges from critical status, the Beneficiary may request that he or she be paid a lump sum equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate pension payments made to the Member prior to his or her death minus any and all payments made in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.
- (b) If a married Member had retired under the Spousal Pension, his or her surviving Spouse, if any, shall receive a monthly lifetime income after the Member's death equal to 50%, 75%, or 100% of the amount the Member was receiving prior to his or her death depending upon the optional form of benefit selected at retirement. In addition, if the aggregate contributions made to the Fund on behalf of the Member exceed the aggregate of pension payments the Member would have received if his or her pension had been paid as a normal form of benefit (single-life annuity), his or her surviving Spouse shall receive a lump sum payment at the time of his or her death equal to the difference between such two amounts; provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Spouse shall be entitled, in lieu of a lump sum payment, to a life annuity with monthly payment amounts equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate pension payments the Member would have received if his or her pension had been paid as a Normal Form Benefit (single-life annuity). After the Plan emerges from critical status, the Beneficiary may request that he or she be paid a lump sum equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member

over the aggregate pension payments the Member would have received if his or her pension had been paid as a Normal Form Benefit (single-life annuity), minus any and all payments made in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.

- (c) Anything contained in this Section 5.2 to the contrary notwithstanding, effective May 1, 1990, if a Member performs at least one hour of Disqualifying Employment on or after May 1, 1990, the following provisions shall apply:
 - (i) With respect to a nonmarried Member described in Subsection (a) of this Section 5.2, such nonmarried Member's Beneficiary shall not be entitled to receive the cash distribution of certain excess aggregate contributions, as described in such Subsection 5.2(a); and
 - (ii) With respect to a married Member described in Subsection (b) of this Section 5.2, such married Member's surviving Spouse shall not be entitled to receive the lump sum distribution of certain excess aggregate contributions, as described in such Subsection 5.2(b); provided, however, that the foregoing sanction shall have no effect upon such surviving Spouse's entitlement to receipt of the survivorship portion of the Spousal Pension described in Subsection 5.2(b).
 - (iii) Anything contained in this Subsection 5.2(c) to the contrary notwithstanding, if a Member ceases working in Disqualifying Employment and, once again, engages in Covered Employment, such Member's Beneficiary or Spouse, as appropriate, in the event of such Member's death after retirement, shall be entitled to receive a cash distribution of certain excess aggregate contributions, as described in Subsections 5.2(a) and 5.2(b), to the extent said excess aggregate contributions are attributable to such Member's engagement in Covered Employment after his or her cessation of Disqualifying Employment.
- (d) In the event of the death of a married disabled Member who had retired under the Spousal Pension, his or her surviving Spouse, to whom such Member has been married at least one year prior to the date of death, shall receive and immediate monthly lifetime income equal to the amount the Spouse would have been entitled to receive assuming the Member had retired on the day preceding death and had been eligible for early retirement. In addition, if the aggregate contributions made to the Fund on behalf of the Member exceed the aggregate of disability payments the Member would have received if his or her disability pension had been paid as a Normal Form Benefit (single-life annuity), his or her surviving Spouse shall receive a lump sum payment at the

time of his or her death equal to the difference between such two amounts; provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Spouse shall be entitled, in lieu of a lump sum payment, to a life annuity payable monthly equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate disability payments the Member would have received if his or her disability pension had been paid as a Normal Form Benefit (single-life annuity). After the Plan emerges from critical status, the Spouse may request that he or she be paid a lump sum equal to the Actuarial Equivalent of the excess of the aggregate contributions made to the Fund on behalf of the Member over the aggregate disability payments the Member would have received if his or her disability pension had been paid as a Normal Form Benefit (single-life annuity), minus any and all payments made in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.

5.3 Death After Termination

- (a) In the event of the death of a vested Member who was not married for at least one year as of the date of death, and prior to the date when his or her Deferred Vested Pension benefit actually commences, the Member's Beneficiary will be entitled to receive a cash distribution of the aggregate contributions made to the Fund on behalf of the Member; provided, however, that if notice that the Plan has been certified to be in critical status is sent prior to the Member's death and the Plan is operating during an Adoption and/or Rehabilitation Period at the time of the death of the Member, the Member's Beneficiary shall be entitled, in lieu of a cash distribution, to a life annuity equal to the Actuarial Equivalent of the aggregate contributions made on behalf of the Member. After the Plan emerges from critical status, the Beneficiary may request that he or she be paid a lump sum equal to the aggregate contributions made to the Fund on behalf of the Member minus any and all payments made in the form of single life annuity made while the Plan was operating during an Adoption and/or Rehabilitation Period.
- (b) In the event of the death of a vested Member who:
 - (i) terminated after May 1, 1976;
 - (ii) was married for at least one (1) year as of the date of death, and
 - (iii) died prior to the date his or her deferred benefit actually commenced,

the Member's Spouse shall be entitled to receive the benefit described in Section 5.1(b).

ARTICLE VI - SUSPENSION OF BENEFITS

6.1 Reemployment After Retirement

Anything contained in the Plan to the contrary notwithstanding, the following provisions regarding the suspension of benefits, hereunder, apply as hereinafter set forth.

(a) Prior to Normal Retirement Age

The Early Retirement Pension Benefit of a retired Member prior to his or her attainment of Normal Retirement Age, without regard to the manner in which such benefit is being paid, shall be suspended if such retired Member:

- (i) Performs any work in the Sheet Metal Industry anywhere in the United States; except if the Member is between the ages of 62 and 65, benefits shall not be suspended for any month in which the Member works in Covered Employment after retirement for 40 hours or less (provided, however, that such Member shall receive no credit for contributions made to the Plan pursuant to a Collective Bargaining Agreement for such work in Covered Employment after age 62); or
- (ii) Supervises the performance of work in the Sheet Metal Industry anywhere in the United States; except if the Member is between the ages of 62 and 65, benefits shall not be suspended for any month in which the Member works in or supervises Covered Employment after retirement for 40 hours or less (provided, however, that such Member shall receive no credit for contributions made to the Plan pursuant to a Collective Bargaining Agreement for such work in Covered Employment after age 62).

The benefit of a retired Member shall not be suspended if such Member performs up to 40 hours of work in a month for the Sheet Metal, Air, Rail and Transportation Workers International Union, work on assignment for the Sheet Metal, Air, Rail and Transportation Workers International Union or for a joint apprenticeship Training Committee that is affiliated with the Union.

Any suspension of a retired Member's benefits made in accordance with the provisions of this Section 6.1(a) shall occur as of the first day of the month such work or supervision occurs and shall continue for each month in which such retired Member performs or supervises such Sheet Metal Industry work.

When a retired Member whose benefits have been suspended pursuant to the terms of this Subsection 6.1(a) subsequently becomes eligible, once again, to receive the Retirement Pension benefit he or she was receiving prior to the suspension of benefits, hereunder (i.e., because he or she has not completed any work in the Sheet Metal Industry anywhere in the United States during

the month), such retired Member shall recommence receipt of his or her benefits, as set forth in Section 6.2.

If a retired Member dies while his or her benefits are being suspended, pursuant to the terms of this Subsection 6.1(a), any benefits payable thereafter shall be governed by the form of payment which was in effect immediately prior to the suspension of such retired Member's benefit, hereunder.

The suspension of benefit provisions set forth in this Subsection 6.1(a) shall not apply after a retired Member attains his or her Normal Retirement Age.

(b) After Normal Retirement Age

If a Member continues to perform any work in the Sheet Metal Industry (including the supervision of sheet metal work) within the State of Ohio, or within any Standard Metropolitan Statistical Area which fall, in part, within the State of Ohio, after such Member's attainment of his or her Normal Retirement Age, Plan benefits shall not be payable during any month in which such Member performs at least forty (40) hours of such work. If a Member performs less than forty (40) hours of Sheet Metal Industry work, during a month, such Member shall be entitled to the receipt of a Retirement Pension Benefit during such month, subject to the provisions of Subsection (c), hereunder.

The Retirement Pension Benefit for a Member (whether active or retired), and without regard to the manner in which such benefit is being paid (if applicable), shall be suspended as of the first day of any month in which such Member:

- (i) performs at least forty (40) hours of work in the Sheet Metal Industry within the State of Ohio, or within any Standard Metropolitan Statistical Area which falls, in part, within the State of Ohio; or
- (ii) performs at least forty (40) hours of work in the Sheet Metal Industry, where said work is the supervision of the performance of work in the Sheet Metal Industry, within the State of Ohio, or within any Standard Metropolitan Statistical Area which falls, in part, within the State of Ohio.

Plan benefits shall commence or recommence, as provided in Section 6.2 when such Member becomes eligible to commence or recommence receipt of retirement benefits from the Plan (i.e., because such Member performs less than forty (40) hours of work during a month).

If a retired Member dies while his or her benefits are being suspended, pursuant to the terms of this section 6.1(b), any benefits payable thereafter shall be governed by the form of payment which was in effect immediately prior to the suspension of such retired Member's benefit. If an active Member dies while his or her benefits are being suspended any benefits payable thereafter shall be governed by the provisions of the Plan dealing with the payment of benefits to a Spouse Beneficiary where such Member dies after attainment of his or her Normal Retirement Age, but prior to retirement.

(c) Work in Covered Employment after Age 62

Notwithstanding anything else contained in this Section, the benefits of a retired Member age 62 or older shall not be suspended for any month in which the Member works in Covered Employment for 40 hours or less.

(d) Transitioning Business Ownership

Members who were previous owners of a company transitioning ownership may remain temporarily employed by that company as a consultant during transition under this subsection as they transition to retirement. Such Members shall remain eligible for their applicable pension during their employment as a consultant during the transition in ownership without the application of the above-reference suspension rules. Such employment as a consultant will result in suspension of benefits as set forth above if the Member is supervising jobs or attending job sites; however, such Members are permitted to have business relationships to aid in the transition to new ownership of the company.

6.2 Resumption of Benefits

(a) Prior to Normal Retirement Age

If a Member's Retirement Pension Benefit is no longer suspendable pursuant to the provisions of Subsection 6.1(a), payment of such Retirement Pension Benefit shall recommence as of the earliest to occur of the following:

- (i) the first day of the seventh month following the month in which benefits are no longer suspendable pursuant to the provisions of Subsection 6.1(a), hereunder; or
- (ii) such retired Member's Normal Retirement Date;

provided, however, that an appropriate application for benefits is filed with the Board of Trustees, in such manner and on such form as is approved by the Board of Trustees.

In connection with the resumption of benefits, the Board of Trustees may require that the retired Member:

- (1) furnish such information as the Board deems necessary to verify such retired Member's work;
- (2) provide a certification that the retired Member is not working; and/or
- (3) provide such factual information as is sufficient to establish that such retired Member is not engaging in the type of work which would result in a suspension of benefits, pursuant to the provisions of Section 6.1.

Upon the Board's receipt of such forms and information as the Board may require, the retired Member shall be entitled to a recommencement of benefit payments.

The initial benefit payment shall include a payment for the month in which such benefit payment resumes, plus any amounts attributable to months prior thereto during which benefits were no longer suspendable, but was not paid; provided, however, that if benefits were paid for a month during which such benefits should have been suspended pursuant to the provisions of section 6.1(a), hereunder, but were not so suspended, the amount of such overpayment shall be offset as provided in Section 6.6.

Upon the resumption of the payment of an early retirement benefit, hereunder, such early retirement benefit shall be the Actuarial Equivalent of the early retirement benefit which was suspended, determined by calculating the Accrued Benefit as of the date benefits are to recommence, hereunder, and reducing that amount by any reductions required by any other provisions of the Plan and the Actuarial Equivalent of any prior payments made prior to the period, or between periods, of suspension.

(b) After Normal Retirement Age

If a Member's Retirement Pension Benefit is no longer suspendable pursuant to the provisions of Section 6.1(b), payment of such Retirement Pension Benefit shall commence or recommence as of the first day of the third month following the month in which such Retirement Pension Benefit is no longer suspendable provided, however, that an appropriate application for benefits is filed with the Board of Trustees, in such manner and on such form as is approved by the Board of Trustees.

In connection with the commencement or resumption of benefits, the Board of Trustees may require that the retired Member:

- (i) furnish such information as the Board deems necessary to verify such retired Member's work;
- (ii) provide a certification that the retired Member is not working; and/or
- (iii) provide such factual information as is sufficient to establish that such retired Member is not engaging in the type of work which would result in a suspension of benefits, pursuant to the provisions of Section 6.1.

Upon the Board's receipt of such forms and information as the Board may require, the retired Member shall be entitled to a commencement or resumption of benefit payments.

The initial benefit payment shall include a payment for the month in which payment of such Retirement Benefit resumes or commences, plus any amounts attributable to months prior thereto during which benefits were no longer suspendable, but were not paid; provided, however, that if benefits were paid for a month during which such benefits should have been suspended pursuant to the provisions of this Section 6.1(b), but were not so suspended, the amount of such overpayment shall be offset as provided in Section 6.6.

If the future service accrual rate is increased during a period benefits are, or should have been suspended, the increase shall apply only to service earned since such suspension, unless the Board of Trustees provides otherwise.

6.3 Disqualifying Employment Prior to Normal Retirement Age

Effective May 1, 1990, if a retired Member, who is receiving a monthly Early Retirement Pension Benefit prior to Normal Retirement Age from the Plan, performs at least one hour of employment in Disqualifying Employment on or after May 1, 1990, such retired Member's monthly Retirement Pension Benefit payments shall be suspended for six (6) consecutive months for every calendar quarter in which such retired Member engages in Disqualifying Employment. Provided, however, that the suspension of such retired Member's monthly Retirement Pension Benefit from the Plan, for purposes of this Section 6.3 only, shall not continue beyond such retired Member's attainment of his or her Normal Retirement Age.

6.4 Presumptions

A retired Member shall notify the Board of Trustees within fifteen (15) days of first completing any work which would cause a suspension of benefits pursuant to the provisions of Section 6.1 or 6.3. If a retired Member does not notify the Board of Trustees, as set forth herein, and

if the Board of Trustees becomes aware that such retired Member is working in employment which would cause such retired Member's benefits to be suspended under the terms of Section 6.1 or 6.3, such retired Members' benefits shall be suspended. In addition, if the Board of Trustees becomes aware that a retired Member has been performing the type of work which would result in a suspension of and the retired Member has not notified the Board of Trustees, as required by this Section 6.4, the Board of Trustees shall act upon the basis of a rebuttable presumption (unless it is unreasonable, under the circumstances, to do so) that such person has been performing such work at the job site as long as his or her Employer has been performing work at such job site. The Member shall then be subject to the suspension of benefits pursuant to the provisions of Section 6.1 and offset provisions of Section 6.6.

Such presumption shall be made, only if:

- (a) the employment verification requirements and the nature and effect of such presumptions are described in the Plan's Summary Plan Description and in any communication to the Member which relates to such verification requirements (such as employment reporting reminders of forms); and
- (b) retired Members receive the information described in subsection (a) above either through receipt of the above described information or by special distribution and at least once in each Plan Year.

6.5 Advance Status Determination

A retired Member may request a determination from the Board of Trustees regarding the type of work which shall constitute work resulting in a suspension of benefits pursuant to the provisions of this Section 6.5. The Board of Trustees shall respond to such request, in writing, within thirty (30) after receipt of such request by the Board of Trustees.

6.6 Offset Rules

Upon resumption of payments under Section 6.2, the Plan shall deduct an amount equal to all of the monthly payments, if any, previously made in those calendar Months during which the Member was employed in Disqualifying Employment under Section 6.1. The total amount of the overpayment will be offset from the monthly payments as follows:

- (a) the first monthly payment shall be subject to offset without limitation; and
- (b) all monthly payments thereafter will be reduced or offset by up to 25% of that month's total benefit payment which would have been due but for the offset until the full amount of the offset is deducted.

6.7 Appeals

A Member whose Retirement Benefit has been suspended under this Article VI shall be given the opportunity to appeal such suspension. Requests for such review shall be considered in accordance with the claims review procedure set out in Section 7.4.

ARTICLE VII - BENEFIT APPLICATION, PAYMENTS AND RETIREMENT

7.1 Application for Benefits

It shall be the responsibility of each Member, Beneficiary or other person claiming benefits through or on behalf of such Member (any such person being hereinafter referred to as a "Claimant"), to make written application to the Trustees, on such forms and in such manner as the Trustees shall prescribe, for any and all benefits to which such Claimant may become entitled under the Plan. Unless and until a Claimant makes proper application in accordance with the rules and procedures established by the Trustees he or she shall have no right to receive benefit payments under the Plan.

Any misrepresentation or error by the Claimant or Trustees which results in benefit payments to which the Claimant is not entitled (in whole or in part) will constitute grounds for the recovery of such benefit payments made in reliance thereon.

If a Claimant has failed to comply with these requirements at the time his or her benefit payments would normally commence, his or her benefit payments will commence on the first day of the month after he or she does so comply at a later date. Such Claimant shall also be entitled to receive the retroactive payments from date of retirement to date of commencement.

7.2 Election of Retirement Benefits

All necessary questions concerning the Claimant's election of any particular benefit under the Plan shall be included with the application form. A written explanation shall be sent to the applicant along with the application forms explaining the terms and conditions and effect of electing a Life Annuity and the Spousal Options.

7.3 Notification of Non-Approval of Application

Whenever the Trustees make a determination that a claim for benefits by a Claimant is not valid and must be denied, the Trustees shall provide adequate notice in writing to the Claimant whose claim for benefits under the Plan has been denied, setting forth in a manner calculated to be understood by the Claimant:

- (a) the specific reason for the denial;
- (b) specific reference to the pertinent Plan provisions on which the denial 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) an explanation of the Plan's claim review procedure; and
- (e) a statement of Claimant's right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination.

7.4 Claim Appeal Procedures for Non-Disability Claims

(a) Non-Disability Benefit Claims

Within ninety (90) days after receipt of a claimant's application and all necessary documents, the Administrative Manager will notify the claimant in writing whether the claimant's application has been approved or disapproved. In the event further time is required for a decision, the claimant will be notified with an explanation of why more time is necessary and, in that case, a decision will be made on the application within one hundred eighty (180) days after receipt of the completed application.

In the event an application is approved, the claimant will be informed of the approval and the amount and duration of the benefits granted together with all restrictions, conditions and limitations upon the claimant's receipt of benefits, if any.

In the event of denial, a claimant's notice will state specifically the reasons for rejecting the claimant's application and will indicate those specific portions of the Plan and/or rules and regulations upon which the decision is based. Further, any denial or restricted acceptance will be accompanied by an explanation of the claimant's rights to and procedure for appealing the decision to the Board of Trustees. Any non-approval shall be accompanied by a statement regarding the claimant's right to bring a civil action under ERISA §502(a) following an adverse benefit determination on appeal. The decision shall be final and binding upon the claimant unless that decision is appealed as set forth in the Plan. In the event the claimant's claim for benefits was not approved because the Administrative Manager was unable to make the decision as opposed to being denied, the claimant's appeal will be automatically forwarded to the Board of Trustees.

(b) Appealing Non-Disability Benefit Claims

A claimant may appeal a decision of the Board of Trustees by written notice received by the Board of Trustees within sixty (60) days of receipt of the notice of initial adverse decision. The written notice only needs to state the

claimant's name, address, and the fact that claimant is appealing from the decision of the Board of Trustees, giving the date of the decision from which the claimant is appealing.

The Trustees shall consider the appeal no later than its next regular quarterly meeting which immediately follows the receipt of the notice of appeal, unless such notice was filed within thirty (30) days prior to the next regular quarterly meeting, then the Board of Trustees may consider the appeal at the second regular quarterly meeting following the receipt of the notice of appeal. If special circumstances require an extension of time for processing, then the Board of Trustees may consider the appeal no later than the third meeting following the receipt of the notice of appeal.

After consideration of the appeal as above, the Board of Trustees shall advise the claimant of its decision in writing within five (5) days following the meeting at which the appeal was considered. The decision of the Board of Trustees shall state the specific reason or reasons for the determination and refer to the specific Plan provisions on which the benefit determination is based. Any non-approval shall be accompanied by: (i) 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 claim for benefits; (ii) a statement apprising the claimant that "You or your Plan may have other voluntary dispute resolution option, 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;" and (iii) a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA. No legal action regarding or relating to a claim for benefits under the Plan may be commenced or filed against the Board of Trustees or the Plan more than two (2) years after the mailing of a final decision of the Board of Trustees on appeal of a denial of a claim for benefits under the Plan. The Trustees shall have full discretionary authority to interpret the provisions of this Plan and determine eligibility for benefits; and it is within the sole and absolute discretion of the Trustees to determine if a claimant is entitled to receive a benefit and the amount of the benefit. Judicial review of the Trustees' interpretations and determinations on eligibility for benefits shall be limited to the extent that the Trustees' determinations shall not be overturned unless they are arbitrary and capricious. The decision shall be final and binding upon Members and Beneficiaries.

7.5 Claim Appeal Procedures for Disability Claims

(a) Disability Benefit Claims

In the event a claimant's claim for benefits due to Total and Permanent Disability or Industry Related Disability (hereinafter collective referred to as

“Disability”) is denied, the claimant will be notified in writing by the Administrative Manager the reasons why the claim was denied. Notification of an adverse decision shall occur within forty-five (45) days of the receipt of a claimant’s approved claim form by the Administrative Manager. If the Administrative Manager determines that more time is needed to process the claim due to matters beyond his/her control, the Administrative Manager will notify the claimant of a thirty (30) day extension. If a second extension is necessary due to matters beyond his/her control, the Administrative Manager will notify the claimant of a final thirty (30) day extension. No further extensions shall occur. Any notice of an extension shall include the standards on which an entitlement to benefits due to Disability is based, the unresolved issues preventing a decision and any additional information that is needed to resolve the claim.

All claims and appeals for Disability benefits will be 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 a claims adjudicator or medical or vocational expert) will not be made based on the likelihood that the individual will support a denial of benefits.

In the event of non-approval in whole or in part of a Disability claim, written notice to the claimant shall provide all of the following information:

- (1) the specific reasons for rejecting the application; and
- (2) the specific provisions of the Plan or rules and regulations on which the determination is based; and
- (3) a description of any additional material or information necessary for the claimant to perfect his/her claim and an explanation of why such material or information is necessary; and
- (4) an explanation of the Appeals Procedure; and
- (5) a statement regarding the claimant’s right to bring a civil action under ERISA §502(a) following an adverse benefit determination on appeal; and
- (6) the specific internal rules, guidelines, protocols, standards or other similar criteria of the Plan relied upon in making the decision or, alternatively a statement that such rules, guidelines, protocols, standards or similar criteria of the Plan do not exist; and

- (7) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records or other information relevant to his/her claim for benefits

In addition, in the event the determination disagrees with the views of (1) a health care professional treating the claimant; (2) vocational professionals who have evaluated the claimant; (3) a medical or vocational expert whose advice was obtained on behalf of the Plan in connection with the claim; or (4) a disability determination regarding the claimant made by the Social Security Administration; then the decision to deny shall set forth an explanation of the basis for disagreeing with those views or opinions. If the decision to deny was based on a medical necessity, experimental treatment or similar exclusion or limit, the decision will set forth either (1) an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or (2) a statement that such explanation will be provided free of charge upon request.

The decision shall be final and binding upon the claimant unless that decision is appealed as hereinafter set forth below.

(b) **Appealing Disability Benefit Claims**

In the event a claim for benefits due to Disability is denied, the claimant may, by written notice received by the Administrative Manager within one hundred and eighty (180) days of the claimant's receipt of the notice denying his/her claim for Benefits due to Disability, appeal the decision. The written notice should state the claimant's name, address and the reasons why the claimant is appealing from the decision of the Administrative Manager, giving the date of the decision from which the claimant is appealing.

The review of an appeal will not afford deference to the initial adverse benefit determination and will be conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is subject of the appeal nor a subordinate of such individual. If the appeal of a decision is based in whole or in part on medical judgment, the appropriate named fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment. Such health care professional shall be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of any such individual. The reviewer will also identify medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the initial adverse benefit determination, without regard to whether the advice was relied upon by the initial determination.

Prior to making a decision to deny an appeal, the claimant will be provided, free of charge, with any additional evidence considered, relied upon, or generated by the Plan or other person making the benefit determination in connection with the claim. Such evidence will be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is provided so as to give the claimant a reasonable opportunity to respond prior to that date. If the determination is based on new or additional rationale, the Plan Administrator shall provide the claimant, free of charge, with the rationale as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is provided so as to give the claimant a reasonable opportunity to respond prior to that date.

The Trustees shall consider the claimant's appeal no later than its next regularly scheduled meeting, which immediately follows the receipt of the notice of appeal unless such notice was filed within thirty (30) days prior to the next regularly scheduled meeting, then the Board of Trustees may consider the appeal at the second meeting following the receipt of the notice of appeal. If special circumstances require an extension of time for processing, then the Board of Trustees may consider the appeal no later than the third meeting following the receipt of the notice of appeal. If such extension is required, the claimant will be provided with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made prior to commencement of the extension.

After consideration of the appeal as above, the Board of Trustees shall advise the claimant of its decision in writing within five (5) days after the benefit determination is made. If the determination is averse to the claimant, the written decision shall state all of the following information:

- (1) the specific reasons for rejecting the appeal; and
- (2) the specific provisions of the Plan or on which the determination is based; and
- (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 his/her claim for benefits; and
- (4) a statement of the claimant's right to bring an action under Section 502(a) of ERISA; and
- (5) the applicable contractual limitations period that applies to the claimant's right to bring such an action under Section 502(a) of

ERISA, including the calendar date on which the contractual limitations period expires for the claim; and

- (6) either the specific internal rules, guidelines, protocols, standards or other similar criteria of the Plan relied upon in making the adverse benefit determination, or, alternatively a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist; and
- (7) a discussion of the decision including an explanation for disagreeing with or not following any of the following:
 - a. the views of health care professionals treating the claimant; or
 - b. the views of vocational professionals who evaluated the claimant; or
 - c. the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the appeal, without regard to whether the advice was relied upon in making the benefit determination; or
 - d. a disability determination made by the Social Security Administration.

If the adverse benefit determination is based on medical necessity, experimental treatment or a similar exclusion or limit, the claimant will be provided either with an explanation of the scientific or clinical judgment for the determination applying the terms of the Plan to the claimant's medical circumstances or a statement that such explanation will be provided free of charge upon request.

All notices to a claimant shall be made in a culturally and linguistically appropriate manner. The Plan will provide oral language services such as a telephone customer assistance hotline that include answering questions in any "applicable non-English language" and providing assistance with filing claims and appeals in "any applicable non-English language." In addition, the Plan will provide, upon request, a notice in any "applicable non-English language" and will include in the English version of all notices a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the Plan. "Applicable non-English languages" include, with respect to an address in any United States county to which a notice is sent, a non-English language in which ten percent or more of the population residing in the county is literate only in that language.

The Trustees shall have full authority to interpret the provisions of this Plan and it is within the sole and absolute discretion of the Trustees to determine if a claimant is entitled to receive a benefit and the amount of the benefit. The decision shall be final and binding upon all Members and Beneficiaries.

7.6 Notification of Decision on Appeal

The appeal shall be considered by the full Board of Trustees. If the request for appeal is received by the Trustees less than thirty (30) days prior to the scheduled quarterly meeting of the Board of Trustees, then the decision on the appeal will be addressed at the next quarterly meeting of the Trustees. The Claimant will be provided with notice of the delay prior to the meeting and will be provided notice of the decision of the Board within five (5) days. Such notification shall be in writing and shall contain a full explanation of specific reasons for the Trustees' decision.

7.7 Benefit Commencement and Required Minimum Distributions

(a) Latest Date for Payment of Benefits

Payment of benefits to a Member must begin not later than 60 days after the close of the Plan Year in which occurs the latest of:

- (i) the date such person attains his or her Normal Retirement Date;
- (ii) the 5th anniversary of the date such person began participation in the Plan; or
- (iii) the date such person terminates service with all Employers.

(b) Required Minimum Distributions

Notwithstanding anything contained herein to the contrary, the interest of each Member or former Member shall be distributed as follows for required minimum distributions for calendar years beginning with the 2003 calendar year:

(i) General Rules

- (1) Effective Date. The provisions of this Section 7.7(b) shall apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) Precedence. The requirements of this Section 7.7(b) shall take precedence over any inconsistent provisions of the Plan.

- (ii) Requirements of Treasury Regulations Incorporated by Reference. All distributions required under this Section 7.7(b) shall be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).
- (iii) TEFRA Section 242(b)(2) Elections. Notwithstanding any other provisions of this Section 7.7(b), other than Subsection 3, above, 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.

(c) Time and Manner of Distribution

- (i) Required Beginning Date. Notwithstanding any provision of the Plan to the contrary, all distributions from the Plan shall comply with the minimum distribution requirements of Code Section 401(a)(9), including the minimum distribution incidental benefit requirement under Code Section 401(a)(9)(G), and of Sections 1.401(a)(9)-1 through 1.401(a)(9)-9 of the Final and Temporary Treasury Regulations that were published by the Internal Revenue Service on April 17, 2002. The Member's entire interest shall be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.

See Section 1.34 for a definition of the "Required Beginning Date." Generally, it refers to April 1st of the calendar year following the later of:

- (1) the calendar year in which the Member attains age 70 or 72 (depending on the Required Beginning Date); or
- (2) the calendar year in which the Member retires.

However, Section 7.7(c)(i)(2) shall not apply, except as provided in Code Section 409(d), in the case of a Member who is a 5-percent owner (as defined in Code Section 416) with respect to the Plan Credit Year ending in the calendar year in which the Member reaches his or her Required Beginning Date or for purposes of Code Section 408(a)(6) or (b)(3). In the case of a Member to whom Section 7.7(c)(i)(2) applies who retires in a calendar year after the calendar year in which the Member reaches his or her Required Beginning Date the Member's Accrued Benefit shall be actuarially increased to take into account the period after age of his or her Required Beginning Date in which the Member was not receiving any benefits under the Plan.

In the event that a Member meets the eligibility requirements to be entitled to a Normal Retirement Benefit and has not applied for the benefits by the sixtieth (60th) day after the close of the Plan Credit Year in which he or she was eligible, then the benefits shall commence, unless the Member otherwise elects in writing.

(ii) Death of Member before Distributions Begin. If the Member dies before distributions begin, the Member's entire interest shall be distributed, or begin to be distributed, no later than as follows:

- (1) If the Member's surviving Spouse is the Member's sole designated Beneficiary, then distributions to the surviving Spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age his or her Required Beginning Date if later.
- (2) If the Member's surviving Spouse is not the Member'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 Member died.
- (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (4) If the Member's surviving Spouse is the Member's sole designated Beneficiary and the surviving Spouse dies after the Member but before distributions to the surviving Spouse begin, the provisions of this Section 7.7(c)(ii)(4), other than Section 7.7(c)(ii)(1) above, will apply as if the surviving Spouse were the Member.

For purposes of this Section 7.7(c)(ii) and Section 7.7(f), distributions are considered to begin on the Member's Required Beginning Date (or, if 7.7(c)(ii)(4) applies, the date distributions are required to begin to the surviving Spouse under Section 7.7(c)(ii)(1)). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving Spouse under Section 7.7(c)(ii)(1)), the date distributions are considered to begin is the date distributions actually commence.

(iii) Form of Distribution. Unless the Member'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 Sections 7.7(d), 7.7(e), and 7.7(f). If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Code Section 414(k) of the shall be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and Treasury regulations that apply to individual accounts.

(d) Determination of Amount to be Distributed Each Year

(i) General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (1) the annuity distributions shall be paid in periodic payments made at intervals not longer than one (1) year;
- (2) the distribution period shall be over a life (or lives) or over a period certain not longer than the period described in Section 7.7(e) or 7.7(f);
- (3) once payments have begun over a period certain, the period certain will not be changed, even if the period certain is shorter than the maximum permitted;
- (4) payments shall be nonincreasing or increase only as follows:
 - (A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (B) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 7.7(e) dies or is no longer the Member's Beneficiary pursuant to a Qualified Domestic Relations Order within the meaning of Code Section 414(p);

- (C) to provide cash refunds of Employee contributions upon the Member's death; or
 - (D) to pay increased benefits that result from an amendment to the Plan.
- (ii) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Section 7.7(c)(ii)(1) or (2)) is the payment date that is required for a one-payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.
- (iii) Additional Accruals after First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (e) Requirements for Annuity Distributions That Commence during Member's Lifetime
 - (1) Joint Life Annuities Where Beneficiary Is Not Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a non-Spouse Beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated Beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Treasury Regulation Section 1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a non-Spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

(2) Period Certain Annuities. Unless the Member's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Member reaches his or her Required Beginning Date, the applicable distribution period for the Member is the distribution period for age 70 or age 72 (depending on his or her Required Beginning Date) under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 plus the excess of 70 or 72 (depending on the Required Beginning Date) over the age of the Member as of the Member's birthday in the year that contains the Annuity Starting Date. If the Member's Spouse is the Member's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Section 7.7(e), or the joint life and last survivor expectancy of the Member and the Member's Spouse as determined under the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Member's and Spouse's attained ages as of the Member's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

(f) Requirements for Minimum Distributions Where Member Dies Before Date Distributions Begin

(i) Member Survived by Eligible Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Section 7.7(c)(ii)(1) or (2), over the life of the designated Beneficiary or over a period certain not exceeding:

- (1) unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or
- (2) if the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated

Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

- (ii) Member Survived by Designated Beneficiary: Ten Year Rule. Except as otherwise set forth in this Plan, if the Member dies before the date distribution begin, has a date of death after December 31, 2019, and there is a Designated Beneficiary, then the Member's remaining interest must be completely distributed to the Designated Beneficiary by December 31st of the year that contains the tenth (10th) anniversary of the Member's death. However, if the Designated Beneficiary qualifies as an Eligible Designated Beneficiary, then the provisions of Section 7.7(f)(i) above shall apply. Upon the death of such Eligible Designated Beneficiary, any amounts remaining shall be distributed to the Beneficiary of the Eligible Designated Beneficiary's within ten (10) years after the date of such Eligible Designated Beneficiary's death.

Special Rule for Children. If the Eligible Designated Beneficiary is a Child who has not reached the age of majority in the year of the Member's death, such Child shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches majority. Any remaining portion of the Member's interest shall then be distributed within ten (10) years after the date the beneficiary reached the age of majority and ceased to qualify as an Eligible Designated Beneficiary.

- (iii) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (iv) Death of Surviving Spouse before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his or her interest begins, the Member's surviving Spouse is the Member's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 7.7(f) shall apply as if the surviving Spouse were the Member, except that the time by which distributions must begin shall be determined without regard to Section 7.7(c)(ii)(1).

(g) Waiver of Required Minimum Distributions Pursuant to Worker, Retiree, and Employer Recovery Act of 2008

(i) Required Minimum Distributions for 2009. Notwithstanding any other provisions of this Section 7.7, any Member or designated Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) (“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—
 - i. the life (or life expectancy) of the Member,
 - ii. the joint lives (or joint life expectancy) of the Member and the Member’s designated Beneficiary, or
 - iii. a period of at least 10 years (“Extended 2009 RMDs”)

shall receive those distributions for 2009 unless the Member or designated Beneficiary chooses not to receive such distributions.

(ii) Election to Stop Receiving Required Minimum Distributions. Any Member or designated Beneficiary described in (i) above shall be given the opportunity to elect to stop receiving the 2009 RMDs described in (1) above.

(iii) Eligible Rollover Distributions. Notwithstanding any other provisions of the Plan, and solely for purposes of applying the Plan’s provisions regarding direct rollovers under Section 12.9, only those distributions that would qualify as an Eligible Rollover Distribution under Section 12.09(a), without regard to Code Section 410(a)(9)(H), shall be treated as an Eligible Rollover Distribution.

(h) Required Minimum Distribution for 2020: Notwithstanding any other provisions of this Article VII, any Member or Designated Beneficiary who would have been required to receive required minimum distributions for 2020 but for the enactment of Code Section 401(a)(9)(I) (“2020 RMDs”), and who would have satisfied that requirement by receiving distributions that are—

- a) equal to the 2020 RMDs; or

- b) 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—
 - (i) the life (or life expectancy) of the Member,
 - (ii) the joint lives (or joint life expectancy) of the Member and the Member’s designated Beneficiary, or
 - (iii) a period of at least 10 years (“Extended 2020 RMDs”) shall receive those distributions for 2020 unless the Member or designated Beneficiary chooses not to receive such distributions or such Member cannot be located to provide such distributions. Any Member or Designated Beneficiary currently receiving required minimum distributions that qualifies for this waiver shall be given the opportunity to elect to stop receiving the 2020 RMD that would otherwise be due but for the enactment of Code Section 401(a)(9)(I).

(i) Definitions

For purposes of this Section 7.7, the following definitions shall apply:

- i. Designated Beneficiary. The term “Designated Beneficiary” means the individual who is designated as the Beneficiary under Sections 1.7 and 12.8 and is the designated Beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.
- ii. Eligible Designated Beneficiary. Any Designated Beneficiary who is (i) the surviving Spouse of the Member; (ii) a Child of the Member who has not reached majority age; (iii) is disabled (within the meaning of Code Section 72(m)(7)); (iv) is chronically ill (within the meaning of Code Section 770B(c)(2) and subject to the conditions set forth in Code Section 401(a)(9)(E)(iv)); and (v) an individual not described in any of the preceding categories that is no more than ten (10) years younger than the Member. For the purposes of this Section 7.7(i)(ii), the determination as to whether a Designated Beneficiary qualifies as an Eligible Designated Beneficiary shall be made as of the date of death of the Employee.
- iii. Distribution Calendar Year. The term “distribution calendar year” means a calendar year for which a minimum distribution is required. For distributions beginning before the Member’s death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member’s Required Beginning Date. For distributions beginning after the Member’s death, the first

distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 7.7(c)(ii).

- iv. Life Expectancy. The term “life expectancy” means life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9.
- v. Required Beginning Date. See Section 1.24 for the definition of the term “Required Beginning Date.”

7.8 Delayed Retirement

Effective May 1, 1989, if a Member’s Annuity Starting Date is after the Member’s Normal Retirement Age, such Member shall receive a lump sum payment equal to the monthly benefit payable as of his or her Annuity Starting Date multiplied by the number of months between his or her Normal Retirement Age and his or her Annuity Starting Date (during which his or her benefits were not suspended in accordance with Article VI or Sections 3.7, 3.13, or 3.19).

Effective January 1, 2004, if the Annuity Starting Date is after the Member’s Normal Retirement Age, the monthly benefit shall be the greater of:

- (a) the benefit payable at his or her Annuity Starting Date in accordance with Article 3 based on all contributions received; or
- (b) the Accrued Benefit at Normal Retirement Age actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date for which benefits were not suspended in accordance with Section 6.7(b). The actuarial increase described in this paragraph shall be 1% per month for the first 60 months after Normal Retirement Age and 1.5% per month for each month thereafter.

Any additional benefits earned by a Member in Covered Employment after Normal Retirement Age shall be determined at the end of each Calendar Year and shall be payable as of February 1 following the end of the Calendar Year in which such additional benefits accrued, provided payment of benefits at that time is not suspended pursuant to Article VI or postponed due to the Member’s continued employment.

7.9 Benefit Offset for Overpayments

The Trustees shall have the right to recover any benefit payments made in reliance on any willful, false or fraudulent statement, information or proof submitted by an applicant for benefits. The Trustees shall also have the right to recover or adjust any benefit payment made in error, including, but not limited to, an overpayment attributable to the following:

- (a) a mathematical or system error;

- (b) a mistake or deficiency in the Plan's service or contribution records;
- (c) an error in the personal information supplied by a Member or Beneficiary;
- (d) a mistake of law or a mistake of fact; or
- (e) a determination by the Plan Administrator that because of a mistake or miscalculation by the Plan Administrator, the benefit to which the Member or Beneficiary is entitled under the Plan's terms is different from the amount that the Member or Beneficiary is receiving.

The Plan shall take appropriate action to collect any benefit overpayment that a Member or Beneficiary has received, plus appropriate interest, because of dishonesty or error. Upon receipt of any overpayment due to dishonesty or error, the Member or Beneficiary receiving such overpayment shall be deemed to hold such overpayment in constructive trust for the benefit of the Plan. A "constructive trust" shall mean a trust in which any amount, compensation and/or money a Member or beneficiary receives in excess as to what is provided for in this Plan shall be deemed to be held for the Plan's exclusive benefit and not commingled with other funds. Any such Constructive Trust shall be subject to an equitable lien by the Plan and any other equitable remedies available to the Plan under ERISA Section 502(a)(3) for the purpose of preserving the Plan's right to restitution for benefits overpaid.

In lieu of collecting the overpayment and appropriate interest from the Member or Beneficiary, the Plan may offset the overpayment plus interest against future benefits that are due and owing to the Member or Beneficiary under the Plan's terms. Any such offset shall be applied in accordance with the requirements of the Internal Revenue Service's Employee Plan Compliance Resolution System. A constructive trust shall be deemed to be placed on all benefit overpayments distributed to the Member or Beneficiary and any interest associated with such overpayments.

ARTICLE VIII - PENSION FUND

8.1 Contributions

All benefits to be provided by the Plan will be funded through the Fund established under the Trust Agreement. Members of the Association or any other Employer will make contributions to the Fund at the rate specified by the Collective Bargaining Agreement then in force and effect between the Union and Members of the Association and other Employers, together with any amendments, supplements or modifications thereto. The assets of the Fund shall be used to provide benefits under the Plan and to pay any and all expenses or costs which are incurred in connection with, or which arise out of the operation of the Plan and Fund, including, without limitation, legal, actuarial, educational, accounting and administrative expenses, fiduciary or other insurance premiums, any and all taxes which may be assessed against the Fund, any expenses, costs, assessments or levies resulting from the prosecution, defense or settlement of any claims involving the Plan and Fund.

8.2 Nondiversion

It shall be impossible, and is hereby made impossible, upon the termination of the Plan or pursuant to any amendment of the Plan or otherwise, at any time for all or any part of the Fund to be used for or diverted to purposes other than for the exclusive benefit of Members or their beneficiaries; provided, however, that nothing herein shall preclude payment from the Fund of costs and expenses incurred in connection with, or arising out of the operation of, the Plan and Fund; and further provided, that if an Employer makes a contribution to the Fund due to a mistake of fact or law, as determined by the Board of Trustees, in accordance with Code Section 401(a)(2) and ERISA Section 403(c)(2)(A)(ii), such contribution may be returned within six (6) months after the Board of Trustees determines that the contribution was made by a mistake of fact or law.

The maximum amount that may be returned to the Employer in the case of a mistake of fact or law is the excess of:

- (a) the amount contributed over
- (b) the amount that would have been contributed had no mistake of fact or law occurred.

Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned.

8.3 Interest in Fund

No person shall have any interest in or right to any part of the earnings of the Fund, or any rights in or to or under the Fund or any part of the assets thereof, except as and to the extent expressly provided in the Plan and in the Trust Agreement.

8.4 Internal Revenue Service Approval

The Plan is and shall be subject to obtaining the necessary approval from the Internal Revenue Service of the Plan and the deductibility of payment made by the Employees to the Fund. In the event that the Plan or Trust Agreement at any time require amendment in order for the Employers' payments to the Fund to be deductible and the Plan to be qualified under the applicable provisions of the Code, necessary to accomplish such purposes. The administration of the Plan shall be such as to maintain continued qualification of the Plan under the applicable provisions of the Code.

ARTICLE IX - LIMITATIONS

9.1 Maximum Retirement Benefits

(a) General

- (i) The Annual Benefit otherwise payable to a Member at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit must be limited (or the rate of accrual reduced) to a benefit that does not exceed the Maximum Permissible Benefit.
- (ii) If a Member has made voluntary employee contributions or mandatory employee contributions, as defined in Code Section 411(c)(2)(C), under the terms of this Plan, the amount of such contributions is treated as an annual addition to a qualified defined contribution plan for purposes of Subsections (a) and (e) of this Section 9.1.
- (iii) For Limitation Years beginning before January 1, 2000, this section applies if any Member is covered, or has ever been covered, by another plan maintained by the Employer, including a qualified plan, a welfare benefit fund maintained by the Employer (as defined in Section Code 419(e)) under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key Employees (as defined in Code Section 419(A)(d)(3)), an individual medical account, or a simplified employee pension that provides an annual addition to a qualified defined contribution plan.

If a Member is, or has ever been, covered under more than one defined benefit plan maintained by the Employer, the sum of the Member's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. If the Member's Employer-provided benefits under all defined benefit plans ever maintained by the Employer (determined as of the same age) would exceed the Maximum Permissible Benefit applicable at that age, the Employer will choose the method by which the plans will limit a Member's benefit accrual in such cases.

In the case of an individual who was a Member in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of the limitations of this Article shall not cause the Maximum

Permissible Benefit for such individual under all such defined benefit plans to be less than the individual's Tax Reform Act of 1986 (TRA '86) Accrued Benefit. The preceding sentence applies only if all the defined benefit plans met the requirements of Code Section 415 for all Limitation Years beginning before January 1, 1987.

In the case of an individual who was a Member in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1994, the application of the limitations of this Article shall not cause the Maximum Permissible Benefit for such individual under all such defined benefit plans to be less than the individual's old law benefits under the Tax Reform Act of 1986 (TRA '86). The preceding sentence applies only if all the defined benefit plans met the requirements of Code Section 415 on December 7, 1994.

(b) Definitions

- (i) Annual Benefit. "Annual Benefit" means a retirement benefit under the Plan which is payable annually in the form of a straight life annuity (with no ancillary benefits). Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this Article. The actuarially equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate assumption and mortality table (or other tabular factor) as established by the Fund Actuary for adjusting benefits in the same form, and the annuity benefit computed using a 5% interest rate assumption and the mortality table (or other tabular factor) as established by the Fund Actuary. In determining the actuarially equivalent straight life annuity for a benefit form other than a non-decreasing annuity payable for a period of not less than the life of the Member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving Spouse), or decreases during the Member's life merely because of:
- (1) the death of the survivor annuitant (but only if the reduction is not below 50% of the annual benefit payable before the death of the survivor annuitant); or
 - (2) the cessation or reduction of Social Security supplements of qualified disability payments (as defined in Code Section 401(a)(11)),

the “Applicable Interest Rate,” as established by the Fund Actuary, will be substituted for “5% interest rate assumption” in the preceding sentence.

No actuarial adjustment to the benefit is required for:

- (1) the value of a qualified joint and survivor annuity,
- (2) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, preretirement death benefits, and post-retirement medical benefits), and
- (3) the value of post-retirement cost-of-living increases made in accordance with Code Section 415(d) and Treasury Regulation Section 1.415-3(c)(2)(iii).

The Annual Benefit shall not include any benefits attributable to Employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer.

(ii) Compensation. For purposes of applying the limitations on Annual Benefits, “compensation” means remuneration for the following types of services:

- (1) wages, salaries and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan, to the extent that the amounts are includible in gross income (or to the extent such amounts would have been received and includible in gross income but for an election under Code Section 125(a), 132(f)(4), 402(e), 402(h)(1)(B), 402(k), or 457(b)), including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treasury Regulation Section 1.62-2(c); and
- (2) in the case of a self-employed individual within the meaning of Code Section 401(c)(1) and Treasury regulations promulgated under Code Section 401(c)(1), the Employee’s earned income (as described in Code Section 401(c)(2) and Treasury regulations promulgated under Code Section

401(c)(2)), plus amounts deferred at the Employee's election that would be includible in gross income but for the rules of Code Section 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

For purposes of applying the limitations on annual benefits, compensation shall not include the remuneration listed in (3) through (8) below:

- (3) contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer maintaining the Plan to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p), and whether or not qualified) to the extent that such contributions are not includible in the Employee's gross income for the taxable year in which contributed;
- (4) any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the Employee's gross income when distributed;
- (5) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employer maintaining the Plan either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (6) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;
- (7) other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the Employee's gross income and are not salary reduction amounts described in Code Section 125); and
- (8) other items of remuneration that are similar to items of remuneration listed in (3) through (8) above.

The annual compensation of each Member taken into account in determining benefit accruals for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). For this purpose, 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.

For purposes of this Subsection, compensation for the Limitation Year shall mean the compensation actually paid or made available to the Employee in gross income during such Limitation Year. An Employee's compensation shall be treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election under Code Section 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b).

In the case of an Employee who is permanently and totally disabled (as defined in Code Section 22(e)(3)), the Employee's compensation shall be the compensation such Employee would have received for the Limitation Year if the Employee had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled, if such imputed compensation is greater than the Employee's actual compensation without taking into account the Employee's imputed compensation attributable to total and permanent disability.

Compensation for the Limitation Year shall include amounts paid to a Member following the Member's severance from employment with the Employer maintaining the Plan, provided that such post-severance compensation:

- (1) is paid by the later of:
 - (A) 2-1/2 months after the Member's severance from employment with the Employer maintaining the Plan; or
 - (B) the end of the Limitation Year that includes the date of the Member's severance from employment with the Employer maintaining the Plan; and
 - (2) would have been included in the Member's compensation if it had been paid prior the Member's severance from employment with the Employer maintaining the Plan.
- (iii) Defined Benefit Compensation Limitation. "Defined Benefit Compensation Limitation" means 100% of a Member's High Three-

Year Average Compensation, payable in the form of a straight life annuity.

In the case of a Member who has separated from service, the Defined Benefit Compensation Limitation applicable to the Member shall be automatically adjusted by multiplying such limitation by the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Code Section 415(d) in such manner as the Secretary shall prescribe. The adjusted compensation limit shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment.

This multiemployer Plan shall not be combined or aggregated with a non-multiemployer plan for purposes of applying the Defined Benefit Compensation Limitation under Code Section 415(b)(1)(B) to the non-multiemployer plan.

- (iv) Defined Benefit Dollar Limitation. “Defined Benefit Dollar Limitation” means \$160,000, as adjusted, effective January 1 of each year, under Code Section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. The adjusted Defined Benefit Dollar Limitation shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies.
- (v) Employer. “Employer” means an Employer which submits contributions on behalf of its Employees participating in this Plan, and all Members of a controlled group of corporations (as defined in Code Section 414(b), as modified by Code Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c), as modified by Code Section 415(h)) or affiliated service groups (as defined in Code Section 414(m)) of which the contributing employer is a part, and any other entity required to be aggregated with the Employer pursuant to Code Section 414(o).
- (vi) High Three-Year Average Compensation. “High Three-Year Average Compensation” means the Average Annual Compensation for the three (3) consecutive years of Covered Employment with the Employer that produces the highest average. A year of Covered Employment with the Employer is a 12-consecutive month period of Current Service under Section 1.15. In the case of a Member who has separated from service, the Member’s High Three-Year Average Compensation shall be automatically adjusted by multiplying such compensation by the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Code Section 415(d) in such manner as the Secretary shall prescribe. The adjusted compensation

amount shall apply to Limitation Years ending within the calendar year of the date of the adjustment.

- (vii) Limitation Year. “Limitation Year” means the Plan Year. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.
- (viii) Maximum Permissible Benefit. Effective for Limitation Years ending before January 1, 2002, “Maximum Permissible Benefit” means the lesser of the Defined Benefit Dollar Limitation or the Defined Benefit Compensation Limitation (adjusted where required, as provided in (1) and, if applicable, in (2) or (3) below). Effective for Limitation Years beginning after December 31, 2001, “Maximum Permissible Benefit” means the Defined Benefit Dollar Limitation (adjusted where required, as provided in paragraph (1) and, if applicable, in paragraph (2) or (3) below).
 - (1) If the Member has fewer than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction,
 - (A) the numerator of which is the number of years (or part thereof) of participation in the Plan and
 - (B) the denominator of which is ten (10).
 - (2) If the benefit of a Member begins prior to age 62, the Defined Benefit Dollar Limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the defined benefit dollar limitation applicable to the Member at age 62 (adjusted under paragraph (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of:
 - (A) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 1.2; and
 - (B) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent

(5%) interest rate and the applicable mortality table as defined in Section 1.2.

Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this paragraph (2) shall not reflect a mortality decrement if benefits are not forfeited upon the Member's death. If any benefits are forfeited upon the Member's death, the full mortality decrement shall be taken into account.

- (3) If the benefit of a Member begins after the Member attains age 65, the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age 65 (adjusted under paragraph (1) above, if required). The Actuarial Equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as the lesser of:

- (A) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 1.2; and
- (B) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent (5%) interest rate assumption and the applicable mortality table as defined in Section 1.2. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

- (ix) Projected Annual Benefit. Projected annual benefit" means the Annual Benefit to which the Member would be entitled under the Plan's terms under the following assumptions:

- (1) the Member will continue employment until Normal Retirement Age under the Plan (or current age, if later), and
- (2) the Member's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years.

- (x) RPA '94 Final Implementation Date. "RPA '94 Final Implementation Date" means the first day of the first Limitation Year

beginning on or after January 1, 2000, unless an earlier date is specified below.

- (xi) RPA '94 Freeze Date. "RPA '94 Freeze Date" means the date as of which a Member's RPA '94 Old-Law Benefit is determined is the first day of the first Limitation Year beginning on or after January 1, 1997.
- (xii) RPA '94 Old-Law Benefit. "RPA '94 Old-Law Benefit" means the Member's Accrued Benefit under the terms of the Plan as of the RPA '94 Freeze Date, for the Annuity Starting Date and optional form and taking into account the limitations of Code Section 415, as in effect on December 7, 1994, including the participation requirements under Code Section 415(b)(5). In determining the amount of a Member's RPA '94 Old-Law Benefit, the following shall be disregarded:
 - (1) any plan amendment increasing benefits adopted after the RPA '94 Freeze Date; and
 - (2) any cost-of-living adjustments that become effective under Code Section 415(d) after the RPA '94 Freeze Date.

If, at any date after the RPA '94 Freeze Date, the Member's total plan benefit, before the application of Code Section 415, is less than the Member's RPA '94 Old-Law Benefit, the RPA '94 Old-Law Benefit shall be reduced to a benefit equal to the Member's total plan benefit.

Unless a different group of Employees is elected by the Employer, for all current and former Members who have an Accrued Benefit under the Plan immediately before the first day of the first Limitation Year beginning in 2000, if the RPA '94 Old-Law Benefit was reduced during the period between the RPA '94 Freeze Date and the first day of the first Limitation Year beginning on or after January 1, 2000, because of Annual Additions credited to a Member's account in a defined contribution plan, the RPA '94 Old-Law Benefit will increase to the RPA '94 Freeze Date level as of the first day of the first Limitation Year beginning on or after January 1, 2000.

The use of a different interest rate and mortality table may not increase a Member's RPA '94 Old-Law Benefit to an amount greater than such benefit as of the RPA '94 Freeze Date.

- (xiii) Social Security Retirement Age. "Social Security Retirement Age" means age 65 in the case of a Member born before January 1, 1938; age 66 for a Member born after December 31, 1937, but before

January 1, 1955; and age 67 for a Member born after December 31, 1954.

(xiv) TRA '86 Accrued Benefit. "TRA '86 Accrued Benefit" means a Member's Accrued Benefit under the Plan, determined as if the Member had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an Annual Benefit within the meaning of Code Section 415(b)(2). In determining the amount of a Member's TRA '86 Accrued Benefit, the following shall be disregarded:

- (1) any change in the terms and conditions of the Plan after May 5, 1986; and
- (2) any cost-of-living adjustments occurring after May 5, 1986.

(xv) Year of Participation. A Member shall be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

- (1) The Member is credited with at least 300 Hours of Service for benefit accrual purposes, the amount required under the terms of the Plan in order to accrue a benefit for the accrual computation period; and
- (2) The Member is included as a Member under the eligibility provisions of the Plan for at least one day of the accrual computation period.

If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the amount of benefit accrual service credited to the Member for such accrual computation period. A Member who is permanently and totally disabled within the meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Member to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any 12-month period.

(xvi) Transition Rule for Applying Limitations for Member with RPA '94 Old-Law Benefit. For Members with RPA '94 Old-Law Benefits, for purposes of determining whether a Member's benefit exceeds the limitations of this Article after the RPA '94 Freeze Date, the

Employer shall elect in its sole discretion one of the following three methods:

- (1) Method One. Equivalent Annual Benefits are determined separately with respect to the Member's RPA '94 Old-Law Benefit, and the portion of the Member's total plan benefit that exceeds the RPA '94 Old-Law Benefit. A Member's total Annual Benefit is the sum of these two Annual Benefits, and cannot exceed the Maximum Permissible Benefit applicable to the Member.

If the determination is being made before the Final Implementation Date, where a Member's benefit must be adjusted to an actuarially equivalent Annual Benefit, the Annual Benefit equivalent to the RPA '94 Old-Law Benefit is calculated using an interest rate equal to the greater of the Plan interest rate or 5% and the Plan mortality table, as provided under Code Section 415(b)(2)(E) as in effect on December 7, 1994, and under the Plan terms as of December 7, 1994. The Annual Benefit equivalent to the portion of the Member's total Plan benefit that exceeds the RPA '94 Old-Law Benefit is calculated as described in the Plan. For a determination made after the Freeze Date and before the Final Implementation Date, where the Defined Benefit Dollar Limitation is adjusted for commencement of benefits prior to age 62, such adjustments are made in accordance with Section 9.1(b)(8)(ii); and adjustments for commencement of benefits after Social Security Retirement Age are made in accordance with this Section 9.1(b)(8)(iii).

If the determination is being made on or after the Final Implementation Date, where a Member's benefit must be adjusted to an actuarially equivalent Annual Benefit, the Annual Benefit equivalent to the Member's RPA '94 Old-Law Benefit is calculated using an interest rate as established by the Fund Actuary or 5%, and the mortality table as established by the Fund Actuary. The Annual Benefit equivalent to the portion of the Member's total Plan benefit is calculated as described in Section 9.1(b)(i). For a determination on or after the Final Implementation Date, where the Defined Benefit Dollar Limitation is adjusted for commencement of benefits prior to age 62, such adjustments are made in accordance with Section 9.1(b)(viii)(2); adjustments for commencement of benefits after Social Security Retirement Age are made in accordance with Section 9.1(b)(8)(iii).

- (2) Method Two. A Member's total Annual Benefit under the Plan is determined, and this benefit must not exceed the Maximum Permissible Benefit applicable to the Member. Where a Member's benefit must be adjusted to an actuarially equivalent Annual Benefit, an Annual Benefit equivalent to the Member's total benefit is calculated as described in Section 9.1(b)(i). In any event, the Member will receive no less than the Member's RPA '94 Old-Law Benefit.
- (3) Method Three. A Member's benefit is limited only to the extent needed to satisfy either the first or second method described above.

Under all of the methods above, a Member will receive no less than the Member's RPA '94 Old-Law Benefit. For purposes of determining that a Member receives no less than the Member's RPA '94 Old-Law Benefit, the limitation applicable to the Member's RPA '94 Old-Law Benefit (old-law limitation) is determined, and the Member may receive the RPA '94 Old-Law Benefit to the extent it does not exceed such old-law limitation. Before the Final Implementation Date, adjustments to the old-law limitation for commencement of benefits prior to age 62 are calculated using an interest rate equal to the greater of the plan interest rate or 5% and the Plan mortality table, as provided under Section 415(b)(2)(E) as in effect on December 7, 1994; adjustments to the old-law limitation for commencement of benefits after Social Security Retirement Age are calculated using an interest rate equal to the lesser of the Plan interest rate or 5 percent and the Plan mortality table as provided under Code Section 415(b)(2)(E) as in effect on December 7, 1994, and under the Plan terms as of December 7, 1994. On or after the Final Implementation Date, adjustments to the old-law limitation for commencement of benefits prior to age 62 are calculated using an interest rate equal to the greater of the Plan interest rate or 5 percent (5%) and the Plan mortality table, using the interest rate and mortality table included in the Plan as of the date of determination; adjustments to the old-law limitation for commencement of benefits after Social Security Retirement Age are calculated using an interest rate equal to the lesser of the Plan interest rate or 5% and the Plan mortality table, using the interest rate and mortality table included in the Plan as of the date of determination. (However, in no event may a Member's Old-Law Benefit exceed the Member's Old-Law Benefit as of the RPA '94 Freeze Date.)

(c) Changes to Internal Revenue Code Section 415 Rules in Small Business Job Protection Act of 1996

- (i) The Small Business Job Protection Act of 1996 (“SBJPA”) conformed the effective date of the interest rate and mortality assumptions that must be used under Code Section 415(b)(1)(A), as amended by the Retirement Protection Act of 1994 (“RPA”), to calculate the defined benefit Plan dollar limit to the effective date of the RPA provision relating to the calculation of lump-sum distributions (Code Section 417(e)(3)). Thus, this Plan may disregard the RPA-mandated interest rate and mortality assumptions for Code Section 415(b)(1)(A) purposes with respect to benefits accrued before the first Plan Year beginning after December 31, 1999.
- (ii) The SBJPA repealed the RPA provision which required that if the benefit is payable before age 62 in a form subject to the requirements of Code Section 417(e)(3) (e.g., lump sum), the interest rate to be used to reduce the dollar limit under Code Section 415(b)(1)(A) cannot be less than the greater of the rate on 30-year Treasury securities or the rate specified in the Plan. Thus, for distributions prior to age 62, regardless of the form of benefit, the interest rate to be used cannot be less than the greater of 5% or the rate specified in the Plan. For distributions at or after age 62, the rule remains that the interest rate cannot be less than the greater of the rate on 30-year Treasury securities or the rate specified in the Plan. This change is effective as if included in the RPA.
- (iii) The SBJPA amended Code Section 401(a)(5) to provide that for purposes of the general nondiscrimination rules of Code Section 401(a)(4), the Social Security retirement age as defined in Code Section 415 is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to Employees on the same terms merely because they are based on an Employee’s Social Security retirement age (as defined in Code Section 415). This change applies to Plan Years beginning after December 31, 1996. See Code Section 401(a)(5)(F), as amended by P.L. 104-188, Section 1445(a).
- (iv) The SBJPA repealed the “combined plan limit” of Code Section 415(e) effective with respect to limitation years beginning after December 31, 1999. See P.L. 104-188, Section 1452(a), repealing Code Section 415(e). In a conforming change, the SBJPA also repealed Code Section 416(h), which contained special limits on top-heavy plans that were based on the limitation under Code Section 415(e).

- (d) Changes to Rules for Adjusting Annual Benefit to Single-Life Annuity in Determining Code Section 415 Benefit Limitations under Pension Funding Equity Act of 2004 and Pension Protection Act of 2006
- (i) Adoption and Effective Date. The purpose of this Section 9.1(d) is to adopt the changes required by the Pension Funding Equity Act of 2004 and the Pension Protection Act of 2006 to the rules under Section 9.1 governing the adjustment of an annual Benefit to a single-life annuity in determining benefit limitations under Code Section 415(b). These changes are effective for Plan Years beginning in 2004, 2005, and any subsequent Plan Year as provided by law.
 - (ii) Precedence. The requirements of this Section shall take precedence over any inconsistent provisions of the Plan, including any previous amendments to the Plan adopted by the Board of Trustees.
 - (iii) Adjustment of Annual Benefit to Single-Life Annuity under Code Section 415(b). Notwithstanding anything in the Plan to the contrary, for purposes of adjusting the annual Benefit to a single-life annuity under Code Section 415(b)(2)(B), the equivalent “annual Benefit” shall be the greater of the equivalent annual Benefit computed using the Plan interest rate and the Plan mortality table (or other tabular factor) and the equivalent annual Benefit computed on the basis of an assumed interest rate of five percent (5%) and the Applicable Mortality Table prescribed under Section 9.1(f)(4). However, for purposes of adjusting the annual Benefit to a single-life annuity, if the annual Benefit is paid in any form other than a nondecreasing life annuity payable for a period not less than the Member’s life or, in the case of a qualified pre-retirement survivor benefit, the surviving Spouse’s life, the equivalent annual Benefit shall be the greater of the equivalent annual Benefit computed using the Plan interest rate and the Plan mortality table (or other tabular factor) and the equivalent annual Benefit computed on the basis of the Applicable Interest Rate and the Applicable Mortality Table prescribed under Section 9.1(f)(4). With respect to Plan Years beginning in 2004, 2005, and any subsequent Plan Year as provided by law, for purposes of adjusting the annual Benefit to a single-life annuity under Code Section 415(b)(2)(B), if the annual Benefit is paid in any form other than a nondecreasing life annuity payable for a period not less than the Member’s life or, in the case of a qualified pre-retirement survivor benefit, the surviving Spouse’s life, the equivalent annual Benefit shall be the greater of the equivalent annual Benefit computed using the Plan interest rate and the Plan mortality table (or other tabular factor) and the equivalent annual Benefit computed on the basis of the Applicable Mortality Table prescribed under Section

9.1(f)(4) whichever of the following interest rates produces the greatest annual amount:

- (1) 5.5%;
- (2) the rate that provides a benefit of not more than 105% of the benefit that would be provided if the interest rate applicable in determining minimum lump sum amounts under Code Section 417(e)(3) were used; or
- (3) the Plan interest rate.

(e) Changes to Rules Governing Annual Benefit Limitations under Final Treasury Regulations Governing Code Section 415

- (i) Adoption and Effective Date. The purpose of this Section is to adopt the changes required by final Treasury Regulations under Code Section 415 to the rules under Section 9.1 governing maximum limitations on Benefits. These changes are effective for Limitation Years beginning on or after July 1, 2007.
- (ii) Precedence. The requirements of this Section 9.1(e) shall take precedence over any inconsistent provisions of the Plan, including any previous amendments to the Plan adopted by the Board of Trustees. However, if the Trustees determine that a conflict exists between the provisions of this Section 9.1(e) and the provisions of Code Section 415, the provisions of Code Section 415 shall supersede the provisions of this Section.
- (iii) Annual Benefit. For purposes of compliance with the limitations on benefits for defined benefit plans under Code Section 415(b), the term “Annual Benefit” under Section 9.1 shall include the annual Benefit accrued by a Member or the annual Benefit payable to a Member at any time under the Plan.
- (iv) Multiple Annuity Starting Dates. If a Member has distributions occurring at more than one Annuity Starting Date, the limitations on benefits for defined benefit plans under Code Section 415(b) must be satisfied as of each Annuity Starting Date, taking into account benefits that have been provided or will be provided at all Annuity Starting Dates.
- (v) Adjustment of Compensation Limit for Rehired Member. If a Member has had a severance from employment with an Employer and is subsequently rehired by an Employer, and if the Member’s Compensation Limitation is adjusted in accordance with Code

Section 415(d) for Limitation Years following the Limitation Year in which the Member severed employment, the rehired Employee's Compensation Limitation under Code Section 415(b)(1)(B) shall be the greater of:

- (1) one hundred percent (100%) of the Member's average Compensation for the period of the Member's high three (3) years of Service, as determined prior to the Employee's severance from employment and as adjusted pursuant to Code Section 415(d); or
- (2) one hundred percent (100%) of the Member's average Compensation for the period of the Member's high three (3) years of Service, taking into account Service both before and after rehire.

For purposes of this Section 9.1(e)(v), pre-break and post-break service years of Service shall be treated as if the years of Service were consecutive, provided that the Employee did not perform any service during the break and received no Compensation from the Employer during the break period.

(f) Changes to Rules for Calculation of Single Sum Cashouts under Pension Protection Act of 2006

- (i) Adoption and Effective Date. The purpose of this Section is to adopt the changes required by the Pension Protection Act of 2006 ("PPA") to the definition of the terms "Applicable Mortality Table" and "Applicable Interest Rate" contained in Code Section 417(e)(3), as those terms are applied in determining the present value of a Member's Benefit for a single sum cashout under Section 12.6. These changes are effective for distributions with Annuity starting Dates occurring in Plan Years beginning on or after January 1, 2008.
- (ii) Precedence. The requirements of this Section shall take precedence over any inconsistent provisions of the Plan, including any previous amendments to the Plan adopted by the Board of Trustees.
- (iii) Requirements of Treasury Regulations Incorporated by Reference. All matters addressed under this Section shall be determined and made in accordance with Treasury Regulations Sections 1.417(e)-1(d), 1.411(a)-11, and Proposed Treasury Regulation Section 1.430(f)-1, unless superseded by later guidance from the Internal Revenue Service.

- (iv) Applicable Interest Rate and Mortality Table under Code Section 417(e)(3). The Applicable Interest Rate and the Applicable Mortality Table shall be used in determining the present value of a Member's Accrued Benefit for single sum cashouts under Section 12.6.
 - (1) Applicable Interest Rate. The Applicable Interest Rate shall be the adjusted first, second, and third segment rates applied under rules similar to the rules under Code Section 430(h)(2)(C) for the second month preceding the Plan Year containing the date of distribution, or such other time as the Secretary of the Treasury may by regulations prescribe. For this purpose, the adjusted first, second, and third segment rate shall be determined without regard to the 24-month averaging period under Code Section 430(h)(2)(D)(i). Use of the segment rates shall be phased in over a period of five (5) years pursuant to Code Section 417(e)(3)(D)(ii).
 - (2) Applicable Mortality Table. The Applicable Mortality Table shall be the mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the Plan Year specified under subparagraph (A) of Code Section 430(h)(3) (without regard to subparagraph (C) or (D) of Code Section 430(h)(3)).

ARTICLE X - PLAN ADMINISTRATION

10.1 Administration

The Plan will be administered by the Board of Trustees. The Trustees may appoint an administrative manager and delegate to such person the responsibility to perform certain recordkeeping and other administrative functions.

10.2 Powers and Duties of Trustees

Administration of the Plan by the Trustees and the powers and duties of the Trustees shall be as set forth in the Trust Agreement; provided that, to the extent not inconsistent with the Trust Agreement, the Trustees have the following powers and duties:

- (a) To prescribe procedures to be followed by the Members in filing applications for benefits, and for the furnishing of evidence necessary to establish Members rights to benefits under the Plan.
- (b) To determine conclusively the eligibility of Employees and retired Employees and Beneficiaries to benefits under this Plan and certify such eligibility.

- (c) To determine the amount of the monthly benefits to be paid under this Plan and direct the payment of such amounts to eligible retired Members or Beneficiaries.
- (d) To interpret the terms and provisions of the Plan and of the Trust Agreement and to decide any and all questions that may arise in connection with the Plan's operation. Except as further provided, each ruling by the Trustees shall be final and binding on the Members, retired Members or Beneficiaries involved, the Union, the Employers and each of them and all parties claiming any interest under the Plan and may not be further contested. The Trustees shall have full discretion to interpret the terms of the Plan and determine eligibility for benefits hereunder, and any such interpretation or determination shall not be subject to reversal by a court of competent jurisdiction unless said determination or interpretation is arbitrary and capricious.
- (e) To maintain or cause to be maintained all necessary records and accounts under the Plan.
- (f) To authorize and direct the custodian or other depository to pay, out of the Fund, all necessary and reasonable expenses incurred by the Trustees.
- (g) To do such other things as are reasonably necessary to effectuate the purposes of the Plan and the Trust Agreement.

10.3 Investment Policy

An investment policy shall be established that has as its goal the maintenance of sufficient liquidity to assure the timely payment of benefits and the selection of investments which, in the long run, will produce a rate of return no less than the rate of return assumed by the Actuary in making his or her determination of funding requirements. The Trustees may appoint an investment manager or managers to provide investment counsel.

10.4 Bonding

The Trustees shall post such bond, if any, as may be required by law.

10.5 Liabilities

The Trustees shall be entitled to rely upon the correctness of any information furnished by the Actuary, any accountant, the Union, or the Employers. Neither the Trustees nor the Union or any officer or any other representative of the Union nor the Employers or any officer or other representative of the Employers shall be liable because of any act or failure to act on the part of the Trustees to any person whatsoever, except that nothing herein shall be deemed to relieve any such individual, the Trustees, the Union or the Employers from liability for his or her own fraud or bad

faith; provided that fraud or bad faith shall not be attributed to the Union or the Employers by reason of any act or omission on the part of the Trustees.

10.6 Government Reporting

The Trustees shall exercise such authority and responsibility as they deem appropriate in order to comply with ERISA and governmental regulations issued thereunder relating to records of Member's service, Accrued Benefits and the percentage of such benefits which are non-forfeitable under the Plan, notifications to Members, annual returns and registration with the Internal Revenue Service, annual reports to the Department of Labor and reports to the Pension Benefit Guaranty Corporation.

10.7 Rule-Making

The Trustees may adopt such rules as they deem necessary, desirable or appropriate to the administration of the Plan. All such rules and decisions shall be uniformly and consistently applied to all Members and Beneficiaries in similar circumstances. When making a determination or calculation, the Trustees shall be entitled to rely upon information furnished by a Member or Beneficiary or the Actuary.

10.8 Disputes

In the event the Trustees cannot decide any matter or resolve any dispute because of a tie vote or in the event decisions cannot be made because of the lack of a quorum at two successive meetings of the Trustees, then in either of such events, the Trustees shall attempt to select an impartial arbitrator to hear and determine the matter, issue or dispute.

- (a) If the Trustees cannot agree on an impartial arbitrator, such arbitrator, on petition of either the Union appointed Trustees or the Association appointed Trustees, shall be appointed by the United States District Court for the Northern District of Ohio, Eastern Division, all as made provided in Section 302(c) of the Labor Management Relations Act, 1947, as amended.
- (b) The costs and expenses incidental to any arbitration proceeding including the fee, if any, of the impartial arbitrator shall be paid from the Fund.

ARTICLE XI - AMENDMENT, TERMINATION OR MERGER

11.1 Amendment

The Trustees may amend the Plan from time to time, provided that any such amendment shall not—

- (a) reconstitute any part of the Trust in the contributing parties; or

- (b) make possible the diversion of the Trust Fund or any part thereof to any purposes other than the exclusive benefit of the Members in the Plan.

Members shall be notified of any such amendment within a reasonable time thereafter.

11.2 Effect of Benefits

The benefits provided under this Plan have been adopted by the Trustees on the basis of actuarial estimates which have established, to the extent possible, that the income and accruals of the Fund will be fully sufficient to support this Plan on a permanent basis. However, it is recognized that in the future, the income and/or liabilities of the Trust may be substantially different from those previously anticipated. The Trustees shall have prepared, no less frequently than every three years, an actuarial valuation of the Plan. Upon the basis of all the facts and circumstances, the Trustees may, from time to time, amend the benefits provided for thereby, except that a Member's Accrued Benefit may be reduced by such amendment only to the extent permitted by Code Section 412(c)(8).

11.3 Termination of Plan

The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. In the event of a termination of this Plan the rights of all affected Members to benefits then accrued, to the extent then funded, shall thereupon become 100% vested and nonforfeitable. The revesting of any part of the Trust Fund in the contributing parties or use of the Trust Fund assets upon termination for purposes other than the exclusive benefit of the Members and Beneficiaries under the Plan is prohibited. Upon a termination of the Plan, the Trustees shall take such steps as they deem necessary or desirable to comply with Sections 4041A and 4281 of ERISA. Members will be notified of any such termination within a reasonable time thereafter.

11.4 Rights of Members

Upon termination or partial termination of the Plan, the rights of all affected Members to benefits accrued to the date of such termination or partial termination, to the extent funded on such date and/or guaranteed by the Pension Benefit Guaranty Corporation, shall be nonforfeitable and the assets of the Trust, as of the last day of the Plan Year in which a termination or partial termination becomes effective, shall be deemed to be fully vested in the membership of the Plan on such date in the manner described in Article XI. In the event of termination, no such affected Member shall have any recourse toward satisfaction of his or her nonforfeitable benefit from other than Plan assets or the Pension Benefit Guaranty Corporation.

11.5 Merger

In the event of any merger or consolidation of the Plan with, or transfer in whole or in part of the assets and liabilities of the Fund to, any other fund or trust fund held under any other plan of deferred compensation maintaining or to be established for the benefit of all or some of the Members of this Plan, the Plan shall be so merged or consolidated, or the assets of the Fund applicable to such Members shall be transferred only if:

- (a) Each Member would (if either this Plan or the other plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer (if this Plan terminated).
- (b) Resolutions of the Trustees of this Plan shall authorize such transfer of assets and resolutions of the Board of Trustees of the new or successor plan shall include an assumption of liabilities with respect to such Members' inclusion in the new or successor plan;
- (c) Such other plan and trust are qualified under Code Sections 401(a) and 501(a).

SECTION XII - MISCELLANEOUS

12.1 Non-alienation

No benefits or interest under the Plan may be anticipated, assigned (whether at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process. This provision will be construed so as not to prevent application of Treasury Regulations issued under Code Sections 401(a) 13 and 414(p).

12.2 Qualified Domestic Relations Orders

(a) Definitions

Solely for the purposes of this section, the following terms shall have the following meanings:

- (i) Alternate Payee. An "Alternate Payee" means a Spouse, former Spouse, Child, or other dependent of a Member who is recognized by a domestic relations order as having a right to receive all or a portion of, the benefits of a Plan Member as provided under Code Section 414(p) and ERISA Section 206(d).
- (ii) Domestic Relations Order. A "Domestic Relations Order" means any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments or marital property rights to a Spouse, a former spouse, Child or other dependent of a Member or former Member, and which is made pursuant to a state domestic relations law (including a community property law).

(iii) Qualified Domestic Relations Order. A “Qualified Domestic Relations Order” is one which contains the following information:

- (1) the name and last mailing address of the Member and the name and mailing address of each Alternate Payee under the order,
- (2) the amount or percentage of the Member’s benefits to be paid to any Alternate Payee or the manner in which such amount or percentage is to be determined,
- (3) the number of payments or the period to which the order applies, and
- (4) each plan to which the order relates.

(b) Processing of Domestic Relations Order

Upon receipt of a Domestic Relations Order, the Plan’s Administrator shall do the following:

- (i) notify the Member and any Alternate Payee of the receipt of the order; and
- (ii) send copies of established procedures to determine if the order is a “Qualified Domestic Relations Order” within the meaning of Section 204 of the Retirement Equity Act of 1984 (“REA”) to:
 - (1) the Member and any Alternate Payee;
 - (2) each Alternate Payee specified in the order (at the mailing address specified in the order); and
 - (3) each representative for receipt of copies of notice designated by an Alternate Payee.

(c) Determination That Order Is Qualified Domestic Relations Order

The Plan’s Administrator shall make a determination if the Order is a Qualified Domestic Relations Order within the meaning of Section 204 of REA. If the Administrator determines that the order is a Qualified Domestic Relations Order, the Administrator shall:

- (i) notify each person described listed above that the order is a Qualified Domestic Relations Order; and

(ii) obey the order.

(d) Determination That Order Is Not Qualified Domestic Relations Order

If the Administrator determines that the order is not a Qualified Domestic Relations Order, he or she shall refer the matter to the Fund's legal counsel. If legal counsel determines that the Order is not a Qualified Domestic Relations Order, he or she shall attempt to persuade the parties' counsel to have the order amended so as to make it a Qualified Domestic Relations Order. In the event that the changes are not made, the Fund's legal counsel will take appropriate legal action (in the court issuing the order, in a federal district court, in both, by appeal, or otherwise) to resist the Order and/or to resolve the question of whether the Order is a Qualified Domestic Relations Order.

While the issue of whether a Domestic Relations Order is a Qualified Domestic Relations Order is being determined (by the Plan's Administrator, by legal counsel, by a court of competent jurisdiction, or otherwise), the Plan's Administrator shall account for the amounts which may be payable to the Alternate Payee when the order had been determined to be a Qualified Domestic Relations Order.

If, within eighteen (18) months, the Order (or modification thereof) is determined to be a Qualified Domestic Relations Order, the Plan's Administrator shall calculate the Alternate Payee's share and commence payment of the benefit when it is payable under the terms of the Plan and Qualified Domestic Relations Order.

If, within eighteen (18) months it is determined that the Order is not a Qualified Domestic Relations Order, or the issue as to whether such Order is a Qualified Domestic Relations Order is not resolved, then the Plan's Administrator shall treat the account as if there had been no Order.

Any determination that an order is a Qualified Domestic Relations Order which is made after the eighteen (18) month period will be applied prospectively only.

(e) Plan or Trust Named as Defendant in Domestic Relations Case

If the Plan or Trust is made a party defendant in any domestic relations case before the entry of an order, the Plan's Administrator shall consult the Fund legal counsel. Legal counsel shall:

(i) file an appropriate pleading;

- (ii) send copies of the established procedures to counsel for the other parties; and
- (iii) attempt to ensure that an order entered in a domestic relations case which affects the Plan or Trust is a Qualified Domestic Relations Order.

12.3 Rights of Members

The Plan does not confer on any Member any right to continue in the employ of Employer or to continue as a Member of the Union, nor is the Member entitled to any special benefits under this Plan not specifically provided by the terms of the Plan.

12.4 Retired Members

A retired Member receiving monthly benefits will be entitled to continue receiving benefits regardless of other employment or self-employment except as described in Article VI of this Plan.

12.5 Plan Documents

The Trustees shall make available for inspection by any Member, at the principal office of the Administrator, any documents or information pertaining to the Plan as specified in Paragraph 2 of Section 104(b) of ERISA and shall upon written request of a Member furnish him the documents and the information specified in Paragraph 4 of Section 104(b) and Section 105 of ERISA.

12.6 Small Benefits

If the retirement benefit payable to a Member is less than fifty dollars (\$50.00) per month, the Member may elect, in writing, (subject to consent of Member's Spouse) that such benefit payments be made in one lump sum upon the Member's retirement on or after his or her Normal Retirement Date.

Notwithstanding any other provision of this Plan, if the Present Value of the Vested Accrued Benefit of a Member is \$1,000 or less (or \$5,000 or less for Annuity Starting Dates prior to March 28, 2005) as of the Annuity Starting Date, the Trustees shall pay the benefit in a single sum equal to that value. If the value of the benefit is more than \$1,000 (but not exceeding \$5,000), distribution shall be made upon the Member's (without spousal consent) written request.

If the Actuarial Present Value of a benefit payable to a surviving Spouse or Alternate Payee under the Plan is \$1,000 or less (or \$5,000 or less for Annuity Starting Dates prior to March 28, 2005) as of the Annuity Starting Date, the Trustees shall pay the benefit in a single sum equal to that value.

12.7 Facility of Payment/Payment to Minor Beneficiaries

If any Member or Beneficiary entitled to receive benefits hereunder shall be, in the opinion of the Trustees, physically or mentally incapable of receiving or administering such benefits or acknowledging receipt thereof and the Trustees are not aware of any legal representative having been appointed for him, the Trustees may cause any benefit otherwise payable to him to be paid to any institution maintaining the Member or Beneficiary; or the Spouse, Child(ren) or any person whom the Trustees reasonably determine is caring for or otherwise providing him with support and maintenance. The Trustees shall be under no obligation or duty to see that the funds are used or applied for the purpose(s) for which paid and any liability under the Plan with respect to such payment.

Distributions to Beneficiaries who are minors may be made by the Board of Trustees to (1) the Beneficiary's parent or legal guardian as custodian for the Beneficiary under the Ohio Transfers to Minors Act or similar Transfers to Minors Act of the state of the residence of the minor; and/or (2) to any institution maintaining the individual; and/or (3) to any person whom the Trustees reasonably determine is caring for the individual or otherwise providing support and maintenance. The Board of Trustees shall not be required to see to the application of any distributions so made to any minor, but the receipt of the distribution by the persons set forth above shall be a full discharge to the Board of Trustees and the Plan.

12.8 Beneficiary Designation

Each person when he or she becomes a Member shall file with the Trustees a designation of Beneficiary form. Such form shall be a directive to the Trustees to pay the death benefit in the manner indicated thereon. A Member may from time to time change his or her designation of Beneficiary form. Each designation shall revoke all prior designations by the same Member and shall become effective when placed on file with the Plan or its administrative manager. A Member may not designate a Beneficiary other than his or her Spouse unless such Spouse consents in writing to the designation and such consent is witnessed by a Plan representative or notary public. If the Employee fails to designate a Beneficiary, a benefit to be paid to a Beneficiary, if any, shall be paid to the following:

- (a) the Member's Spouse, or
- (b) if no Spouse is living at the time of death, to the Member's Child or Children in equal shares, or
- (c) if no Spouse or Children are living at the time of death, to the Member's Parent or Parents in equal shares, or
- (d) if no Spouse, Children, or Parents are living at the time of death, to the Member's Siblings in equal shares, or

- (e) if no Spouse, Children, Parents, or Siblings are living at the time of death, to such deceased Member's estate.

12.9 Eligible Rollover Distributions

Effective for Plan Years beginning after December 31, 1993 and notwithstanding any other 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 Board of Trustees, to have any portion of an eligible rollover distribution paid directly to any eligible retirement plan specified by the distributee in a direct rollover.

For the purpose of this section, the following terms shall be defined as follows:

- (a) Eligible Rollover Distribution

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (i) 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 (10) years or more;
- (ii) any distribution to the extent such distribution is required under Code Section 401 (a) (9); and
- (iii) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to Employer securities).

- (b) Eligible Retirement Plan

An eligible retirement plan is:

- (i) A traditional individual retirement account described in Code Section 408 (a), (b) and (p);
- (ii) an annuity plan described in Code Section 403 (c); or
- (iii) a qualified trust described in Code Section 401 (a)

that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover to the surviving Spouse, an eligible retirement plan is a traditional individual retirement account or a traditional individual

retirement annuity. Effective for distribution made after December 31, 2001, an Eligible Retirement Plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) 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 Code Section 414(p).

(c) Distributee

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse or former spouse who is an Alternate Payee under a Qualified Domestic Relations Order as defined in Code Section 414 (p) are distributees with regard to the interest of the spouse or former spouse. Effective January 1, 2008, the term "distributee" shall also include a non-spouse Beneficiary of Member or former Member.

(d) Direct Rollover

A direct rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(e) Notification

The Trustees shall notify a distributee of his right to elect a Direct Rollover. That notice shall be provided to the distributee between thirty (30) days and one hundred eighty (180) days prior to the distributee's Annuity Starting Date. A distributee's affirmative election to make or not make a Direct Rollover may be implemented by the Trustees less than thirty (30) days after the distributee receives such notice of his Direct Rollover rights, but only if the Trustees notify the distributee that he has the right to consider the decision of whether or not to elect a Direct Rollover for up to thirty (30) days. A distributee who has been given a timely notice and explanation of his rights under this Article, yet fails to make an affirmative election to have his Eligible Rollover Distribution paid to an Eligible Retirement Plan, will be presumed to have elected to have his Benefit paid directly to him.

12.10 Intent to Comply

This Plan is intended to comply with the Employee Retirement Income Security Act of 1974 and with the requirements for tax qualification under the Code and all regulations thereunder and is to be interpreted and applied consistent with that intent.

12.11 Governing Law

The Plan and Trust shall be administered, construed and enforced in accordance with ERISA, and, to the extent that ERISA has not preempted the laws of the State of Ohio, in accordance with the laws of the State of Ohio.

12.12 Statute of Limitations

No legal action regarding or relating to a claim for benefits under the Plan may be commenced or filed against the Board of Trustees or the Plan more than two (2) years after the mailing of a final decision of the Board of Trustees on appeal of a denial of a claim for benefits under the Plan.

12.13 Official Plan Records

A claimant for benefits under the Plan may submit whatever records and evidence he or she believes are appropriate in support of his or her claim for benefits. However, the Trustees shall rely upon the records of the Plan (“Official Plan Records”) in determining the claimant’s eligibility for benefits. In the event of a discrepancy between the Official Plan Records and the records or other evidence supporting the claim asserted by a claimant, the Trustees shall rely upon the Official Plan Records unless shown to their satisfaction that the additional or other records/evidence submitted are valid and that the Trustees should rely upon those records/evidence. The burden of proving a claim for benefits which differs from the Official Plan Records shall be upon the claimant.

ARTICLE XIII - TOP HEAVY PROVISIONS

In the event that Code Section 416 should become applicable, the Plan hereby incorporates it by reference, and any regulations promulgated thereunder. No benefit exceeding the amounts permitted for any “top-heavy” group shall be provided under this Plan. If the Plan is or becomes top-heavy in any Plan Credit Year beginning after December 31, 1983, the provisions of this Article XIV shall supersede any conflicting provisions in the Plan.

13.1 Key Employee

“Key Employee” means any employee or former employee (including any deceased employee) who at any time during the Plan Credit Year that includes the determination date was an officer of the Employer having Annual Compensation greater than \$130,000 (as adjusted under Code Section 416(i)(1) for Plan Credit 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 Code Section 415(c)(3). The determination of who is a Key Employee will be made in accordance with Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

13.2 Top-Heavy Plan

For any Plan Credit Year beginning after December 31, 1983, this Plan is top-heavy if any of the following conditions exist:

- (a) If the top-heavy ratio for this Plan exceeds sixty percent (60%) and this Plan is not part of any required aggregation group or permissive aggregation group of plans.
- (b) If this Plan is a part of a required aggregation group of plans but not part of a permissive aggregation group and the top-heavy ratio for the group of plans exceeds sixty percent (60%).
- (c) If this Plan is part of a required aggregation group and part of a permissive aggregation group of plans and the top-heavy ratio for the permissive aggregation group exceeds sixty percent (60%).

13.3 Top-Heavy Ratio

- (a) If the Employer maintains one or more defined benefit plans and the Employer has not maintained any defined contribution plan (including any Simplified Employee Pension Plan) which during the five year period ending on the determination date(s) has or has had Accrued Benefits, the top-heavy ratio for this Plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the determination date(s) (including any part of any Accrued Benefit distributed in the five (5) year period ending on the determination date(s)), and the denominator of which is the sum of the present value of Accrued Benefits (including any part of any account balance distributed in the five (5) year period ending on the determination date(s)), both computed in accordance with Code Section 416 and the regulations thereunder. 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 Code Section 416(g)(2) during the one (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 Code Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting “5-year period” for “1-year period.”
- (b) If the Employer maintains one or more defined benefit plans and the Employer maintains or has maintained one or more defined contribution plans (including any Simplified Employee Pension Plan) which during the five (5) year period ending on the determination date(s) has or has had any

Accrued Benefits, the top-heavy ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the present value of Accrued Benefits under the aggregated defined benefit plan or plans for all Key Employees, determined in accordance with Subsection (a). above, and the sum of account balances under the aggregated defined contribution plan or plans for all Key Employees as of the determination date(s), and the denominator of which is the sum of the present value of Accrued Benefits under the defined benefit plan or plans for all participants, determined in accordance with (a) above, and the account balances under the aggregated defined contribution plan or plans for all Members as of the determination date(s), all determined in accordance with Code Section 416 and the regulations thereunder. 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 Code Section 416(g)(2) during the one (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 Code Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting “5-year period” for “1-year period.”

- (c) For purposes of Subsections (a) and (b) above, the value of account balances and the present value of Accrued Benefits shall be determined as of the most recent valuation date that falls within or ends with the twelve (12) month period ending on the determination date, except as provided in Code Section 416 of and the regulations thereunder for the first and second Plan Years of a defined benefit plan. The account balances and Accrued Benefits of a Member—
 - (i) who is not a Key Employee but who was a Key Employee in a prior year, or
 - (ii) who has not been credited with at least one (1) Hour of Service with any Employer maintaining the Plan at any time during the five (5) year period ending on the determination date will be disregarded.

The calculation of the top-heavy ratio and the extent to which distributions, rollovers and transfer are taken into account will be made in accordance with Code Section 416 and the regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the top-heavy ratio. When aggregating plans the value of account balances and Accrued Benefits will be calculated with reference to the determination dates that fall within the same calendar year.

- (d) The Accrued Benefit of a Member other than a Key Employee shall be determined under:
 - (i) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or
 - (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code Section 411(b)(1)(C).

13.4 Permissive Aggregation Group

“Permissive aggregation group” means the required aggregation group of plans plus any other plan or plans of the Employer which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Code Sections 401(a)(4) and 410.

13.5 Required Aggregation Group

“Required aggregation group” means a group consisting of the following:

- (a) each qualified plan of the Employer in which at least one Key Employee participates or participated at any time during the determination period (regardless of whether the Plan has terminated); and
- (b) any other qualified plan of the Employer which enables a plan described in Subsection (a) above to meet the requirements of Code Section 401(a)(4) or 410.

13.6 Determination Date

“Determination date” means:

- (a) for any Plan Credit Year subsequent to the first Plan Credit Year, the last day of the preceding Plan Credit Year; and
- (b) for the first Plan Credit Year of the Plan, the last day of that year.

13.7 Non-Key Employee

“Non-key Employee” means any Employee who is not a Key Employee.

13.8 Valuation Date

“Valuation date” means, for purposes of computing the top-heavy ratio, December 31 of each year.

13.9 Present Value

This Section shall apply for purposes of determining the present values of Accrued Benefits and the amounts of account balances of Employees as of the determination date.

- (a) Actuarial Factors. For purposes of establishing present value to compute the top-heavy ratio, any benefit shall be discounted using the interest and mortality rates described in the Plan.
- (b) Distributions during Year Ending on Determination Date. 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 Code Section 416(g)(2) 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 Code Section 416(g)(2)(A)(i). 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.”
- (c) Employees Not Performing Services during Year Ending on Determination Date. The Accrued Benefits and accounts of any individual who has not performed services for the Employer during the one-year period ending on the determination date shall not be taken into account.

13.10 Minimum Allocation or Benefit Accrual under Top Heavy Plan

- (a) In the event that this Plan becomes top heavy, any Member who is not a Key Employee and is a Member in this Plan shall receive a minimum allocation or benefit accrual as follows:
 - (i) Participation in Defined Contribution Plan. If the Member who is not a Key Employee is covered by a defined contribution plan maintained by the Employer, the Member shall receive an allocation equal to five percent (5%) of compensation under the defined contribution plan. The minimum allocation shall be determined without regard to any Social Security contribution. This minimum allocation shall be made even though, under other provisions of the Plan, the Member would not otherwise be entitled to receive an allocation, or would have received a lesser allocation for the year because of:
 - (1) the Member’s failure to complete 1,000 hours of Work (or any equivalent provided in the Plan), or

- (2) the Member's failure to make mandatory employee contributions to the Plan, or
 - (3) compensation less than a stated amount.
- (ii) Non-Participation in Defined Contribution Plan. If the Member who is not a Key Employee is not covered by a defined contribution plan maintained by the Employer, the Member shall receive a minimum benefit accrual as defined in Code Section 416(c). For purposes of satisfying the minimum benefit requirements of Code Section 416(c)(1), in determining years of service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Credit Year when the Plan benefits (within the meaning of Code Section 410(b)) no Key Employee or former Key Employee.
 - (iii) Non-Application to Member Not Employed on Last Day of Plan Credit Year. The provisions of this Section shall not apply to any Member who was not employed by the Employer on the last day of the Plan Credit Year.
 - (iv) Non-Application to Member Covered by Plan Providing Minimum Top-Heavy Allocation or Benefit Accrual. The provisions of this Section shall not apply to any Member to the extent the Member is covered under any other plan or plans of the Employer and the Employer has provided in those plans that the minimum allocation or benefit requirement applicable to top-heavy plans will be met in the other plan or plans.
 - (v) Nonforfeitability of Minimum Allocation or Benefit Accrual. The minimum allocation or benefit accrual required under this Section (to the extent required to be nonforfeitable under Code Section 416(b)) may not be forfeited under Code Section 411(a)(3)(B) or 411(a)(3)(D). For any Plan Credit Year in which this Plan is top-heavy, the six-year graded vesting schedule described in Code Section 416(b)(1)(B) shall apply to the Plan. The minimum vesting schedule applies to all benefits within the meaning of Code Section 411(a)(7) except those attributable to employee contributions, including benefits accrued before the effective date of Code Section 416 and benefits accrued before the Plan became top-heavy. Further, no decrease in a Member's nonforfeitable percentage may occur in the event the Plan's status as top-heavy changes for any Plan Credit Year. However, this Section shall not apply to the account balances of any Employee who does not have an Hour of Service after the Plan has initially become top-heavy, and such Employee's account balance

attributable to Employer contributions and forfeitures shall be determined without regard to this Section.

- (vi) Calculation of Minimum Allocation or Benefit Accrual. For purposes of computing the minimum allocation or benefit accrual, compensation shall mean compensation as defined in Section 9.1(b)(ii), except that the word “Employee” shall be substituted for the word “Member.”

ARTICLE XIV - DETERMINATION AND COLLECTION OF WITHDRAWAL LIABILITY

14.1 Determinations by Trustees

- (a) The Trustees shall determine as soon as possible:
 - (i) whether an Employer has Withdrawn or Partially Withdrawn from the Fund;
 - (ii) the date of such a Withdrawal or Partial Withdrawal;
 - (iii) an Employer’s Withdrawal Liability;
 - (iv) the schedule of payments of an Employer’s Withdrawal Liability; and
 - (v) any other decisions necessary to the establishment and calculation of liability under this Article.
- (b) The Trustees have the sole discretion and full authority to make a determination and shall promptly notify the Employer of its determination, including the amount of the Employer’s liability and the schedule of liability payments, which notice shall demand payment in accordance with the schedule. The notice herein provided shall be sent to the Employer by certified, return- receipt mail or hand delivery.

14.2 Employer’s Right to Information

- (a) Within ninety (90) days after the Employer receives the notice required by Section 14.1, the Employer, in the event it wishes to take any action described in Subsections (i) through (iii) shall, in written form, mailed certified, return-receipt mail or hand delivered to the Trustees:
 - (i) ask the Trustees to review any specific matter relating to the determination of the Employer’s liability and the schedule of payments; and

- (ii) identify any inaccuracy in the determination of the amount of the Unfunded Vested Benefits allocable to the Employer; and
 - (iii) furnish any additional relevant information to the Trustees.
- (b) If an Employer fails to take any of the actions set forth in Subsection (a) in the time provided therein, the Employer shall be deemed to have agreed to the determinations of the Trustees referred to in Section 14.1.
- (c) The Trustees shall review as soon as practicable any matter raised by an Employer pursuant to Subsection (a). The Trustees shall send a written reply to the Employer by certified, return-receipt mail or hand delivery, setting forth the decision of the Trustees, the basis for the decision, and the reason for any change in the determination of the Employer's liability or schedule of liability payments.

14.3 Trustees' Consultation with Actuary and Other Specialists

In making the determination described herein, the Trustees may consult with the Fund Actuary, attorney, auditor or administrative personnel.

ARTICLE XV - DETERMINATION OF EMPLOYER'S UNFUNDED BENEFITS UPON WITHDRAWAL OR PARTIAL WITHDRAWAL

15.1 Presumptive Method of Calculation of Withdrawal Liability

- (a) The amount of an Employer's Unfunded Benefits upon a Withdrawal shall be the sum of:
 - (i) the Pre-1980 Portion; and
 - (ii) the Post-1980 Portion; and
 - (iii) the Reallocated Portion;

provided, however, that if such sum is less than 0, the Employer's Withdrawal Liability shall be 0.

15.2 Definitions

For the purposes of this Article XV, the following definitions shall apply:

- (a) "Pre-1980 Portion" means the Employer's proportional share of the unamortized amount of the Plan's Unfunded Benefits at the end of the Plan

Credit Year that ended on December 31, 1980, calculated pursuant to ERISA Sections 4211(b)(2)(D) and 4211(b)(3).

- (b) “Post-1980 Portion” means the Employer’s proportion share of the unamortized amount of any change in the Plan’s Unfunded Benefits for Plan Credit Years ending after December 31, 1980, calculated pursuant to ERISA Section 4211(b)(2)(A)-(C) and (E).
- (c) “Reallocated Portion” means the Employer’s proportional share of the unamortized amount of the reallocated Plan’s Unfunded Benefits, if any, calculated pursuant to ERISA Section 4211(b)(4). In determining such portion of the amount described in ERISA Section 4211(b)(4)(B)(i)-(iii), the amount used shall be the amount determined by the Trustees to be appropriate for use in such calculation, based on all the facts and circumstances they deem to be relevant in making such determination; the fact that such amount not used by the Trustees for other purposes shall be irrelevant.

15.3 Period for Counting Contributions

- (a) Notwithstanding the provision of Section 15.2:
 - (i) The fraction utilized in determining a proportional share of the amount described in Sections 15.1(a)(i)-(iii) shall be based on five (5) Plan Credit Years.
 - (ii) “The sum of all contributions made” and “total amount contributed” by an Employer or Employers for a Plan Credit Year or Plan Credit Years means the amount considered contributed to the Fund for the Plan Credit Year for purposes of Code Section 412(b)(3)(A). For periods before Code Section 412 of applies to the Fund, the terms “the sum of all contributions made” and “total amount contributed” mean the amount reported to the Internal Revenue Service or the United States Department of Labor as total contributions for the Plan Credit Year.
 - (iii) In applying Subsection (ii), the total contribution counted for any Plan Credit Year shall be reduced by the amount of contributions included in any previous annual total for any other Plan Credit Year.

15.4 Partial Withdrawal

- (a) The amount of an Employer’s Unfunded Benefits upon a Partial Withdrawal shall be the amount determined under this Article XV, which shall be determined as if the Employer had withdrawn on the date of the Partial

Withdrawal, reduced in accordance with Section 15.6 (if it is applicable), and multiplied by a fraction that is one (1) minus the fraction:

- (i) whose numerator is the Employer's Base Units (Hours of Work upon which contributions to the Plan were based) for the Plan Credit Year following the Plan Credit Year in which the Partial Withdrawal occurs; and
- (ii) whose denominator is the Employer's average Base Units during the five (5) Plan Credit Years preceding the Plan Credit Year of the Partial Withdrawal.

15.5 Offset of Liability for Partial Withdrawal

An Employer's Withdrawal Liability for a Partial Withdrawal shall be offset against any Withdrawal Liability that may arise upon a subsequent Withdrawal or Partial Withdrawal by such Employer in a manner determined by the Trustees.

15.6 De Minimis Limitation in Determining Withdrawal Liability

- (a) In the case of a Withdrawal, an Employer's Unfunded Benefits, if any, shall be reduced by the lesser of:
 - (i) $\frac{3}{4}$ of 1 percent (.75%) of the Plan's Unfunded Benefits as of the end of the Plan Credit Year ending before the date of the Withdrawal or Partial Withdrawal; or
 - (ii) \$50,000.00

(the lesser hereinafter referred to as the "Reduction Amount"); provided, however, that if the Employer's Unfunded Benefits (determined without regard to this Section 15.6) exceed \$100,000.00, the Reduction Amount shall be reduced by the amount of such excess until the reduction is 0.

- (b) In the case of a Partial Withdrawal, this Section 15.6 shall be applied in determining the Employer's Unfunded Benefits pursuant to Section 15.4, but shall not be applied to reduce the Unfunded Benefits so determined.

ARTICLE XVI - MASS WITHDRAWAL

16.1 Effect of Mass Withdrawal

- (a) In the event of the Withdrawal of every Employer from the Fund, or the Withdrawal of a substantial number of the Employers, pursuant to an agreement or arrangement to withdraw from the Fund:

- (i) the liability of each Employer shall be determined or redetermined and paid without regard to Section 15.6; and
- (ii) notwithstanding any other provisions, the Plan's Unfunded Benefits shall be fully allocated among all such Employers.

16.2 Withdrawal by Substantially All Employers within Three (3) Consecutive Plan Credit Years

Withdrawal by an Employer from the Fund during a period of three (3) consecutive Plan Credit Years within which substantially all the Employers that have an obligation to contribute to the Fund shall be presumed to be a Withdrawal pursuant to an agreement or arrangement to withdraw subject to the provisions of Section 16.1 unless the Employer provides otherwise to the Trustees by a preponderance of the evidence.

IN WITNESS WHEREOF, this Amended and Restated Plan Document has been adopted and executed by the parties hereto on this 18th day of August 2021, but effective May 1, 2021.

**ON BEHALF OF
UNION TRUSTEES:**



Timothy Miller, Chair

**ON BEHALF OF
EMPLOYER TRUSTEES:**



Thomas E. Martin, Secretary/Treasurer