

**SHEET METAL WORKERS PENSION PLAN  
OF NORTHERN CALIFORNIA**

**Amended and Restated effective January 1, 2026**

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## **SHEET METAL WORKERS PENSION PLAN OF NORTHERN CALIFORNIA**

### **Recitals**

This document amends and restates the Sheet Metal Workers Pension Plan of Northern California (“Plan”) as of January 1, 2026 to conform it to the requirements of applicable law and all amendments adopted hereto as part of the restatement. Many provisions have different effective dates as required by the Internal Revenue Code of 1986, as amended (“Internal Revenue Code” or “Code”) or as is otherwise provided in the Plan. Unless specifically provided elsewhere herein, this amended and restated Plan does not apply to Participants who became Pensioners or died prior to January 1, 2026.

This document shall not have the effect of reinstating any individual’s benefits or credits which were permanently forfeited under prior Plan provisions in effect before January 1, 2026.

The Plan is intended to be a plan qualified under applicable provisions of the Internal Revenue Code and to comply with the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). The applicable provisions (and effective dates) of these laws shall govern in the event of any conflict with any provision of this amended and restated Plan.

## ARTICLE I. GENERAL DEFINITIONS

Where the following words and phrases appear in this Plan, they have the meaning set forth in this Article, unless the context clearly indicates otherwise. Other words and phrases with special meaning are defined where they first appear unless their meaning is apparent from the context.

- 1.1 “Actuarial Equivalent” shall mean the dollar value on any specified date computed on the basis of actuarial assumptions (e.g., mortality and interest) specified herein for a particular purpose. For purposes of calculating optional forms of benefits, actuarial equivalence shall be determined with reference to the Life Pension with Payments Guaranteed Form for three (3) Years, on the basis of five percent (5%) interest and the mortality table specified by the Internal Revenue Service pursuant to Code Section 417(e) for the 2022 calendar year. Unless other factors are specified herein for a particular purpose, the basis for determination of actuarially equivalent benefits for all other purposes shall be five percent (5%) interest and the mortality table specified by the Internal Revenue Service pursuant to Code Section 417(e) for the calendar year in which the Annuity Starting Date occurs.

Notwithstanding the foregoing, for purposes of determining a single sum distribution, as defined in Code Section 417(e), the single sum distribution shall not be less than the present value calculated using the “Applicable Mortality Table” and the “Applicable Interest Rate,” as defined below.

The “Applicable Mortality Table” and “Applicable Interest Rate” for a calendar year mean the mortality table and interest rate prescribed by the Secretary of the Treasury pursuant to Code Section 417(e) for such calendar year. The “Stability Period” (which contains the Annuity Starting Date) is defined as one (1) Plan Year. The “Lookback Month” for this purpose is the second (2<sup>nd</sup>) full calendar month before the first (1<sup>st</sup>) day of the Stability Period.

- 1.2 “Annuity Starting Date” shall mean the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) period for which an amount is paid as an annuity or any other form.
- 1.3 “Beneficiary” shall mean any person designated by a Participant, Pensioner or in accordance with the Plan who is or may become entitled to benefits hereunder.
- 1.4 “Board of Trustees” shall mean the Board of Trustees appointed in accordance with the Trust Agreement. “Trustees” shall mean the Board of Trustees designated and acting under the Trust Agreement.
- 1.5 “Contribution Agreement” shall mean any collective bargaining agreement or other written agreement entered into by the Union with any Employer or employer association, approved by the Board of Trustees, which requires contributions to this Plan, including any



amendment, modification, or extension of such agreement or any successor agreement. It also includes a subscription agreement entered into between an Employer and the Plan.

- 1.6 “Covered Employee” is an Employee working in a classification or position covered by a Collective Bargaining Agreement or other Contribution Agreement that requires contributions to this Plan.

Covered Employee also includes full-time paid officers and representatives of the Union and other such persons as are permitted, including individuals who qualify as “alumni” under Internal Revenue Code regulations, but excluding Employees of the Union who are part of a separate bargaining unit recognized by the Union acting as an Employer and for whom there has been good faith collective bargaining with respect to retirement benefits, unless that agreement provides for contributions to this Plan.

Covered Employee also includes Employees who, pursuant to a subscription agreement entered into between the Employee’s Employer with the Board of Trustees, are included in the Plan and on whose behalf such Employer makes contributions to this Plan. The Board of Trustees shall have total and absolute discretion to approve subscription agreements and to determine which individuals or classifications of employees may participate in the Plan, subject to the Internal Revenue Code and regulations thereunder.

- 1.7 “Covered Employment” shall mean work as a Covered Employee.
- 1.8 “Covered Hour” shall mean an hour of Covered Employment for which an Employer Contribution has been made or was required to be made on the Employee’s behalf.
- 1.9 “Disability” shall mean a Total and Permanent Disability (as defined in Section 6.2), a Partial Disability (as defined in Section 6.3), or a Temporary Disability (as defined in Section 6.9).
- 1.10 “Disabled Participant” shall mean a Participant receiving a Total and Permanent Disability Benefit or a Partial Disability Benefit.
- 1.11 “Domestic Partner” shall mean the domestic partner of the Participant registered with a state, county or city, evidenced by a certified copy of the declaration of domestic partnership.
- 1.12 “Early Retirement Date” means the first (1<sup>st</sup>) day of the month coincident with or next following the Participant’s Early Retirement Age.
- 1.13 “Employee” shall mean any common-law employee of an Employer. The term Employee includes Owner/Members to the extent permitted by the Internal Revenue Code.
- 1.14 “Employer” shall mean any legal entity which qualifies as an Employer under the Trust and which is contributing to the Trust on behalf of Covered Employees.

To the extent required by applicable law only, an Employer shall include members of a controlled group of corporations, commonly controlled trades or businesses or affiliated service groups as defined in the Internal Revenue Code of which an Employer is a part.

- 1.15 “Employer Contributions” shall mean contributions properly made to the Trust by an Employer in accordance with a Contribution Agreement for the purpose of providing benefits under this Plan.
- 1.16 “Employer Contribution Date” shall mean the first (1<sup>st</sup>) date for which an Employer was or is obligated by a Contribution Agreement to make contributions to the Plan. The Employer Contribution Date to be applied to each individual Participant shall be the one applicable to the first (1<sup>st</sup>) Employer who makes contributions on their behalf.
- 1.17 “ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended, and regulations issued thereunder.
- 1.18 “Future Service Credit” shall mean the sum of a Participant’s Future Service Credit earned with one or more contributing Employers. One (1) year of Future Service Credit is earned for each Plan Year during which a Participant has worked eight hundred seventy (870) or more Covered Hours, and one-quarter (1/4) year of Future Service Credit is earned for each Plan Year during which a Participant has worked four hundred thirty-five (435) or more but fewer than eight hundred seventy (870) Covered Hours. No Future Service Credit is earned in a Plan Year during which a Participant works fewer than four hundred thirty-five (435) Covered Hours. No Future Service Credit is granted for any Covered Hours prior to the beginning of the period of two (2) consecutive Plan Years during which the Employee became a Participant.
- 1.19 “Hour of Service” shall mean:
  - (a) Each hour for which an Employee is paid or entitled to payment from an Employer for an hour of Covered Employment or Connecting Vesting Service Credit; or
  - (b) An hour of Disability Service.

Hours shall be calculated and credited pursuant to Section 2530.200b of the Department of Labor regulations which are incorporated herein by this reference. In situations in which actual hours data is not available, absent any Plan provision to the contrary, the weekly equivalency rules will apply, crediting forty-five (45) Hours of Service for each week in which at least one (1) hour was worked (except for Disability Service).

There shall be no duplication of hours, contributions or Future Service Credit for which credit or benefits are granted and/or no “double credit” for the same period.

- 1.20 “Noncovered Sheet Metal Service”—See Article III.
- 1.21 “Normal Retirement Age” shall mean the later of a Participant’s sixty-fifth (65<sup>th</sup>) birthday or the fifth (5<sup>th</sup>) anniversary of their becoming a Participant, provided all rights to a benefit

under the Plan have not been permanently forfeited by a permanent Break in Service as defined in Section 3.1.

- 1.22 “Normal Retirement Date” is the first (1<sup>st</sup>) day of the month coincident with or next following the Participant’s Normal Retirement Age.
- 1.23 “Owner/Member” shall mean a person who owns stock or other equity interest of an incorporated Employer, including limited liability companies (or whose Spouse or Domestic Partner owns such equity interest) and is treated as if being covered by the unit covered by that Employer’s collective bargaining agreement with the Union.
- 1.24 “Participant” shall mean an Employee who earns at least eight hundred seventy (870) Hours of Service as a Covered Employee at any time during any period of two (2) consecutive Plan Years.
- 1.25 “Past Service Credit” shall mean, for eligible Participants for whom contributions were obligated to be made to the Plan on or after January 1, 1966, each consecutive calendar year the Participant worked for the same Employer who was their Employer on their first (1<sup>st</sup>) day on the job for which contributions were obligated to be made to the Plan on their behalf. To be eligible for Past Service Credit, a Participant must have worked at least one hundred sixty (160) Covered Hours during the nine (9)-month period immediately following the date contributions were obligated to be made on the Participant’s behalf. It is the Participant’s responsibility to provide sufficient information to the Trust Fund Office to demonstrate that they worked in a position that qualifies for Past Service Credit. Past Service Credit shall count toward a Participant’s benefit amount on a year-for-year basis, with no fractional credit, up to a maximum of ten (10) years. For eligible Participants who started Covered Employment prior to January 1, 2026, Past Service Credit shall count toward a Participant’s benefit amount up to a maximum of thirty-two (32) years. (Different rules exist for Past Service Credit for those who started Covered Employment prior to 1966). (See Appendix A).

Notwithstanding any other provision of this Plan, if a Participant or Employee (or a former Participant or Employee) at any time after their Contribution Date performs at least one (1) hour of Noncovered Sheet Metal Service, then they shall lose all Past Service Credit for the purpose of calculating their benefit amount.

- 1.26 “Pensioner” shall mean a Participant who has commenced receiving their pension benefits in accordance the with the terms of the Plan.
- 1.27 “Plan” shall mean the Sheet Metal Workers Pension Plan of Northern California set forth in this document as it may be amended from time to time. The Plan is also referred to as the “Sheet Metal Workers of Northern California Pension Plan.”
- 1.28 “Plan Year” shall mean January 1 through December 31 of each year.
- 1.29 “Related Plan”— See Article VIII.

- 1.30 “Spouse” shall mean the spouse or surviving spouse of the Participant, provided:
- (a) An individual shall be considered as the spouse of a Participant only if a party to a valid legal marriage under the laws of the jurisdiction where the marriage took place, evidenced by a valid marriage license or certificate.
  - (b) A Participant’s former spouse will be treated as the spouse or surviving spouse of the Participant but only to the extent provided by a Qualified Domestic Relations Order as described in Section 414(p) of the Internal Revenue Code.
- 1.31 “Trust” shall mean the Sheet Metal Workers Pension Trust of Northern California.
- 1.32 “Trust Fund Office” shall mean the entity designated by the Board of Trustees to provide day-to-day services to Participants of the Plan.
- 1.33 “Union” shall have the same meaning as in the Trust Agreement.
- 1.34 “Unreduced Pension Service” shall include the following periods:
- (i) The Total of Past Service Credit and Future Service Credit;
  - (ii) Disability Service;
  - (iii) Related Service described in Article VIII;
  - (iv) Connecting Vesting Service Credit;
  - (v) Approved Government Agency Service;
  - (vi) Periods of employment in the Sheet Metal Industry, outside the geographic area covered by the Plan, provided that such employment is covered by a Collective Bargaining Agreement between the Employer and the International Association of Sheet Metal, Air, Rail and Transportation (“SMART”) (or any successor entity) and further provided that no more than five (5) years of such employment will be counted for this purpose;
  - (vii) Employment with SMART, (or any successor entity);
  - (viii) Periods of employment under an Agreement with a Local Union to work as a volunteer organizer at a non-signatory employer (i.e., “Salting Agreement Service”), if approved by the Board of Trustees until such Agreement is terminated by the Local Union.
- 1.35 “Vested Participant” shall mean a Participant who meets the vesting requirements set forth in Article II, Section 2.2.
- 1.36 “Vesting Service Credit”—See Article II.

ARTICLE II.  
PARTICIPATION AND VESTING

2.1 Participant.

A person becomes a Participant on the first (1<sup>st</sup>) day of the month following the date they have earned eight hundred seventy (870) Hours of Service as a Covered Employee at any time during any period of two (2) consecutive Plan Years. A person loses their status as a Participant as of the date they incur a permanent Break in Service.

2.2 Vested Participant.

A Participant becomes a Vested Participant in accordance with the following provisions:

- (a) Effective as of January 1, 1999, a Participant who works an hour or more in Covered Employment on or after that date is vested upon the completion of five (5) Vesting Service Credit years, including Vesting Service Credit years that were earned prior to January 1, 1999, that had not previously been forfeited. (See Section 5.1(a) for the vesting requirement for Early Retirement Benefits.) For periods of Covered Employment and other employment prior to January 1, 1999, the prior Plan vesting rules apply. Thus, if a Participant did not meet the Plan's vesting requirements in effect prior to 1999 and did not perform any Covered Employment on or after January 1, 1999, they are not vested under the new vesting requirements.
- (b) Regardless of years of Vesting Service Credit, any Participant who attains Normal Retirement Age (as defined in Section 4.1) will be vested and such benefits will be non-forfeitable.

2.3 Vesting Service Credit.

"Vesting Service Credit" is determined as follows:

- (a) For Plan Years beginning prior to January 1, 1976, Vesting Service Credit will be credited for each Employee who was a Participant on January 1, 1976 based on the greater of (i) and (ii) below:
  - (i) The aggregate of their Future Service Credit granted under the Plan as it existed on December 31, 1975, or
  - (ii) The number of Plan Years during which the Participant accumulated at least eight hundred seventy (870) Covered Hours as defined under the Plan as it existed on December 31, 1975, and applying the following special rules:
    - (A) Hours of Connecting Vesting Service Credit will be deemed Covered Hours for this purpose for the period during which the Participant's Employer was obligated to contribute to this Plan for employees in Covered Employment;

- (B) In no event will a Participant earn more than one (1) Vesting Service Credit during any one (1) Plan Year as a result of additional credited hours of Connecting Vesting Service Credit or for any other reasons; and
  - (C) The Plan as it existed on December 31, 1975 shall be deemed to include these rules.
- (b) For a Plan Year beginning after December 31, 1975, and before January 1, 1982, during which an Employee earns eight hundred seventy (870) or more Hours of Service, one (1) Vesting Service Credit will be granted. For such Plan Years no partial credit is given for Plan Years in which an Employee earned fewer than eight hundred seventy (870) Hours of Service during this period.
- (c) For Plan Years beginning after December 31, 1981, Vesting Service Credit will be earned as follows:
  - (i) If the Employee earned eight hundred seventy (870) or more Hours of Service, one (1) Vesting Service Credit will be earned.
  - (ii) If the Employee earned four hundred thirty-five (435) or more, but fewer than eight hundred seventy (870) Hours of Service, one-fourth of a Vesting Service Credit will be earned.
  - (iii) If the Employee earned fewer than four hundred thirty-five (435) Hours of Service, no Vesting Service Credit will be earned.
- (d) Employees may earn up to a maximum of five (5) Vesting Service Credits for approved Government Agency Service in accordance with the rules set forth below. "Government Agency Service" means work of the type which would be recognized as Covered Employment if it were covered by a Collective Bargaining Agreement, the work must be performed for a government agency and the governmental agency must have a written agreement or memorandum of understanding with one of the sponsoring Unions. Such agencies may be added or deleted by action of the Board of Trustees without a formal amendment. The applicable rules for approved Government Agency Service are:
  - (i) Government Agency Service will be deemed Hours of Service for Vesting Service Credit;
  - (ii) In no event will any Employee be credited with more than five (5) Vesting Service Credits for Government Agency Service; and
  - (iii) Only Employees who were employed in Government Agency Service on or after January 1, 1988, or who are active or active Vested Participants after that date will be entitled to such Vesting Service Credit.

- (e) Employees may earn up to five (5) Vesting Service Credit for International Service in accordance with the rules set forth below. “International Service” means employment performed with SMART or any successor entity.
  - (i) International Service will be deemed Hours of Service for Vesting Service Credit.
  - (ii) In no event will any Employee be credited with more than five (5) Vesting Service Credits for International Service.
  - (iii) Only Employees who were employed in International Service on January 1, 1991, or who are active or active Vested Participants after that date will be entitled to such credit.
- (f) “Connecting Vesting Service Credit” is any work other than Covered Employment for an Employer which follows or precedes Covered Employment with an Employer within ninety (90) days, and which occurs while the Participant’s Employer is obligated to contribute to this Plan for Employees in Covered Employment. There can be no quit, discharge or retirement that occurs between such periods of Covered Employment and Non-Covered Employment.
- (g) Up to two (2) years of Disability Service as defined in Section 3.5.
- (h) Certain Military Service in accordance with Section 3.4

### ARTICLE III. SERVICE RULES

#### 3.1 Break in Service.

A Participant who is not yet vested will incur a permanent “Break in Service” eliminating their Vesting Service Credit, and Future and Past Service Credit and all other rights to a benefit under this Plan if the Participant incurs six (6) consecutive Break in Service Years.

“Break in Service Year” means a Plan Year after December 31, 1975, during which a Participant earns fewer than four hundred thirty-five (435) Hours of Service, subject to the following:

- (a) If a Participant fails to earn four hundred thirty-five (435) Hours of Service in a Plan Year during which they had at least six (6) months of Military Service, as defined in Section 3.4 below, then such Plan Year shall not cause a Break in Service.
- (b) Only for purposes of determining whether a Participant has incurred a Break in Service Year, hours of qualified maternity or paternity leave as required by applicable law credited after January 1, 1987, will be considered Hours of Service.
- (c) Only for purposes of determining whether a Participant has incurred a Break in Service Year, hours of approved Government Agency Service, International Service and Salting Agreement Service (as defined in Section 3.3 below) will be considered Hours of Service.

Break in Service Years prior to December 31, 1975 will be determined in accordance with Plan provisions during the applicable prior periods.

#### 3.2 Noncovered Sheet Metal Service.

“Noncovered Sheet Metal Service” means any kind of work (with or without the tools of the trade) which is:

- (a) performed in the jurisdiction of any Union whose members are Participants of this Plan or in the jurisdiction of any other local of SMART or any successor entity which maintains a Related Plan; and
- (b) performed for a company which is doing sheet metal work, but which does not have a Contribution Agreement with one of the sponsoring Unions or a collective bargaining agreement with a Local Union of SMART or any successor entity which maintains a Related Plan.

#### 3.3 Salting Agreement Service.

“Salting Agreement” means an agreement between a union member and a Local Union to work as a volunteer organizer with a non-signatory employer for a short period. “Salting



Agreement Service” means employment or hours worked for a non-signatory employer. A Participant performing such Salting Agreement Service shall be considered a Covered Employee to prevent a Break in Service and for eligibility for an Unreduced Early Retirement Benefit under Section 5.1(b) herein below. Such Salting Agreement Service shall be treated in the same manner as Future Service Credit if contributions are made for such employment, as approved by the Board of Trustees.

Employment under a Salting Agreement, including employment for which contributions are not required, shall not be considered Noncovered Sheet Metal Service as defined in Section 3.2.

Salting Agreement Service terminates upon the effective date of the termination of the Salting Agreement with the Local Union as determined by the Local Union. For any Salting Agreement in which the termination date is uncertain, the burden is on the Participant to prove that the Salting Agreement remained in effect. There is a presumption that no Salting Agreement will last more than twenty-four (24) months.

If the Salting Agreement with the Participant terminates and the Participant continues to work for such employer in a position for which no Employer Contributions are required to be made to this Plan, such employment shall be considered Noncovered Sheet Metal Service.

### 3.4 Credit for Certain Military Service.

Pursuant to the Veterans Readjustment Assistance Act, the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), and other applicable federal law, an authorized leave of absence due to Military Service shall be considered Future Service Credit and Vesting Service Credit under the Plan, provided that the Participant complies with all of the requirements of applicable federal law, this Plan, and any rules established by the Board of Trustees or its delegate. Only service in Military Service for which credit is required under applicable federal law will be considered under this Section.

Military Service shall have the same meaning as uniformed services in 38 USC §4303(13) and any corresponding regulations.

To be entitled to Future Service Credit and Vesting Service Credit for a period of Military Service, a Participant whose active duty exceeded ninety (90) days must have:

- (a) been working as a Covered Employee during the ninety (90) days prior to commencement of their Military Service; and
- (b) returned to work as a Covered Employee or signed the Union’s out-of-work list within ninety (90) days following termination of their Military Service; and
- (c) been honorably discharged from the Military Service, and
- (d) served no more than five cumulative years in Military Service.

For any Participant whose active duty did not exceed ninety (90) days, return to work as a Covered Employee must be made within the time periods required by USERRA, and any other applicable law.

In determining the Participant's period of absence for Military Service the Plan will consider the Total Service Time ("Net Service this Period" plus up to a maximum of six (6) months of time listed under "Other Service") provided on a Participant's applicable military discharge papers.

In determining the Participant's Future Service Credit and Vesting Service Credit, the Plan shall determine the Employer Contributions that would have been made to the Plan on the Participant's behalf for this period of absence for Military Service by taking an average of the hours, and/or contributions rate, and/or contract rates made to the Plan on the Participant's behalf during the two (2) Plan Years immediately preceding the date the Participant commenced their Military Service, or if greater, using the Plan Year in which the Participant entered Military Service. In determining this average, if the Plan can clearly identify the actual number of months that hours were reported on behalf of the Participant, the average would be based on the actual number of months the hours are reported in either the two (2) Plan Years immediately preceding the Plan Year in which the Participant entered Military Service, or the Plan Year in which the Participant entered Military Service (excluding the month of induction).

### 3.5 Disability Service.

"Disability Service" is credited under Section 2.3 at the rate of thirty (30) hours for each full week of any Disability, provided the Disability occurs while the Participant is working in Covered Employment and the Participant is not receiving any Disability Benefit from the Plan. Effective February 1, 2023, no more than two (2) years of Disability Service will be granted for any purpose under the Plan. Notwithstanding the requirement that a Participant work in Covered Employment at the time their Disability commences to be eligible for Disability Service, a Participant who is seeking Covered Employment, as evidenced by having signed the Union's out-of-work list and having been available for Covered Employment, also shall be eligible for Disability Service. If the Union for which the Participant is a member does not maintain an out-of-work list, the Plan will rely upon that Union's procedures for determining whether the Participant is seeking Covered Employment and is available for Covered Employment.

ARTICLE IV.  
BENEFITS PAYABLE AT NORMAL RETIREMENT DATE

4.1 Eligibility.

To be entitled to a Normal Retirement Benefit, a Vested Participant must have reached their Normal Retirement Age, terminated their Covered Employment and not be engaged in Suspendible Service, and filed a timely and complete pension application (except for a Participant who has reached their Applicable RMD Age as defined in Section 11.4(b)(ii)).

4.2 Normal Retirement Benefits.

The amount of monthly “Normal Retirement Benefit” credited to any Participant who retires on or after January 1, 1999, shall be equal to the greater of (a), (b) or (c) below:

- (a) A minimum benefit of fifty dollars (\$50.00).
- (b) The sum of (i), (ii), (iii) (iv) and (v) below:
  - (i) Three hundred sixty ten-thousandths (0.0360) multiplied by the whole dollar amount of Employer Contributions paid on the Participant’s behalf prior to January 1, 1987;
  - (ii) Three hundred thirty-five ten-thousandths (0.0335) multiplied by the whole dollar amount of Employer Contributions paid on the Participant’s behalf for Covered Employment through June 30, 2003 prior to the end of the Plan Year in which the Participant earned their fifteenth (15<sup>th</sup>) year of Past Service Credit and/or Future Service Credit (not through reciprocity) and after December 31, 1986. Disability Service and Connecting Vesting Service Credit do not count toward the fifteen (15) years of service. (For purposes of this Subsection, the Past Service Credit of a Participant who was not a Participant on December 31, 1986, will be included only to the extent it does not exceed the product of 0.5 and the Participant’s Future Service Credit). Effective as of July 1, 2003, the percentage rate shall be one thousand six hundred seventy-five hundred-thousandths percent (0.01675%) of the Employer Contributions paid on the Participant’s behalf for hours of Covered Employment on or after July 1, 2003.
  - (iii) Four hundred forty-five ten-thousandths (0.0445) multiplied by the whole dollar amount of Employer Contributions paid on the Participant’s behalf for Covered Employment through June 30, 2003, and two thousand two hundred twenty-five hundred-thousandths (0.02225) multiplied by the whole dollar amount of Employer Contributions paid on the Participant’s behalf for Covered Employment on or after July 1, 2003, after the later of:
    - (A) December 31, 1986, or

- (B) The end of the Plan Year in which the Participant earned their fifteenth (15<sup>th</sup>) year of Past Service Credit and/or Future Service Credit. Disability Service and Connecting Vesting Service Credit do not count toward the fifteen (15) years of service. (For purposes of this Subsection, the Past Service Credit of a Participant who was not a Participant on December 31, 1986 will be included only to the extent it does not exceed the product of one-half (0.5) and the Participant's Future Service Credit).
- (iv) Six dollars (\$6.00) multiplied by the number of years of Past Service Credit up to a maximum of thirty-two (32) years, subject to the following rules:
  - (A) Said service will not be counted if it was permanently forfeited pursuant to Sections 1.25 or 3.1, or
  - (B) Said service will not be counted if it was permanently forfeited under the Plan prior to January 1, 1976.
- (v) Benefits accrued under Sections 4.2(f) and 4.2(g).
- (c) For a Participant who was a Participant on December 31, 1986, the sum of (i), (ii) and (iii) below:
  - (i) Three hundred sixty ten-thousandths (0.0360) multiplied by the whole dollar amount of Employer Contributions paid on the Participant's behalf for hours of Covered Employment through June 30, 2003. Effective as of July 1, 2003, one hundred eighty ten-thousandths (0.0180) multiplied by the whole dollar amount of Employer Contributions paid on the Participant's behalf for hours of Covered Employment on or after July 1, 2003 through December 31, 2016;
  - (ii) The Past Service Credit benefit described in Section 4.2(b)(iv) above.
  - (iii) Benefits accrued under Sections 4.2(f) and 4.2(g).
- (d) To determine a Participant's Normal Retirement Benefit, Employer Contributions include those contributions properly required to be made to the Trust on the Participant's behalf, pursuant to a Contribution Agreement, even though such contributions may not have been paid to the Trust due to the Employer's delinquency. Notwithstanding any other provision in the Plan, Employer Contributions shall not include certain Employer Contributions negotiated on or after January 1, 1986 and specifically designated for funding Unreduced Early Retirement Benefits at age fifty-five (55) as described in Section 5.1(b), nor shall they include additional Employer Contributions required under the Rehabilitation Plan for the period from July 1, 2009 through December 31, 2016.

Effective from July 1, 2002, through June 30, 2003, eight percent (8%) of the Employer Contributions made on each Participant's behalf for Covered

Employment performed on or after July 1, 2002, is not used to calculate a Participant's Normal Retirement Benefit or any other benefit provided under the Plan. The purpose of the eight percent (8%) set-aside was to provide additional funding toward meeting the Plan's actuarial requirements.

- (e) Extra contributions made to the Trust that are not based on actual hours worked (such as a form of severance) shall not be counted in determining a Participant's benefit under this Plan unless the Collective Bargaining Agreement so requires.
- (f) For Hours of Service earned between January 1, 2017 through December 31, 2021, benefits earned were determined by a Variable Benefit Accrual Rate (VBAR). Based on the results of the VBAR formula, the following table shows the percentages by which contributions were multiplied in each of those Plan Years in order to determine the benefit earned during that Plan Year.

| Percentage by Which Contributions<br>During the Plan Year are Multiplied |   |  |
|--|---|--|
| Plan<br>Year   | If Participant had earned<br>fewer than 15 Years of Past<br>and/or Future Service Credit<br>as of the Beginning of the<br>Plan Year | If Participant had earned at<br>least than 15 Years of Past<br>and/or Future Service Credit as<br>of the Beginning of the Plan<br>Year |
| 2017   | 1.50%   | 1.75%  |
| 2018   | 0.75%   | 1.00%  |
| 2019   | 0.80%   | 1.05%  |
| 2020   | 0.75%   | 1.00%  |
| 2021   | 0.80%   | 1.05%  |

- (g) Effective for Hours of Service earned on or after January 1, 2022, benefits earned during a Plan Year shall be determined as follows. For purposes of this Section 4.2(g), the Plan's Funded Percentage shall be determined based on the actuarial assumptions and methodologies described in the Plan's actuarial certification of status under Code Section 432(b)(3) for the January 1, 2022 Plan Year.
- (i) A Participant who, as of December 31, 2021, is younger than age fifty-two (52) or has fewer than twenty-five (25) years of Future and Past Service Credits (combined), shall earn a monthly benefit accrual equal to seventy hundredths percent (0.70%) of benefit-bearing Employer Contributions paid on the Participant's behalf. Benefit-bearing Employer Contributions shall be those contributions made at the rate effective on January 1, 2021, unless otherwise specified in the table below. For Covered Employees who work for a Production Shop Employer, benefit-bearing Employer Contributions shall be governed by the Contribution Agreement.

Except for Covered Employees who work for a Production Shop Employer, benefits shall accrue pursuant to the schedule below on the first (1<sup>st</sup>) day of the Plan Year following the Plan Year in which the Plan's Funded Percentage meets the criteria set forth below:

Non-Production Shop Employees

| Prior Plan Year Annual Certification Funded Percentage | Accrual Rate | Benefit Accruals Based on Pension Contribution Rate in Effect on |
|--|--------------|--|
| Less than 85%  | 0.70%        | January 1, 2021  |
| At least 85% and less than 90%                         | 0.80%        | July 1, 2021   |
| At least 90% and less than 95%                         | 0.80%        | July 1, 2022   |
| At least 95% and less than 100%                        | 0.90%        | July 1, 2023   |
| At least 100%  | 1.00%        | July 1, 2024 (or any contribution rate thereafter)               |

For Covered Employees who work for a Production Shop Employer, benefits shall accrue pursuant to the schedule below on the first (1<sup>st</sup>) day of the Plan Year following the Plan Year in which the Plan's Funded Percentage meets the criteria set forth below:

Production Shop Employees

| Prior Plan Year Annual Certification Funded Percentage | Accrual Rate | Percentage of Current Contribution Rate |
|--|--------------|---|
| At least 85% and less than 90%                         | 0.80%        | 87.8%                                   |
| At least 90% and less than 95%                         | 0.80%        | 91.9%                                   |
| At least 95% and less than 100%                        | 0.90%        | 95.9%                                   |
| At least 100%  | 1.00%        | 100%                                    |

- (ii) A Participant who, as of December 31, 2021, is at least age fifty-two (52) and has at least twenty-five (25) years of Future and Past Service Credits (combined) shall earn a monthly benefit accrual equal to fifty-five hundredths percent (0.55%) of benefit-bearing Employer Contributions paid on the Participant's behalf. Benefit-bearing Employer Contributions shall be those contributions made at the rate effective on January 1, 2021, unless otherwise specified in the table below. For Covered Employees who work for a Production Shop Employer, benefit-bearing Employer Contributions shall be governed by the Contributing Employer's Contribution Agreement.

Except for Covered Employees who work for a Production Shop Employer, benefits shall accrue pursuant to the schedule below on the first (1<sup>st</sup>) day of the Plan Year following the Plan Year in which the Plan's Funded Percentage meets the criteria set forth below:

Non-Production Shop Employees

| Prior Plan Year Annual Certification Funded Percentage | Accrual Rate | Benefit Accruals Based on Pension Contribution Rate in Effect on |
|--|--------------|--|
| Less than 85%  | 0.55%        | January 1, 2021  |
| At least 85% and less than 90%                         | 0.70%        | July 1, 2021   |
| At least 90% and less than 95%                         | 0.70%        | July 1, 2022   |
| At least 95% and less than 100%                        | 0.80%        | July 1, 2023   |
| At least 100%  | 1.00%        | July 1, 2024 (or any contribution rate thereafter)               |

For Covered Employees who work for a Production Shop Employer, benefits shall accrue pursuant to the schedule below on the first (1<sup>st</sup>) day of the Plan Year following the Plan Year in which the Plan's Funded Percentage meets the criteria set forth below:

Production Shop Employees

| Prior Plan Year Annual Certification Funded Percentage | Accrual Rate | Percentage of Current Contribution Rate |
|--|--------------|---|
| At least 85% and less than 90%                         | 0.70%        | 87.8%                                   |
| At least 90% and less than 95%                         | 0.70%        | 91.9%                                   |
| At least 95% and less than 100%                        | 0.80%        | 95.9%                                   |
| At least 100%  | 1.00%        | 100%                                    |

- (iii) Covered Employees who work for a Production Shop Employer. For purposes of this Section 4.2, Production Shop Employer shall mean a Contributing Employer engaged in the production or manufacturing field whose Covered Employees are not permitted to work or be sent outside of the shops or plants in which they are employed to perform work except to inspect warranty failure and to supervise the correction of faulty products. Such Contributing Employer has a stand-alone Contribution Agreement that requires contributions to this Plan for all employees.

ARTICLE V.  
BENEFITS PAYABLE AT OTHER THAN NORMAL RETIREMENT DATE

5.1 Early Retirement Benefit Commencing on or after April 1, 2022.

This Section 5.1 shall apply to Early Retirement Benefits where the Annuity Starting Date is after April 1, 2022, the pension application is received by the Trust Fund Office on or after April 1, 2022, or the Participant's last date of Covered Employment is on or after April 1, 2022.

(a) Early Retirement Eligibility. The Plan's Early Retirement Age for a Participant who has terminated their employment and filed a timely application is:

- (i) age sixty (60) with ten (10) years of Vesting Service Credits; or
- (ii) age fifty-five (55) with fifteen (15) years of Vesting Service Credits.

A Participant is only eligible for an Early Retirement Benefit of any type if the Participant has:

- (i) worked at least one hour in Covered Employment during the thirty-six (36) consecutive months immediately preceding the Participant's Annuity Starting Date, exclusive of any period that the Participant has been on Sheet Metal Workers Local 104's out-of-work list; and
- (ii) earned at least four hundred thirty-five (435) Covered Hours in one (1) of the two (2) consecutive Plan Years immediately preceding the date the Participant becomes eligible (other than submitting an application) for an Early Retirement Benefit. If the Participant fails to meet this four hundred and thirty-five (435) Covered Hours requirement, then the Participant must subsequently earn a total of at least eight hundred seventy (870) Covered Hours during any period of two (2) consecutive Plan Years.

Notwithstanding the foregoing, a Participant is not eligible for an Unreduced Early Retirement Benefit if, after meeting the service requirement for an Unreduced Early Retirement Benefit, the Participant fails to work at least one hour in Covered Employment during any period of thirty-six (36) consecutive months prior to their Annuity Starting Date, exclusive of any period that the Participant has been on Sheet Metal Workers Local 104's out-of-work list.

Covered Hours as used in this Section 5.1(a) shall include hours employed in the Sheet Metal Industry that are covered by a Related Plan.

Notwithstanding any other provision herein, for any Participant who has been or is employed in Noncovered Sheet Metal Service, the otherwise applicable Early Retirement Date will be postponed twelve (12) months if the Participant earned less than \$5,000 from work in Noncovered Sheet Metal Service during a calendar year, for each such year. If the Participant earned \$5,000 or more from work in



Noncovered Sheet Metal Service during a calendar year, the Early Retirement Date will be postponed by twenty-four (24) months, for each such year. In no event will the retirement date be extended beyond the first (1<sup>st</sup>) day of the month following the Participant's sixty-fifth (65<sup>th</sup>) birthday.

(b) Unreduced Early Retirement Benefit.

(i) A Participant, who as of December 31, 2021, has attained age forty-nine (49) and earned at least twenty-two (22) years of Unreduced Pension Service (a "Grandfathered Participant") may become eligible to receive an Unreduced Early Retirement Benefit as follows:

(A) At age fifty-two (52) with at least twenty-five (25) years of Unreduced Pension Service, for benefits earned prior to July 1, 2009;

(B) At age fifty-five (55) with at least twenty-five (25) years of Unreduced Pension Service, for benefits earned on or after July 1, 2009 through December 31, 2021; or

(C) At age fifty-five (55) with at least thirty (30) years of Unreduced Pension Service or at age fifty-eight (58) with at least twenty-five (25) years of Unreduced Pension Service, for benefits earned on or after January 1, 2022. A Grandfathered Participant who fails to satisfy this requirement may become eligible for a Partially Reduced or a Reduced Early Retirement Benefit for benefits earned on or after January 1, 2022, under the provisions set forth in subsections (c) and (d) below.

(ii) A Participant who is not a Grandfathered Participant and whose first (1<sup>st</sup>) Covered Hour is before July 1, 2022, is eligible to receive an Unreduced Early Retirement Benefit as follows:

(A) At age fifty-five (55) or later with at least thirty (30) Years of Unreduced Pension Service; or

(B) At age fifty-eight (58) or later with at least twenty-five (25) Years of Unreduced Pension Service.

(iii) A Participant whose first (1<sup>st</sup>) Covered Hour is on or after July 1, 2022, is eligible to receive an Unreduced Early Retirement Benefit as follows:

(A) At age fifty-five (55) or later with at least thirty (30) Years of Unreduced Pension Service; or

(B) At age sixty (60) or later with at least twenty-five (25) Years of Unreduced Pension Service.

- (c) Partially Reduced Early Retirement Benefit. A Participant whose first (1<sup>st</sup>) Covered Hour is before July 1, 2022, who retires at or after age fifty-five (55) but before age fifty-eight (58), and has at least twenty-five (25) but fewer than thirty (30) years of Unreduced Pension Service is eligible to receive a Partially Reduced Early Retirement Benefit equal to the Normal Retirement Benefit credited to the Participant at their Annuity Starting Date reduced by one-fourth percent (0.25%) per month for each month their age at retirement is before age sixty (60).
- (d) Reduced Early Retirement Benefit. A Participant who satisfies the Early Retirement eligibility requirements but who is not eligible to receive either an Unreduced Early Retirement Benefit or a Partially Reduced Early Retirement Benefit may receive a Reduced Early Retirement Benefit equal to the Normal Retirement Benefit credited to the Participant at their Annuity Starting Date reduced by one-half percent (0.5%) per month for each month their age at retirement is before age sixty-five (65).
- (e) Additional Rules for Grandfathered Participants' Benefits Accrued Prior to 2022. For benefits accrued prior to January 1, 2022, a Grandfathered Participant who retires at or after age 55 with at least ten (10) but fewer than twenty-five (25) years of Unreduced Pension Service is eligible to receive a Reduced Early Retirement Benefit equal to the Normal Retirement Benefit credited to the Participant at their Annuity Starting Date reduced by one-half percent (0.5%) per month for each month their age at retirement is before age sixty (60).
- (f) Production Shop Employees. Eligibility for benefits under Section 5.1 for Covered Employees who work for a Production Shop Employer shall be governed by Section 5.1 as that Section was formulated immediately prior to the effective date of this Restated Plan Document until the Contribution Agreement in effect on December 13, 2021 expires or is amended to adopt the Plan's Rehabilitation Plan effective December 13, 2021, whichever is earlier. After such time, this Section 5.1 shall apply. For purposes of this Section 5, Production Shop Employer shall mean a Contributing Employer engaged in the production or manufacturing field whose Covered Employees are not permitted to work or be sent outside of the shops or plants in which they are employed to perform work except to inspect warranty failure and to supervise the correction of faulty products. Such Contributing Employer has a stand-alone Contribution Agreement that requires contributions to this Plan for all employees classified as production workers.

## 5.2 Postponed Retirement.

A Participant may elect to postpone their retirement and to remain in the service of their Employer after their Normal Retirement Date. In this event, payment of Postponed Retirement Benefits will begin at their Postponed Retirement Date, subject to Internal Revenue Code distribution requirements, which shall be the first (1<sup>st</sup>) day of any month coincident with, or next following, the date stipulated by the Participant as their retirement date. The amount of monthly Postponed Retirement Benefits shall be equal to the monthly Normal Retirement Benefit credited to the Participant at their Postponed Retirement Date.

A Participant who retires from Covered Employment and applies for benefits after their Normal Retirement Age shall be deemed to have postponed their retirement past Normal Retirement Age. The monthly benefit of a Participant who postpones retirement past Normal Retirement Age shall be the Participant's 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, and then converted at the Annuity Starting Date to the benefit payment form elected or to the Automatic Form, which is the fifty percent (50%) Joint and Survivor Annuity if the Participant is married. If the Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, the actuarial increase in those benefits shall start from the date they would have first been paid rather than the Normal Retirement Age.

### 5.3 Special Retirement.

- (a) For an Annuity Starting Date prior to April 1, 2022, a Participant, not otherwise eligible, may qualify for a Normal Retirement Benefit or an Early Retirement Benefit known as a "Special Retirement" if they meet one of the following.
  - (i) A Participant may qualify for an Unreduced Early Retirement Benefit at age sixty (60) if the sum of the Participant's Past Service Credit and Vesting Service Credit equals ten (10) or more, and the Participant has accumulated at least five (5) years of Future Service Credit, or
  - (ii) the Participant has accumulated either five (5) years of Future Service Credit during the Plan Year of their retirement and the six (6) immediately preceding Plan Years, or 4,000 Covered Hours during the Plan Year of their retirement and the four (4) immediately preceding Plan Years.

A Participant who qualifies for an Early Retirement Benefit under this Section shall not have included in the determination of their benefit any Past Service Credit, nor shall their benefit be subject to the fifty dollars (\$50.00) monthly minimum benefit.

No benefit shall be payable under this Section if a Participant is employed in Noncovered Sheet Metal Service either before or after they meet the requirements for a Special Retirement.

- (b) Notwithstanding any other provision in Article V, a Participant who is a certified class member in the action of *Campa v. Bd. of Trustees of the Sheet Metal Workers Pension Plan of N. Cal., et al., No. 3:23-cv-1760 (N.D. Cal.)* and identified by name on Appendix B to the settlement agreement dated April 18, 2024 qualifies for a Special Retirement.

For purposes of this Subsection (b), a Special Retirement benefit shall be equal to (i) the benefit otherwise payable under Section 5.1 as that Section was formulated immediately prior to the effective date of this Restated Plan Document, plus (ii) 95% of the difference between (i) and the Normal Retirement Benefit.

#### 5.4 Increase and/or Extra Payments to Pensioners, Disabled Participants, and Beneficiaries.

The Board of Trustees, from time to time, may approve cost-of-living supplements or grant an extra payment for Pensioners, Disabled Participants, and Beneficiaries.

Such extra payments, known as “supplemental payments” or “13<sup>th</sup> checks,” or cost of living increases, are at the absolute discretion of the Board of Trustees. Such payments are not guaranteed or vested. Such payments or increases may be granted in one (1) year and not another and may be changed each year; the amount of any increase, including any extra check issued, may vary for different categories of individuals, such as Pensioners, Participants, Disabled Participants and Beneficiaries (and may vary within each of those separate categories).

To the extent applicable for this Plan, distributees may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan specified by the distributee pursuant to Code Section 401(a)(31) and the applicable regulations.

#### 5.5 Compensation.

Pursuant to Internal Revenue Code section 401(a)(17), the maximum compensation that may be taken into account in determining contributions made on behalf of any employee shall be no more than \$150,000, as adjusted by increases permitted by the Internal Revenue Code and regulations issued thereunder.

For any Plan Year beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining allocations shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with § 401(a)(17)(B) of the Internal Revenue Code. Annual compensation means compensation during the Plan Year or such other consecutive twelve (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.

#### 5.6 Protection of Accrued Benefits.

To the extent required by applicable law, no amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall be effective to the extent that it has the effect of decreasing a Participant’s accrued benefit. For purposes of this paragraph, a Plan amendment that has the effect of (1) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (2) eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits subject to the Pension Protection Act and other applicable law. For a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. Notwithstanding the preceding sentences, a Participant’s accrued benefit may be reduced to the extent permitted under Code Section 412(c)(8) (for Plan Years beginning on or before December 31, 2007) or Code

Section 412(d)(2) (for Plan Years beginning after December 31, 2007), or to the extent permitted under Treas. Reg. Sections 1.411(d)-3 and 1.411(d)-4 and pursuant to Code Section 432, or any other applicable provision of the Code or Treasury Regulations.

5.7 Credit For Certain Military Service.

Future Service Credit and Vesting Service Credit for Military Service shall be determined in accordance with Section 3.4.

The Board of Trustees shall have sole and absolute discretion to determine the appropriate contributions to be allocated to a Participant in this situation subject to the minimum requirements of federal law.

## ARTICLE VI. DISABILITY BENEFITS

### 6.1 Eligibility for Disability Benefits.

To be entitled to a Disability Benefit under this Article, a Participant must have either a Total and Permanent Disability (as defined in Section 6.2) or a Partial Disability (as defined in Section 6.3), and must meet each of the following requirements:

- (a) A Participant who, at any time prior to the date of their Disability, failed to earn at least four hundred thirty-five (435) Covered Hours in one (1) of two (2) consecutive Plan Years, must subsequently have earned at least eight hundred seventy (870) Covered Hours during any period of two (2) consecutive Plan Years;
- (b) Be working under a Contribution Agreement which requires contributions to the Plan (or effective as of July 1, 2007, a Related Plan as provided in Section 8.1) at the time they become disabled and have earned at least four hundred thirty-five (435) Covered Hours in one (1) of the two (2) Plan Years immediately preceding the Plan Year in which they incurred the Disability;
- (c) Have earned ten (10) Vesting Service Credits; and
- (d) Be unable to perform Covered Employment prior to Normal Retirement Age due to their Disability.

Covered Hours as used in this Article shall include hours employed in the Sheet Metal Industry and covered by a Related Plan.

No Disability Benefit will be payable to any Participant who performs Noncovered Sheet Metal Service at any time during the Plan Year in which they become disabled or during the two (2) immediately preceding Plan Years.

The effective date of any Disability Benefit payment under the Plan will be no earlier than the first (1<sup>st</sup>) day of the month following the date that the Participant has earned ten (10) years of Vesting Service Credit.

### 6.2 Total and Permanent Disability.

A Participant has a “Total and Permanent Disability” if:

- (a) The Participant has received a determination by the Social Security Administration that they are entitled to Disability Insurance Benefits under the Federal Social Security Act (hereinafter “Act”), or that they would have been so entitled except for having insufficient quarters of coverage to be eligible under the Act, and
- (b) The Participant is unable to engage in any other employment or gainful pursuit resulting in an income of more than the income limitation of the Social Security Administration with respect to Social Security disability benefits. Such Participant

shall report any and all income to the Trustees, within fifteen (15) days after the end of each June or December, when in that month or in any of the preceding five months they had any earnings from employment or gainful pursuit in excess of the income limitation of the Social Security Administration.

### 6.3 Partial Disability.

A Participant has a “Partial Disability” if (a) they are not currently eligible for Disability Insurance Benefits under the Act, and (b) they have a physical or mental condition resulting from bodily injury, disease, or mental disorder, which renders them incapable of performing any work in the Sheet Metal Industry during the remainder of their life, as certified in writing by two physicians who are qualified to render an opinion as to the particular condition.

A “physician” means, with respect to any particular medical care and surgical services, any holder of a license authorizing such licensee to perform the particular medical or surgical services. The term “physician” shall not include chiropractors, the eligible employee or dependent, or the Spouse, parent, child, sister or brother of the eligible employee or dependent.

### 6.4 Amount of Total and Permanent Disability Benefit.

A Participant with a Total and Permanent Disability is entitled to a monthly Disability Benefit which is equal to the amount of monthly Normal Retirement to which the Participant would have been entitled as of the date of their Total and Permanent Disability, or seventy dollars (\$70.00) per month, whichever is greater, subject to the provisions of Sections 6.6 and 6.8. For Total and Permanent Disability Benefits commencing on or after January 1, 2022, a Participant must have earned at least twenty-five (25) years of Future and Past Service Credits (combined) at the date of their Total and Permanent Disability to be entitled to this benefit

Effective for Total and Permanent Disability Benefits commencing on or after January 1, 2022, a Participant who has earned fewer than twenty-five (25) years of Future and Past Service Credits (combined) at the date of their Total and Permanent Disability shall be entitled to a monthly Disability Benefit equal to the Normal Retirement Benefit which the Participant would have been entitled as of the date of their Total and Permanent Disability, reduced by one-half percent (0.5%) per month for each month that the Participant’s age at the date of disability is before age sixty-five (65), with a maximum reduction of forty-two percent (42%).

### 6.5 Amount of Partial Disability Benefit.

A Participant with a Partial Disability is entitled to a monthly Disability Benefit equal to one hundred percent (100%) of the amount of monthly Normal Retirement credited to the Disabled Participant at the date of their Partial Disability, or seventy dollars (\$70.00), whichever is greater, reduced by five-twelfths of one percent (5/12%) per month for each month by which the commencement date of the Participant’s Partial Disability Benefit

precedes the first (1<sup>st</sup>) day of the month coincident with or next following their sixtieth (60<sup>th</sup>) birthday; however, in no event will the reduction exceed fifty percent (50%). For Partial Disability Benefits commencing on or after January 1, 2022, a Participant must have earned at least twenty-five (25) years of Future and Past Service Credits (combined) at the date of their Partial Disability to be entitled to this benefit.

Effective for Partial Disability Benefits commencing on or after January 1, 2022, a Participant who has earned fewer than twenty-five (25) years of Future and Past Service Credits (combined) at the date of their Partial Disability is entitled to a monthly Disability Benefit equal to the Normal Retirement Benefit which the Participant would have been entitled to as of the date of their termination of employment due to Partial Disability, reduced by one-half percent (0.5%) per month for each month that the Participant's age at the date of disability is before age sixty-five (65), with a maximum reduction of forty-two percent (42%).

#### 6.6 Beginning and End of Disability Benefit Payments.

- (a) Beginning Payments. Subject to the provisions of Section 6.1, Disability Benefits are payable:
  - (i) For Partial Disability, the first (1<sup>st</sup>) day of the month coinciding with or next following the month the Partial Disability began provided that no more than forty-eight (48) months of retroactive Partial Disability Benefits are payable. Retroactive benefits shall not be paid in a lump sum but instead the Participant's Partial Disability Benefit will be increased based on the Actuarial Equivalent value of such retroactive benefits.
  - (ii) For Total and Permanent Disability, the first (1<sup>st</sup>) day of the month coinciding with or next following the commencement of the Total and Permanent Disability as established by the Social Security Administration, provided that no more than forty-eight (48) months of retroactive Disability Benefits are payable. Retroactive benefits shall not be paid in a lump sum but instead the Participant's Total and Permanent Disability Benefit will be increased based on the Actuarial Equivalent value of such retroactive benefits.
- (b) Termination of Payments. Monthly Disability Benefit payments shall terminate at the earliest of the following dates:
  - (i) the date of the Disabled Participant's death;
  - (ii) the date as of which it is determined that the Disabled Participant is no longer suffering from a Disability if such date is prior to their Normal Retirement Date.

It is the duty of the person receiving a Disability Benefit to provide the Trust Fund Office with such proof of continued Disability as may be requested. Failure to



provide such proof may result in the withholding or delaying of benefit payments hereunder until such proof of continued Disability is furnished.

If a person receiving a Disability Benefit hereunder recovers from their Disability or is no longer qualified to receive Social Security Disability benefits, they shall report such determination to the Plan within thirty (30) days of such recovery or notice of determination from the Social Security Administration, whichever is earlier.

#### 6.7 Form of Disability Benefit.

- (a) A Participant who is married when their Disability Benefit commences will receive their Disability Benefit in the fifty percent (50%) Joint and Survivor Form unless the notice and spousal consent rules herein are complied with. A Participant is also offered the seventy-five percent (75%) and one hundred percent (100%) Joint and Survivor Form as well as the Disability Form in Subsection (c) below. If the Spouse predeceases the Disabled Participant, their benefit will increase to the amount which would have been payable if the Disability Form had been elected.
- (b) A Participant who is not married when their Disability Benefit commences is entitled to a monthly amount payable for the life of the Participant. Monthly payments of the Total and Permanent Disability Benefit described in Section 6.4 shall be made to the Disabled Participant on the first (1<sup>st</sup>) day of the month and terminate as determined in Section 6.6. For a Total and Permanent Disability Benefit commencing prior to January 1, 2022, upon the Participant's death, an unmarried Participant may be entitled to a Contribution Death Benefit, as set forth in Section 7.2(a).
- (c) The "Disability Form" of payment is a monthly amount payable for the life of the Disabled Participant payable as of the first (1<sup>st</sup>) day of each month.

#### 6.8 Recovery From Disability.

- (a) Full Recovery—Loss of Benefits. If prior to their Normal Retirement Date, it is determined that a Participant who is receiving a Disability Benefit from the Plan is no longer suffering from Total and Permanent Disability or Partial Disability, their benefit shall be terminated; however, a Participant who is no longer suffering from Total and Permanent Disability may continue as a Disabled Participant if they have a Partial Disability. The Partial Disability Benefit will be paid pursuant to Section 6.5 above.
- (b) Benefit Suspended for Trial Work Period. If a Participant who is Totally and Permanently Disabled returns to work as a Covered Employee on a trial basis as permitted under Social Security or a Participant with a Partial Disability returns to work as approved by the Board of Trustees, their benefits will be suspended for any month in which they earn one (1) hour as a Covered Employee during such trial

period up to three (3) calendar months. The Plan may require that the Participant certify in writing that their return as a Covered Employee is on a trial basis.

6.9 Temporary Disability

“Temporary Disability” means a medically determinable mental or physical impairment which temporarily prevents the Participant from performing work anywhere in the Sheet Metal Industry in the classification within the collective bargaining agreement under which they were employed, as certified by a physician or other medical evidence, or, if such evidence is unavailable, then in such manner as is established by evidence acceptable to the Trustees.

ARTICLE VII.  
DEATH BENEFITS

7.1 Post-Retirement Death Benefits.

If a Vested Participant dies after their Annuity Starting Date, death benefits, if any, are paid in accordance with the Participant's elected form of benefit payment. If a Vested Participant elected a form of benefit payment that does not provide for payments after the Participant's death, no death benefit will be payable to anyone.

7.2 Preretirement Death Benefits.

- (a) Upon the death of an unmarried Vested Participant on or after November 1, 2008 and prior to January 1, 2022, who had no Domestic Partner at the time of their death, a Contribution Death Benefit shall be payable to their Beneficiary, subject to Section 7.3(a) below.

Upon the death of a Vested Participant prior to January 1, 2022, who is survived by their Spouse or Domestic Partner, their surviving Spouse or Domestic Partner shall be entitled to choose:

- (i) A Contribution Death Benefit with a residual annuity for their life based on the excess, if any, of the Actuarial Equivalent value of the Preretirement Survivor Annuity over the amount of the Contribution Death Benefit; or
- (ii) The Preretirement Survivor Annuity plus a lump sum payment of the excess, if any, of the Contribution Death Benefit over the Actuarial Equivalent value of the Preretirement Survivor Annuity.

The Contribution Death Benefit is payable effective the first (1<sup>st</sup>) of the month coincident with or next following the date of the Participant's death and all payments of survivor annuities are payable on the first (1<sup>st</sup>) of the month coincident with or next following the later of (i) the date the Participant would have reached their earliest Early Retirement Date or (ii) the date of the Participant's death.

- (b) Upon the death of an unmarried Vested Participant on or after January 1, 2022, who had no Domestic Partner at the time of their death, who has at least one (1) Hour of Service within thirty-six (36) months of their death, exclusive of any period on which they have been on the SMART, Sheet Metal Workers Local Union 104 out-of-work list, a death benefit equal to forty-eight (48) monthly payments of the Participant's Normal Retirement Benefit earned up until the date of death shall be payable to their Beneficiary. The total value of the monthly payments shall not exceed eighty percent (80%) of the total Employer Contributions made on the Participant's behalf.

Upon the death of a Vested Participant on or after January 1, 2022, who is survived by their Spouse or Domestic Partner, their surviving Spouse or Domestic Partner shall be entitled to choose:

- (i) The Preretirement Survivor Annuity, as defined in Section 7.3(b); or
- (ii) For a Vested Participant who has at least one (1) Hour of Service within thirty-six (36) months of their death, exclusive of any period on which they have been on the SMART, Sheet Metal Workers Local Union 104 out-of-work list, a monthly benefit of: 1) fifty percent (50%) of the Participant's retirement benefit payable at their earliest Early Retirement Date under the fifty percent (50%) Joint and Survivor Form, plus 2) the excess, if any, of eighty percent (80%) of the total Employer Contributions made on the Participant's behalf over the value of the Preretirement Survivor Annuity; or
- (iii) For a Vested Participant who has at least one (1) Hour of Service within thirty-six (36) months of their death, exclusive of any period on which they have been on the SMART, Sheet Metal Workers Local 104 out-of-work list, a death benefit equal to forty-eight (48) monthly payments of the Participant's Normal Retirement Benefit earned up until the date of death. The sum of the forty-eight (48) monthly payments shall not exceed eighty percent (80%) of the total Employer Contributions made on the Participant's behalf.

If the surviving Spouse or Domestic Partner fails to make an election, the pre-retirement death benefit shall default to option (i) above.

### 7.3 Definitions.

- (a) Contribution Death Benefit. This benefit option shall only apply to Participant deaths prior to January 1, 2022. The "Contribution Death Benefit" shall be one hundred percent (100%) of Employer Contributions less any Disability Benefit payments paid under the Plan. No Contribution Death Benefit shall be payable to the designated Beneficiary of a Participant:
  - (i) Whose Employer Contributions were less than \$400.00 prior to any Disability Benefit payments, or
  - (ii) Who performed Noncovered Sheet Metal Service during the Plan Year of their death or during the two immediately preceding Plan Years.
- (b) Preretirement Survivor Annuity. The "Preretirement Survivor Annuity" is a monthly pension to the surviving Spouse or Domestic Partner of the Participant who had earned one (1) Hour of Service after December 31, 1975. This benefit is equal to an annuity in the amount the Spouse would have received if the Participant had retired on the day before the date of their death and their pension had been payable in the Automatic Form.

If the Participant had not reached their earliest Early Retirement Date this benefit is calculated as if the Participant had:

- (i) survived to their earliest Early Retirement Date without earning any additional Covered Hours; and
- (ii) retired on their earliest Early Retirement Date; and
- (iii) died on the day following their earliest Early Retirement Date.

Such death benefit will not commence until the first (1<sup>st</sup>) of the month following the Participant's earliest Early Retirement Age, which is the first (1<sup>st</sup>) date on which a Participant could have chosen to retire under the Plan.

The amount of benefit for the Spouse of a Vested Participant shall be calculated in accordance with Section 5.1 to the extent applicable.

(c) Explanation of Qualified Preretirement Survivor Annuity ("QPSA").

- (i) To the extent applicable for this Plan, the applicable period for providing the QPSA explanation is the later of:
  - (A) The period which begins with the first (1<sup>st</sup>) day of the Plan Year in which the Participant attains age thirty-two (32) and ends with the last day of the Plan Year before the Plan Year in which the Participant has their thirty-fifth (35<sup>th</sup>) birthday; or
  - (B) A reasonable period ending after the individual becomes a Participant (a period will be deemed reasonable if the notice is provided by the end of a two (2)-year period beginning one (1) year prior to becoming a Participant).
- (ii) To the extent applicable for this Plan, if a Participant separates from Covered Employment with an Employer before age thirty-five (35), the first (1<sup>st</sup>) notice must be provided within a two (2)-year period beginning one (1) year before the separation from service and ending one (1) year after the separation. If a Participant who has separated from service returns to Covered Employment, the Employee is treated, for purposes of this notice, as if the Employee is a brand-new Employee, and another applicable period must be determined.

#### 7.4 Payment if No Designated Beneficiary or the Beneficiary Dies.

If no Beneficiary has been designated by the Participant or if the designated Beneficiary predeceases the Participant, payment shall be made to the surviving person or persons in the first (1<sup>st</sup>) of the following classes of successive preference Beneficiaries in which a member survives the Participant:

- (a) Order of Preferences.
  - (i) The Participant's lawful Spouse or Domestic Partner;

- (ii) The Participant's children, including legally adopted children;
- (iii) The Beneficiary designated by the Participant to receive death benefits payable under the Sheet Metal Workers Local 104 Health Care Plan or the Northern California Sheet Metal Workers Health Care Plan whichever Plan is applicable;
- (iv) The Participant's estate, if applicable (and if the estate has not been closed);
- (v) The Participant's parents; or
- (vi) The Participant's siblings.

In determining such person or persons, the Plan may rely upon an affidavit by a member of any of the classes of preference Beneficiaries. Payment based upon such affidavit shall be a full acquittance of any benefit payable under the Plan unless, before the payment is made, the Board of Trustees have received written notice of a valid claim by some other person. If two or more persons in the same preference class become entitled to benefits as preference Beneficiaries, they shall share equally. If no preference Beneficiaries survive the Participant, then no death benefit shall be payable, except to provide for necessary funeral expenses.

The interest of any Beneficiary who predeceases the Participant shall vest in such Participant unless otherwise specifically provided by the Participant in a written notice received by the Board of Trustees.

Any death benefit payable to a minor may be paid to the legally appointed guardian of the minor or, if there is no guardian, to such adult who has assumed, in the opinion of the Board of Trustees or the Board's delegate, principal support of such minor or any person who is otherwise deemed appropriate to receive such finds.

Prior to payment of the death benefit to the Beneficiary, the Board of Trustees may pay from the death benefit an amount which reimburses any person who has paid the reasonable funeral expenses of the Participant. The Board of Trustees has the sole and absolute discretion in determining the reasonableness and appropriateness of any such funeral expenses.

Participants may designate Beneficiaries to receive either the pre-retirement death benefits, guaranteed payments under the Life Pension with Payments Guaranteed Form, or Disability Death Benefits, subject to the following rules:

- (b) Rules Applying to all Designations.
  - (i) Each Participant shall specify the name and Social Security number of their Beneficiary(ies). Any Beneficiary so designated may be changed by the Participant, or Pensioner, or Disabled Participant by filing, with the Board of Trustees, a written change of Beneficiary in a form satisfactory to the Board of Trustees. Any designation of a Beneficiary other than the Spouse

of a married Participant, Pensioner or Disabled Participant shall require the Spouse's consent as provided for in Section 9.2. A Participant who has a Domestic Partner also may not designate a Beneficiary other than the Domestic Partner without the Domestic Partner's consent as provided in Section 9.2. For a Beneficiary designation to be effective, the appropriate Plan Beneficiary designation form must be received by the Trust Fund Office before the Participant's death.

- (ii) If no Beneficiary has been designated by the Participant or Pensioner or if the designated Beneficiary predeceases the Participant or Pensioner, payment shall be made to the surviving person or persons in the first (1<sup>st</sup>) of the classes of successive preference Beneficiaries in which a member survives the Participant as set forth in Section 7.4(a) above.

(c) **Special Rules.**

- (i) If a Participant becomes married or has a Domestic Partner after naming a Beneficiary for any death benefit payable under this Plan, that prior designation(s) is revoked. However, a Participant may designate an individual other than their Spouse or Domestic Partner as Beneficiary, by filing a new designation form subsequent to the marriage or domestic partnership, and subject to applicable spousal and consent requirements;
- (ii) The designation of a Spouse or Domestic Partner as Beneficiary of preretirement death benefits or any other benefits provided in the Plan is revoked on entry of a final decree of dissolution of marriage or receipt of a dissolution of Domestic Partnership. However, a Participant may designate an ex-Spouse or ex-Domestic Partner as Beneficiary by filing a new designation form subsequent to the entry of a final decree of dissolution.

**7.5 Lost Beneficiaries-Death Benefits.**

If a death benefit cannot be paid because the identity or whereabouts of the person entitled to receive those payments cannot be ascertained, such portion or all of such payments shall constitute a forfeiture. The Board of Trustees' determination of when such payments cannot be made shall be final. If, at any time subsequent to the forfeiture, the person entitled to such distribution makes a claim to Trustees for such payments, the amount of the forfeiture shall be reinstated and distributed to such person.

**7.6 Alternative Preretirement Annuity.**

Instead of the Preretirement Survivor Annuity in Plan Section 7.3(b), a married Participant or Participant with a Domestic Partner may elect a one hundred percent (100%) Survivor Annuity, subject to the following rules:

- (a) The cost for electing this benefit is a reduction of the Participant's (should they live to retirement) or survivor's monthly pension in the amount of one-eighth of one

percent (1/8%) for each year and partial year that the election is in effect, provided however that:

- (i) For Participants that elect this benefit on or before February 28, 2026, the reduction shall only apply until they attain the age and years of service at which they are eligible to receive an Unreduced Early Pension or Normal Retirement Benefit
  - (ii) A Participant who has elected this benefit on or after March 1, 2026 and attains (or has attained) the age and years of service at which they are eligible to receive an Unreduced Early Pension or Normal Retirement Benefit but does not retire shall continue to have their pension (or the survivor's pension) reduced by one-eighth of one percent (1/8%) for each year and partial year that the election remains in effect, but such reduction shall continue for no more than four (4) years following the attainment of such eligibility;
  - (iii) Effective March 1, 2026, the minimum total pension reduction for any Participant (or their survivor) who elects this benefit within three years prior to or at any time on or after the date that they attain the age and years of service at which they are eligible to receive an Unreduced Early Pension or Normal Retirement Benefit (or after such date) shall be one-half of one percent (1/2%);
- (b) Any election of this benefit is not effective until the ninety-first (91st) day from (and counting as the first day) the date that the completed election form is received by the Trust Fund Office. If a Participant who has made this election dies with a surviving Spouse or Domestic Partner prior to the completion of this waiting period, then the election shall be void and the Preretirement Survivor Annuity form of benefit under Plan Section 7.3(b) shall be paid instead of this Alternative Preretirement Annuity.
  - (c) The Participant may elect this form of benefit only with the Spouse or Domestic Partner as Beneficiary, and only with the Spouse's (or Domestic Partner's) written consent before a notary or Plan representative.
  - (d) In the case of a Domestic Partner, this option is subject to the minimum distribution and incidental benefit rules set forth in Internal Revenue Code Section 401(a)(9), including Section 401(a)(9)(G), and the regulations promulgated thereunder.



ARTICLE VIII.  
RECIPROCAL BENEFITS

8.1 Reciprocal Benefits Prior to January 1, 2010.

Prior to January 1, 2010, the Board of Trustees was signatory to Exhibit A of the Sheet Metal Workers Pension Funds International Reciprocal Agreement (“International Reciprocal Agreement”) which provided for Pro Rata reciprocity when a Participant of this Plan worked in the jurisdiction of another plan signatory to the International Reciprocal Agreement (known as a “Related Plan”). Reciprocal benefits will be administered pursuant to the applicable International Reciprocal Agreement to the extent consistent with this Plan.

- (a) Purpose – Pro Rata Pensions are provided under this Plan for hours earned prior to January 1, 2010 for employees who would otherwise lack sufficient service credit to be eligible for any pension because their years of employment were divided between pension plans or, if eligible, whose pensions would be less because of such division of employment.
- (b) Home Fund – The Trustees recognize as the Home Fund that fund which has executed the International Reciprocal Agreement and which was established in part by the local union in which an Employee holds or has applied for membership or by an Employee was first represented.
- (c) Related Plans – The Trustees recognize one or more other plans of pension funds which have executed the International Reciprocal Agreement and which have adopted Exhibit A of such International Reciprocal Agreement as a Related Plan.
- (d) Related Pension Credits – Related Pension Credits earned under a Related Plan shall be determined in accordance with the rules and regulations of the Related Pension Plan. Such Related Pension Credits, including Pension Credit earned before Related Plan entered into the International Reciprocal Agreement to the extent creditable under a Related Plan, shall be recognized as Related Pension Credits. The Trustees of the Related Plan shall certify to this Plan the amount of such Related Pension Credits which have been earned and credited under the Related Plan.
- (e) Combined Pension Credits – The total of any Employee’s Future Service Credits under this Plan and Related Pension Credit together comprises the Employee’s Combined Pension Credit. Not more than one (1) year of Combined Pension Credit shall be counted in any Plan Year.

It is not the intent of the International Reciprocal Agreement to grant duplicate pension credit under two or more Related Plans for the same period of Covered Employment. Therefore, an exception to the definition of Related Pension Credits shall be made in the case of pension credits earned simultaneously for Covered Employment in a local jurisdiction for which contributions are made to both a signatory local pension fund and the Sheet Metal Workers’ National Pension Fund.

In such case, such service shall not be considered to be Related Pension Credits between the Plan of the signatory local union pension fund and the Plan of the Sheet Metal Workers' National Pension Fund.

- (f) Eligibility – An Employee shall be eligible for a pro rata pension under this Plan if they satisfy all the following requirements:
  - (i) They would be eligible for any type of pension under this Plan (other than a pro rata pension) if their Combined Pension Credit were treated as a pension credit under this Plan; and
  - (ii) In addition to any other requirements necessary to be eligible under (i) above, they have, under this Plan, at least one (1) year of pension credit based on hours of employment for which contributions were payable to this Plan.
  - (iii) They are found to be eligible for a pro rata pension from this Plan and at least one Related Plan.
- (g) Breaks in Service – A Break in Service is determined pursuant to Section 3.1 of this Plan and will not take into account any period in which an Employee has earned Related Pension Credit for purposes of determining whether there has been a period of no covered employment sufficient to constitute a Break in Service.
- (h) Non-Duplication – In order to receive a pro rata pension from this Plan an Employee must waive their right to receive any other pension under this Plan.
- (i) Pro Rata Pension Amount – The amount of the pro rata pension payable by each Related Plan under which an Employee qualifies for a pension shall be based on the years of Pension Credit they earned under that Related Plan and the benefit levels in effect under each such Related Plan.
- (j) Payment of Pro Rata Pensions – The payment of a pro rata pension shall be subject to all of the conditions contained in this Plan applicable to all other types of pensions, including, but not limited to, retirement as herein defined and timely application. Pro rata pension payments subject to this Section shall be limited to monthly pension payments to a pensioner or to monthly payments to the survivor of a pensioner.
- (k) Applies to Pension Benefits Only – This section applied to pension benefits only. It shall not apply to death benefits, termination benefits or any variation thereof.
- (l) Limited Transfer of Contributions – Except as provided herein, no contribution shall be transferred between funds that are signatory only to Exhibit A. However, if an Employee whose Home Fund is signatory to Part A only or both Part A and Part B works in the jurisdiction of a Plan signatory only to Exhibit A and earns less than one (1) year of pension credit in said Plan, then all contributions made on their behalf to said Plan shall be transferred to their Home Fund within a reasonable

period of time after they have returned to their Home Fund. Such transfer shall only be made if authorized by the Employee in writing on a form provided for that purpose.

8.2 Reciprocal Benefit as of January 1, 2010.

Effective as of January 1, 2010, the Plan is signatory to a revised International Reciprocal Agreement which provides for the transfer of funds to a traveler's Home Fund and vice versa. Reciprocal benefits will be administered pursuant to the applicable International Reciprocal Agreement to the extent consistent with this Plan.

8.3 Amount of Reciprocal Benefits.

The Reciprocal Benefits are computed in accordance with the applicable provisions of this Plan. Early Retirement Benefits, Disability Benefits or Death Benefits, except that the fifty dollars (\$50.00) minimum benefit for Normal Retirement Benefits and the seventy dollars (\$70.00) minimum benefit for Disability Benefits shall not apply.

8.4 Responsibility for Information.

The Plan shall incur no liability because of the failure of a Related Plan to provide data or to make payment of benefits related to credits earned in the area of the Related Plan. The obligation to determine and report credits earned in a Related Plan shall rest on the Related Plan or the Participant and not upon this Plan.

8.5 Provisions of this Plan Controlling.

Eligibility for and entitlement to all benefits under this Plan shall be determined by the requirements and provisions of this Plan and not those of the Related Plan.

ARTICLE IX.  
PENSION FORMS

9.1 Pension Forms and Benefit Options.

(a) Automatic Forms.

- (i) Married Participants or Participants who have Domestic Partners. The “Automatic Form” of benefits for a Pensioner who is married or has a Domestic Partner on the date their pension commences, and who has not elected otherwise with the consent of their Spouse or Domestic Partner, is the fifty percent (50%) Joint and Survivor Form (as defined below).
- (ii) Unmarried Participants. The Automatic Form of benefit for a Pensioner who is not married on the date their pension commences, and who has not elected otherwise, is the Life Pension with Payments Guaranteed Form for three (3) Years.

(b) Joint and Survivor Forms.

Under the “Joint and Survivor Form,” the amount of monthly payments shall be based upon the ages of the Pensioner and their Spouse (or Domestic Partner). The adjusted monthly pension shall be payable to the Pensioner as long as they survive. If at their death the Spouse survives them, monthly payments will continue to the Spouse during their remaining lifetime in an amount equal to the specified percentage of the monthly pension payable to the Pensioner. If the Spouse predeceases the Pensioner, the Pensioner’s monthly benefit will increase to the amount which would have been payable had the Pensioner elected to receive the Life Pension with Payments Guaranteed Form for three (3) Years, and payments will terminate with the last payment due immediately preceding the Pensioner’s death. To receive this increase Pensioners must notify the Plan in writing of the Spouse’s death, and no increase will be made retroactively for more than one hundred twenty (120) days.

The Joint and Survivor Form of the pension can be paid in any of the following three forms:

- (i) 50% Joint and Survivor Form. This form pays the surviving Spouse or Domestic Partner fifty percent (50%) of the reduced amount payable to the Pensioner or Disabled Participant. The Participant’s monthly pension shall be reduced in accordance with Section 1.1.
- (ii) 75% Joint and Survivor Form. Effective as of January 1, 2008, this form pays to the surviving Spouse or Domestic Partner seventy-five percent (75%) of the reduced amount payable to the Pensioner or Disabled Participant. The Participant’s monthly pension shall be reduced in accordance with Section 1.1.

- (iii) 100% Joint and Survivor Form. This form pays to the surviving Spouse or Domestic Partner one hundred percent (100%) of the reduced amount payable to the Pensioner or Disabled Participant. It may be chosen by married Pensioners or Pensioners with Domestic Partners provided they have never received Disability Benefit payments under the Plan. The Participant's monthly pension shall be reduced in accordance with Section 1.1. In the case of a Domestic Partner, this option is subject to the minimum distribution and incidental benefit rules set forth in Internal Revenue Code Section 401(a)(9), including Section 401(a)(9)(G), and the regulations promulgated thereunder.

(c) **Optional Form for Unmarried Participants.**

Unmarried Participants and Participants without Domestic Partners may elect a joint and survivor annuity benefit in favor of a named Beneficiary. The same options provided in Section 9.1(b) are applicable, subject to the minimum distribution and incidental benefit rules set forth in Internal Revenue Code Section 401(a)(9), including Section 401(a)(9)(G), and the regulations promulgated thereunder.

The amount of monthly payments shall be actuarially determined based upon the ages of the Pensioner and the designated Beneficiary. The actuarially determined monthly pension shall be payable to the Pensioner so long as they survive. If at their death their Beneficiary survives them, monthly payments will continue to their Beneficiary during the Beneficiary's remaining lifetime in an amount equal to the specified percentage of the monthly pension payable to the Pensioner. If the Beneficiary predeceases the Pensioner, the Pensioner's monthly benefit will increase to the amount which would have been payable had the Pensioner elected to receive the Life Pension with Payments Guaranteed Forms for three (3) Years, and payments will terminate with the payment due immediately preceding the Pensioner's death. To receive this increase, the Pensioner must notify the Plan in writing of the Beneficiary's death. No increase will be made retroactively for more than one hundred twenty (120) days.

(d) **Life Pension with Payments Guaranteed Forms.**

Under the "Life Pension with Payments Guaranteed Form," monthly payments shall be made to the Pensioner on the first (1<sup>st</sup>) day of each month commencing on their retirement date, if they are then living, and terminating with the last payment due immediately preceding the Pensioner's death. If the Pensioner has not received the specified number of guaranteed monthly payments at the date of their death, the remaining guaranteed payments will be made to their Beneficiary.

The Life Pension with Payments Guaranteed Form can be paid in either of the following two ways:

- (i) Life Pension with Payments Guaranteed Form for three (3) Years. This form guarantees a total of thirty-six (36) monthly payments. The monthly amount will be determined under the Plan without actuarial reduction. The number of Disability Benefit payments made to a Participant under Article VI will be deducted from the number of guaranteed payments.
  - (ii) Life Pension with Payments Guaranteed Form for ten (10) Years. This Form guarantees a total of one hundred twenty (120) monthly payments. It may be chosen by Pensioners, provided they have never received Disability Benefit payments under the Plan. The monthly amount will be actuarially determined to take account of the longer guarantee. The Participant's monthly pension shall be determined in accordance with Section 1.1.
- (e) Increasing Annuity Pension Form.

This form of payment is only available to Participants subject to Internal Revenue Code Section 415 limits. Under this form of payment, monthly payments shall be made to the Pensioner on the first (1<sup>st</sup>) day of each month commencing on their retirement date and terminating with the last payment due immediately preceding the Pensioner's death. Beginning with the second (2<sup>nd</sup>) year of payments and continuing each successive year thereafter, the amount of monthly pension payable for that year shall be either one hundred two percent (102%) or one hundred three percent (103%) (at the election of the Pensioner) of the monthly amount payable during the prior year, limited each Plan Year under Section 415(b)(1)(A) of the Code. The selection of a two percent (2%) or three percent (3%) increase shall be made by the Pensioner (and Spouse, if applicable) prior to commencement of benefits and such percentage increase shall remain the same as long as payments continue. The payments under this form shall be the Actuarial Equivalent of the Automatic Form of Payment for unmarried pensioners

## 9.2 Election of Forms of Payment.

A Participant may elect in writing within one hundred eighty (180) days prior to their Annuity Starting Date, the method of payment of benefits of an optional form. The "Annuity Starting Date" means the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) period for which an amount is paid as an annuity or any other form. If, however, the Participant has a Spouse or Domestic Partner at that time and elects a method of payment of benefits other than the Automatic Form, such election must include the Spouse's or Domestic Partner's written consent to such election which acknowledges the effect of the consent and which is made before a notary public or Plan representative. Such election must designate a Beneficiary (or a form of benefit) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the Participant without any requirement of further consent by the Spouse).

The Participant will have an election period of one hundred eighty (180) days prior to their Annuity Starting Date in which to make their written election. A Participant (without the Spouse's or Domestic Partner's consent) may revoke any election made, at any time during the election period.

Spousal consent shall not be required if the Participant establishes to the satisfaction of the Trust Fund Office that there is no Spouse because the Spouse cannot be located or because of other special circumstances as the Secretary of the Treasury may by regulations prescribe. Any such determination applies only to such Spouse. This paragraph also applies to Domestic Partners.

A Participant who has revoked a prior election may make a new election at any time during the election period, provided that any election of a method of payment other than the Automatic Form shall not be effective without the spousal consent as described above.

The Trust Fund Office will provide the Participant a written explanation of (a) the terms and conditions of the Joint and fifty percent (50%) Survivor Annuity ("the Automatic Form") and the financial effect upon their benefit (in terms of dollars per benefit payment) of not electing the Automatic Form, (b) the Participant's right to make, and the effect of, an election to waive the Joint and Survivor Annuity and to receive an optional form of benefit other than the Automatic form, (c) the rights of the Participant's Spouse or Domestic Partner, and (d) the right to make, and the effect of, a revocation of the election. The Plan will either mail or personally deliver the explanation no fewer than thirty (30) days and no more than one hundred eighty (180) days before the Annuity Starting Date.

With respect to each of the optional forms of benefit presently available to the Participant (i.e., optional forms of benefit for which the Qualified Joint and Survivor Annuity ("QJSA") explanation applies that have an Annuity Starting Date after the providing of the QJSA explanation and optional forms of benefit with retroactive Annuity Starting Dates that are available with payments commencing at that same time), the Plan will provide:

- (a) A description of the optional form of benefit;
- (b) A description of the eligibility conditions for the optional form of benefit, if applicable;
- (c) A description of the financial effect of electing the optional form of benefit (i.e., the amounts and timing of payments to the Participant under the form of benefit during the Participant's lifetime, and the amounts and timing of payments after the death of the Participant);
- (d) A description of the relative value of the optional form of benefit compared to the value of the QJSA, in the manner required by the Internal Revenue Code and applicable regulations including but not limited to Reg. 1.417(a)(3)-1;
- (e) A description of any other material features of the optional form of benefit.

A Participant who has commenced receiving Early Retirement benefits or Partial Disability Benefits and later is awarded a Social Security Disability Benefit as of their original Disability effective date, may change their benefit option by filling a written request with the Trust Fund Office within ninety (90) days of receiving the Social Security determination.

Except as is provided above or otherwise in the Plan, once a Participant, Spouse, Beneficiary or alternate payee selects a benefit option and has commenced receiving benefits, they may not change the benefit option selected.

### 9.3 Interest on Certain Delayed Payments.

When required by applicable law, the Plan shall pay simple interest at the rate of three percent (3%) per year on delayed pension payments.

### 9.4 Court-Ordered Conversion of Joint and Survivor Pension.

- (a) Normally, once a Participant's election period under Section 9.2 ends, the Participant's form of benefit is not subject to change. There is one exception that applies to a Participant who is receiving a Joint and Survivor Form of benefit with his Spouse as the joint annuitant. The Plan will convert the Participant's form of pension benefit from a Joint and Survivor Form to a Life Pension with Payments Guaranteed Form if the Plan receives a domestic relations order (as defined in section 414(p)(1)(B) of the Code) that provides, in a form and manner satisfactory to the Plan, that the Participant's Spouse irrevocably and unconditionally relinquishes or assigns to the Participant all rights under the Plan and under applicable state and Federal law to receive any portion of the Joint and Survivor Pension that would otherwise be payable upon the Participant's death.
- (b) Once the Plan receives the court order and determines that it meets the requirements described above, the Participant's Joint and Survivor Pension will be canceled and replaced by a Life Pension with Payments Guaranteed Form for three (3) years. The effective date of the cancellation and replacement (the "conversion date") will be the later of two dates:
  - (i) The date the Plan receives the court order.
  - (ii) The effective date, if any, specified in the court order.

The three-year guarantee period shall commence as of the Participant's initial Annuity Starting Date.

- (c) Once the Plan has determined that the court order meets the requirements described above, the Participant shall be notified of his right to designate a Beneficiary under Article VII of the Plan and appropriate adjustments will be made in the Participant's monthly payment. The amount of any underpayment will be paid forthwith in a lump sum. No adjustment will be made in any payments made or due for months that begin before the conversion date.



#### 9.5 Electronic Deposit of Pension Payments.

To increase efficiency and to reduce the possibility of theft, the Trust Fund Office may require that a Participant or Beneficiary have their monthly benefit directly deposited electronically into their checking or savings account at a bank, savings and loan, credit union, or other financial institution. The Plan may require that a Participant or Beneficiary complete a direct deposit authorization form and return it to the Trust Fund Office to identify the financial institution which will receive the electronic deposit.

ARTICLE X.  
RE-EMPLOYMENT, ERRONEOUS PAYMENTS, AND ACCRUAL OF BENEFITS

10.1 Suspendible Service.

“Suspendible Service” is work in Industry Service, as defined in Section 10.2 below, which will result in a Pensioner’s or Disabled Participant’s benefits being suspended. The term’s definition varies depending on whether the work is before or after Normal Retirement Date. After an individual’s Normal Retirement Date, Suspendible Service occurs in any month in which the individual works forty (40) or more hours in Industry Service as defined below. Prior to the Normal Retirement Date, Suspendible Service is one (1) hour or more in Industry Service.

10.2 Industry Service.

After a Participant’s Normal Retirement Date, Industry Service is service performed in California in the same trade or craft in which the Participant worked at any time in Covered Employment. Before a Participant’s Normal Retirement Date, Industry Service is any work in the Sheet Metal Industry performed in the United States. Industry Service is work in the “Sheet Metal Industry,” including all branches of the sheet metal trade. It includes self-employment, working as a manager, supervisor or consultant, or any other Sheet Metal employment. “Industry Service” shall be interpreted in the broadest possible manner.

10.3 Suspension.

If a Pensioner performs Suspendible Service, the monthly benefit shall be suspended for each month during which they are engaged in such employment.

A Pensioner shall report to the Board of Trustees any employment in the Sheet Metal Industry. If a Pensioner who fails to report such employment for any month is discovered by the Board of Trustees or its delegate, the Board may presume the Pensioner has been working at least forty (40) hours in such employment for that month. In addition, if the Pensioner has failed to report such employment at a construction site, the Board of Trustees may presume that the Pensioner has been engaged in such employment with the same Employer at the construction site for as long as the Employer had performed work at the construction site.

These presumptions will not apply if they are unreasonable under the circumstances, and such presumptions are rebuttable by the Pensioner. Additionally, the following rules apply for Pensioners who return to work in certain special situations:

- (a) A Pensioner who returns to work as a Training Coordinator for a Sheet Metal Joint Apprenticeship Committee sponsored by one of the sponsoring local unions will be subject to the normal rules outlined above.
- (b) A Pensioner who returns to work as a part-time instructor for a Joint Apprenticeship Committee shall incur no suspension of benefits, provided they work forty (40) hours or less per month, regardless of their age.

- (c) A Disabled Participant, who meets the requirements of Article VI, will not have their benefits suspended provided they:
  - (i) work in a capacity which cannot be construed as bargaining unit work or works as a Joint Apprenticeship Committee instructor, and
  - (ii) obtain waiver approval from the Board of Trustees prior to returning to work.
- (d) Previous Status Recovery System. A Participant or Pensioner who has performed Noncovered Sheet Metal Service in Industry Service resulting in the delayed payment of benefits, the limitation on the amount of benefits, the disqualification of the Participant from being eligible for Disability Benefits (Section 6.1), the ineligibility for retroactive benefit increases, the prevention of a Beneficiary from being eligible to receive a one hundred percent (100%) Contribution Death Benefit (Section 7.3(a)(ii)), and/or the delayed payment of the Joint and Survivor Death Benefit effective date (Sections 7.3(b) and (c)), may regain the status they held prior to engaging in such Noncovered Sheet Metal Service, if they return to employment for a minimum of eighty (80) hours a month in Industry Service as a Covered Employer or Owner Member for the number of months that equals or exceeds the number of months in which they worked at least one (1) hour in employment in Industry Service that was not covered by a collective bargaining agreement. This opportunity to restore previous status is available only once.
- (e) Employment Beneficial to the Industry-Sixty Day Retirement Requirement. A Pensioner who has reached age fifty-five (55) or older may return to Industry Service in a position that is not covered by a collective bargaining agreement and not have their benefits be suspended or delayed but only if such employment is deemed by the Board of Trustees as employment beneficial to the Plan, Participants and the unionized segment of the Sheet Metal Industry. To qualify under this subsection and to comply with the Internal Revenue Code the Participant must have terminated their employment in the Sheet Metal Industry and have been eligible for and received their monthly pension for at least sixty (60) days. The Board of Trustees will not consider any such request until the sixty (60)-day period has been met. The criteria to be used in making such a determination shall include:
  - (i) Such employment does not fill a position covered by a collective bargaining agreement;
  - (ii) The position does not result in the impingement upon the jurisdictional claims of Sheet Metal Workers and their Unions;
  - (iii) The position results in or provides an opportunity for the promotion or expansion of employment opportunities in Covered Employment for current or future Participants of the Plan;

- (iv) The position is authorized or approved by the applicable Union and is for a government Employer or such other Employer as is approved by the Board of Trustees;
- (v) The position would be in employment otherwise deemed by the Board of Trustees to be employment beneficial to the unionized segment of the Sheet Metal Industry (resulting in increased employment opportunities for Plan Participants and/or greater contributions to the Plan) and the Plan and Plan Participants.

The determination of current and continued eligibility under this Section shall be determined by the Trustees exclusively and at their absolute and total discretion. The Board of Trustees have the absolute right to review determinations made under this Section at any time and any number of times. Continued eligibility under this Section is subject to periodic proof that the position continues to be beneficial to the unionized segment of the Sheet Metal Industry, the Plan and Plan Participants.

A Participant wishing to work in employment that qualifies under this Section shall, prior to engaging in such employment, make a written request of the Trustees for a determination.

Pensioner who has attained age fifty-two (52) or older could also return to Industry Service in a position that is not covered by a Collective Bargaining Agreement and not have their pension benefits earned through May 31, 2003 be suspended or delayed by meeting the beneficial to the Industry standard. Benefits earned after May 31, 2003, would be suspended. This rule does not apply, however, to an individual who returns to employment in a Home Energy Rating System (known as "HERS") position, which is considered beneficial to the industry.

The Board of Trustees have the authority and discretion to assess a contribution to be paid by Employers on behalf of Participants that return to Industry Service under this Section. Participants shall not be eligible to return to Industry Service under this Section unless the Employer acknowledges in writing their contribution obligations as adopted by the Board of Trustees in connection with the Participant returning to Industry Service.

Eligible Participants that return to Industry Service under this Section and their Employers shall immediately advise the Board of Trustees if any circumstances change that affect a Participant's eligibility under this Section. Additionally, Eligible Participants that return to Industry Service under this Section and their Employers shall cooperate with the Board of Trustees and shall supply the Board of Trustees with any information reasonably requested in evaluating whether a Participant qualifies to return to Industry Service under this Section. Failure to provide requested

information shall be grounds for immediate cessation of the return to Industry Service by the impacted Participant.

- (f) Specified Work and/or Positions Permitted upon Prior Approval of the Board of Trustees. Effective as of June 1, 2018, the Board of Trustees may authorize retirees to return to work for specified periods (not to exceed one year) in certain positions in which there is a shortage of qualified employees, such as individuals who perform detailing, TAB (testing, adjusting and balancing), complex layout and/or other specific certifications (such as HERS (Home Energy Rating System) and welding). This list is not meant to be all-inclusive and certain positions may be allowed in some periods and not others. Individuals seeking such positions must be dispatched through Sheet Metal Workers Local 104. The time in which such work is permitted may be a short period and/or may be extended by the Board of Trustees (or the Board's delegate). The Board of Trustees, or the Board's delegate, has the discretion to take any appropriate action to verify that a retiree is performing the approved type of work. Any person returning to work approved under this Subsection will be entitled to have the additional pension benefits earned because of such employment commence with the first day of the month following the termination of such employment. This supersedes the language providing for the delayed payment of such increased benefits in section 10.5(b).

#### 10.4 When Suspended Benefits May be Resumed.

Three-Month Rule If Notice Provisions Followed. In accordance with applicable ERISA Regulations, benefits shall be resumed no later than the first (1<sup>st</sup>) day of the third (3<sup>rd</sup>) month after the calendar month in which the employee ceases to be employed in ERISA Section 203(a)(3)(B) service (Suspendible Service). The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of ERISA Section 203(a)(3)(B) service and the resumption of payments. Payments shall be made consistent with Section 10.5.

#### 10.5 Accrual of Additional Benefits Upon Re-Employment.

If a Pensioner is re-employed in Covered Employment, they may accrue additional benefits, subject to the following limitations:

- (a) No benefits will be accrued with respect to Covered Employment rendered during a Plan Year, (or with respect to Employer Contributions paid on account of such Covered Employment) unless the Pensioner earns eight hundred seventy (870) or more Hours of Service during the Plan Year. The eight hundred seventy (870) hours requirement during a Plan Year includes hours of Covered Employment worked before and after retirement;
- (b) Any additional pension benefits due a Pensioner on account of such re-employment will commence with the first (1<sup>st</sup>) payment due the Pensioner on or after their Normal Retirement Date. If, however, the Pensioner dies before their Normal

Retirement Date, additional pension benefits due to the Pensioner's Spouse will commence with the first (1<sup>st</sup>) payment date following the Pensioner's death;

- (c) If the Pensioner originally elected to receive the Pension with Payments Guaranteed Form, or the Social Security Adjustment Option, then their additional pension will be payable in the form of a life pension with monthly payments to the pensioner for as long as they live;
- (d) If the Pensioner originally elected to receive the fifty percent (50%), seventy-five percent (75%) or one hundred percent (100%) Joint and Survivor Form, they will receive their additional pension in the same form as originally selected, provided, where applicable, the marriage/domestic partnership in effect on the commencement date of the Pensioner's original pension is still in effect. The Actuarial Equivalent value for such additional pension will be based on the ages of the Participant and their joint annuitant as of the commencement date of the additional pension;
- (e) If the Pensioner had originally elected the fifty percent (50%), seventy-five percent (75%) or one hundred percent (100%) Joint and Survivor Form but the marriage/domestic partnership in effect on the commencement date of the Pensioner's original pension is not still in effect, then the additional pension will be payable in the form of a life pension with monthly payments to the Pensioner for as long as they live.

#### 10.6 Recovery of Benefits.

If benefits are paid which should have been suspended under this Article, the amount of the improper payment shall be an obligation of the recipient to the Trust. The Board of Trustees, and its delegate is authorized to request an immediate reimbursement from the Pensioner. Otherwise, such improper retirement payments may be recovered as follows:

- (a) With respect to any payments due prior to a Participant's Normal Retirement Date, the amount may be deducted from any future benefits payable to the recipient or the surviving Beneficiary, to the extent permitted under applicable law;
- (b) With respect to any payments due the Pensioner on or after their Normal Retirement Date, recovery shall be subject to the following limits:
  - (i) In the case of an initial pension payment due following a suspension of benefits, one hundred percent (100%) of such initial payment may be withheld;
  - (ii) In the case of any other pension payment, on twenty-five percent (25%) of such monthly pension benefit may be withheld.

If any overpayment or other benefit improperly paid to a Participant or Pensioner has not been fully recovered by the Plan at the time of the person's death, such

benefits or overpayment may be deducted from death benefits payable at the time of the person's death, as provided in Section 10.6 and Section 15.5.

ARTICLE XI.  
ADMINISTRATION OF THE PLAN

11.1 Benefit Applications and Necessary Information.

All applications for benefits under this Plan, whether on account of retirement, Disability or death, and all elections and designations made by Participants or Beneficiaries under this Plan shall be made in writing to the Board of Trustees in the form and manner prescribed by the Board of Trustees.

The Board of Trustees has the right to require submission of all necessary information before any benefit is paid, including records of employment, proofs of date of birth, Disability or death; and evidence of existence of marriage, Domestic Partnership, and/or divorce. No benefits dependent in any way upon such information shall be payable unless and until the information so required has been furnished. Upon receipt of such information, the Board of Trustees shall determine the eligibility of the applicant for such benefit, and shall notify the applicant of its determination and the amount of any benefit payable.

Any Participant or other person who makes a false statement or provides false information to the Plan regarding the payment of benefits or other issues related to the Plan will be liable to the Plan for any benefits paid as a result of such false statements or information, and any attorney fees and costs incurred in effecting recovery or which were incurred as a result of the false statement or information. The Plan may deduct any such fees and costs from any benefits otherwise payable to the Participant or other person or entity.

Payments of monthly pensions shall commence on the first (1<sup>st</sup>) day of the month in which the Vested Employee, who has retired from Covered Employment and is not otherwise working in Suspendible Service, has applied for retirement benefits and provided all necessary information.

11.2 Facility of Payment.

The Board of Trustees may accept application for benefits from persons other than the Participant or Beneficiary entitled thereto, provided:

- (a) Such application is made pursuant to a properly executed power of attorney, or by a legally appointed guardian or conservator of such Participant or Beneficiary, or by such Participant's or Beneficiary's Spouse;
- (b) Such application is made on behalf of the Participant or Beneficiary and received by the Plan during the Participant's or Beneficiary's lifetime; and
- (c) The Participant or Beneficiary is incapable of applying for benefits on their own behalf.

In the event of a dispute as to whom distribution is to be made under this Section, payment may be made to a court of proper jurisdiction, with final distribution to be determined by such court.



Any payment of a benefit or installment thereof in accordance with the provisions of this Section 11.2 shall be a complete discharge of any liability for the making of such payment under the provisions of the Plan.

### 11.3 Non-Alienation of Benefits.

Benefits are payable only to or for the benefit of Participants, Pensioners, or their Beneficiaries, including former Spouses or other alternate payees when required by a Qualified Domestic Relations Order as defined in Section 414 of the Internal Revenue Code, Benefits shall not be subject to claims of creditors or others, nor to legal process, and may not be voluntarily or involuntarily alienated or encumbered, except insofar as permitted under ERISA.

The Board of Trustees has adopted Procedures for Administering Domestic Relations Orders, including use of a sample order to be furnished to Participants, Alternate Payees, their counsel, actuaries or other persons seeking information about the Plan in regard to a marital dissolution action affecting a Plan Participant or Pensioner. The Board of Trustees, or its delegate shall have total discretion in administering and processing domestic relations and child support orders.

The Plan is not required to request the amendment of domestic relations order entered into prior to January 1, 1985.

### 11.4 Timing of Benefit Payments.

- (a) No benefit payments will be made under the Plan until an application or claim is made therefor to the Board of Trustees. Once an application has been made, retroactive retirement payments may be made subject to the following limits:
  - (i) If the Participant's last Covered Hour occurs during the first (1<sup>st</sup>) seven (7) days of a month, then retroactive payments may not be made for periods earlier than the first (1<sup>st</sup>) day of that month;
  - (ii) If the Participant's last Covered Hour occurs after the seventh (7<sup>th</sup>) day of a month, then payments may not be made for periods earlier than the first (1<sup>st</sup>) of the following month;
  - (iii) Retroactive payments may not be made for periods which precede the date of application by more than one (1) year, except the limitation contained therein will not prevent the payment of benefits retroactive to the Normal Retirement Date to the extent required by the Internal Revenue Code and regulations;
  - (iv) Total and Permanent Disability Benefit payments may be paid retroactive to the first (1<sup>st</sup>) day of the month following commencement of Disability provided proof of Disability is provided within twelve (12) months of receipt of a disability award from the Social Security Administration. If proof of Disability is not provided within such twelve (12)-month period,

payments will begin the first (1<sup>st</sup>) of the month following submission of such proof to the Plan, unless the Board of Trustees decides circumstances beyond the control of the Participant prevented timely filing;

- (v) Total and Permanent and/or Partial Disability Benefit payments may not be made more than forty-eight (48) months retroactively;
- (vi) Notwithstanding the foregoing, Participants and/or beneficiaries may direct the Trust Fund Office to pay up to one hundred percent (100%) of a benefit payment to a third party provided:
  - (A) Such third party is the Local 104 Supplemental Unemployment and Supplemental Health Care Fund; Local 104 Credit Union, and/or a participating Local Union for payment of dues; and
  - (B) Such direction is revocable by the Pensioner or Beneficiary at any time; and
  - (C) The third party to whom or which such benefit payment is directed acknowledges in writing within ninety (90) days of the arrangement of the third party payment, that such third party has no enforceable right in or to any Plan benefit payment or portion thereof except to the extent such payment is actually received pursuant to the arrangement; and
  - (D) Provided further, with respect to a married Pensioner whose Spouse has cognizable rights pursuant to the Plan, such Spouse agrees in writing in a form acceptable to the Board of Trustees to the third party payment agreement described herein.
- (b) Required Distributions. The provisions of this Subsection are effective as of January 1, 2001 unless otherwise specified.
  - (i) Distribution Rules. Unless a Participant elects otherwise, payment of Plan benefits to a Participant will begin no later than sixty (60) days after the end of the Plan Year in which the latest of the following events occurs:
    - (A) The Participant attains age sixty-five (65) or the Normal Retirement Age specified under the Plan.
    - (B) The fifth (5<sup>th</sup>) anniversary of the year in which the Participant commenced participation in the Plan.
    - (C) The Participant terminates their Service with an Employer.
  - (ii) Required Beginning Date. The distribution of benefits must begin no later than April 1 of the calendar year following the later of: the calendar year in which the Participant attains their “Applicable RMD Age,” or the calendar

year in which the Participant retires from Covered Employment. “Applicable RMD Age” is defined as the following: (i) age 70½ if the Participant was born before July 1, 1949; (ii) age 72 if the Participant was born after June 30, 1949, and before January 1, 1951; (iii) age 73 if the Participant was born after December 31, 1950, and before January 1, 1960, and (iv) age 75 if the Participant was born on or after January 1, 1960.

Notwithstanding the foregoing, the Required Beginning Date for a five percent (5%) owner/member is April 1 of the calendar year following the calendar year in which the owner/member attains their Applicable RMD Age. A Participant who continues to work past their Applicable RMD Age may elect, however, to commence receiving their pension benefits.

Unless a Participant elects otherwise, benefits will commence within the time specified by Code Section 401(a) and the regulations promulgated thereunder.

Distributions from the Plan will be made in accordance with the requirements of Internal Revenue Code Section 401(a)(9), including the incidental benefits requirements of Section 1.401(a)(9)(G), and the regulations issued thereunder, including Section 1.401(a)(9)-2 through 1.401(a)(9)-9 of the regulations, (as they may be amended).

- (iii) Other Distribution Rules in Internal Revenue Code. Upon the death of a Participant, the following distribution provisions shall take effect:
  - (A) If the Participant dies after distribution commences, the remaining benefit must be distributed at least as rapidly as the method of distribution being used as of the date of their death;
  - (B) If the Beneficiary is the Participant’s surviving Spouse, the surviving Spouse can elect to defer commencement of benefits until the date the Participant would have attained their Applicable RMD Age.
  - (C) Requirements for Minimum Distributions Where Participant Dies Before Date Distributions begin.
    - (I) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of their interest begins and there is a designated Beneficiary, the Participant’s entire interest will be distributed, beginning no later than the time described in Subsection (II) or Subsection (III), as applicable, over the life of the designated Beneficiary or over a certain period not exceeding:

- (1) unless the Annuity Starting Date is before the first (1<sup>st</sup>) 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 Participant's death; or
  - (2) if the Annuity Starting Date is before the first (1<sup>st</sup>) 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) Spouse is Beneficiary. If the Participant dies before distributions begin and the Participant's surviving Spouse is the sole designated Beneficiary, then, except as provided in the Plan, distributions to the surviving Spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained their Applicable RMD Age, if later.
- (III) Non-spouse Beneficiary. If the Participant's surviving Spouse is not the sole designated Beneficiary, then, except as provided in the Plan, distributions to the designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (IV) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth (5<sup>th</sup>) anniversary of the Participant's death.
- (V) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of their interest begins, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 11.4(b)(ii)(C), other than Subsection (II), will apply as if the surviving Spouse were the Participant.

- (D) Notwithstanding any provision of the Plan to the contrary, all forms of distribution shall comply with the minimum distribution and incidental benefit rules set forth in Internal Revenue Code Section 401(a)(9), including Section 401(a)(9)(G), and the regulations promulgated thereunder.
- (c) Participant Consent to Distributions. If the Actuarial Equivalent for any future monthly benefits payable under the Plan is greater than \$7,000.00, no distribution of any portion of the benefit may be made without the written consent of the Vested Participant (made in accordance with Section 9.2). Failure to consent to distribution shall be deemed to be an election to defer commencement of payments until the earlier of (i) the date consent is granted or (ii) the Participant's Normal Retirement Date.

#### 11.5 Cash-Out of Small Benefits.

If, when the Participant files an application for benefits, the Actuarial Equivalent of any future monthly benefits payable under the Plan is \$7,000 or less and has not exceeded that amount, the Actuarial Equivalent of the benefit shall be paid to the payee in a single sum or, if required under applicable law, rolled over to an individual retirement account.

In the event of a distribution greater than \$1,000, in accordance with this Section, if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover or to receive the distribution directly, then the distribution shall be paid in a Direct Rollover to an individual retirement plan designated by the Board of Trustees. For purposes of this Section, the terms "Eligible Retirement Plan" and "Direct Rollover" shall have the meanings specified in Section 11.11.

Said payment shall be in full settlement of all liability to the Participant or Beneficiary under the Plan. Once payments have commenced to the Participant under one of the Joint and Survivor Forms, no single sum payment may be made under this Section without the consent of the Participant (if living) and their Spouse. Once monthly payments have commenced to a surviving Spouse, no single sum payment may be made under this Section without the consent of such Spouse.

In the event a Vested Participant who has received a distribution under this Section re-enters Covered Employment prior to their retirement date, they may reinstate the benefit with respect to which a single sum distribution was made provided they repay the single sum distribution made to them plus interest from the date of distribution to the date of repayment as follows:

- (a) The repayment must be made before the earlier of five (5) years after the Participant's re-entry into covered Employment or the close of the first (1<sup>st</sup>) period of five (5) consecutive Break in Service Years starting after the distribution was made to him; and

- (b) The interest shall be at the rate determined under the Internal Revenue Code Section 411(c)(2)(c), which at the present time is one hundred twenty percent (120%) of the Federal mid-term rate (or in effect under Code Section 1274 for the first (1<sup>st</sup>) month of a Plan Year).

11.6 Right to Require Evidence Pensioner is Alive.

The Board of Trustees has the right to require satisfactory evidence that a Pensioner or Disabled Participant is living on the date a benefit is payable. In the absence of such evidence, when required, any payments due may be postponed until such evidence has been received.

11.7 Right to Require Evidence with Respect to Noncovered Sheet Metal Service and Suspendible Service.

The Board of Trustees has the right to require evidence that a Participant or Pensioner has not been employed in Noncovered Sheet Metal Service or Suspendible Service, and may request Social Security earnings information, copies of tax returns, and any other pertinent information.

11.8 Incapacitated Pensioners.

If in the judgment of the Board of Trustees, a Pensioner or Participant is unable to care for their affairs because of illness, accident, or incapacity, either mental or physical, then, any payment due, unless claim shall have been made therefore by a duly appointed legal representative, may be paid to the Spouse or other person or party deemed by the Board of Trustees to have incurred expense for the Pensioner or Participant. Any such payment shall be a payment for the account of the Pensioner or Participant and shall be a complete discharge of the liability therefore under the Plan.

11.9 Misstatement.

Any Participant or other person or entity who makes a false statement to the Plan or other officials or provides false information to the Plan regarding the payment of benefits or other issues related to the Plan, or who takes deliberate action to interfere with the timely payment of benefits required under the Plan, will be liable to the Plan for any benefits paid in reliance on such false statements or information, and any attorney fees and costs incurred in effecting recovery or which were incurred as a result of the false statement or information or deliberate actions. Such costs include but are not limited to costs incurred by the Trust Fund Office and the Plan's legal counsel resulting from the false statements or information or actions, and reasonable interest charges. The Plan may deduct any such fees and costs from any benefits that are otherwise payable, including death benefits.

If a demand is made of the Participant or other person or entity for such fees or costs and the Participant or other person or entity fails to reimburse the Plan, the Plan may file a lawsuit seeking reimbursement for such fees and costs plus reasonable interest. The

Participant or other person or entity will be liable for any additional fees and costs incurred in such actions.

#### 11.10 Tax Withholding Requirements.

The tax laws require that the Plan withhold federal income tax from most monthly benefit payments unless the Participant elects, in writing, not to have the tax withheld. The amount and form of the benefit generally determines whether or not automatic withholding applies; however, if the Participant lives outside the United States, different withholding rules may apply. The Participant also has the option of having state tax withholding from their monthly payments. When a Participant retires, they must notify the Trust Fund Office on the appropriate Plan forms whether they wish tax withholding.

#### 11.11 Direct Transfer Eligible Rollover Distributions.

(a) This Section applies only after a Participant or Beneficiary is entitled to receive benefits under the Plan and applies only to those benefits eligible to be rolled over to an Individual Retirement Account (IRA), another qualified pension plan or as is permitted by the Internal Revenue Code as it may be amended. Notwithstanding any provision herein to the contrary that would otherwise limit an election under this Article, a Participant or Beneficiary may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee (i.e., Participant or Beneficiary) in a direct rollover.

(b) Definitions.

(i) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is 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; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income, and any other exception provided for in the Internal Revenue Code or regulations issued thereunder.

Certain payments from the Plan cannot be rolled over. A Participant cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for a Participant's lifetime (or a period measured by their life expectancy), or the lifetimes of the Participant and their Beneficiary (or a period measured by the joint life expectancies) or a period of ten (10) years or more.

Required distributions under Section 401(a)(9) of the Code, which are mandatory distributions that must commence by a Participant's Required Beginning Date, are not eligible for rollover.

Distributions that are made to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded also cannot be rolled over.

Payments that are eligible for rollover which are paid directly to a Participant are subject to twenty percent (20%) federal income tax withholding pursuant to applicable provisions of the Internal Revenue Code and regulations issued thereunder.

- (ii) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, a qualified retirement plan described in section 401(a), or an annuity plan described in Section 403(a) of the Code, that accepts the distributee's eligible rollover distribution. For the surviving spouse, however, an eligible retirement plan is limited to an individual retirement account or individual retirement annuity.

Effective as of January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality for a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. Effective as of January 1, 2002, for a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order the definition of Eligible Retirement Plan shall no longer be limited to individual retirement plans and shall be the same as applies to a distribution to a Participant.

- (iii) Distributee. A distributee includes an Employee or former Employee (collectively described as an "Employee"). In addition, the Employee's surviving spouse and the Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributed with regard to the interest of the spouse or former spouse.
- (iv) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee. It is the sole responsibility of the person for whom the distribution is made, and not of the Plan, the Trust Fund Office or the Board of Trustees, to determine whether a plan to which the distribution is paid qualifies as an Eligible Retirement Plan under Code Section 402(c)(8)(B).



#### 11.12 Highly Compensated Employee Definition.

Effective for years beginning after December 31, 1996, the term highly compensated employee means any employee who: (1) was a five percent (5%) owner at any time during the year or the preceding year, or (2) for the preceding year had compensation from the employer in excess of \$80,000 and, if the employer so elects, was in the top-paid group for the preceding year. The \$80,000 amount is adjusted at the same time and in the same manner as under Code Section 415(d), except that the base period is the calendar quarter ending September 30, 1996.

For this purpose the applicable year of the plan for which a determination is being made is called a determination year and the preceding twelve (12)-month is called a look-back.

A highly compensated former employee is based on the rules applicable to determining highly compensated employee status as in effect for that determination year, in accordance with Temporary Regulations § 1.414(q)-1T, A-4 and IRS Notice 97-45.

#### 11.13 Rounding of Benefit Amount.

If the amount of any monthly benefit payment under the Plan is not a multiple of fifty cents (\$0.50), the amount will be rounded up to the next multiple of fifty cents (\$0.50).

ARTICLE XII.  
LIMITATIONS ON BENEFITS

12.1 Basic Limitation.

Notwithstanding any provision of the Plan to the contrary, the maximum annual additions under the Plan shall not exceed the limits provided for under Code Section 415 and the Treasury Regulations adopted on April 5, 2007, both of which are incorporated by reference in this document pursuant to Treas. Reg. Section 1.415(a)-1(d)(3) (and as may be amended).

The following provisions relating to Section 415 apply only if the IRS is not satisfied with the paragraph above, which includes the reference to and incorporation of the Treasury Regulations adopted on April 5, 2007.

Subject to applicable adjustments, the maximum annual retirement benefit that is payable to a Participant under this Plan shall not exceed the lesser of:

- (a) \$90,000, as adjusted pursuant to Section 415(d) of the Internal Revenue Code, (or if greater, the Participant's Accrued Benefit on December 31, 1982), or
- (b) One hundred percent (100%) of the Participant's average aggregate Compensation from any Employer for the three (3) consecutive calendar years during which they were an active Participant and had the highest aggregate compensation from any Employer.

For purposes of the above limitation, benefits payable in any form other than a single life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the equivalent of a single life annuity. The following benefits shall not be taken into account:

- (c) Any ancillary benefit which is not directly related to retirement income benefits;
- (d) Any other benefit not required under Internal Revenue Code Section 415(b)(2) and Regulations thereunder to be taken into account for purposes of the limitation in Code Section 415(b)(1);

An annual interest rate of not less than five percent (5%) shall be used in the determination of the benefit which is the actuarial equivalent of a single life annuity;

- (e) The limits of (a) and (b) above shall be applied separately for each Employer of a Participant. The Board of Trustees shall have total and absolute discretion in determining a Participant's Employer. The total benefit payable shall be allocated to each Employer of the Participant as follows:
  - (i) The Participant's total service credits with an Employer shall be divided by the Participant's total service credits with all Employers; and

- (ii) The resultant percentage (rounded to the nearest one-tenth of one percent (1/10%)) shall be multiplied times the total Plan benefit.
- (f) In the event that Internal Revenue Code Section 415 is repealed or amended, or Treasury regulations promulgated pursuant to Code Section 415 are amended, to allow greater flexibility with respect to the selection of benefit options under this plan than were available to a retiree at the time of their retirement, because of Code Section 415 limits then in effect, such retiree may, upon written application to the Trust, within one-hundred and eighty (180) days after the effective date of such repeal or amendment, select another benefit option precluded to the retiree at the time of retirement by the then limits contained in Code Section 415; provided however, that the selection of any such alternate form of benefit shall be actuarially adjusted, if necessary, to preclude the retiree from receiving aggregate benefits in excess of the benefits that would have been paid had the retiree selected such alternate form of benefit as of their Annuity Starting Date.

## 12.2 Plan Years After December 31, 2001.

- (a) Effective Date. This Subsection shall be effective for limitation years ending after December 31, 2001, unless otherwise provided herein. It is the intent of the Board of Trustees that the Plan comply with the limits of the Code and regulations and apply no greater restrictions than what is required by such law.
- (b) Effect on Participant. Benefit increases resulting from the increase in the limitations of Section 415(b) of the Internal Revenue Code will be provided to all current and former Participants (with benefits limited by Section 415(b)) who have an accrued benefit under the Plan immediately prior to the effective date (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under Section 415(b)).
- (c) Definitions.
  - (i) Defined Benefit Dollar Limitation. The “defined benefit dollar limitation” is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity.
  - (ii) Maximum Permissible Benefit. The “maximum permissible benefit” is the defined benefit dollar limitation (adjusted where required, as provided in (A) and, if applicable as provided in (B) or (C) below, and limited if applicable, as provided in (D) below).
    - (A) Fewer than Ten Years of Plan Participation. If the Participant 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).

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age sixty-two (62):

(I) Limitation Years Beginning Before July 1, 2007. If the annuity stating date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning before July 1, 2007, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(i) of the Plan for years of participation fewer than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: 1) the interest rate of five and one-half percent (5-½%) used by the Plan and the mortality table (or other tabular factor) specified used by the Plan; or 2) a five percent (5%) rate assumption and the applicable mortality table as used by the Plan.

(II) Limitation Years Beginning on or After July 1, 2007.

(1) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at both Age 62 and the Age of Benefit Commencement. if the Annuity Starting Date for the Participant's benefits is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after July 1, 2007 and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement of the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity stating date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(ii)(B)(I) for years of participation fewer than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date used by the Plan (and expressing the Participant's age based on

completed calendar months as of the Annuity Starting Date).

- (2) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both at age sixty-two (62) and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 12.2(c)(ii)(B)(II) and the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(ii)(A) for years of participation fewer than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this Article.

(C) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age 65:

- (I) Limit on Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date as the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(ii)(A) for years of participation fewer than ten (10), if required) with actuarial equivalence computed using whichever of the following products the smaller annual amount: 1) the interest rate of five and one-half percent (5-1/2%) used by the Plan and the mortality table (or other tabular factor) used by the Plan or 2) a five percent (5%) interest rate assumption and the applicable mortality table *used* by the Plan.

(II) Limitation Years Beginning on or After July 1, 2007.

- (1) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007 and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(ii)(A) for years of participation fewer than ten (10), if required), with actuarial equivalent computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as used by the Plan (and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date).
- (2) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007 and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 12.2(c)(i) above the Defined Benefit Dollar Limitation (adjusted under Section 12.2(c)(ii)(A) for years of participation fewer than ten (10), if required) multiplied by the ratio of the annual amount for the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Article. For

this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(D) Pre-2002 Rule. Notwithstanding the above, for limitation years beginning before January 1, 2002, the maximum permissible benefit will not exceed the defined benefit compensation limitation. A Participant who has fewer than ten (10) years of service with the Employer, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the employer and (ii) the denominator of which is ten (10).

(iii) Increase in Limit. The annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the Plan Year or such other consecutive twelve (12)-month period over which compensation is otherwise determined under the Plan.

### 12.3 Participation in Other Defined Benefit Plans.

The limitation of this Section with respect to any Participant who at any time has been a Participant in any other defined benefit plan (as defined in Section 414(j) of the Code) maintained by or to which contributions have been made by an Employer shall apply as if the total benefits payable under all defined benefits plans in which the Participant has been a Participant were payable from one plan, except as permitted by the Code.

### 12.4 Limitation Year.

The "Limitation" Year shall be the calendar year.

## 12.5 Adjustments in the Limitation.

The limitation on the maximum amount of annual retirement benefits required by this Section shall be adjusted as follows:

- (a) Cost of Living. The limitations shall be adjusted annually for increases in the cost of living to the maximum permissible dollar limitation, and, with respect to a Participant who has separated from service, the maximum permissible compensation limitation shall also be adjusted pursuant to regulations promulgated by the Secretary of the Treasury under the provisions of Internal Revenue Code Section 415(d).

Any benefit reduction made at a pensioner's retirement date to conform with the limitations contained in Code Section 415, shall be restored to the pensioner to the maximum permissible dollar limitation, to the extent permitted by the Internal Revenue Code and/or lawful regulations issued thereunder.

- (b) Adjustment for Optional Payment Form. If the Participant's benefit is to be paid in any form other than a straight life annuity (with no ancillary benefits) or a Joint and Survivor Pension, the Internal Revenue Code Section 415 limitations above are applied to the annual benefit in the form of a straight life annuity that is actuarially equivalent to the Plan benefit commencing at the same age. If the Plan benefit is not subject to Internal Revenue Code Section 417(e)(3), the benefit that is equivalent to the Plan benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table, or tabular factor, specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using a five percent (5%) interest rate and the Applicable Mortality Table. If the Plan benefit is subject to Internal Revenue Code Section 417(e)(3), the equivalent annual benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table, or tabular factor, specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using the Applicable Interest Rate and the Applicable Mortality Table.

If the Plan provides a retirement benefit payable in a form other than a straight life annuity and is not subject to Code Section 417(e)(3), the benefit must be adjusted to an actuarially equivalent straight life annuity that equals:

- (i) for limitation years beginning on or after July 1, 2007 the greater of the annual amount of the straight life annuity (if any) payable under the Plan at the same Annuity Starting Date and the annual amount of a straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using an interest rate of five percent (5%) and the applicable mortality table under Code Section 417(e)(3).
- (ii) for limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same Annuity Starting Date that has



the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: 1) the interest rate and mortality table or other tabular factor specified in the Plan for adjusting benefits in the same form and 2) a five percent (5%) interest rate assumption and the applicable mortality table. The applicable mortality table is the mortality table described in Code Section 417(e)(3).

If the Plan provides for a retirement benefit which is payable in a form other than a straight life annuity and the form of the benefit is subject to Code Section 417(e)(3), the benefit is adjusted to an actuarially equivalent straight life annuity that equals:

- (i) if the Annuity Starting Date is in a Plan Year beginning after 2005, the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, using whichever of the following procedures the greatest annual amount: 1) the interest rate and the mortality table or other tabular factor specified in the Plan for adjusting benefits in the same form 2) a five and one-half percent (5-1/2%) interest rate assumption and the applicable mortality table and 3) the applicable interest rate under Code Section 417(e)(3) and the applicable mortality table divided by one and five hundredths (1.05);
  - (ii) if the Annuity Starting Date is in a Plan Year beginning in 2004 or 2005, the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit payable, using whichever of the following produces the greater annual amount: 1) the interest rate and mortality table or other tabular factor specified in the Plan for adjusting benefits in the same form and 2) five and one-half percent (5-1/2%) interest and the applicable mortality table; and
  - (iii) if the Annuity Starting Date is on or after the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) Plan Year beginning 2004 and before December 31, 2004, and the Plan applies the transition rule in Section 101(d)(3) of the Pension Funding Equity Act of 2004 in lieu of the rule in (ii), the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, determined in accordance with Internal Revenue Service Notice 2001-78.
- (c) Adjustment for Early Retirement. If benefits commence on or after the date a Participant attains age sixty-two (62) but before the Participant attains Social Security Retirement Age, the dollar limitation of Section 12.1(a) shall be reduced (a) five-ninths of one percent (5/9%) for each of the first (1<sup>st</sup>) thirty-six (36) months that benefits commence prior to Social Security Retirement Age and (b) five-twelfths of one percent (5/12%) for each additional month (up to maximum twenty-four (24) months) that benefits commence prior to Social Security Retirement Age.

If benefits commence prior to the Participant's attaining age sixty-two (62), the limitation for benefits commencing at age sixty-two (62) (determined under the preceding sentence) shall be the Actuarial Equivalent of commencement at age sixty-five (65) and an interest rate of five percent (5%) per year.

- (d) Commencement after age 65. If the retirement benefit of a Participant begins after their Social Security retirement Age, the limitation shall be adjusted so that it is the actuarial equivalent of an annual benefit of \$90,000, beginning at the Social Security Retirement Age, based on an interest rate assumption of five percent (5%) per year.
- (e) Grandfathering of Accrued Benefits Under Prior Code 415 Limits. Pursuant to the Tax Reform Act of 1986, as amended, the maximum benefit limitation in effect prior to the delayed effective date for collectively bargained plans, shall continue to apply to benefits earned by Participants through December 31, 1991 (or such other date that is allowed under Code Section 415 and the applicable regulations). In determining whether a Participant is in compliance with current Code Section 415 limits, the Plan shall take into consideration this preservation of the right to higher accrued benefits earned up to the date of the change in such Section 415 limits.

#### 12.6 Adjustment for Years of Service or Participation.

- (a) If a Participant has completed fewer than ten (10) years of participation in the Plan, the Participant's Annual Benefit shall not exceed the dollar limitation in Section 12.2(c)(i) above multiplied by a fraction, the numerator of which is the Participant's number of years (or part thereof) of participation in the Plan and the denominator of which is ten (10);
- (b) To the extent required by the Internal Revenue Code and regulations, if a Participant has completed fewer than ten (10) years of service with the Employer the limitations set forth in this Article shall be multiplied by a fraction, the numerator of which is the Participant's number of years of service and the denominator of which is ten (10).
- (c) In no event shall the adjustments provided herein reduce the limitations to an amount less than one-tenth (1/10) of the applicable limitation.
- (d) To the extent required by IRS regulations, this Section shall be applied separately with respect to each change in benefit structure under the Plan.

#### 12.7 Other Defined Benefit Limitations.

If a Participant has completed fewer than ten (10) years of service with all Employers, the limitations described in Sections 415(b)(1)(B) and 415(b)(4) of the Code shall be adjusted by multiplying such amounts by a fraction, the numerator of which is the Participant's number of years (or part thereof) of service, and the denominator of which is ten (10).

## 12.8 Minimum Benefit.

Notwithstanding the preceding provision of this Section to the contrary, the benefits of a Participant under the Plan shall be deemed not to exceed the limitations of the Internal Revenue Code, if the Participant's retirement benefits under the Plan (and all other defined benefit plans maintained by an Employer) do not exceed \$10,000 for the Plan Year or any prior Plan Year and the Employer has not at any time maintained a defined contribution plan in which the Participant participated.

## 12.9 Application to Changes in Benefit Structure.

To the extent required by the Secretary of the Treasury and to the extent applicable, this Article shall be applied separately with respect to each change in the benefit structure of the plan.

## 12.10 Participation in Defined Contribution Plan.

In any instance in which a Participant under this Plan is also a Participant in a "defined contribution plan" as defined in Code Section 414(i), maintained by an Employer, the sum of the "Defined Benefit Plan Fraction" and the "Defined Contribution Plan Fraction" shall not (subject to the restriction and exceptions contained in Section 2004 of ERISA) exceed 1.0. To the extent applicable, the annual addition for any Limitation Year beginning before January 1, 1987, shall not be recalculated in order to treat all employee contributions as an annual addition.

"Defined Benefit Plan Fraction" means a fraction, whereby the numerator is the Participant's projected annual benefit under the defined benefit plan (determined as of the close of the Limitation Year), and the denominator is the lesser of:

- (a) One and twenty-five hundredths (1.25) multiplied by the dollar limitation in effect under Code Section 415(b)(1)(A) for that Limitation Year or,
- (b) One and four-tenths (1.4) multiplied by the amount that may be taken into account under Code Section 415(b)(1)(B) with respect to the Participant for the Limitation Year.

"Defined Contribution Plan Fraction" means a fraction, whereby the numerator is the sum of the annual additions to the Participant's Accounts(s) (defined in the Defined Contribution Plan) as of the close of the Limitation Year, and the denominator is the sum of the lesser of the following amounts for such Limitation year and for each prior Limitation Year of service with the Employer.

- (i) One and twenty-five hundredths (1.25) multiplied by the dollar limitation in effect under Code Section 415(c)(1)(A) for that Limitation Year (determined without regard to Code Section 415(c)(6)), or

- (ii) One and four-tenths (1.4) multiplied by the amount that may be taken into account under Code Section 415(c)(1)(B) with respect to the Participant for the Limitation Year.

The provisions of this Section are intended to apply the limitations imposed by Code Section 415 and shall be construed in a manner that will effectuate this intent. In no event shall this Section be construed in a manner that would impose limitations that are more stringent than those imposed by Code Section 415.

#### 12.11 Compensation.

- (a) For purposes of this Article, “Compensation” shall include the Participant’s wages, salaries and fees for professional services and other amounts paid by an Employer for personal services actually rendered in the course of employment, including (but not limited to) bonuses, overtime, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions or insurance premiums, tips and incentive compensation, but excluding salary reduction contributions made pursuant to Internal Revenue Code Sections 401(k) and 402(g) and other items described in Treas. Reg. § 1.415-2(d)(2)(i)-(iv). It shall not include any payments made by the later of two and one-half (2-1/2) months following severance or the end of the limitation year in which the severance occurs except as provided in the Code.
- (b) For limitation years beginning on or after January 1, 2000, for purposes of the Community Renewal Tax Relief Act of 2000 (CRA) and for applying the Code Section 415(0)(3) limitations described herein, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the employee by reasons of Code Section 132(f)(4).
- (c) For Plan Years beginning on or after January 1, 2000 for purposes of the CRA amendment of Code Section 414(s), compensation shall not include elective amounts that are not includible in the gross income of the employee under Code Sections 125, 132(f)(4), 402(h) or 403(b).

#### 12.12 Reduction of Benefits.

Reduction of benefits under and/or contributions to all *plans*, where required, shall be accomplished by first reducing benefits under this Plan. Any necessary reductions may be made in a different manner and priority pursuant to the agreement of the Plan and the administrators of all other covering such Participants.

To ensure compliance with Code Section 415, and in accordance with its fiduciary responsibility under ERISA, the Board of Trustees shall postpone the payment of that portion of a Participant’s pension that would exceed the maximum benefit limitations of Code Section 415 to the earliest date on which the Code Section 415 limits would not be

exceeded. If required, such delayed payments shall be payable over a period of time to ensure compliance with Code Section 415.

The above limitations are intended to comply with Code Section 415 so that the maximum benefit payable under the Plan shall not exceed that allowed under Code Section 415. If there is any discrepancy between this Article and Code Section 415 and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to Code Section 415.

Notwithstanding the above, the Board of Trustees have the power and discretion to establish an Excess Benefits Plan consistent with the Code.

#### 12.13 Definitions.

For purposes of this Article, the following terms shall have the following meanings:

- (a) “Social Security Retirement Age” means the age used as the retirement age for the Participant under Section 216(1) of the Social Security Act, except that such section shall be applied without regard to the age increase factor, and as if the early retirement age under Section 216(1)(2) of such Act were sixty-two (62).
- (b) All defined contribution plans of the Employer shall be considered a single plan and all defined benefit plans of an Employer shall be considered a single plan but only to the extent required by applicable law.

#### 12.14 Tax-Exempt Employees.

Plan benefits attributable to service by the Participant with a tax-exempt Employer shall be subject to the maximum permissible dollar limitation as set forth in Internal Revenue Code Section 415(b)(2)(F).

ARTICLE XIII.  
TOP-HEAVY RULES

13.1 Participation and Coverage Requirements.

The continued participation in the Plan of Employees who are not covered by a collective bargaining agreement (non-bargaining Unit Employees) or who do not qualify as alumni employees is subject to compliance with the Top-Heavy requirements of Internal Revenue Code Section 416 (which is incorporated herein by reference to the extent permitted by applicable law), and the following supplemental conditions and limitations:

- (a) The non-bargaining unit Employees of each Employer on whose behalf an Employer contributes to the Trust must comprise a group that meets the Internal Revenue Code's minimum coverage and participation requirements for qualified pension plans and not favor Highly Compensated Employees (so as to violate applicable requirements of the Internal Revenue Code Section 416 or other applicable law). Any such Employer whose non-bargained employees participate in the Plan must satisfy the rules established by the Board of Trustees for subscription agreements;
- (b) Each Employer who has or had any non-bargaining unit Employees participate in this Plan must cooperate with any rules and procedures adopted by the Trustees calling for the Employer to provide compliance reports and certifications, and with such random compliance audits as the Trustees may deem necessary to ensure compliance with applicable law;
- (c) Non-bargaining unit Highly Compensated Employee (as defined in the Internal Revenue Code and regulations issued thereunder) will not accrue a benefit under the Plan for a Plan Year unless there are sufficient Employer contributions on behalf of enough non-bargaining unit Employees to meet the requirements of Sections 401(a)(4), 401(a)(26) and 410(b) of the Internal Revenue Code and regulations issued thereunder.
- (d) Effective Date. This Subsection shall apply for purposes of determining whether the Plan is a top-heavy plan under Section 416(g) of the Code for Plan Years beginning after December 31, 2001, and whether the Plan satisfied the minimum benefits requirements of Section 416(c) of the Code for such years.

13.2 Top-Heavy, Participation and Coverage Requirements.

Effective as of January 1, 2001, to the extent required by law, the Plan shall comply with top heavy requirements of Internal Revenue Code Section 416 and applicable regulations issued thereunder, including any requirements added as a result of EGTRRA (§613). Such provisions are incorporated herein by reference. This Plan is a multiemployer collectively bargained Plan and as such it is not intended that there be any Key Employees as defined in the Internal Revenue Code and lawful regulations; however, to ensure compliance with the Internal Revenue Code, the following provisions implementing Code Section 416 are

included; however, if this broad incorporation is sufficient, the following language is not necessary.

- (a) Top-Heavy Plan shall mean that, for any Plan Year beginning after December 31, 2003, any of the following conditions exists:
  - (i) The Top-Heavy Ratio for the Plan exceeds sixty percent (60%) and the Plan is not part of a Required Aggregation Group or a Permissive Aggregation Group;
  - (ii) The Plan is part of a Required Aggregation Group but not part of a Permissive Aggregation Group and the Top-Heavy Ratio for the group exceeds sixty percent (60%);
  - (iii) The Plan is part of a Required Aggregation Group and part of a Aggregation Group exceeds sixty percent (60%).

The amounts above shall be determined as of the Determination Date. (Prior Plan and Internal Revenue Code Top-Heavy rules govern periods prior to January 1, 2001.)

(b) Definitions:

- (i) Accrued Benefit means for any Top-Heavy Plan Year, a Participant's accrued benefit as determined in accordance with this Section.
- (ii) Aggregate Account means, for each Participant, the total value of their accounts, including Employer and Employee accounts (if applicable), which are used to determine Top-Heavy Plan status under the provisions of a defined contribution Plan included in any Aggregation Group.
- (iii) An Aggregation Group shall be either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined. Only those Plans of the Employer in which the Determination Dates fall within the same calendar year shall be aggregated to determine whether such Plans are Top-Heavy Plans.
  - (A) A Required Aggregation Group shall consist of (1) each qualified Plan of the Employer in which at least one key employee participates or participated at any time during the Plan Year containing the Determination Date or any of the four (4) preceding Plan Years (regardless of whether the Plan has terminated), and (ii) any other qualified Plan of the employer which enables a Plan described in (i) to meet the requirements of Code Sections 401(a)(4) or 410.

To the extent required by the Code, each Plan in a Required Aggregation Group shall be considered a Top-Heavy Plan if the Required Aggregation Group is a Top-Heavy Group. No Plan in a

Required Aggregation Group shall be considered a Top-Heavy Plan if the Required Aggregation Group is not a Top-Heavy Group.

- (B) A Permissive Aggregation Group shall consist of the Required Aggregation Group 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.

Only a Plan that is part of the Required Aggregation Group shall be considered a Top-Heavy Plan if the Permissive Aggregation Group is a Top-Heavy Group. No Plan in a Permissive Aggregation Group shall be considered a Top-Heavy Plan if the Permissive Aggregation Group is not a Top-Heavy Group.

- (iv) Average Compensation means the amount determined by averaging the Participant's Annual Earnings over a period of five (5) consecutive years preceding the Determination Date which produces the highest average. For any Top-Heavy Plan Year, compensation in excess of \$200,000 in any year, whether or not such year was a Top-Heavy Plan Year, shall be disregarded in accordance with Code Section 416. Such \$200,000 limit shall be automatically adjusted as provided in Code Section 416(d)(2) to take into account increases in cost of living in accordance with the regulations prescribed by the Secretary of Treasury.
- (v) Determination Date means the last day of the preceding Plan Year.
- (vi) Key Employee means any Employee or former Employee (including any deceased employee) who at any time during the Plan Year that includes the Determination Date is an officer of the Employer having an annual Compensation greater than \$130,000 (as adjusted under § 416(i)(1) of the Code for Plan Years beginning after December 31, 2002), a five percent (5%) owner of the Employer, or a one percent (1%) owner of the Employer having an annual Compensation of more than \$150,000. The applicable annual Compensation used to determine Key Employee status is determined in accordance with Section 1.23. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Internal Revenue Code and the regulations thereunder.
- (vii) Non-Key Employee means any Employee who is not a Key Employee.

(c) Top-Heavy Ratio.

- (i) If the Employer maintains one or more defined contribution Plans (including any simplified employee pension, as defined in Section 408(k) of the Internal Revenue Code) which during the five (5)-year period ending on the Determination Date(s) has or has had account balances and the



Employer has not maintained any defined benefit Plan, 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 present value of accrued benefits of all Key Employees as of the Determination Date(s) (including any part of any accrued benefit distributed in the one (1)-year period ending on the Determination Date(s)) (five (5)-year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death or disability), determined in accordance with Section 416 of the Internal Revenue Code and the regulations thereunder.

- (ii) If the Employer maintains one or more defined benefit Plan 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 account balances, 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 (i) 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 Employees, determined in accordance with (i) above, the account balances under the aggregated defined contribution Plan or Plans for all Employees as of the Determination Date(s), all determined in accordance with Section 416 of the Internal Revenue Code and the regulations thereunder. The account balances under a defined contribution in both the numerator and denominator of the Top-Heavy Ratio are increased for any distribution of an account balance made in the one (1)-year period ending on the Determination Date (five (5)-year period ending on the Determination Date in the case of distribution made for a reason other than severance from employment, death or disability).
- (iii) For purposes of (a) and (b) above the value of account balances and the present value of accrued benefits will 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 Section 416 of the Internal Revenue Code and the regulations thereunder for the first (1<sup>st</sup>) and second (2<sup>nd</sup>) Plan Years of a defined benefit Plan. The account balances and accrued benefits of a Participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not been credited with at least one (1) hour of service with any employer maintaining the Plan at any time during the one (1)-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 transfers are taken into account will be made in accordance with Section 416 of the Internal Revenue Code 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) Top-Heavy Minimum Benefit. For any Top-Heavy Plan Year, each non-bargained Non-Key Employee who is a Participant shall be entitled to the greater of their benefits under remaining Sections of the Plan or the following minimum accrued benefit (to be provided solely by employer contributions and expressed as a life annuity commencing at normal retirement age): The lesser of two percent (2%) of the Participant's Average Compensation for each Top-Heavy Plan Year, or twenty percent (20%) of their Average Compensation. Such minimum benefit shall only be provided to a Non-Key Employee who is a Plan Participant and who has completed at least one thousand (1,000) hours of service (or the equivalent) during an accrual computation period.

If a Non-Key Employee participates in both this defined contribution Plan and in a defined benefit Plan included in a Top-Heavy Aggregation Group, the Employer is not required to provide the Non-Key Employee with both the full and separate minimum accrued benefit under this Plan and the full and separate minimum contribution under the defined contribution Plan. Such Non-Key Employee shall receive only the minimum accrued benefits provided under this Plan.

To the extent that the minimum accrued benefit of any Participant is vested in accordance with the Top-Heavy vesting schedule provided in this Section, such minimum accrued benefit may not be forfeited or suspended under Code Sections 411(a)(3)(B) or 411(a)(3)(D).

For purposes of satisfying the minimum benefit requirement of Code Section 416(c)(1) and in determining years of service under the Plan, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Code Section 410(B)) no key employee or former key employee.

- (e) Top-Heavy Requirements. For any Top-Heavy Plan Year, as determined in this Section, the Plan shall provide the following:
- (i) Special vesting requirements of Code Section 416(b) pursuant to this Section, and
  - (ii) Special minimum benefit requirements of Code Section 416(c) pursuant to this Section, and
  - (iii) Special compensation requirements of Code Section 416(d) to this Section.

- (f) Determination of Top-Heavy Status. The Board of Trustees shall determine, on a year by year basis, the Top-Heavy status of the Plan. Such determination shall be made pursuant to this Paragraph of the Plan and Code Section 416. For any Plan Year in which this Plan is a Top-Heavy Plan, the Top-Heavy provisions of the Plan will be followed.

For purposes of determining Top-Heavy status, the following special rules shall apply:

- (i) If any Participant is a Non-Key Employee for any Plan Year, but such Participant was a Key-Employee for any prior Plan Year, such Participant's Present Value of Accrued Benefit shall not be taken into account for purposes of determining whether this Plan is a Top-Heavy Plan (or whether any Aggregation Group which includes this Plan is a Top-Heavy Group).
- (ii) For purposes of determining a Participant's present value of cumulative accrued benefits or a Participant's account, such present value or account shall:
  - (A) Include the present value of Accrued Benefit using the following actuarial assumptions: five percent (5%) interest, the Applicable Mortality Table, and assumed retirement at age sixty-two (62);
  - (B) 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 also shall apply to distributions under a terminated Plan which, had it not been terminated, would have been aggregated with the Plan under Code Section 4169(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 "five (5)-year period" for "one (1)-year period."
  - (C) Include any non-deductible Employee contributions, whether voluntary or mandatory;
  - (D) Not include, except as otherwise provided in the Treasury Regulations, Employee initiated rollover contributions or similar transfers to the transferee Plan;
  - (E) Include any rollover contributions, Plan-to-Plan transfer or similar transfers initiated by the Employer or made to a Plan maintained by an Affiliated Company; and
  - (F) Not include the Accounts and Accrued Benefits of a Participant who has not performed any services for any Employer maintaining the

Plan during the one (1)-year period ending on the Determination Date.

- (g) Top-Heavy Vesting. The Plan provides for one hundred percent (100%) vesting, which would also apply in a Top-Heavy situation.
- (h) Present Value. Pursuant to EGTRRA, which amended Internal Revenue Code Section 416, the method of calculating a Participant's present value of cumulative account balances for determining the top-heavy ratio is modified. The present value of cumulative account balances is increased for distributions made to the Participant during the one (1)-year period ending on the determination date; however, if a distribution is made for a reason other than severance from employment, death or disability, the five (5)-year look-back period is retained. Pursuant to the Code, the following implements this new requirement:
  - (i) If the Employer maintains one or more defined contribution Plans (including any Simplified Employee Pension Plan) and the Employer has not maintained any defined benefit Plan which during the one (1)-year period (five (5)-year period in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002) 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 account balance distributed in the one (1)-year period on the determination date(s)) (five (5)-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002), and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the one (1)-year period ending on the determination date(s))(five (5)-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002), both computed in accordance with Section 416 of the Code and the regulations thereunder. Both the numerator and denominator of the top-heavy ratio are increased to reflect any contribution not actually made as of the determination date, but which is required to be taken into account on that date under Section 416 of the Code and the regulations thereunder.
  - (ii) If the Employer maintains one or more defined contribution Plans (including any Simplified Employee Pension Plan) and the Employer maintains or has maintained one or more defined benefit Plans which during the one (1)-year period (five (5)-year period in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002) 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 account balances under the aggregated defined contribution Plan or Plans for all key Employees determined in accordance with (i) above, and the present value of accrued benefits under the aggregated defined benefit Plan or Plans for all key Employees as of the determination date(s), and the denominator of which is the sum of the account balances under the aggregated defined contribution Plan or Plans for all Participants, determined in accordance with (i) above, and the present value of accrued benefits under the defined benefit Plan or Plans for all Participants as of the determination date(s), all determined in accordance with Section 416 of the Code and the regulations thereunder. The accrued benefits under a defined benefit Plan in both the numerator and denominator of the top-heavy ratio are increased for any distribution of an accrued benefit made in the one (1)-year period ending on the determination date (five (5)-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002).

- (iii) The phrase “separation from service” used in this Plan document shall be updated and replaced with “severance from employment” when determining the top-heavy ratio pursuant to the Internal Revenue Code.

### 13.3 Highly Compensated Employee.

The term Highly Compensated Employee shall mean the same as provided in the Internal Revenue Code applicable to this Plan. Effective as of January 1, 1997, the term highly compensated Employee means any Employee who: (1) was a five percent (5%) owner at any time during the year or the preceding year; or (2) for the preceding year had compensation from the Employer in excess of \$80,000 and was in the top-paid group for the preceding year. The \$80,000 amount is adjusted at the same time and in the same manner as under Code Section 415(d).

“Highly Compensated Employee” means each highly compensated active Employee and highly compensated former Employee of an Employer. Whether an individual is a highly compensated Employee is determined separately with respect to each Employer, based solely on that individual’s compensation from or status with respect to that Employer.

A Highly Compensated Active Employee is an Employee of the Employer who performs service for the Employer during the determination year and who:

- (a) During the look-back year received compensation from the Employer in excess of \$80,000 (as adjusted under Section 414(q) of the Code) and was one of the top twenty percent (20%) of the Employees of the Employer during the look-back year when ranked on the basis of the compensation during that year.

- (b) Is a five percent (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.

A “highly compensated former Employee” is an Employee who was a Highly Compensated Employee when they separated from service or was a Highly Compensated Employee at any time after age fifty-five (55). The determination of who is Highly Compensated Employee will be made in accordance with Section 414(q) of the Code and the regulations thereunder.

ARTICLE XIV.  
DENIAL OF CLAIM AND APPEAL PROCEDURE

14.1 Notice of Claim Denial.

If a claim is denied in whole or in part, the Participant or Beneficiary (or other person or entity) shall receive a written notice of such denial in the form and manner required by ERISA. The notice of denial shall be provided within ninety (90) days after the claim is filed (assuming that the Plan has received full information relating to the claim), unless special circumstances require additional time for processing the claim consistent with the applicable federal regulations.

An extension of time not exceeding ninety (90) days may be required by special circumstances, and the Participant or Beneficiary shall be notified of such extension, including the special circumstances that exist and the date by which a final decision is expected to be rendered. The notice of denial shall be set forth in a manner calculated to be understood by the claimant, including the specific reason or reasons for the denial, a specific reference to the pertinent Plan provisions on which the denial is based, and, if appropriate or applicable, a description of any additional material or information that is necessary for the claimant to perfect the claim, and an explanation of why such material or information is necessary. The notice will also include information as to the steps to be taken if the claimant wishes to submit the claim for further review.

14.2 Review Procedure.

A Participant or Beneficiary may request a review of a claim denial by filing a written appeal within sixty (60) days after receipt of the notification of the denial. Any such request shall state the reason or reasons for disputing the denial and shall be accompanied by any pertinent documents or information not already furnished to the Plan. A failure to file a petition for review within such sixty (60)-day period shall constitute a waiver of the claimant's right to review of the denial. For good cause, the Board of Trustees may relieve a claimant of any such waiver at the total and absolute discretion of the Board of Trustees.

The Board of Trustees' review of an appeal is to be held and a decision made by the Board of Trustees at the first (1<sup>st</sup>) regularly scheduled Trust meeting following receipt of the appeal, unless the appeal is received within thirty (30) days of the next Trust or Pension Application Review Committee meeting or special circumstances require an extension of time for processing. If the appeal is received within that thirty (30)-day period and/or other special circumstances exist, the appeal will be decided at the second (2<sup>nd</sup>) regular meeting following its receipt. If special circumstances require additional time to review the appeal and/or the Trustees deem that additional information is required to make a decision on the appeal, the decision will be made by the third (3<sup>rd</sup>) meeting following receipt of the appeal.

The Board of Trustees' decision on appeal will be in writing and, if the appeal is denied in whole or in part, will include the specific reason(s) for the denial, reference to the specific plan provisions on which the benefit determination is based, a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of,

all documents, records, and other information relevant to the claimant's claim for benefits, and a statement of the claimant's right to bring an action under Section 502(a) of the ERISA. The Board of Trustees' decision will be sent to a Participant or Beneficiary no later than five (5) days following the date the Board of Trustees reaches its decision on the appeal.

If a Participant or Beneficiary does not receive a written decision from the Plan or the Plan's representative within one hundred twenty (120) days after the Plan receives the written appeal (assuming the Participant or Beneficiary has provided full information in support of the appeal) or the Participant or Beneficiary does not receive a request for more information or a notice that additional time is required to review the appeal within that one hundred twenty (120) day period, the Participant may deem the appeal to be denied if so desired.

A Participant has no right to appear personally before the Board of Trustees or any Committee established by the Board of Trustees. The Board of Trustees may, however, at their sole discretion, request a Participant's appearance at an appeal hearing or meeting.

The Trustees are authorized to set forth the claims and appeal procedure in more detail in the Summary Plan Description.

#### 14.3 Disability Claims and Appeals.

Effective as of January 1, 2002, if a claim pertains to Disability Benefits, the rules and rights set forth in this Section shall apply in addition to those set forth above to the extent applicable. Any person whose claim or application for Disability Benefits is denied shall be notified in writing of such denial within a reasonable period but not later than forty-five (45) days after receipt of such application or claim. An extension of time not to exceed thirty (30) days may be necessary due to matters beyond the Plan's control in which case a notice will be sent to the Participant, prior to the expiration of the forty-five (45)-day period, of the circumstances requiring the extension and the date as of which the plan expects to render a decision. If a decision cannot be rendered due to matters beyond the Plan's control prior to the expiration of the thirty (30)-day extension, an additional extension of thirty (30) days is permitted in which case a notice shall be furnished to the Participant. The notice of extension will include the standards on which entitlement to a benefit is based, the unresolved issues that prevented a decision on the claim and any additional information needed to resolve the dispute.

The Participant shall be afforded at least forty-five (45) days to provide the requested information, if any. The deadline for the Board of Trustees to render a decision on the Disability claim is tolled from the date on which the notification of the extension is sent to the Participant until the Participant's response is received by the Plan.

If the Disability claim is denied, in addition to the information set forth in Section 14.1 above, the Plan's notice of adverse benefit determination will be provided in a culturally and linguistically appropriate manner and shall include the following: (1) a discussion of the decision, including an explanation of the basis for disagreeing with or not following



(i) the views of treating health care professionals and vocational professionals who evaluated the claimant, (ii) the views of medical or vocational experts whose advice was obtained on behalf of the plan in connection with the adverse benefit determination, or (iii) the claimant's Social Security Administration disability determination; (2) the specific rule, guideline, protocol, or other similar criterion, if any, relied upon in making the determination; (3) an explanation of the clinical or scientific judgment for the determination if the adverse benefit determination was based on medical necessary or other similar exclusions; and (4) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.

A petition for review of a denial of a Disability claim shall be filed within one hundred eighty (180) days of receipt of the notification of the Plan's adverse determination and shall be reviewed by the Board of Trustees within the timeframes set forth in Section 14.2. The Participant shall have access to relevant documents, records and other information relied upon by the Plan, in addition, the Participant shall be entitled to any statement of policy or guidance with respect to the Plan concerning the denied treatment, option or benefit for the Claimant's diagnosis without regard to whether such advice or statement was relied upon in making the benefit determination. If the adverse benefit determination is based in part or in whole on a medical judgment, the Board of Trustees shall consult with a health care professional with appropriate training and experience in the field of medicine involved in the medical judgment. Such consultant shall be different from any individual consulted in connection with the initial determination nor the subordinate of any such person.

If the petition for review of a denial of a Disability claim is denied, in addition to the information set forth in Section 14.2 above, the Plan's notice of decision will be provided in a culturally and linguistically appropriate manner and shall include the following: (1) a discussion of the decision, including an explanation of the basis for disagreeing with or not following (i) the views of treating health care professionals and vocational professionals who evaluated the claimant, (ii) the views of medical or vocational experts whose advice was obtained on behalf of the plan in connection with the adverse benefit determination, or (iii) the claimant's Social Security Administration disability determination; (2) the specific rule, guideline, protocol, or other similar criterion, if any, relied upon in making the determination; (3) and an explanation of the clinical or scientific judgment for the determination if the adverse benefit determination was based on medical necessary or other similar exclusions.

#### 14.4 Exhaustion of Remedies/One Year Limitation Period for Filing Lawsuit.

Before initiating legal action to recover any benefit under the Plan, to enforce any right under the Plan or to clarify any right to future benefits under the Plan, the person claiming the benefit or right must first comply with and exhaust all remedies under the Plan's claim and appeal procedures. No legal action may be commenced or maintained against the Plan, Trust, Board of Trustees, individual Trustees or other individuals or entities involved or associated with the decision on review more than one (1) year after the Plan Trustees' decision on the appeal or if there is no formal appeal, any other adverse action.

14.5 Finality of Decision.

The Board of Trustees' decision on any claim, application or appeal shall be final and binding upon all persons, including a Participant, Beneficiary or any other person or entity.

ARTICLE XV.  
MISCELLANEOUS PROVISIONS

15.1 Interpretation of Plan by Board of Trustees.

The Board of Trustees or persons appointed or so designated by the Board shall have the full discretionary authority to determine eligibility for and the amount of benefits and construe the terms of this Plan, and any rules and regulations issued hereunder.

If the Board of Trustees determine or are advised that ruling, regulations, or Court action may determine an issue or dispute, the Board of Trustees may defer action in making a determination hereunder for a reasonable period or until such time as they can determine what is a proper determination of that issue.

No person may rely upon any interpretation by any individual Trustee, Union officer or representative, Employer or any other person regarding the Plan benefits or otherwise. Any question of interpretation of the Plan should be directed in writing to the Board of Trustees at the Trust Fund Office. No oral statement or other form of communication by any person, including a Plan official, may be the basis of any claim for benefits if such statement is in conflict with this Plan or the Trust Agreement.

15.2 Gender and Number.

Wherever applicable, the masculine pronoun as used herein shall include the feminine and the singular the plural.

15.3 Limitations On Trustee Liability.

Nothing in this Plan shall be construed to prevent any Trustee from receiving any benefit to which they may be entitled as a Participant or Beneficiary in this Plan, so long as the benefit is computed and paid on a basis which is consistent with the terms of this Plan as applied to all other Participants and beneficiaries. Nor shall this Plan be interpreted to prevent any Trustee from receiving reimbursements of expenses properly and actually incurred in the performance of their duties with respect to the Plan.

15.4 Survivor Benefits Under Qualified Military Service.

If a Participant dies while performing qualified military service as defined in the Internal Revenue Code, the Plan will make available to the Participant's Beneficiary any additional benefits that would have been provided under the Plan had the Participant resumed employment and then terminated employment on the account of death.

Pursuant to IRS guidelines, this provision applies only to Participants who would have been entitled to reemployment rights under USERRA if they had applied for such rights immediately before their death. To the extent applicable for this Plan, any benefits under the Plan that would otherwise be provided to such Participant if they had died while employed would apply. This provision does not require that contributions be imputed or

otherwise be made for the period of qualified military services for purposes of determining benefits payable under the Plan.

15.5 Overpayments Recoverable by the Plan.

A Pensioner, Beneficiary or Participant is entitled only to the amount and form of benefits described in the Plan document, as amended from time to time. If a Pensioner, Beneficiary or Participant is receiving an improper amount or benefit from the Plan and they become aware of that fact, the Plan requires that such person immediately notify the Trust Fund Office of the overpayment.

If a Pensioner, Beneficiary or Participant receives an overpayment of benefits, the Plan may reduce or offset any future benefits to recover the overpayment to the extent permitted by law and adjust any benefits prospectively to reflect the proper benefit amounts as required by applicable law.

15.6 Payments to a Minor or Adult with Principal Support of the Minor.

Any death benefit payable to a minor under age eighteen (18) may be paid to the legally appointed guardian of the minor or, if there is no guardian, to such adult(s) that has, in the discretion of Plan representative, assumed principal support of said minor. The Plan may also decide to distribute benefits to a minor, depending upon the circumstances. The Board of Trustees, and its delegates, have absolute discretion in making such determinations and may delay making a distribution until the Beneficiary attains age eighteen (18).

ARTICLE XVI.  
AMENDMENT, MERGER AND TERMINATION OF THE PLAN

16.1 Amendment.

This Plan may be amended by the Board of Trustees in the manner provided in the Trust Agreement. Amendments may apply to all groups covered or to certain groups only. Amendments may be made retroactively only to the extent permissible under ERISA, the Internal Revenue Code and other applicable laws. Except as may otherwise be required to obtain or retain tax-exempt status for the Trust, no amendment may divest any accrued rights which have vested prior to the later of the date of execution of the amendment or its effective date.

16.2 Plan Termination.

It is expected that the Plan will be continued in effect indefinitely and that each Employer will continue to make contributions required by the applicable Collective Bargaining Agreement. Subject to the Trust Agreement, the Board of Trustees reserves the right to institute proceedings to effect a partial or total termination of the Plan.

The Plan will be considered terminated by the occurrence of any of the following events:

- (a) The amendment of the Plan to provide that after a specified date, all Participants will cease to accrue Future Service Credit;
- (b) The complete withdrawal (as defined in Section 4203 of ERISA) of every Employer, or
- (c) The amendment of the Plan, which amendment causes the Plan to become a defined contribution plan.

In the event of a partial or total termination of the Plan, the Normal Retirement Benefit, to the extent funded as of the date of termination, credited to each Participant affected thereby will be nonforfeitable.

16.3 Allocation of Assets Upon Termination.

In the event of the Plan's termination and unless as otherwise provided by applicable law, available funds will be allocated by the Board of Trustees in a manner consistent with Title IV of ERISA and the provisions of the Trust Agreement. On termination of the Plan, no part of the Trust will revert to any Employer or Union or be used for or diverted to purposes other than the exclusive purpose of providing benefits to Participants and Beneficiaries and of defraying the reasonable expenses of administering the Plan and the Trust. On termination of the Plan, the Trust shall continue until the Trust has been distributed as provided in the Trust Agreement and the Plan. Except as otherwise provided under applicable law, after termination of the Plan, there shall be no liability or obligation to provide benefits hereunder in excess of the value of the Trust.

16.4 Merger.

In the event of:

- (a) A merger or consolidation of this Plan with any other Plan, or
- (b) A transfer of assets or liabilities from this Plan to another Plan, each Participant shall be entitled to a benefit immediately after such merger, consolidation, or transfer which is not less than the benefit to which such Participant would have been entitled immediately prior to such merger, consolidation or transfer. For purposes of this Section, each Participant's benefit shall be determined as is the Plan had terminated as of the date of merger, consolidation, or transfer.

## APPENDIX A

### A. CREDITED FUTURE AND PAST SERVICE-PRIOR RULES

1. First Covered Hour After 1965. A Participant whose Covered Hour occurs on or after January 1, 1966 will be granted one (1) year of Past Service Credit for each consecutive calendar year, or fraction thereof, that the Participant was employed in Pre-Plan Service prior to their first (1<sup>st</sup>) Covered Hour with the Employer by whom they were employed on the date of their first (1<sup>st</sup>) Covered Hour. The following rules apply:
  - (a) In computing Past Service Credit, periods of service to a maximum of six (6) years in (1) the Armed Forces at any time or (2) Sheet Metal Employment in defense work during the period between January 1, 1941 and December 31, 1946, will count as years of Pre-Plan Service provided the Participant was working in Pre-Plan Service in the ninety (90) days prior to entering upon such service, and further provided that the Participant returned to either Pre-Plan Service or Covered Employment within ninety (90) days following termination of such service.
  - (b) In computing Past Service Credit, consecutive employment prior to the Participant's first (1<sup>st</sup>) Covered Hour will not be broken by (although no credits will be given for);
    - (1) periods of Disability as approved by the Trustees;
    - (2) continuation of Sheet Metal employment in defense work of the type described above, in years subsequent to 1946, provided the Participant was working in Pre-Plan Service in the ninety (90) days prior to entering upon such service, and further provided that the Participant returned to either Pre-Plan Service or Covered Employment within ninety (90) days following termination of such service; or
    - (3) A continuous period during which the Participant was an Employer.
  - (c) In computing Past Service Credit, no credit will be given to a Participant for Noncovered Sheet Metal Service (as defined in Section 3.2) for employment under a bargaining agreement negotiated by a labor organization other than a Union.
2. First Covered Hour Before 1966. A Participant whose first (1<sup>st</sup>) Covered Hour occurs prior to January 1, 1966, will be granted one (1) year of Past Service Credit for each consecutive calendar year, or fraction thereof, prior to their first (1<sup>st</sup>) Covered Hour, that they were either employed with an Employer in a classification covered by a collective bargaining agreement with the Union but prior to that Employer being required to contribute to the Plan or was available for such employment with an entity which would have been an Employer had a Contribution

Agreement been in effect, either at the time the employment was rendered or at the time they were available for such employment.

If a Participant was employed with an Employer who ceased business operations before the effective date of the Plan, consecutive years of Past Service Credit are granted without regard to the fact that the Participant was not employed by the Employer on the date of their first (1<sup>st</sup>) Covered Hour, and without regard to the fact that no contributions were made by the Employer.

3. To ensure that no Participant's Future Service Credits accumulated by December 31, 1987, are reduced and subject to the provisions of subparagraph (b) below, the following rules will be applied to Plan Years beginning before January 1, 1998, if they result in a larger number than does the application of the general rule to those years:

- (a) Before 1972. For periods of Covered Employment before January 1, 1972, one (1) year of Future Service Credit will be credited for each Plan Year during which a Participant worked 1,551 or more Covered Hours. If a Participant worked fewer than 1,551 but more than four hundred fifty (450) Covered Hours, a fractional year shall be earned according to the following table:

| Fractional Year of<br>Covered Hours | Future Service Credit |
|-------------------------------------|-----------------------|
| 450 or less Hours                   | 0                     |
| 451-550                             | 5/16                  |
| 551-650                             | 6/16                  |
| 651-750                             | 7/16                  |
| 751-850                             | 8/16                  |
| 851-950                             | 9/16                  |
| 951-1050                            | 10/16                 |
| 1,051-1150                          | 11/16                 |
| 1,151-1250                          | 12/16                 |
| 1,251-1350                          | 13/16                 |
| 1,351-1450                          | 14/16                 |
| 1,451-1550                          | 15/16                 |

- (b) After 1971. For periods of Covered Employment on or after January 1, 1972, a Participant shall be credited with one fifteen-hundredth (1/1,500) of a year of Future Service Credit for each Covered Hour.
- (c) Service Before Eligibility Period. Notwithstanding the general provisions of (a) above, no Future Service Credit will be given for any Covered Hours prior to the beginning of the two (2) consecutive Plan Year periods during which the employee established their eligibility to become a Participant.



- (i) Benefits Commence Prior to Age 62. If the benefit of a Participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Participant 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 to the defined benefit dollar limitation applicable to the Participant at age benefit dollar limitation applicable at an age prior to age sixty-two (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 1.1 of the Plan and (b) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate and the applicable mortality table as defined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.
- (ii) Benefits Commencing After Age 65. If the benefit of a Participant begins after the Participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the Participant 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 Participant at age sixty-five (65) (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as (i) the lesser of 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 1.1 of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate assumption and the applicable mortality table as defined in Section 1.1 of the Plan. For these purposes, mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.

SHEET METALWORKERS PENSION PLAN OF NORTHERN CALIFORNIA

Recitals

WHEREAS, the Board of Trustees of the Sheet Metal Workers Pension Plan of Northern California (“Plan”) desires to amend and restate the Plan for compliance with Internal Revenue Code and other applicable requirements;

THEREFORE, the Board of Trustees has approved the Amended and Restated Plan attached hereto and authorizes the Chair and Co-Chair to sign the Plan Document on behalf of the Board of Trustees.

*Sean O'Donoghue*

Sean O'Donoghue, Chairman

*Rick Werner*

Rick Werner, Co-Chairman

DATED: 1/16/2026 | 3:42 PM PST

DATED: 1/16/2026 | 6:37 PM EST