

**PLUMBERS AND STEAMFITTERS LOCAL NO. 166  
AFL-CIO PENSION PLAN**

**Plan Document  
(As Amended and Restated Effective January 1, 2015)**

**TABLE OF CONTENTS**

ARTICLE I - DEFINITIONS .....	1
ARTICLE 2 - CREDITED AND VESTED SERVICE .....	9
Section 2.1 Pension Credits .....	9
Section 2.2 Years of Vesting Service .....	14
Section 2.3 Breaks in Service .....	15
Section 2.4 Separation from Covered Employment .....	17
ARTICLE 3 - PARTICIPATION.....	17
Section 3.1 Participation .....	17
Section 3.2 Termination of Participation .....	18
ARTICLE 4 - PENSION ELIGIBILITY FOR BENEFITS .....	18
Section 4.1 Retirement .....	18
Section 4.2 Regular Pension .....	18
Section 4.3 Early Retirement Pension .....	19
Section 4.4 Deferred Pension .....	19
Section 4.5 Disability Pension .....	20
Section 4.6 Lump-Sum Retirement Benefit .....	22
Section 4.7 Death Benefit prior to Commencement of a Pension Benefit .....	23
Section 4.8 Non-Duplication of Pensions and Death Benefits .....	23
ARTICLE 5 - AMOUNT OF BENEFITS .....	23
Section 5.1 Regular Pension .....	23
Section 5.2 Application of Accrual Rate Increases .....	28
Section 5.3 Early Retirement Pension .....	29
Section 5.4 Deferred Pension .....	29
Section 5.5 Disability Pension .....	29
Section 5.6 Lump-Sum Retirement Benefit .....	30
Section 5.7 Death Benefit prior to the Commencement of Pension Benefit .....	30
Section 5.8 Maximum Annual Benefit .....	31
Section 5.9 50% Husband and Wife Pension at Retirement .....	36
Section 5.10 Optional Forms of Distribution at Retirement .....	40
Section 5.11 Actuarial Equivalent of Optional Forms of Distribution .....	42
Section 5.12 Pre-Retirement Surviving Spouse Pension .....	42
Section 5.13 Benefit Adjustments if Payment of Pre- Retirement Surviving Spouse Pension Postponed .....	44

Section 5.14 Pop-Up Provision .....	44
Section 5.15 120 Month Guarantee of Pension Payments .....	46
Section 5.16 Relation to Qualified Domestic Relations Order .....	46
<b>ARTICLE 6 - PAYMENT OF BENEFITS.....</b>	<b>46</b>
Section 6.1 Applications .....	47
Section 6.2 Payment of Benefits .....	47
Section 6.3 Mandatory Commencement of Benefits .....	48
Section 6.4 Disability Pension Payments .....	49
Section 6.5 Cessation of Total and Permanent Disability .....	49
Section 6.6 Suspension of Benefits .....	49
Section 6.7 Benefit Accruals Following Suspension of Benefits .....	53
Section 6.8 Vested Status or Nonforfeitability .....	54
Section 6.9 Incompetence or Incapacity of a Pensioner or Beneficiary .....	54
Section 6.10 Payment of Small Amounts .....	55
Section 6.11 Outstanding Payments .....	55
Section 6.12 Required Distributions .....	55
Section 6.13 Rollover Distribution .....	56
Section 6.14 Minimum Distribution Requirements .....	57
<b>ARTICLE 7 - OVERPAYMENTS.....</b>	<b>62</b>
<b>ARTICLE 8 - CLAIMS AND APPEAL PROCEDURE .....</b>	<b>62</b>
Section 8.1 Right to Appeal .....	62
Section 8.2 Information and Proof .....	63
Section 8.3 Action of Trustees .....	63
<b>ARTICLE 9 - ALIENATION OF BENEFITS AND QUALIFIED     DOMESTIC RELATIONS ORDER .....</b>	<b>64</b>
Section 9.1 Rights to Plan Benefits .....	64
Section 9.2 Non-Assignment of Benefits .....	64
Section 9.3 Qualified Domestic Relations Order .....	64
<b>ARTICLE 10 - AMENDMENTS .....</b>	<b>64</b>
Section 10.1 Amendment .....	64
Section 10.2 Amendment to Vesting Schedule .....	65
<b>ARTICLE 11 - TOP HEAVY PROVISIONS .....</b>	<b>65</b>
Section 11.1 Key Employee .....	65
Section 11.2 Top Heavy Plan .....	66

Section 11.3 Top-Heavy Ratio .....	66
Section 11.4 Permissive Aggregation Group .....	68
Section 11.5 Required Aggregation Group .....	68
Section 11.6 Determination Date .....	68
Section 11.7 Non-Key Employee .....	68
Section 11.8 Valuation Date .....	68
Section 11.9 Present Value .....	68
Section 11.10 Minimum Allocation or Benefit Accrual under Top Heavy Plan .....	69
 ARTICLE 12 - NON-BARGAINED EMPLOYEES.....	 71
Section 12.1 Employer .....	71
Section 12.2 Non-Bargained Employees .....	71
Section 12.3 Highly Compensated Employee .....	71
Section 12.4 Vesting for Non-Bargained Employees .....	72
Section 12.5 Nondiscrimination, Coverage and Participation .....	73
Section 12.6 Alumni Coverage .....	73
 ARTICLE 13 - TERMINATION OF PLAN .....	 74
Section 13.1 Termination of Merger of Plan .....	74
Section 13.2 Merger and Consolidation of Plan, Transfer of Plan Assets .....	74
Section 13.3 Effect of Termination and Partial Termination .....	75
Section 13.4 Termination Distributions - Sufficient Assets .....	75
Section 13.5 Termination Distributions - Insufficient Assets .....	75
Section 13.6 Limit on Employer Liability .....	76
 ARTICLE 14 - WITHDRAWAL LIABILITY .....	 76
 ARTICLE 15 - MISCELLANEOUS PROVISIONS .....	 76
Section 15.1 Trustees' Reliance .....	76
Section 15.2 Exclusive Benefit .....	76
Section 15.3 Irrevocability of Employer Contributions .....	77

**PLUMBERS AND STEAMFITTERS LOCAL NO 166 AFL CIO PENSION PLAN  
(As Amended and Restated Effective January 1, 2015)**

**This Declaration of Agreement, made as of this 1st day of January, 2015  
by the Board of Trustees of the Plumbers and Steamfitters Local No 166  
AFL-CIO Pension Plan (hereinafter the "Trustees").**

**WITNESSETH: THAT:**

WHEREAS, the Trustees have previously established a pension plan for the benefit of employees covered thereunder, the terms of which are set forth in a written agreement currently designated as the Plumbers and Steamfitters Local No. 166 AFL-CIO Pension Plan, which agreement was originally effective as of 1965, and thereafter was amended most recently effective June 1, 2009 (such agreement, as theretofore amended, being hereinafter referred to as the "Predecessor Plan"); and

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

NOW, THEREFORE, the Trustees, pursuant to the Amendment and Declaration:

**ARTICLE 1 – DEFINITIONS**

**Actuarial Present Value means:**

- (1) "Actuarial Equivalence" means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provision in which the phrase is used or, if not otherwise specified, based on the assumptions described in this Section.
- (2) For distributions on and after November 1, 2009, the normal form of benefit will be converted to all optional forms using an interest rate of 7% and the RP-2000 Healthy Annuitant Mortality Table with a Blue Collar Adjustment, unless otherwise specified in the Plan.
- (3) For distributions pursuant to a Qualified Domestic Relations Order with an Annuity Starting Date on or after November 1, 2009, the "Actuarial Present Value" of a benefit shall be determined by using an interest rate of 7% and the RP-2000 Healthy Annuitant Mortality Table with a Blue Collar Adjustment.
- (4) With respect to any lump sum payment or payment subject to Section 417(e) of the Internal Revenue Code, the following rules apply for distributions which commence on

or after June 1, 2008. The Actuarial Equivalent lump sum value of a benefit shall be determined based upon the following interest and mortality assumptions:

- (a) **Applicable Interest Rate:** the adjusted first, second and third segment rates applied under rules similar to the rules under section 430(h)(2)(C) of the Code for the second month preceding the Plan Year containing the date of distribution, or such other time as the Secretary of the Treasury may by regulations prescribe. For this purpose, the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 430(h)(2)(C) of the Code if:
  - (i) Section 430(h)(2)(D) of the Code were applied by substituting the average yields for the month described in section 430(h)(2)(D)(ii) of the Code for the average yields for the 24-month period described in such section; and
  - (ii) Section 430(h)(2)(G)(i)(II) of the Code were applied by substituting "section 417(e)(3)(A)(ii)(II)" for "section 412(b)(5)(B)(ii)(II)"; and
  - (iii) the applicable percentage under section 430(h)(2)(G) of the Code is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011.
- (b) **Applicable Mortality Table:** the mortality table modified as appropriate by the Secretary of the Treasury, based on the mortality table for the Plan Year as specified under subparagraph (A) of section 430(h)(3) of the Code, without regard to subparagraph (C) or (D) of section 430(h)(3) of the Code.

**Annuity Starting Date means**

- (a) The "Annuity Starting Date" is the date as of which benefits are calculated and paid under the Plan and shall be the first day of the first month after or coincident with the later of:
  - (i) the first day of the month following submission by the Participant of a completed application for benefits, or
  - (ii) thirty (30) days after the Plan advises the Participant of the available benefit payment options.

The Annuity Starting Date may occur and benefits may begin before the end of the thirty (30) day period, provided that:

- (A) the Participant and Spouse have the right to revoke any benefit payment options elected before the end of the 30-day period and the benefits payable under the new election shall be adjusted pursuant to Section 3.20,

- (B) the Participant's benefit was previously being paid because of an election after the Normal Retirement Age, or
  - (C) the benefit is being paid out automatically as a lump sum under the provisions of the Plan.
- (b) The Annuity Starting Date shall not be later than the Participant's Required Beginning Date.
  - (c) The Annuity Starting Date for a Beneficiary or alternate payee under a Qualified Domestic Relations Order (within the meaning of Section 206(d)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA") and Section 414(p) of the Internal Revenue Code) will be determined as stated in Subsections (a) and (b) above, except that references to the 50% Husband and Wife Pension and Spousal consent do not apply.

**Beneficiary** means any person or persons designated by a Participant to be his or her Beneficiary as shown on the beneficiary designation form maintained in the records of the Fund.

- (a) Upon becoming a Participant, the Employee shall designate, on a form provide by the Trustees, the Beneficiary. Death benefits shall be paid in accordance with the terms of a valid beneficiary designation form completed by the Participant and filed with the Board of Trustees and/or Fund Office.
- (b) If the Participant designates as a primary Beneficiary a person other than (or in addition to) the person to whom the Participant is married at the date of the Participant's death, such designation shall not be effective unless the person to whom the Participant is married at the date of the Participant's death has consented in writing to such designation, such Spouse's consent acknowledges the effect of such designation, and such consent is witnessed by a representative of the Plan or by a notary public. The consent of such Spouse shall be irrevocable by such Spouse in connection with the beneficiary designation with respect to which such consent is given. (To the extent the designation of a non-Spouse beneficiary is not effective; the primary beneficiary shall be the Spouse to whom the Participant is married at the date of the Participant's death.)

**Collective Bargaining Agreement or Agreement** means an agreement between the Union and an Employer which requires contributions to the Fund.

**Compensation.** The annual compensation to the extent taken into account for any employee under the Plan is limited to the annual compensation limit under 401(a)(17) and its corresponding regulations. The annual compensation limit is \$200,000, adjusted as provided by the Commissioner.

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

**Contribution Employer or Employer** means an employer which is represented by the Mechanical Contractors Association of Indiana, Inc., Fort Wayne area, or which is bound to a Collective Bargaining Agreement with the Union requiring contributions to this Fund or an employer signatory to any other agreement requiring contributions to this Fund provided:

- (a) the employer has been accepted as a Contributing Employer by the Trustees, and
- (b) the Trustees have not, by resolution, terminated the employer's status as a "Contributing Employer" because the employer has failed, for a period of 120 days after the due date, to make contributions to the Fund as provided for in its agreement.

"Employer" shall also include this Pension Fund and the Union.

An Employer shall not be deemed a Contributing Employer simply because it is part of a controlled group of corporations or of a trade or business under common control, some other part of which is a Contributing Employer.

**Contribution Period** means with respect to a category of employment, the period during which the employer is a Contribution Employer with respect to the category of employment. The term "Contribution Period" shall also mean the period beginning in 1961 when Employee contributions were paid to the Fund until such Employee contributions were replaced by Employer contributions.

**Covered Employment** means employment of an Employee by an Employer for which the Employer is obligated by its agreement to contribute to the Plan, including such employment prior to the Contribution Period which if performed during the Contribution Period would have resulted in contributions being paid to the fund. Covered Employment shall also include Work for a Contributing Employer as a first year apprentice during the Contribution Period, notwithstanding that contributions are not required after June 1, 1991 for such Work. However, Covered Employment shall not include employment by an employer, after termination for failure to pay contributions due, of that employer's status as a Contributing Employer, pursuant to the provisions of Article 1.

**Employee Contributions** means the contributions paid to the Plan by Employees from June, 1961 through June 19, 1972. Employee Contributions are not permitted or required after June 19, 1972.

**Employee** means:

- (a) A person who is an employee of an Employer and is covered by a Collective Bargaining Agreement. The "alumni rule" as set forth in Treasury Regulation

§1.410(b)-6(d)(2)(ii) is adopted for the purpose of defining a “collectively bargained employee” under the Internal Revenue Code.

- (b) A Non-bargained Employee whose participation is not covered by a Collective Bargaining Agreement but is covered by a written agreement requiring contributions to the Pension Fund. Such Non-bargained Employees include employees of this Trust Fund and the Union for whom the Trustees or Union agree in writing to contribute to the Trust Fund at the rate fixed for contributions for any other Employer.
- (c) Any person who worked as a collective bargaining employee and a non-collective bargaining employee for employers under the Collective Bargaining Agreement if more than one-half (1/2) the person's work during the plan year was as a collectively bargained employee.
- (d) Any person who had been covered by a Collective Bargaining Agreement and who continues to work for employers party to a Collective Bargaining Agreement if the employer has entered into a Participation Agreement with the Trust Fund covering such persons.
- (e) Any leased employee, which means any person (other than an employee of the recipient) who, pursuant to an agreement between the recipient and any other person ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code) on a substantially full time basis for a period of at least one (1) year, and such services are performed, under the recipient's primary direction or control. Contributions or benefits provided to a leased employee, by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient employer.

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

- (i) such employee is covered by a money purchase pension plan providing:
  - (A) immediate participation;
  - (B) full and immediate vesting; and
  - (C) a nonintegrated employer contribution rate of at least 10% of compensation, as defined in Section 415(c)(3) of the Internal Revenue Code, but including amounts contributed pursuant to a salary reduction agreement which are excludible from the Employee's gross income under Section 125, 402(e)(3), 402(h), or 403(b) of the Internal Revenue Code; and

- (ii) leased employees do not constitute more than 20% of the recipient's nonhighly compensated workforce.

The term "Employee" shall not include:

- (a) a sole proprietor who is a Contributing Employer;
- (b) a partner who is a Contributing Employer, regardless of the size of the partnership interest; or
- (c) anyone else whose ownership would, in the opinion of the Trustees, jeopardize the tax-exempt status of the Fund or violate provisions of ERISA.

**Normal Retirement Age** means

- (a) For a Participant who does not have an hour of Work after May 31, 1989, "Normal Retirement Age" means age 62 or, if later, the age of the Participant on the tenth anniversary of his participation.
- (b) For a Participant with an hour of Work after May 31, 1989, "Normal Retirement Age" means age 62 or, if later, the age of the Participant on the fifth anniversary of his participation.

However, participation before a Permanent Break in Service shall not be counted.

**Participant** means a Pensioner or an Employee who meets the requirements for participation in the Plan as set forth in Article 3, or a former Employee who has acquired a right to a pension under this Plan.

**Pension Fund, Trust Fund or Fund** means the Plumbers and Steamfitters of Local No. 166 AFL-CIO Pension Plan established under the Trust Agreement.

**Pension Plan or Plan** means this document as adopted by the Trustees and as thereafter amended by the Trustees.

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

**Plan Administrator** means the Board of Trustees, which has the duties specified in the Plan.

**Plan Credit Year** means the twelve-month period from June 1 to the May 31. For purposes of ERISA regulations, the Plan Credit Year shall serve as the vesting computation period, the benefit accrual computation period, and, after the initial period of employment, the computation period for eligibility to participate in the Plan.

**Plan's Unfunded Benefits** means the amount calculated by subtracting the Fund's assets, as determined by the Trustees, from present value of the Fund's Vested Benefits, as determined by the Trustees:

**Spouse** means a person who is recognized, as being the lawful wife or husband of the Participant and who has not been declared legally separated from the Participant by any judicial order, and, if and to the extent provided in a Qualified Domestic Relations Order (within the meaning of Section 206(d) of ERISA and Section 414(p) of the Internal Revenue Code), a Participant's former Spouse.

**Trust Agreement** means the Agreement and Declaration of Trust establishing the Plumbers and Steamfitters of Local No. 166, AFL-CIO Pension Plan dated effective as of June 1, 1961 and as thereafter amended.

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

**Union** means Local Union No. 166, an affiliate of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO.

**Work** means:

- (a) Each hour for which an Employee is directly or indirectly compensated or entitled to compensation from the Employer for the performance of duties during the applicable computation period.
- (b) Each hour for which an Employee is directly or indirectly compensated or entitled to compensation from the Employer (irrespective of whether the employment relationship is terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty or leave of absence) during the applicable computation period. Notwithstanding the preceding sentence:
  - (i) No More than five-hundred and one (501) hours of Work are required to be credited under this Subsection (b) to Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period), and
  - (ii) An hour for which an employee is directly or indirectly paid, or entitled to payment on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan Maintained by the Employer solely for the purpose of complying with applicable workers' compensation, unemployment compensation or disability insurance laws; and

- (iii) In addition, hours of Work are not required to be credited hereunder for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.
- (c) Each hour for which back pay is awarded or agreed to by the Employer, without regard to mitigation of damages. The same hours of Work shall not be credited both under Subsection (a) or Subsection (b), as the case may be, and under this Subsection (c). Crediting hours of Work for back pay awarded or agreed to with respect to periods described in Subsection (b) shall be subject to the limitations set forth in that paragraph.
- (d) Each hour (not to exceed forty (40) hours during any work week) for any Employee on layoff; leave of absence or away from work due to illness or injury on whose behalf the Employer or the Employee has contributed to this Plan in accordance with the Collective Bargaining Agreement or other written agreement. The same hours of Work shall not be credited both under Subsection (b) and under this Subsection (d).
- (e) For participation and Vesting for an Employee who is absent on a Qualified Maternity/Paternity Absence under the Family and Medical Leave Act, each hour which would have been credited to the Employee if he had continued to work his normal schedule as in effect prior to his absence or, if a normal work schedule cannot be determined, eight (8) hours per day of absence. No more than five hundred and one hours of Work are required to be credited under this Subsection (e) to an individual on account of absence due to any single pregnancy or placement, and the same hours of Work shall not be Credited under Subsection (a), (b), (c) or (d) and this Subsection (e). Credit for continuing the first day of such absence, if necessary to avoid a Break in Service in such year, or in the computation period immediately following. For purposes of this Subsection (e), a Qualified Maternity/Paternity Absence means an absence –
  - (i) by reason of the pregnancy of the Employee,
  - (ii) by reason of a birth of a child with the Employee in connection with the adoption of such child by such Employee, or
  - (iv) by reason of a serious health condition that makes the Employee unable to perform his job.

The rules for crediting hours of Work set forth in paragraphs (b) and (c) of Department of Labor Regulation Section 2530.200b-2 are incorporated herein by reference.

Hours of Work shall be credited for employment with other members of an affiliated service group [under Section 414(m) of the Internal Revenue Code], a controlled group of corporations [under Section 414(b) the Internal Revenue Code], or a group of trades or businesses under common control [under Section 414(6) the Internal Revenue Code] of which

the Employer is a member or any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) the Internal Revenue Code. Hours of Work will also be credited for any individual considered an Employee for purpose of this Plan under Section 414(n) the Internal Revenue Code.

For purposes of this Section, a payment shall be deemed to be made by or from the Employer regardless of whether such payments made by or due from the Employer directly or indirectly through a trust, fund or insurer to which the Employer contributes or pays premiums.

Further, solely for purposes of determining whether a One Year Break in service has occurred for participation and vesting purposes in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the hours of Work in accordance with Section 4.3(b)(iv).

**Year of Participation** means a Plan Credit Year in which a Participant has completed 2,000 hours of Work in Covered Employment during the Contribution Period.

## **ARTICLE 2 - CREDITED AND VESTING SERVICE**

### **Section 2.1. Pension Credits.**

#### **(a) For Employment before the Contribution Period.**

##### **(i) Members of Local Union No. 166**

A Participant who performed continuous hours of Work in Covered Employment before June 1, 1961 under the jurisdiction of Local Union No. 166 shall be credited with Pension Credits for such continuous Work in accordance with the following schedule:

#### **Hours of Work in Covered Number of Pension Credits Employment during Plan Credit Year**

Less than 900 hours	0
900 to 1,399 hours	One-half credit
1,400 or more hours	One credit

##### **(ii) Former Members of Local Union No. 278**

A Participant who performed continuous hours of work in Covered Employment under the jurisdiction of Local Union No. 278 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, AFL-CIO before the contribution date, June 1, 1977, and who, before that time, had earned no Pension Credits under this Pension Plan shall be credited with Pension Credits for such continuous

Work in accordance with the schedule in Paragraph 4.1(a)(i). The maximum number of Pension Credits that may be received for such Covered Employment prior to the contribution date, June 1, 1977, is ten (10). In addition, to be eligible for Pension Credit for the period of time before June 1, 1977 such Participant must earn at least one full Pension Credit in the two (2) year period from June 1, 1977 to May 31, 1979.

Effective February 1, 1992, to be eligible for Pension Credit for the period of time before June 1, 1977, such Participant must have at least one hour or Work during the five (5) year period from June 1, 1977 to May 31, 1982.

No retroactive payments (except for auxiliary Disability Pensions) shall be made for pensions effective prior to February 1, 1992.

(iii) Former Members of Local Union No. 689

A Participant who performed continuous hours of Work in Covered Employment under the jurisdiction of Local Union No. 689 of the United Association of Journeymen and Apprentices of the Plumbers and Pipefitting Industry, AFL-CIO, before the contribution date, June 1, 1981, and who before that time had earned no Pension Credits under this Pension Plan shall be credited with Pension Credits for such continuous work in accordance with the schedule in Section 2.1(a)(i). The maximum number of Pension Credits that may be received for such Covered Employment prior to the contribution date, June 1, 1981, is ten (10). In addition, to be eligible for Pension Credit for the period of time before June 1, 1981 such Participant must earn at least one full Pension Credit in the three (3) year period from June 1, 1981 to May 31, 1984.

Effective February 1, 1992, to be eligible for Pension Credit for the period of time before June 1, 1981, such Participant must have at least one hour or Work during the five (5) year period from June 1, 1981 to May 31, 1986.

No retroactive payments (except for auxiliary Disability Pensions) shall be made for pensions effective prior to February 1, 1992.

(iv) New Contributing Employers

Effective January 1, 1996, the Trustees reserve the right to grant Employees of new Contributing Employers Pension Credit for hours of Work in continuous Covered Employment prior to the Contribution Period. Such Pension Credit shall be granted if:

- (A) the Union provides necessary data for each Employee of the new Contributing Employer;
  - (B) the cost of granting the Pension Credit is determined by the Fund actuary; and
  - (C) the Board of Trustees votes to award such service.
- (v) Hours of Employment before Contribution Period

It is recognized that it may be difficult or impossible to obtain reliable records of hours of employment before the Contribution Period and, therefore, the Trustees shall determine the amount of Pension Credits for the years before the Contribution Period, and in accordance with nondiscriminatory procedures and policies, on the basis of the best available evidence which may be obtained from Employer records, Union records, Social Security records, Welfare Fund records or other evidence found acceptable by the Board of Trustees. The decisions of the Trustees as to the amount of pension Credits granted to any Employee for the years before the Contribution Period shall be final and binding.

**(b) For Employment during Contribution Period**

- (i) For Employment before June 1, 1976

For periods during the Contribution Period Before June 1, 1976, a Participant shall be credited with Pension Credits on the basis of his hours of Work in Covered Employment in accordance with the Schedule in Section 2.1(a)(1) above.

- (ii) For Employment after May 31, 1976 and before June 1, 1988. For periods during the Contribution Period after May 31, 1976, and before June 1, 1988, a Participant shall be credited with Pension Credits on the basis of his hours of Work in Covered Employment in accordance with the following schedule:

<b>Hours of Work in Covered Employment during Plan Credit Year</b>	<b>Number of Pension Credits</b>
Less than 870 hours	0
870 to 999	5/10 credit
1,000 to 1,099	6/10 credit
1,100 to 1,199	7/10 credit
1,200 to 1,299	8/10 credit
1,300 to 1,399	9/10 credit

1,400 or more hours                      1 full credit

If in a Plan Credit Year a Participant completes a Year of Vesting Service but less than 870 hours of Work in Covered Employment, he shall be credited with a pro-rated portion of a full Pension Credit in the ratio of his hours of Work in Covered Employment to 2,000.

- (iii) For Employment after May 31, 1988 and before June 1, 2006. For periods during the Contribution Period after May 31, 1988, and before June 1, 2006, a Participant shall be credited with Pension Credits on the basis of his hours of Work in Covered Employment in accordance with the following schedule:

<b>Hours of Work in Covered Employment during Plan Credit Year</b>	<b>Number of Pension Credits</b>
0 to 199 hours	0
200 to 399 hours	1/10 credit
400 to 599 hours	2/10 credit
600 to 739 hours	3/10 credit
740 to 869 hours	4/10 credit
870 to 999 hours	5/10 credit
1,000 to 1,099 hours	6/10 credit
1,100 to 1,199 hours	7/10 credit
1,200 to 1,299 hours	8/10 credit
1,300 to 1,399 hours	9/10 credit
1,400 or more hours	1 full credit

If in a Plan Credit Year a Participant completes a Year of Vesting Service but less than 870 hours of Work in Covered Employment, he shall be credited with a pro-rated portion of a full Pension Credit in the ratio of his hours of Work in Covered Employment to 2,000.

- (iv) For Employment after May 31, 2006. For periods during the Contribution Period after May 31, 2006, a Participant shall be credited with Pension Credits on the basis of his hours of Work in Covered Employment in accordance with the following schedule:

<b>Hours of Work in Covered Employment during Plan Credit Year</b>	<b>Number of Pension Credits</b>
0 to 199 hours	0
200 to 399 hours	1/10 credit
400 to 599 hours	2/10 credit

600 to 739 hours	3/10 credit
740 to 869 hours	4/10 Credit
870 to 999 hours	5/10 credit
1,000 to 1,124 hours	6/10 credit
1,125 to 1,249	7/10 credit
1,250 to 1,374 hours	8/10 credit
1,375 to 1,499 hours	9/10 credit
1,500 or more hours	1 full credit

**(c) For Employment in the Jurisdiction of Reciprocal Pension Funds.**

The Trustees may, at any time and in their sole and absolute discretion, enter into a reciprocity agreement with the trustees of any other tax-qualified pension plans. Reciprocated money received by the Fund under any such agreement, whether from a defined benefit or defined contribution fund, shall be allocated pursuant to policies and procedures adopted by the Trustees. Where reciprocated contributions are received by this Fund pursuant to such policies and procedures, Pension Credit shall be granted on the basis of the schedule appearing in Section 2.1(b)(ii), (b)(iii), or (b)(iv), whichever is appropriate, with such Pension Credit to be multiplied by a fraction, the numerator of which is the hourly rate of contribution actually remitted to this pension Fund for such hours of work and the denominator of which is the hourly rate of contribution required to be paid by Contributing Employers to this Fund in accordance with a Collective Bargaining Agreement. (such fraction not to exceed 1). For each hour for which reciprocated contributions are received, a Participant shall receive a full hour of credit for vesting purposes under section 2.2(a).

**(d) Credit for Qualified Military Service.**

Pension Credit, Contribution Credit, and Years of Vesting Service shall be granted to a Participant for time spent in "qualified military service" in accordance with Section 414(u) of the Internal Revenue Code. A Participant shall be credited with an average monthly amount of hours for each month of qualified military service. The average monthly amount of hours so credited shall be equal to the average hours worked by the Participant in Covered Employment during the preceding twelve (12) months (or the actual number of months worked by the Participant in Covered Employment if the Participant's period of Covered Employment is less than twelve (12) months) prior to the month of the qualified military service.

In the case of, a Participant who dies while performing qualified military service on or after January 1, 2007, Pension Credit, Contribution Credit, and Years of Vesting Service shall be provided as follows:

- (i) The Participant's survivors shall be entitled to any additional benefits provided under the Plan as if the Participant had resumed employment

with the Employer in accordance with the Uniformed Services Employment and Reemployment Rights Act ("USERRA") and then terminated employment with the Employer on account of death.

- (ii) The Participant is treated as if the Participant had resumed employment with the Employer in accordance with USERRA on the day. Preceding death and had terminated employment with the Employer on the actual date of death. All individuals performing qualified military service with respect to the Employer who die as result of performing prior to reemployment by the Employer shall be credited with service and benefits on reasonable equivalent terms.

In the case of a Participant whose Annuity Starting Date is on or aft December 1, 2009, the Participant shall be provided Pension Credit, Contribution Credit, and Years of Vesting Service for time spent "qualified, military service" in accordance with Section 414(u) of the Internal Revenue. Code and in any "qualified military service" performed prior to the enactment of USERRA.

**(e) Credit for First year Apprentice.**

Pension Credit, Contribution Credit and Years of Vesting Service shall be granted to a Participant for time spent as a first year apprentice during which time contributions are not required to be made. A Participant shall receive an amount of hours equal to the actual amount of hours worked during such period.

**Section 2.2. Years of Vesting Service.**

**(a) General Rule.**

A Participant shall be credited with one Year of Vesting Service for each Plan Credit Year during the Contribution Period (including periods before he became a Participant) in which he completed at least 870 hours of Work in Covered Employment. This rule is subject to the provisions of the following subsections.

**(b) Additions.**

If a Participant works for a Contributing Employer in a job not covered by this Plan and such employment is Continuous with his Employment with that Employer in Covered Employment, his hours of Work in such non-covered job during the Contribution Period and after May 31, 1976 shall be counted toward a Year of Vesting Service.

**(c) Exception.**

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

- (i) years preceding a Permanent Break in Service as defined in Section 2.3(c) for periods after May 31, 1976; and
- (ii) years before January 1, 1976 unless the Participant earned at least three Years of Vesting Service after December 31, 1970.

**Section 2.3. Breaks in Service.**

**(a) General.**

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

**(b) One Year Breaks in Service.**

- (i) A person has a One Year Break in Service in any Plan Credit Year after May 31, 1989 in which he fails to complete at least 200 hours of Work in Covered Employment or at least 435 hours of Work, which may include Continuous Employment and Covered Employment.
- (ii) A person has a One Year Break in Service in any Plan Credit Year after May 31, 1976 and before June 1, 1989 in which he fails to complete at least 435 hours of Work in Covered Employment.
- (iii) Time of employment with a Contributing Employer in non-covered employment after May 31, 1976, if creditable under Subsection 2.2(b), shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
- (iv) A One Year Break in Service is repairable in the sense that its effects are eliminated if, before incurring a Permanent Break in Service, the Employee subsequently earns one Year of Vesting Service. In such case, previously earned Years of Vesting Service and Pension Credits are restored. Nothing in this Paragraph (vi) shall change the effect of a Permanent Break in Service.
- (v) In the event that a Participant returns to Work in Covered Employment, the amount of his benefit based on the Pension Credit earned before the separation from Covered Employment shall be determined in accordance with Section 5.2 (Application of Accrual Rate Increases).

**(c) Maternity Leave.**

Solely for the purpose of determining whether a One Year Break in Service has occurred, the absence of an Employee from work by reason of:

- (i) her pregnancy;
- (ii) birth of a child of the Employee;
- (ii) placement of a child with the Employee in connection with his or her adoption of the child; or
- (iv) care for such child for a period beginning immediately after such birth or placement.

shall be credited as hours of Work to the extent that hours of Work would have been credited but for such absence (or, where that cannot be determined, eight hours of Work per day of absence) to a maximum of 501 hours for each such pregnancy, childbirth, or placement. The hours so credited shall be applied to the Plan Credit Year in which such absence begins, if doing so will prevent the Employee from incurring a One Year Break in Service in that Plan Credit Year; otherwise, they shall be applied to the next Plan Credit Year. The Trustees may require as a condition for granting such credit that the Employee establish, in timely fashion and to the satisfaction of the Trustees, that the Employee is entitled to such credit. This Section 2.3(c) shall apply only to absences that begin after May 31, 1985.

In order for the Participant's status to be protected, the Plan Administrator must be notified of the qualifying circumstances in a form satisfactory to the Trustees. In all cases, hours credited or exceptions granted are only for the purpose of preventing a Break in Service and shall not affect a Participant's benefit accrual or vesting status.

**(d) Family Medical Leave Act.**

Solely for the purpose of determining whether a One Year Break in Service has occurred, any leave of absence granted by an Employer, up to twelve (12) weeks, that qualifies under the Family and Medical Leave Act ("FMLA") shall not be counted as Break in Service for purposes of determining eligibility and vesting.

**(e) Military Leave.**

Notwithstanding any provision of this plan to the contrary, "qualified military service" as set forth in the Uniformed Services Employment and Reemployment Rights Act ("USERRA") shall not be counted as a Break in Service.

**(f) Permanent Break in Service.**

- (i) For Plan Credit Years between June 1, 1977 and May 31, 1986, a person has a Permanent Break in Service if he has consecutive One Year Breaks in Service that equal or exceed the number of full years of Vesting Service with which he had been Credited.
- (ii) For Plan Credit Years beginning on or after June 1, 1986, a person has a Permanent Break in Service if he has consecutive One Year Breaks in Service that equal or exceed the greater of the number of full Years of Vesting Service with which he had been credited or five (5).

**(g) Effect of Permanent Break in Service.**

If a person has a Permanent Break in Service before he acquires a right to a pension, whether immediate or deferred, his previous Pension Credits, Years of Vesting Service and participation are cancelled, with new participation being subject to the provisions of Section 5.2.

If a Participant who has not acquired a right to pension incurs a Permanent Break in Service, as defined in Subsection 2.3(f), there shall be returned to him the contributions which he paid to the Fund on his own behalf, if any, during the period from June 1, 1961 through June 19, 1972.

**Section 2.4. Separation from Covered Employment.**

- (a) For Pension Credit earned prior to May 31, 1995, a Participant shall be deemed to have separated from Covered Employment on the last day of Work which is followed by a Plan Credit Year in which such Participant failed to earn 200 hours of work in Covered Employment or 435 hours of Work which may include Continuous Employment and Covered Employment in accordance with the provisions of 2.3(b).
- (b) In the event that a Participant returns to Work in Covered Employment, the amount of his benefit based on the Pension Credit earned before the separation of Covered Employment shall be determined in accordance with Section 5.2.

**ARTICLE 3 - PARTICIPATION**

**Section 3.1. Participation.**

An Employee who is engaged in Covered Employment during the Contribution Period shall become a Participant in the Plan on the earliest June 1 or December 1 following completion of a twelve (12) consecutive-month period, beginning on the date the Employee first engages in Covered Employment and ending 12 months from that date during which he completed at least 870 hours of Work in Covered Employment. The required 870 hours may also be completed with

any hours of Work in other employment with an Employer if that employment is Continuous Employment with the Employee's Covered Employment with that Employer.

**Section 3.2. Termination of Participation.**

A person who incurs a One Year Break in Service (defined in Section 2.3(b)) shall cease to be a Participant as of the last day of the Plan Credit Year which constituted the One Year Break, unless such Participant is a Pensioner or has acquired the right to a pension (other than for disability), whether immediate or deferred. An Employee whose participation has terminated in accordance with this Section 3.2 shall become a Participant when he satisfies the requirements of Section 3.1. Such Participation shall be retroactive to the date of rehire.

**ARTICLE 4 - PENSION ELIGIBILITY FOR BENEFITS**

**Section 4.1 Retirement.**

To be considered retired, a Participant must have separated from Covered Employment and not be engaged in Disqualifying Employment as defined in Section 6.6(a) and (b).

**Section 4.2 Regular Pension.**

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

- (a) He has attained age 65 if his Annuity Starting Date is prior to October 1, 1986, or he has attained age 62 if his Annuity Starting Date is on or after October 1, 1986; and
- (b) He meets the requirements of (i), (ii) or (iii) below:
  - (i) For an employee who was a Participant in the Plan prior to November 1, 1995, he has:
    - (A) at least ten (10) Pension Credits; or
    - (B) at least five (5) years of Vesting Service, effective June 1, 1997, provided that the Participant has not incurred a Permanent Break in Service as of May 31, 1997; or
  - (ii) For an employee who becomes a Participant in the Plan on or after November 1, 1995, he has:
    - (A) at least ten (10) Pension Credits for which contributions were required to be made to the Fund; or

- (B) at least five (5) years of Vesting Service effective June 1, 1997 provided the Participant has not incurred a Permanent Break in Service as of May 31, 1997.

- (iii) Attainment of Normal Retirement Age

#### **Section 4.3 Early Retirement Pension.**

A Participant may retire on an Early Retirement Pension if he meets the following requirements:

- (a) He has attained:
  - (i) age 60 if his Annuity Starting Date is prior to October 1, 1986;
  - (ii) age 57 if his Annuity Starting Date is on or after October 1, 1986 through May 31, 1997; or
  - (iii) age 55 if his Annuity Starting Date is on or after June 1, 1997; and
- (b) He satisfies the requirements of (i) or (ii) below:
  - (i) For an employee who was a Participant in the Plan prior to November 1, 1995, he has:
    - (A) at least ten (10) Pension Credits; or
    - (B) at least five (5) years of Vesting Service effective June 1, 1997, provided the Participant has not incurred a Permanent Break in Service as of May 31, 1997; or
  - (ii) For an employee who becomes a Participant in the Plan on or after November 1, 1995, he has:
    - (A) at least ten (10) Pension Credits for which contributions were required to be made to the Fund; or
    - (B) at least five (5) years of Vesting Service, provided the Participant has not incurred a Permanent Break in Service as of May 31, 1997.

#### **Section 4.4. Deferred Pension.**

- (a) Prior to October 1, 1986 a Participant may retire on a Deferred Pension if he has at least 10 pension Credits or if he has credit for at least 10 Years of Vesting Service. A Deferred Pension shall be payable to an eligible retired Participant at age 65 or at age 60 if the Participant has at least ten (10) Pension Credits.

- (b) For retirements on or after October 1, 1986 a Participant may retire on a Deferred Pension if he has attained Vested Status as defined in Section 6.18. A Deferred Pension shall be payable to an eligible retired Participant after the Participant has attained Normal Retirement Age or earlier if he meets the requirements for an Early pension.
- (c) A Non-Bargained Employee shall be entitled to a Deferred Pension provided he meets the vesting requirements in Section 11.4.

**Section 4.5. Disability Pension.**

- (a) For retirements on or after June 1, 1992, a Participant may retire on a Disability Pension if he meets the following requirements:
  - (i) He meets the requirements of (A) or (B) below:
    - (A) For an employee who is a Participant in the Plan prior to November 1, 1995, he has:
      - (1) at least ten (10) Pension Credits; or
      - (2) at least five (5) years of Vesting Service effective June 1, 1997, provided the Participant has not incurred a Permanent Break in Service as of May 31, 1997; or
    - (B) For an employee who becomes a Participant in the Plan on or after November 1, 1995, he has:
      - (1) at least ten (10) Pension Credits for which contributions were required to be made to the Fund; or
      - (2) at least five (5) years of Vesting Service effective June 1, 1997, provided the Participant has not incurred a permanent Break in Service as of May 31, 1997; and
  - (ii) He worked in Covered Employment for at least 870 hours over the course of the Plan Credit Year in which he became disabled and the two previous Plan Credit Years; and
  - (iii) He has applied for a disability benefit under the Social Security Act as provided for in Subsection (d) below.
- (b) For retirements on or after June 1, 1988 and before June 1, 1992, a Participant may retire on a Disability Pension if he meets the following requirements:
  - (i) He has at least:

- (A) ten (10) Pension Credits, or
- (B) ten (10) years of Vesting Service; and
- (ii) He worked in Covered Employment for at least 870 hours in the period that consists of the Plan Credit Year in which he became disabled and the previous Plan Credit Year; and
- (iii) He has been awarded a disability benefit under the Social Security Act.
- (c) For retirements before June 1, 1988, a Participant may retire on a Disability Pension if he meets the following requirements:
  - (i) He has at least ten (10) Pension Credits; and
  - (ii) He worked in Covered Employment for at least 870 hours in the period that consists of the Plan Credit Year in which he became disabled and the previous Plan Credit Year; and
  - (iii) He has been awarded a disability benefit under the Social Security Act.
- (d) A Participant may apply for disability payments if he has not reached early retirement age under the Plan and only if an application is on file with the Social Security Administration for such benefits.
  - (i) A Participant applying for disability benefits ("applicant") shall submit the following to the Fund Office:
    - (A) An application for disability benefits on a form provided by the Fund's consultant.
    - (B) Copies of all applications and supporting documents which have been submitted to the Social Security Administration.
    - (C) Evidence satisfactory to the Trustees that all avenues of appeal are being pursued in the event of an adverse finding. Disability applicants shall have a continuing duty to submit to the Trustees all documents received by the applicant relating to the appeal.
    - (D) Reports from at least two attending physicians detailing the nature of the disability and stating that physicians' opinion as to whether the disability incurred by the Participant prevents the Participant from pursuing substantial gainful employment and that the disability is expected to last more than one year or result in death. The terms "disability" and "substantially gainful employment"

shall have the meanings as stated in the Social Security Disability Act and Regulations.

- (ii) The Trustees shall consider the application and supporting evidence. If the Trustees find that the applicant meets the qualifications for disability under the Social Security Act, then the Trustees shall award a Disability Pension. The Trustees reserve the right to have the applicant submit to an independent medical evaluation by physician or physicians of the Trustees' choosing. Such independent medical evaluation shall be at the expense of the Fund.
- (iii) In the event the applicant is found not to be disabled by the Social Security Administration after the exhaustion of all appeal rights, both administrative and judicial, then the disability benefits under the Fund shall terminate. If the applicant receives a favorable decision, then the applicant shall continue to receive permanent and total disability benefits under the Plan so long as he or she is found to meet the disability eligibility requirements of the Social Security Administration. A Participant receiving such benefits shall be under an obligation to provide the Fund with continuing evidence of disability under the Social Security Administration.
- (iv) In the event a Participant has received disability benefits from the Fund for the period from the alleged onset of such disability to such time as the Social Security Administration has determined that the Participant is not eligible for Social Security benefits, then the Participant shall be obligated to reimburse the Fund such amounts as have been wrongfully received by the Participant. If the Participant does not make direct payment of such reimbursement, then upon retirement, the Fund shall withhold twenty-five percent (25%) of such Participant's monthly retirement benefits until such time as the Fund has been reimbursed.
- (v) For the purposes of disability payments, the date of onset of disability shall be the date of onset as found by the Social Security Administration. The date of payment commencement shall be the same date as determined by the Social Security Administration. No disability payments shall be made until the first month after six months past the date of onset.
- (vi) Notwithstanding the above, Participants whose Retirement was effective on or after August 1, 2004, through September 1, 2009, are eligible for a Disability Pension Benefit despite having reached Early Retirement Age.

#### **Section 4.6. Lump-Sum Retirement Benefit**

An Employee who;

- (a) has not met the service requirements for any pension under the Plan;
  - (b) has at least five (5) Pension Credits earned during the Contribution Period; and
  - (c) has not incurred a Permanent Break in Service
- may be entitled to a Lump-Sum Retirement Benefit.

**Section 4.7. Death Benefit prior to the Commencement of a Pension Benefit**

- (a) If a Participant dies prior to retirement, a Death Benefit shall be payable to his designated Beneficiary if:
  - (i) the Participant had at least ten (10) Pension Credits; and
  - (ii) the Participant has at least five (5) years of Vesting Service effective June 1, 1997 (ten (10) years of Vesting Service prior to June 1, 1997), provided the Participant has not incurred a Permanent Break in Service as of May 31, 1997; and
  - (iii) the Pre-Retirement Surviving Spouse Benefit set forth in Article 5 is not payable or in effect.
- (b) Effective June 1, 1992, a Non-Vested Death Benefit shall be payable to a Participant's designated Beneficiary if:
  - (i) the Participant dies prior to attaining Vested Status as defined in Section 6.8; and
  - (ii) the Participant has not incurred a Permanent Break in Service.

**Section 4.8. Non-Duplication of Pensions and Death Benefits.**

A person shall be entitled to only one pension or death benefit under this Plan, except that a Disability Pensioner who recovers may be entitled to a different type of pension, and a Pensioner may also receive a pension as the Spouse of a deceased Pensioner.

**ARTICLE 5 – AMOUNT OF BENEFITS**

**Section 5.1. Regular Pension.**

- (a) For benefits accrued during the period June 1, 1995 through May 31, 2006, the Regular Pension Amount shall be based on the highest accrual rate for which the Participant qualifies as follows:

- (i) Total contributions required to be made on the Participant's behalf during the period June 1, 1995 through May 31, 2006 multiplied by 1.8%.
- (ii) (A) Total contributions required to be made on the Participant's behalf during the period June 1, 1997 through May 31, 2006 multiplied by 2.0%.
  - (B) The 2.0% accrual rate shall apply to contributions during the period June 1, 1995 through May 31, 1997, provided that the Participant works at least 870 hours in Covered Employment during a Pension Credit Year beginning on or after June 1, 1996.
- (iii) Total contributions required to be made on the Participant's behalf during the period June 1, 1995 through May 31, 2006 multiplied by 2.2%, provided the Participant works at least 870 hours in Covered Employment during a Pension Credit Year beginning on or after June 1, 1998.
- (iv) Total contributions required to be made on the Participant's behalf during the period June 1, 1995 through May 31, 2006 multiplied by 2.3%, provided the Participant retires on or after June 1, 2000, and the Participant works at least 870 hours in Covered Employment during a Plan Credit Year beginning on or after June 1, 2000.
- (v) Total contributions required to be made on the Participant's behalf during the period June 1, 1995 through May 31, 2006 multiplied by 2.4%, provided the Participant retires on or after June 1, 2001, and the Participant works at least 870 hours in Covered Employment during a Plan Credit Year on or after June 1, 2000.

The benefits payable under this Section 5.1(a) are in addition to any benefits payable under Section 5.1(b) and 5.1(c).

- (b) For benefits accrued prior to June 1, 1995, the Regular Pension amount shall be determined by multiplying the Participant's Pension Credit by the accrual rate in effect at the time of retirement or at the time the individual separates from the Covered Employment (as defined in Section 2.4), whichever occurs first. Application of accrual rate increases will be determined in accordance with Section 5.2. The schedules of the benefit accrual rates follow.
  - (i) The monthly amount of the Regular Pension for a Participant who last worked in Covered Employment before June 1, 1976 is determined in accordance with the Plan in effect at the time he left Covered Employment.
  - (ii) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1976 is determined by multiplying \$8.00 times the number of the Participant's Pension Credits; provided, however, the Participant does not meet the requirements of any other subsection of this Section 3.3.

- (iii) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after January 1, 1982 and before June 1, 1989 is determined by:
  - (A) multiplying \$16.66 times the number of the Participant's Pension Credits; provided, however, the Participant is credited with at least 870 hours of Work for which contributions are paid to the Fund at a rate of at least \$.85 per hour in the period beginning December 1, 1981 and ending May 31, 1985; or
  - (B) if the Participant is not credited with 870 or more hours of Work between December 1, 1981 and May 31, 1985, multiplying \$16.66 by the number of Pension Credits earned after May 31, 1985 and \$8.00 by the number of Pension Credits earned prior to June 1, 1985; provided, however, the Participant is credited with at least 870 hours or Work for which contributions are paid to the Fund at a rate of at least \$.85 per hour after May 31, 1985.
  
- (iv) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1989 and before June 1, 1990 is determined by multiplying \$19.70 times the number of the Participant's Pension Credits; provided, however, the Participant meets the requirements of (A) or (B) below:
  - (A) The Participant is credited with at least 870 hours of Work in Covered Employment for which contributions are paid to the Fund at a rate of at least \$1.00 per hour and earns at least Pension Credit and one Year of Vesting Service between June 1, 1988 and May 31, 1990; or
  - (B) The Participant retires on or after January 1, 1993 and is credited with at least 870 hours of Work in Covered Employment or any employment with a Contributing Employer during the two (2) year period between June 1, 1988 and May 31, 1990.
  
- (v) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1990 and before June 1, 1992 is determined by multiplying \$23.00 times the number of the Participant's Pension Credits; provided, however, the Participant meets the requirements of (A) or (B) below:
  - (A) The Participant is credited with at least at least 870 hours of Work in Covered Employment for which contributions are paid to the Fund at a rate of at least \$1.00 per hour and earns at least 1/2 Pension Credit and one (1) Year of Vesting Service between June 1, 1989 and May 31, 1991; or

- (B) The Participant retires on or after January 1, 1993 and is credited with at least at least 870 hours of Work in Covered Employment or any employment with a Contributing Employer during the two (2) year period between June 1, 1989 and May 31, 1991.
- (vi) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1992 and before June 1, 1993 is determined by multiplying \$24.00 times the number of the Participant's Pension Credits; provided, however, the Participant meets the requirements of (A) or (B) below:
  - (A) The Participant is credited with at least 870 hours of Work in Covered Employment for which contributions are paid to the Fund at a rate of at least \$1.00 per hour and earns at least 1/2 Pension Credit and one Year of Vesting Service Between June 1, 1991 and May 31, 1993; or
  - (B) The Participant retires on or after January 1, 1993 and is credited with at least 870 hours of Work in Covered Employment or any employment with a Contributing Employer during the two (2) year period between June 1, 1991 and May 31, 1993.
- (vii) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1993 is determined by multiplying \$25.00 times the number of the Participant's Pension Credits; provided, however, the Participant meets the requirements of (A) or (B) below:
  - (A) The Participant is credited with at least 870 hours of Work in Covered Employment for which contributions are paid to the Fund at a rate of at least \$1.00 per hour and earns at least 1/2 Pension Credit and one Year of Vesting Service between June 1, 1992 and May 31, 1994; or
  - (B) The Participant retires on or after January 1, 1993 and is credited with at least 870 hours of Work in covered Employment or any employment with a Contributing Employer during the two (2) year period between June 1, 1992 and May 31, 1994.
- (viii) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1996 is determined by multiplying \$28.00 times the number of the Participant's Pension Credits; provided, however, the Participant meets the requirements of (A) or (B) below:

- (A) The Participant is credited with at least 870 hours of Work in Covered Employment for which contributions are paid to the Fund at a rate of at least \$1.00 per hour and earns at least 1/2 Pension Credit and one Year of Vesting Service between June 1, 1995 and May 31, 1997; or
  - (B) The Participant retires on or after January 1, 1997 and is credited with at least 870 hours of Work in Covered Employment or any employment with a Contributing Employer during the two (2) year period between June 1, 1995 and May 31, 1997.
- (ix) The monthly amount of the Regular Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 1999 is determined by multiplying \$30.00 times the number of the Participant's Pension Credits; provided, however, the Participant is credited with at least 870 hours of:
- (A) Work in Covered Employment; or
  - (B) any employment with a Contributing Employer
- during a Pension Credit Year beginning on or after June 1, 1998.
- (x) The monthly amount of the Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 2000 is determined by multiplying \$32.00 times the number of the Participant's Pension Credits; provided, however, the Participant is credited with at least 870 hours of:
- (A) Work in Covered Employment; or
  - (B) any employment with a Contributing Employer
- during a Pension Credit Year beginning on or after June 1, 1999.
- (xi) The monthly amount of the Pension for a Participant who retired or last worked in Covered Employment on or after June 1, 2001 is determined by multiplying \$34.00 times the number of the Participant's Pension Credits; provided, however, the Participant is credited with at least 870 hours of:
- (A) Work in Covered Employment; or
  - (B) any employment with a Contributing Employer
- during a Pension Credit Year beginning on or after June 1, 2000.

The benefits payable under this Section 5.1(b) are in addition to any benefits payable under Sections 5.1(a) and 5.1(c).

- (c) For benefits accrued on or after June 1, 2006, the monthly amount the Regular Pension shall be determined by multiplying \$45.00 times the number, of the Participant's Pension Credits on or after June 1, 2006.

The benefits payable under this Section 5.1(c) are in addition to any benefits payable under Sections 5.1(a) and 5.1(b).

- (d) For benefits accrued on or after June 1, 2014, the monthly amount of the Regular Pension shall be determined by multiplying \$51.00 times the number of the Participant's Pension Credits on or after June 1, 2014.

The benefits payable under this Section 5.1(d) are in addition to any benefits payable under Sections 5.1(a), 5.1(b), and 5.1(c).

- (e) Benefits may be subject to applicable rate increases outlined in Appendix A.

#### **Section 5.2. Application of Accrual Rate Increases.**

For Pension Credit earned prior to May 31, 1995, the pension to which a Participant is entitled shall be determined under the terms of the Plan as in effect at the time the Participant separates from Covered Employment or retires, whichever occurs first. When applying an accrual rate increase for purposes of determining pension amounts pursuant to Section 5.1(regular pension amount), the following rules shall apply:

- (a) All Pension Credits earned after the effective date of an accrual rate increase shall be earned at that higher accrual rate.
- (b) If a Participant meets the eligibility requirement to qualify for the higher accrual rate by working 870 hours during a specified two-year period, then all Pension Credits that have not been frozen will be increased to the higher accrual rate.
- (c) If a Participant fails to Work the required 870 hours during a specified two-year period, Pension Credits (not previously frozen) earned prior to the two-year eligibility period will be frozen at the accrual rate in effect when the Participant last worked 870 hours during a two-year eligibility period.
- (d) For Participants who retired or separated from Covered Employment on or after January 1, 1982 and prior to June 1, 1989, the eligibility period for accrual rate increases is the period beginning December 1, 1981 and ending May 31, 1985.

**Section 5.3. Early Retirement Pension.**

- (a) Prior to June 1, 1992, the monthly amount of the Early Retirement Pension is the amount of the Regular Pension reduced by six-tenths of one percent (0.6%) for each month by which the commencement of the pension precedes age 65 for pensions with an effective date of October 1, 1986 or later.
- (b) For retirements on and after June 1, 1992, the monthly amount of the Early Retirement Pension is the amount of the Regular Pension reduced by three-tenths of one percent (0.3%) for each month by which the commencement of the pension precedes age 62.
- (c) For retirements on or after June 1, 1997, the amount of the Early Retirement Pension is the amount of the Regular Pension multiplied by the age factor in Table 2.

**Section 5.4. Deferred Pension.**

- (a) Prior to June 1, 1997, the monthly amount of the Deferred Retirement Pension is the amount of the Regular Pension reduced in accordance with the prior Plan.
- (b) For retirements with an Annuity Starting Date between June 1, 1997 and October 31, 2009, the amount of the Deferred Retirement Pension is the amount of the regular Pension actuarially reduced to reflect early commencement.
- (c) For retirements with an Annuity Starting Date on or after November 1, 2009, the amount of the Deferred Retirement Pension is as follows:
  - (i) For Participants who have completed at least 200 Hours of Work during the thirty-six (36) month period preceding retirement, the amount of the Deferred Retirement Pension is the amount of the Regular Pension Multiplied by the age factor in Table 2.
  - (ii) For Participants who have completed fewer than 200 Hours of Work during the thirty-six (36) month period preceding retirement, the amount of the Deferred Retirement Pension is the amount of the Regular Pension multiplied by the age factor in Table 3.

**Section 5.5. Disability Pension.**

- (a) For retirements with an Annuity Starting Date prior to November 1, 2009, the monthly amount of the Disability Pension is the same as the Regular Pension earned by the Participant prior to the onset of his disability.

- (b) For retirements with an Annuity Starting Date on or after November 1, 2009, the monthly amount of the Disability Pension is the: of the Regular Pension multiplied by the age factor in Table 2, with a maximum reduction of 14% for retirement at age 55 or earlier.

#### **Section 5.6. Lump-Sum Retirement Benefit**

Payment will be made on or after age 62, provided the Trustees are able to verify that the Employee has incurred a One Year Break in Service which is subsequently not repaired. However, if the Employee leaves Covered Employment as a result of retirement for which he is awarded a Social Security pension, first payable at age 62; payment of the Lump-Sum Retirement Benefit shall be made within 30 days of the date he first receives his Social Security benefit payment or makes written application for the Lump-Sum Retirement Benefit, whichever is later.

The amount of the Lump-Sum Retirement Benefit will be 50% of the contributions required to be made into the fund on the Employee's behalf up to a maximum of \$2,500.

If an Employee returns to Covered Employment before incurring a Permanent Break in Service and after receiving a Lump-Sum Retirement Benefit, he shall be entitled to repay to the Trust Fund within 90 days of his return to Covered Employment an amount equal to the Lump-Sum Retirement Benefit received by him, together with interest at the rate used in the then current actuarial valuation, computed from the date such lump-sum payment was received by him to the date repaid into the Trust Fund, in which case all the Pension Credits that were forfeited by reason of receipt of the Lump-Sum Retirement Benefit will be reinstated. In the event such Employee does not repay such amount, any pension to which he is entitled to receive, or may become entitled to receive in the future, will be reduced by the actuarial equivalent of the lump-sum payment.

#### **Section 5.7. Death Benefit prior to the Commencement of Pension Benefit.**

- (a) Effective August 1, 1994, the amount of such Death Benefit shall equal 50% of the contributions which the Pension Plan has received on behalf of such Participant. In no event, however, shall the Death Benefit be less than the contributions as of July 31, 1994, plus 3.5%.

Prior to August 1, 1994, the amount of such Death Benefit shall equal the contributions which the Pension Plan has received on behalf of such Participant plus an additional 3.5% thereon. In no event, however, shall the Death Benefit be less than \$1,000.

- (b) Effective June 1, 1992, the amount the Non-Vested Death Benefit shall equal \$1,000 for each full Pension Credit earned, up to a maximum benefit of \$5,000.

**Section 5.8. Maximum Annual Benefit.**

- (a) Notwithstanding any other provision of this Plan, the maximum annual benefit payable to a Participant shall mean \$160,000, automatically adjusted under IRC 415(d), effective January 1 of each year, as published by the Internal Revenue Service, and payable in the form of a straight life annuity (with no ancillary benefits). This limitation shall apply to limitation years ending within the calendar year of the date of the adjustment, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. This adjustment shall also apply to Participants who have had a Continuous Break In Service.
- (b) **Benefit Payable in Any Form Other Than Straight Life Annuity**
  - (1) For purposes of applying the limits of IRC 415, a retirement benefit payable in any form other than a straight life annuity and that is not subject to IRC 417(e)(3) must be adjusted to an actuarially equivalent straight life annuity that equals:
    - (A) 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 and the applicable mortality table under IRC 417(e)(3).
    - (B) 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: (i) the applicable interest rate and applicable mortality table specified in the Plan in Article 1 for adjusting benefits in the same form; and (ii) a five-percent interest rate assumption and the applicable mortality table.
  - (2) The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this paragraph if the form of the Participant benefit is a benefit form subject to IRC 417(e)(3). In this case, the actuarially equivalent straight life annuity shall be determined as follows:
    - (A) **Annuity Starting Date in the Plan Years Beginning After 2005:** If the annuity starting of the Participant's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent straight life

annuity is equal to the greatest of (i) 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, computed using the interest rate specified in Article 1 of the Plan and the mortality table specified in Article 1 of the Plan for adjusting benefits in the same form; (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, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in the Plan; and (iii) 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, computed using the applicable interest rate defined in Article 1 of the Plan and the applicable mortality table defined in Article 1 of the Plan, divided by 1.05.

(B) Annuity Starting Date in Plan Years Beginning in 2004 or 2005: If the annuity starting date of the Participant's form of benefit is in a Plan Year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to 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, computed using whichever of the following produces the greater annual amount: (i) the interest rate specified in Article 1 of the plan and the mortality table specified in Article 1 of the Plan for adjusting benefits in the same form; and (ii) a 5.5 percent interest rate assumption and the applicable mortality table defined in Article 1 of the Plan.

(c) Adjustment for Benefit Commencement Before Age 62

(1) Limitation years beginning before July 1, 2007

If the annuity starting date for the Participant's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the limit set forth in Section 5.7(a) 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 limit set forth in Section 5.8(a) (adjusted for years of participation less than ten, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (A) the applicable interest rate specified in Article 1 of the Plan and the applicable mortality table specified in Article 1 of the Plan; or (B) a five-percent interest rate assumption and the applicable mortality table as defined in Article 1 of the Plan.

(2) Limitation years beginning on or after July 1, 2007

(A) 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 benefit is prior to age 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 62 and the age of benefit commencement, the limit set forth in Section 5.8(a) 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 limit set forth in Section 5.8(a) (adjusted for years of participation less than ten, if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for the annuity starting date as defined in Article 1 of the Plan (and expressing the Participant's age based on completed calendar months as of the annuity starting date).

(B) If the annuity starting date for the Participant's benefit is prior to age 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 age 62 and the age of benefit commencement, the limit set forth in Section 5.8(a) for the Participant's annuity starting date is the lesser of the limitation determined under paragraph (A) above and the limit set forth in Section 5.8(a) (adjusted for years of participation less than ten, 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 62, both determined without applying the limitations of this article.

(d) Adjustment for Benefit Commencement After Age 65

(1) Limitation years beginning before July 1, 2007

If the annuity starting date for the Participant's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the limit set forth in Section 5.7(a) 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 limit set forth in Section 5.8(a) (adjusted for years of

participation less than ten, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

- (A) the applicable interest rate specified in Article 1 of the Plan and the applicable mortality table specified in Article 1 of the Plan; or
  - (B) a five-percent interest rate assumption and the applicable mortality table as defined in Article 1 of the Plan.
- (2) Limitation years beginning on or after July 1, 2007
- (A) 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 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 65 and the age of benefit commencement, the limit set forth in Section 5.8(a) 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 limit set forth in Section 5.8(a) (adjusted for years of participation less than ten, if required), with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for that annuity starting date as defined in Article 1 of the Plan (and expressing the participant's age based on completed calendar months as of the annuity starting date).
  - (B) 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 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 65 and the age of benefit commencement, the limit set forth in Section 5.8(a) at the Participant's annuity starting date is the lesser of the limitation determined under paragraph (A) above and the limit set forth in Section 5.8(a) (adjusted for years of participation less than ten, if required) multiplied by the ratio of the annual amount of 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 65, both determined without applying the limitations for 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 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 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age 65 and has the same Accrued Benefit as the Participant.

- (e) For purposes of adjustments set forth in 5.8(b), (c), and (d), no cost of living increases shall be taken into account before the year for which such adjustment takes effect.
- (f) The benefit payable under the Plan and all defined plans maintained by the Employer shall not be deemed to exceed the limitation of Section 5.8(a) if the benefit payable to a Participant under the Plan does not exceed \$10,000 for the Plan Year, or for any prior Plan Year, provided such Participant never participated in a defined contribution plan maintained by a Contributing Employer. This applies without regard to whether a participant ever participated in one or more other plans maintained by an employer who also maintained the multiemployer plan, provided that none of such other plans were maintained as a result of collective bargaining involving the Union.

Pursuant to Reg. 1.415(b)-1(g), where a Participant has less than ten Years of Service, the \$10,000 amount described above is reduced by multiplying the otherwise applicable limitation by a fraction, the numerator of which is the number of Years of Service (or 1, if greater) and the denominator of which is ten.

- (g) In the case of a Participant with less than ten years of service, the limitation referred to in Section 5.8(a) shall be multiplied by a fraction, the numerator of which is the number of years of participation and the denominator of which is ten, but in no event reduce the limitation in Section 5.8(a) below 1/10 of such limitation (determined without regard to this paragraph).
- (h) Pursuant to Code Section 415(f)(2)(B), this Plan shall not be aggregated with other multiemployer Plans for purposes of applying the limits in section 5.8(a). Where an Employer maintains this Plan and other plans that are not multiemployer plans, only the benefits under this Plan that are provided by the Employer will be aggregated with benefits under the Employer's plans other than multiemployer plans.
- (i) The limitation year is the same as the Plan Year.
- (j) For a Participant who has more than one annuity starting date, the limitation of section 5.8(a) will be determined as of each annuity starting date (and shall satisfy

the limitations of section 5.8(a) as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Treas. Reg. §1.401(a)-20, Q&A 10(d), and with regard to Treas. Reg. §1.415(b)-1(b)(1)(iii)(B) and (C).

- (k) In calculating the benefit of a Participant's Surviving Spouse or Beneficiary, the benefit of such Spouse or Beneficiary first shall be calculated based on the amount to which the Participant would have been entitled without regard to the limits imposed by this Section. The limits of this Section then will be applied to the resulting benefit amount.
- (l) This section 5.8 shall be interpreted consistently with IRC 415 and its corresponding regulations. To further clarify, this Article 5 shall be interpreted consistently with IRC 415's definition of compensation and any amendments and/or corresponding regulations thereto, including those made pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act).

**Section 5.9. 50% Husband and Wife Pension at Retirement.**

- (a) The pension of a Participant who is married to an Eligible Spouse on the date his pension payments start shall be paid in the form of a 50% Husband and Wife Pension, unless a valid waiver of that form of payment has been filed with the Plan. For retirements with an Annuity Starting Date prior to November 1, 2009, if the Participant predeceases his or her spouse and the Spouse is not an Eligible Spouse, the 50% Husband and Wife Pension shall revert to the Single-Life Annuity with 120 Month Guarantee of Pension Payments pursuant to Section 5.11. This reversion to the Single-Life Annuity with 120 Month Guarantee of Pension Payments includes a Disability Pension that is payable.
- (b) A 50% Husband and Wife Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Eligible Spouse, the latter will receive a Monthly benefit for her lifetime of 50% of the Participant's adjusted monthly amount. The 50% Husband and Wife Pension shall be calculated as follows:
  - (i) Effective for distributions with an Annuity Starting Date prior to November 1, 2009:
    - (A) If the Participant's pension is not a Disability Pension, the percentage shall be 83% plus 0.6% for each full year that the Spouse is older than the Participant or minus 0.6% for each full year that the Spouse is younger than the Participant.
    - (B) If the Participant's pension is a Disability Pension the percentage shall be 73% plus 0.5% for each full year that the

Spouse is older than the Participant or minus 0.5% for each full year that the Spouse is younger than the Participant.

- (C) In no event shall the factor determined above exceed 100%.
- (ii) Effective for distributions with an Annuity Starting Date on or after November 1, 2009, the 50% Husband and Wife Pension shall be actuarially equivalent to the amount payable under the Single-Life Annuity.
- (c) A 50% Husband and wife Pension, once payments have begun, may not be revoked nor the Pensioner's benefits increased by reason of subsequent divorce of the Spouse and Participant or death of the Spouse before that of the Participant, except as provided in accordance with Section 5.14.

If a Participant retires with a 50% Husband and Wife Pension and subsequently divorces, the former Spouse will receive the survivor benefit upon the Participant's death unless the former Spouse consents or a Qualified Domestic Relations Order provides otherwise.

- (d) The 50% Husband and Wife Pension may be waived in favor of another form of distribution only as follows:
  - (i) The Participant files the waiver in writing and the Participant's Spouse acknowledges the effect of the waiver and consents to it in writing, witnessed by a notary public or such representative of the Plan as the Trustees may designate for that purpose. Such Plan representative may require written identification to satisfy himself as to the identity of the Spouse. Thereafter, the Participant cannot elect a different form of benefit (other than 50% Husband and Wife Pension) without the written consent of his Spouse.
  - (ii) The Participant establishes to the satisfaction of the Trustees that:
    - (A) he or she is not married;
    - (B) the Spouse whose consent would be required cannot be located; or
    - (C) consent of the Spouse cannot be obtained because of extenuating circumstances, as provided in Internal Revenue Service regulations.
  - (iii) A waiver is valid only if a written explanation of the effect of the 50% Husband and Wife Pension has been provided to the Participant and the Participant's Spouse no earlier than 90 days (180 days for Plan Credit Years beginning on or after June 1, 2007) before the Annuity Starting

Date and no later than 30 days before the Annuity Starting Date. The Participant may file a new waiver or revoke a previous waiver at any time during the 90 day period (180-day period for Plan Credit Years beginning on or after June 1, 2007) prior to the Annuity Starting Date. If the Participant wishes to change the form of distribution (before it has commenced), another spousal consent must be obtained. The waiver and consent must meet the requirements of the Internal Revenue Code. Notwithstanding the foregoing, a Participant may commence receiving benefits before 30 days (but not less than 7 days) have elapsed from receipt of such explanation, provided that the Participant and the Spouse waive such waiting period in writing.

The explanation must include a description of:

- (A) the terms and conditions of the 50% Husband and Wife Pension;
- (B) the optional forms of benefit available under the Plan;
- (C) the eligibility conditions for the Plan's optional forms of benefit;
- (D) the Participant's right to waive the 50% Husband and Wife Pension and elect an optional form of benefit;
- (E) the rights of the Participant's Spouse with respect to the Participant's election of an optional form of benefit;
- (F) the financial effect of electing the optional form of benefit, including the amounts and timing of payments, to the Participant under the form of benefit during the Participant's lifetime, and the amounts and timing of payments after the Participant's death;
- (G) the relative value of the optional forms of benefits available under the Plan compared to the 50% Husband and Wife Pension;
- (H) the Participant's right to revoke an election of an optional form of benefit and the effect of such revocation;
- (I) any other material features of the Plan's optional forms of benefit;
- (J) the Participant's right to defer a distribution of his or her pension; and
- (K) the consequences of the Participant's failure to defer receipt of a distribution of his or her pension.

- (iv) A Spouse's consent to a waiver of the 50% Husband and Wife Pension shall be effective only with respect to that Spouse, and shall be irrevocable unless the Participant revokes the waiver to which it relates.
- (v) A Spouse's waiver of the 50% Husband and Wife Pension described in this Section shall be void if:
  - (A) someone other than the Participant's Eligible Spouse is named as Beneficiary under the Plan for any share of the Participant's benefit that would otherwise be payable as a death benefit under the 50% Husband and Wife Pension unless
  - (B) the Spouse has acknowledged the designation of the alternative Beneficiary in connection with his or her consent to the Participant's waiver of the 50% Husband and Wife Pension in writing, witnessed by a Plan representative or notary public.

Thereafter, any changes of Beneficiary shall be void if the Participant has an Eligible Spouse at the date of death, unless the change of Beneficiary is consistent with the Spouse's written consent.

- (e) In the event that the 50% Husband and Wife Pension or the Pre-Retirement Surviving Spouse Pension is not effective and no Beneficiary has been designated or the Beneficiary predeceases the Participant, payment of a Death Benefit or the 120 Month Guarantee shall be made to the Participant's surviving Spouse, if any. Notwithstanding anything herein to the contrary, the Spouse of a married Participant shall be a Beneficiary, provided:
  - (a) the Participant and Spouse were married to each other throughout the twelve (12) month period preceding the date on which benefits became payable; and
  - (b) the Spouse has not filed with the Trustees a written waiver of the right to be a Beneficiary.

If there is no Spouse surviving the Participant, payment shall be made to the Participant's surviving dependent child or children, equally, if any. For this purpose, a "dependent child" shall be considered a Beneficiary eligible for payment of a Death Benefit or the 120 Month Guarantee if the child would satisfy the eligibility requirements for status as an eligible Dependent under the Plumber and Steamfitters Local 166 Health and Welfare Plan at the time of the Participant's death.

If no dependent child survives the Participant, payment shall be made to the Participant's surviving dependent parent or parents equally, if any. (A "dependent parent" shall be considered a Beneficiary eligible for payment of a Death Benefit

or the 120 Month Guarantee if the parent(s) is dependent upon the Eligible Employee for primary support and maintenance based upon proof which is satisfactory to the Board of Trustees. Primary support and maintenance means the Participant had directly provided at least (51%) of the financial support of the parent. The parent shall provide such proof of dependency as is requested by the Board of Trustees, including, but not limited to, tax returns or written affidavits.

If no dependent parent survives the Participant, no payments shall be made to anyone.

If the Beneficiary receiving the balance of the 120 guaranteed payments in accordance with Section 5.15 dies before the full guaranteed value of benefits has been paid, including the payments to the Pensioner and Beneficiary, no further payments shall be made to anyone. In any case, any death benefits payable to a Beneficiary must be distributed within five (5) years after the Participant's death. To the extent provided in a qualified Domestic Relations Order, the former Spouse of a Participant shall be treated as such person's Spouse.

#### **Section 5.10. Optional Forms of Distribution at Retirement.**

- (a) If a Participant is married to an Eligible Spouse on the date his pension payments start and waives the 50% Husband and Wife Pension in accordance with the Provisions of Subsection 5.09(d), he may elect to have his pension paid in the following optional forms:
  - (i) a 100% Husband and Wife Pension or
  - (ii) effective for distributions with an Annuity Starting Date on or after June 1, 2008, a 75% Husband and Wife Pension; or
  - (iii) effective for distributions with an Annuity Starting Date on or after November 1, 2009, a Single-Life Annuity with 120 Month Guarantee of Pension Payments as defined under Section 5.15.

The 75% Husband and Wife Pension shall satisfy the requirements of a qualified optional survivor annuity under Section 417(g) of the Internal Code and provide qualified optional survivor annuity equal to 75% (instead of 50%) of the monthly benefit payable during the joint lives of the Participant and the Participant's Spouse.

- (b) Under a 75% Husband and Wife Pension or a 100% Husband and Wife Pension, the Participant shall receive an adjusted monthly amount for life and, if the Participant dies before his Eligible spouse the Eligible Spouse shall receive a monthly benefit for her lifetime of 75% or 100%, as applicable, of the Participant's adjusted monthly amount.

- (c) The Participant's monthly benefit under the 75% Husband and Wife Pension or the 100% Husband and Wife Pension be a percentage of the full monthly amount otherwise payable as a single-life pension (after adjustment if any, for early retirement), determined as follows:
- (i) The 75% Husband and Wife Pension shall be calculated on the basis of actuarial factors set forth in Section 1 and shall be actuarially equivalent to the Single-Life Annuity with 120 Month Guarantee of Pension Payments. Effective for distributions with an Annuity Starting Date on or after November 1, 2009, the 75% Husband and Wife Pension shall be actuarially equivalent to the amount payable under the Single-Life Annuity.
  - (ii) The 100% Husband and Wife Pension shall be calculated as follows:
    - (A) If the Participant's pension is not a Disability Pension, the percentage shall be 83% plus 0.6% for each full year that the Spouse is older than the Participant or minus 0.6% for each full year that the Spouse is younger than the Participant.
    - (B) If the Participant's pension is a Disability Pension, the percentage shall be 73% plus 0.5% for each full year that the spouse is older than the Participant or minus 0.5% for each full year that the Spouse is younger than the Participant.
    - (C) In no event shall the factor determined above exceed 100%.
    - (D) Effective for distributions with an Annuity Starting Date on or after November 1, 2009, the 100% Husband and Wife Pension shall be actuarially equivalent to the amount payable under the Single-Life Annuity.
- (d) A 75% or 100% Husband and Wife Pension once payments have begun may not be revoked, nor may the Pensioner's benefits be increased, by reason of the subsequent divorce of the Spouse and the Participant or the Spouse's death before the Participant's death, except as provided in accordance with Section 5.15. If a Participant retires with a 75% Husband and Wife Pension or a 100% Husband and Wife Pension and subsequently divorces, the former Spouse shall receive the survivor benefit upon the Participant's death unless the former Spouse consents or a Qualified Domestic Relations Order provides otherwise.
- (e) A retiring married Participant shall be advised by the Trustees in accordance with Section 5.9(e)(iii) 100% of the effect of payment in the form of a 75% or 100% Husband and Wife Pension, including a comparison of the amount payable under the 50% Husband and Wife Pension and the amount payable under the full single-

Life Annuity with 120 Month Guarantee of Pension Payments or the full Single-Life Annuity, as applicable, to the adjusted amount.

- (f) For distributions within Annuity Starting Date on or after November 1, 2009, if a Participant is not married to an Eligible Spouse on the date his pension payments start and waives the Single-Life Annuity, he may elect to have his pension paid as a Single-Life Annuity with 120 Month Guarantee of Pension Payments.
  - (i) Under a Single-Life Annuity with 120 Month Guarantee of Pension Payments, the Participant shall receive an adjusted monthly for life, and if the Participant dies before 120 monthly payments have been made, the monthly pension payments shall be continued to his Beneficiary, if living, until 120 monthly payments have been made to the Participant and his designated Beneficiary.
  - (ii) a retiring unmarried Participant shall be advised by the Trustees of the effect of payment in the form of the single-Life Annuity with 120 Month Guarantee of Pension Payments, including a comparison of the amount payable under the full single-Life Annuity to the amount payable under the Single-Life Annuity with 120 Month Guarantee of Pension Payments.

**Section 5.11. Actuarial Equivalent of Optional Forms of Distribution.**

The optional forms of benefit offered by the Plan have an Actuarial Equivalent value no less than the Participant's accrued benefit payable as of his Annuity Starting Date in the normal form of benefit as follows:

- (a) For retirements with an Annuity Starting Date prior to November 1, 2009, as a Single-Life Annuity with 120 Month Guarantee of Pension Payments pursuant to Section 5.15; and
- (b) For retirements with an Annuity Starting Date on, or after November 1, 2009, as a Single-Life Annuity.

**Section 5.12. Pre-Retirement Surviving Spouse Pension.**

- (a) If a Participant who has an Eligible Spouse dies after August 22, 1984 and before his pension payments start, a Pre-Retirement Surviving Spouse Pension shall be paid to his surviving Spouse provided:
  - (i) he had met the service requirements for a pension, whether immediate or deferred, and
  - (ii) he had at least one hour of Work after May 31, 1976.

- (b) A Spouse is an Eligible Spouse for the purpose of this section if the Participant and Spouse have been married to each other throughout the year immediately before his death, or if the couple were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations Order within the meaning of Section 206(d)(3) of ERISA and 414(p) of the Internal Revenue Code.
- (c) If the Participant described in Subsection (a) died at a time when he would have been eligible to begin receiving payment of a pension (other than a Disability Pension) had he retired, the surviving Eligible Spouse shall be entitled to a lifetime Pre-Retirement Surviving Spouse Pension determined in accordance with the provisions of Section 5.9 as if the Participant had retired the day before he died.
- (d) If the Participant described in Subsection (a) above died before he would have been eligible to begin receiving pension payments had he retired, (other than a Disability Pension), the surviving Eligible Spouse shall be entitled to a Pre-Retirement Surviving Spouse Pension determined as if the Participant had left Covered Employment under the Plan on the earlier of the date he last worked in Covered Employment or the date of his death, had he survived to the earliest age at which a pension (other than a Disability Pension) would be payable to him under the Plan, retired at that age with an immediate 50% Husband and Wife Pension and died the next day. In other words, the Pre-Retirement Surviving Spouse Pension begins when the Participant would have attained the earliest retirement age for which he would have qualified and the amount is 50% of what the Participant's pension amount would have been, after adjustment, if any, for the early retirement and for the 50% Husband and Wife Pension form. Effective August 1, 1994, the Pre-Retirement Surviving Spouse Pension shall be equal in value to no less than 50% of the contributions made on the Participant's behalf.
- (e) Notwithstanding any other provision of this article, a Pre-Retirement Surviving Spouse Pension shall not be paid in the form, manner or amount described above if one of the alternatives set forth in this subsection applies.
  - (i) The Spouse may elect in writing, filed with the Trustees, and on whatever form they may prescribe, to defer commencement of the Pre-Retirement Surviving Spouse Pension until a specified date that is no later than the first of the month following the date the Participant would have reached 70 1/2. The benefit amount payable will be determined as if the Participant survived to the age as of the date the surviving Spouse elected to begin receiving the benefit, retired at that age with an immediate 50% Husband and Wife Pension and died the next day.

If the deceased Participant's Surviving Spouse dies before the date such Spouse elected to begin receiving the Pre-Retirement Surviving Spouse

Pension, the Pre-Retirement Surviving Spouse Pension will be forfeited and there will be no payments to any other Beneficiary.

- (ii) If the Pre-Retirement Surviving Spouse Pension is payable under Subsection (d) above and would not otherwise start until at least one (1) year after the Trustees learn of the Participant's death, the surviving Spouse may elect to have payments start earlier, but no earlier than sixty (60) days after the surviving Spouse applies for benefits, on whatever form the Trustees may prescribe. In such case, the monthly benefits payable under the Pre-Retirement Surviving Spouse Pension shall be adjusted so that the Actuarial Present Value of the pension payable to the surviving Spouse is equivalent to the Actuarial Present Value of the pension that would have been payable under Subsection (d). No election may be made under this paragraph (ii) if the pension that would become payable to the surviving Spouse would be less than \$25 per month.
- (f) Notwithstanding any other provision of this Section 5.12, a Pre-Retirement Surviving Spouse Pension shall be paid pursuant to Section 6.10.

**Section 5.13. Benefit Adjustments if Payment of Pre-Retirement Surviving Spouse Pension Postponed.**

- (a) Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for the Pre-Retirement Surviving Spouse Pension is after the Participant's earliest early retirement date, the benefit shall be determined as if the Participant had died on the surviving Spouse's Annuity Starting Date after retiring with a 50% Husband and Wife Pension the date before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have been applied as of that date.
- (b) If a surviving Spouse dies before the Annuity Starting Date for the Pre-Retirement Surviving Spouse Pension, that benefit will be forfeited and unless an alternate Beneficiary has been designated by the Participant, with the acknowledgement and consent of the Participant's Spouse, under Section 5.9, there will be no payments to any other party.
- (c) Notwithstanding any other provision of the Plan, all survivor benefits shall comply with the limits of Section 401(a)(9) of the internal Revenue Code and the incidental benefit rule and the regulations prescribed under them, including Sections 1.401(a)(9)-1 and 1.401(a)(9)-2 of the Treasury Regulations.

**Section 5.14. Pop-Up Provision.**

For retirements with an Annuity Starting Date prior to November 1, 2009, the following "pop-up" provisions shall automatically apply. For retirements with an Annuity Starting Date on or after November 1, 2009 the following "pop-up" provisions shall apply if the Participant elects

the application of the "pop-up" provisions to his benefit, the Participant Spouse Consent to such election, and the Participant's benefit actuarially adjusted to reflect such election.

- (a) If a Spouse predeceases a Participant after August 1, 1994, and after the 50% Husband and Wife Pension has commenced, the 50% Husband and Wife Pension shall cease to be effective as of the date of the Spouse's death. The Pensioner shall then have his monthly pension amount increased to the amount that would have been payable had the Pensioner and his Spouse waived the 50% Husband and Wife Pension at the time of his retirement.

This increase occurs in the month following the month in which proof of the Spouse's death has been filed with the Trustees.

- (b) Effective on or after August 1, 1994, if the Participant's benefit is paid in the form of a 50% Husband and Wife Pension and the Participant and spouse are subsequently divorced, the Spouse on the Annuity starting Date of the 50% Husband and Wife Pension will continue to be entitled to the 50% Husband and Wife Pension benefit unless the Spouse waives such benefit or a Qualified Domestic Relations Order, as defined under Sections 206(3)(d) of ERISA and 414(p) of the Internal Revenue Code, provides otherwise, in which case his monthly pension amount will be increased to the amount that would have been payable had the Participant and his spouse waived the 50% Husband and Wife Pension at the time of his retirement. This increase in the amount of the monthly pension shall apply to divorces which occurred before and after August 1, 1994, and shall begin with the month following the month in which proof of the divorce is filed with the Trustees.
- (c) If a Spouse predeceases a Participant on or after June 1, 1999, and after the 75% or 100% Husband and Wife Pension has commenced, the 75% or 100% Husband and Wife pension shall cease to be effective as of the date of the Spouse's death. The Pensioner shall then have his monthly pension amount increased to the amount that would have been payable had the Pensioner and his spouse waived the 75% or 100% Husband and Wife Pension, as applicable, at the time of his retirement in favor of the Single-Life Annuity with 120 Month Guarantee of Pension Payments or the Single-Life Annuity, as applicable. This increase shall occur in the month following the month in which proof of the Spouse's death has been filed with the Trustees.
- (d) Effective on or after June 1, 1999 if the Participant's benefit is paid in the form of a 75% or 100% Husband and Wife pension and the Participant and Spouse are subsequently divorced, the spouse on the Annuity Starting Date of the 75% or 100% Husband and Wife Pension will continue to be entitled to the 75% or 100% Husband and Wife Pension benefit unless a Qualified Domestic Relations Order, as defined under Sections 206(3)(d) of ERISA and 414(p) of the Internal Revenue Code, provides otherwise, in which case his monthly pension amount will be increased to the amount that would have been payable had the Participant and his

spouse waived the 50% Husband and Wife Pension at the time of his retirement in favor of the Single-Life Annuity, as applicable. This increase in the amount of the monthly pension shall apply to divorces which occurred on and after June 1, 1999, and shall begin with the month following the month in which proof of the divorce is filed with the Trustees.

**Section 5.15. 120 Month Guarantee of Pension Payments.**

(a) General Conditions.

- (i) The provisions of this Section 5.15 regarding the 120 Month Guarantee of pension payments shall not apply if the 50%, 75% or 100% Husband and Wife Pension in effect for a Participant.
- (ii) For retirements with an Annuity Starting Date before November 1, 2009 dies before 120 monthly payments have been made, the monthly pension payments shall be continued to his Beneficiary, if living, until 120 monthly payments have been made to the Pensioner and his designated Beneficiary.
- (iii) For retirements with an Annuity Starting Date on or after November 1, 2009, if a Pensioner has elected to receive his Pension in the form of an actuarially equivalent Single-Life Annuity with 120 Month Guarantee of Pension Payments and the Pensioner dies before 120 monthly payments have been made, the monthly Pension payments shall be continued to his Beneficiary, if living, until monthly payments have been made to the Pensioner and his designated Beneficiary. The amount payable under the Single-Life Annuity with 120 Month Guarantee of Pension Payments shall be actuarially equivalent to the amount payable as a Single-Life Annuity.

(b) Limitations.

For retirements with an Annuity Starting Date after December 31, 1983:

If, following the death of the Participant, payment to a non-Spouse Beneficiary would continue for more than five (5) years, the Actuarial Present Value of such payments as of the death of the Participant shall be paid in 60 equal monthly amounts.

**Section 5.16. Relation to Qualified Domestic Relations Order.**

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

## ARTICLE 6 – PAYMENT OF BENEFITS

### Section 6.1. Applications.

A pension must be applied for in writing and filed with the Trustees in advance of the date pension payments commence.

A Participant must notify the Trustees in writing of the first month after retirement or other work cessation that would entitle the Participant to pension payments. Such notice must be given during or before such month, except to the extent that the Trustees find that failure to make timely application was due to extenuating circumstances.

### Section 6.2. Payment of Benefits.

- (a) A Participant who is eligible to receive benefits under this Plan and who makes application in accordance with the rules of the Pension Plan shall be entitled on the Annuity Starting Date to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan.
- (b) Benefit payments shall commence as of the Participant's Annuity Starting Date.

A monthly pension shall last be payable for the month in which the death of the Pensioner occurs except as provided in accordance with a survivor's benefit or any other provision of this Plan providing for payments after the death of the Pensioner.
- (c) Effective as of June 1, 1989, if the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date of the pension, for which benefits were not suspended pursuant to the provisions of this Plan, and then converted as of the Annuity Starting Date to the benefit payment form elected in the pension application or to the automatic form of 50% Husband and Wife Pension, if no other form is elected.
  - (i) If a 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 such benefits would first have been paid rather than Normal Retirement Age.
  - (ii) The actuarial increase will be 1% per month for the first sixty (60) months after Normal Retirement Age and 1.5% per month for each month thereafter.
- (d) Pension payments shall end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with a 50%, 75% or 100%

Husband and Wife Pension or any other provision of this Plan for payments after the death of the Pensioner.

**Section 6.3. Mandatory Commencement of Benefits.**

- (a) Notwithstanding any provision of the Plan to the contrary, the Fund will begin benefit payments to all Participants by their Required Beginning Date, whether or not they apply for benefits.
- (b) A Participant who earns additional Pension Credit and who is being paid a pension because he has attained the Required Beginning Date will have his pension recalculated each June 1, for the additional Pension Credit earned during the Plan Credit Year without any offset of the payments received against the additional Pension Credit earned.
- (c) A Participant who has been definitely located, who has attained his Required Beginning Date, and who fails to complete an application for benefits on a timely basis will have his benefits paid as follows:
  - (i) The Participant's benefit shall be paid in a single sum payment if the Actuarial Present Value of the Participant's benefit does not exceed:
    - (A) \$3,500, for distributions with an Annuity Starting Date before June 1, 2000;
    - (B) \$5,000, for distributions with an Annuity Starting Date between June 1, 2000 and March 27, 2005, and
    - (C) \$1,000 for distributions with an Annuity Starting Date on or after March 28, 2005.
  - (ii) In any other case, in the form of a 50% Husband and Wife Pension calculated on the assumptions that the Participant is and has been married for at least one (1) year by the date payments start and that the husband is three (3) years older than the wife.
  - (iii) The benefit payment form specified here will be irrevocable once it begins, with the sole exception that it may be changed to a single life annuity if the Participant proves that he did not have an Eligible Spouse (including an alternate payee under a Qualified Domestic Relations Order) on the Required Beginning Date; also, the amounts of future benefits will be adjusted based on the actual age difference between the Participant and Spouse if proven to be different from the foregoing assumptions.
  - (iv) Federal, state, and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by

the Trustees to be appropriate for the protection of the Fund and the Participant.

**Section 6.4. Disability Pension Payments.**

The Disability Pension is payable the first month for which the Participant is eligible for payment of a Social Security Disability Benefit; provided, however, that if a Participant fails to file an application for a Disability Pension prior to this date, any retroactive Disability Pension benefits payable from the Plan shall be limited to six months of payments. Any retroactive payments will be paid as a lump sum and will be considered an auxiliary disability benefit under Treasury Regulation Section 1.401(a)-20. The Disability Pension shall continue during total disability for life. No pension benefits shall be payable for any month for which the Participant or Pensioner receives wages indemnification for disability from the Plumbers Local 166 Health and Welfare Fund. This provision shall, however, be subject to the provisions of Section 6.6(e).

**Section 6.5. Cessation of Total and Permanent Disability.**

Any Participant retiring under the disability Pension provisions of the Plan who subsequently ceases to be totally and permanently disabled may:

- (a) apply for a Regular, Early Retirement, or Deferred Pension provided he has fulfilled the requirements for such benefit. Any benefit for which the Participant is eligible may not become payable sooner than the month immediately following the month in which the Disability Pension shall terminate, and the amount shall be based on the then attained age of the Pensioner, or
- (b) return to Covered Employment and resume accrual of Pension Credits.

**Section 6.6. Suspension of Benefits.**

- (a) Before Normal Retirement Age.
  - (i) The monthly benefit shall be suspended for any month in which the Participant is employed in Disqualifying Employment before he has attained Normal Retirement Age. "Disqualifying Employment," for the period before Normal Retirement Age, is:
    - (A) employment with any Contributing Employer;
    - (B) employment with any employer in the same or related business as a Contributing Employer;
    - (C) self-employment in the same or related business as any Contributing Employer; and

- (D) employment or self-payment in any form for any business employing plumbers or steamfitters.

There shall be no limit to the geographic area for Disqualifying Employment described above.

- (ii) In addition, the monthly benefits shall be suspended for up to 12 consecutive months after any consecutive period of one or more months during which the Participant was engaged in Disqualifying Employment. However, any portion of the 12 month period remaining at the time a Participant becomes totally and permanently disabled will be waived by the Trustees.

If the Participant has failed to notify the Plan of employment that may be the basis for suspension of benefits under Paragraph 6.6(a)(i), in accordance with the notification requirements of Subsection 6.6(d), or willfully has misrepresented to the Plan with respect to Disqualifying Employment, the monthly benefit shall be suspended for an additional period of six months.

(b) After Normal Retirement Age.

- (i) If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any month in which he worked for at least forty (40) hours in Disqualifying Employment. After attainment of Normal Retirement Age, "Disqualifying Employment" means employment or self-employment that is:

- (A) in an industry covered by the Plan when the Participant's pension payments began,
- (B) in the geographic area covered by the Plan when the Participant's pension began, and
- (C) in any occupation in which the Participant worked under the Plan at any time or any occupation covered by the Plan at the time the Participant's pension payments began.

However, if a Participant worked in Covered Employment only in a skilled trade or craft, that is, as a plumber or steamfitter, employment or self-employment shall be disqualifying only if it is in a work that involves the skill or skills of that trade or craft directly or, as in the case of supervisory work, indirectly. In any event, any Work for at least forty (40) hours in a month for which contributions are required to be made to the Plan shall be disqualifying.

- (ii) The term "industry covered by the Plan" means the plumbing and steamfitting industry and any other industry in which employees covered by the Plan were employed when the Participant's pension began or, but for suspension under this Article, would have begun.
- (iii) The geographic area covered by the Plan in the State of Indiana and all of any Standard Metropolitan Statistical Area which falls in part within Indiana and any other area covered by the Plan when the Participant's pension began or, but for suspension under this Article, would have begun.

The geographic area covered by the Plan shall also include any area covered by the Plan which, under a reciprocal agreement in effect when the Participant's pension began, had forwarded contributions to this Plan on the basis of which this Plan accrued benefits for the Participant.

- (iv) If a retired Participant reenters Covered Employment to an extent sufficient to cause a suspension of benefits, and his pension payments are subsequently resumed, the industry and geographic area covered by the Plan "when the Participant's pension began" shall be the industry and geographic area covered by the Plan when his pension is resumed.
- (v) Paid non-work time shall be counted toward the measure of forty (40) hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a Workers' Compensation or temporary disability law shall not be counted.
- (vi) Notwithstanding the provisions of this subsection, no monthly benefit shall be suspended for work in Disqualifying Employment beyond the Participant's Required Beginning Date. No employment after the Required Beginning Date will be disqualifying and the Participant shall be considered retired.

(c) Definition of Suspension.

"Suspension of benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recovered through deductions from future pension payments, pursuant to Section 6.6(f), and in accordance with Section 8.3..

(d) Notices.

- (i) Upon commencement of pension payments, the Trustees shall notify in writing the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and area covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant, if there has been any

material change in the suspension rules or the identity of the industries or area covered by the Plan.

- (ii) A Pensioner shall notify the Plan in writing within twenty (21) days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such work (that is, whether or not less than forty (40) hours in a month). If a Pensioner has worked in disqualifying employment in any month and has failed to give timely written notice to the Plan of such employment, the Trustees shall presume that he worked for at least forty (40) hours in such month and any subsequent month before the Participant gives notice that he has ceased disqualifying employment. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that his work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

If a Pensioner has worked in Disqualifying Employment for any number of hours for a contractor at a building or construction site and has failed to give timely written notice to the Plan of such employment, the Trustees shall presume that he has engaged in such work for as long as the contractor has been and remains actively engaged at that site. The Participant shall have the right to overcome such presumption by establishing to the Trustees' satisfaction that his work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

The Trustees shall inform in writing all retirees at least once every twelve (12) months of the re-employment notification requirements and the presumptions set forth in this paragraph (ii).

- (iii) A Pensioner whose pension has been suspended shall notify the Plan in writing when Disqualifying Employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Plan.
- (iv) A Participant may ask the Plan in writing whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination in writing.
- (v) The Plan shall inform a Participant in writing of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld.

(e) Review.

A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension.

The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplate employment will be disqualifying.

(f) Resumption of Benefit Payments Following Suspension of Benefits.

(i) Benefits shall be resumed for the month after the last month for which benefits were suspended, with payments for Participants who have attained Normal Retirement Age beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of Subsection (d)(iii) above.

(ii) Overpayments attributable to payments made for any month or months for which the Participant had Disqualifying Employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25% of the pension amount (before deduction), except that the Plan may withhold up to 100% of the first pension payment made upon resumption after a suspension. A Participant who resumes retirement before Normal Retirement Age shall have 100% of his benefit withheld until the amount of overpayment is recovered or, if earlier, until he reaches Normal Retirement Age at which time a monthly deduction of 25% shall apply. If a Pensioner dies before recovery of overpayments has been completed, deductions shall be made from the benefits payable to his Beneficiary or Spouse receiving a pension subject to the percentage limitation on the rate of deduction.

**Section 6.7. Benefit Accruals Following Suspension of Benefits.**

(a) The accrued benefit of a Pensioner whose benefit payments resume following a suspension of benefits shall be calculated as follows:

(i) A Pensioner (except a Disability Pensioner) who returns to Covered Employment and earns an additional accrual shall have his pension recalculated as of the following June 1. If such a Pensioner resumes receiving pension payments during a Plan Credit Year, the monthly payment will be the amount calculated as of the prior June 1 and the monthly amount shall be adjusted as of the following June 1 as described below.

- (ii) Each June 1 the benefit calculation will be based on the Employee's then attained age and will include any additional accruals earned during the prior Plan Credit Year, reduced by the actuarial equivalent of any pension payments made prior to Normal Retirement Age. The amount of such reduction shall be calculated by dividing the amount of the pensioner's payments prior to Normal Retirement Age by the factor in Table 1 that corresponds to the Participant's age when payments resume. In no event shall the new monthly benefit be less than the prior monthly amount.
- (b) A 50% Husband and Wife Pension in effect immediately prior to suspension of benefits, and any other benefit following the death of the Pensioner, shall remain effective if the Pensioner's death occurs while his benefits are in suspension.
- (c) A Pensioner who returns to Covered Employment and earns additional accrual shall be entitled to a new election as to form of benefit payment for such additional accrual; provided, however, that the first election on or after Normal Retirement Age shall apply for any subsequent accrual earned.

**Section 6.8. Vested Status or Nonforfeitability.**

- (a) ERISA requires that certain of the benefits under this Plan be vested ("nonforfeitable" under the terms used in ERISA).
- (b) Vested Status is earned as follows:
  - (i) A Participant's right to his normal retirement benefit (Regular Pension) shall become non-forfeitable upon his attainment of Normal Retirement Age, except to the extent that benefits are canceled pursuant to Section 6.16 because the employer has ceased to contribute to the Plan with respect to the employment unit in which the Participant was employed.
  - (ii) Effective June 1, 1997, a Participant acquires Vesting Status after completion of five (5) Years of Vesting Service (ten (10) Years of Vesting Service prior to June 1, 1997). A Participant who performs Work in non-covered Employment acquires Vested Status in accordance with Section 11.4.

Years of Vesting Service that are not taken into account because of a Permanent Break in Service shall not count in determining a Participant's Vested Status.

**Section 6.9. Incompetence or Incapacity of a Pensioner or Beneficiary.**

In the event it is determined that a Pensioner or Beneficiary is unable to care for his affairs because of mental or physical incapacity, any payment due will be applied, to the maintenance and support of such Pensioner or Beneficiary or to such legally appointed guardian, committee or

other legal representative appropriate to receive such payments on behalf of the Pensioner or Beneficiary.

#### **Section 6.10. Payment of Small Amounts**

Notwithstanding any other provision of this Plan, if the Actuarial Present Value of a benefit payable under the Plan is:

- (a) \$3,500, for distributions with an Annuity Starting Date before June 1, 2000;
- (b) \$5,000, for distributions with an Annuity Starting Date between June 1, 2000 and March 27 2005; or
- (c) \$1,000, for distributions with an Annuity Starting Date on or after March 28, 2005,

the Trustees shall pay such benefit in a single sum equal to that value. This Section shall not apply after payment of the Participant's pension has commenced unless the Participant or Beneficiary consents in writing to the single-sum distribution.

The Applicable Interest Rate and the Applicable Mortality Table in Article 1 shall be used in determining the present value of a Participant's Accrued Benefit for single sum Cash-Outs under this Section 6.10 and Subsection 6.5(c)(i).

#### **6.11 Outstanding Payments**

If any benefit payment made by the Trustees out of the Fund is unclaimed for a period of two years, it shall revert to and again become part of the Fund, free and discharged from any claim therefor, provided that any unclaimed benefit or a benefit which has been forfeited due to the inability of the Plan to find a Participant or beneficiary shall be reinstated in the event a claim is made for the unclaimed or forfeited benefit by a Participant or a beneficiary.

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

#### **Section 6.12 Required Distributions.**

- (a) Required Beginning Date. The Required Beginning Date is April 1 following the later of:
  - (i) the year the employee attains age 70 1/2, or
  - (ii) the year the employee retires.

Provided, however, that a Participant who is not retired by the end of the calendar

year in which he attains age 70½ (other than a five-percent owner) may elect to delay commencement of benefit distributions until not later than April 1 of the calendar year following the calendar year in which the Participant retires.

- (b) **Required Distributions.** Retirement income must be paid in non-increasing amounts over the life expectancy of the Participant or the joint life expectancies of the Participant and the Participant's Spouse or Beneficiary. Where a Participant elects an Optional Form of Payment, the period certain may not exceed the Beneficiary's life expectancy.
- (c) **Surviving Spouse Benefit.** Where the Pre-retirement Death Benefit is paid in accordance with Article 5, payments must commence before the date the Participant would have reached age 70 1/2 and must be paid over the Surviving Spouse's life expectancy.
- (d) **Recalculation of Retirement Income.** Where a Participant's retirement income commences in accordance with this Section before the Participant actually leaves the industry, the Participant's Accrued Benefit must be recalculated each Plan Year to account for additional Credited Service.
- (e) **MDIB Rule.** Where the Beneficiary is not the Spouse, payments to the Beneficiary may not exceed the limits posed by the Minimum Distribution Incidental Benefit requirements.

### **6.13 Rollover Distribution.**

- (1) This Article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (2) **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 years or more; any distribution to the extent such distribution is required under Section (401)(a)(9) of the Code; any distribution upon the hardship of an employee; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (3) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity

described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a Roth IRA, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution.

For distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code. For a designated nonspouse beneficiary, an eligible retirement plan is an inherited IRA under IRC §408(d)(3)(C).

- (4) A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes a designated nonspouse beneficiary.
- (5) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

#### **6.14 Minimum Distribution Requirements.**

- (a) Effective Date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (b) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the Plan.
- (c) Requirements of Treasury Regulations Incorporated. All distributions required under this section will be determined and made in accordance with the Treasury regulations under section 401 (a)(9) of the Internal Revenue Code.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (c), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to section 242(b)(2) of TEFRA.
- (e) Required Beginning Date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required

beginning date.

- (f) **Death of Participant Before Distributions Begin.** If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (1) If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.
  - (2) If the participant's surviving spouse is not the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
  - (3) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
  - (4) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this paragraph (f), other than paragraph (f)(1), will apply as if the surviving spouse were the participant.

For purposes of this paragraph (f) and paragraphs (m), (n), and (o), distributions are considered to begin on the participant's required beginning date (or, if paragraph (f)(4) applies, the date distributions are required to begin to the surviving spouse under paragraph (f)(1)). If annuity payments irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (f)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (g) **Form of Distribution.** Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (h) through (o) of this section. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account

described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(h) **General Annuity Requirements.** If the participant's interest is paid in the form of annuity distributions under the retirement system, payments under the annuity will satisfy the following requirements:

- (1) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (2) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (k) and (l) or paragraphs (m) through (o);
- (3) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) payments will either be non-increasing or increase only as follows:
  - (A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
  - (B) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in paragraphs (k) or (l) dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p);
  - (C) to provide cash refunds of employee contributions upon the participant's death; or
  - (D) to pay increased benefits that result from a plan amendment.

(i) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under paragraph (f)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals

ending on or after the participant's required beginning date.

- (j) **Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (k) **Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse.** If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- (l) **Period Certain Annuities.** Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this paragraph (l), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (m) **Participant Survived by Designated Beneficiary.** If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in paragraph (f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:

- (1) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or
  - (2) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (n) No Designated Beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (o) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the participant dies before the date distribution of his or her 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 5.8 will apply as if the surviving spouse were the participant, except that the time by which distributions must begin will be determined without regard to paragraph (f)(1).
- (p) Designated Beneficiary. The individual who is designated as the beneficiary under the terms of the Plan document and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401 (a)(9)- 1, Q&A-4, of the Treasury regulations.
- (q) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (f).
- (r) Life Expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401 (a)(9)-9 of the Treasury regulations.
- (s) Required Beginning Date. The date specified in section 6.2(a) of the Plan.

## **ARTICLE 7 – OVERPAYMENTS**

The Fund has the right to recover from any Participant, Pensioner, Spouse, Surviving Spouse, Beneficiary, or other payee any amounts paid by the Fund which were not properly owing under the terms of the Plan, whether such amounts were paid by mistake, fraud, or any other reason. The Fund has the right to pursue the payee (including the Participant/Pensioner and his/her Spouse jointly and severally), for the full amount due and owing under this provision. At the Fund's sole option, it may enforce this provision by offsetting future benefits until the amount owed has been recovered. In lieu of collecting the overpayment and appropriate interest from the Participant, Beneficiary, or Pensioner, the Plan may offset the overpayment plus interest against future benefits that are due and owing to the Participant, Beneficiary, or Pensioner under the Plan's terms. Any such offset shall be applied in accordance with the requirements of the Internal Revenue Service's Employee Plan Compliance Resolution System. A constructive trust shall be deemed to be placed on all benefit overpayments distributed to the Participant, Beneficiary, or Pensioner and any interest associated with such overpayments.

## **ARTICLE 8 - CLAIMS AND APPEAL PROCEDURE**

### **Section 8.1. Right to Appeal.**

An employee who believes he has been denied benefits provided for under the Plan shall be entitled to a full and fair review of his claim under the following appeal procedure.

- (a) Upon denial of an Employee's application for benefits, the Employee shall be furnished a written statement of the specific reason or reasons for denial including reference to the specific Plan provisions on which the denial is based, a description of any additional material or information necessary for the Employee to establish his right to benefits and an explanation of why such material or information is necessary. This written notice shall also contain an explanation of the appeal procedure which the Employee can follow to have his claim for benefits reviewed.
- (b) An Employee who has been denied benefits, or his duly authorized representative, shall have the following rights in appealing the initial decision:
  - (i) The right to submit additional proof of entitlement to benefits.
  - (ii) The right to examine any document in possession of the Plan related to the application.
  - (iii) The right, within one hundred eighty (180) days of receipt of the notice of the denial of benefit, to appeal the decision to the Board of Trustees by submitting a written statement setting forth which of the reasons for denial of the application he disagrees with along with any supporting documents or additional comments related to his appeal. The written statement is to be submitted to the Board of Trustees at the Fund Office address.

- (iv) In the normal case, the Trustees shall make their determination on the basis of the supporting file documents and the Employee's written statement as submitted. However, the Trustees may require the Employee to submit additional written information or to appear before the Trustees for oral examination, or both. In the event the Employee is required to appear before the Trustees, the hearing shall be held at the next regular meeting of the Trustees or at such other time as may be determined by the Board of Trustees with reasonable notice of the date and place of the hearing given to the Employee.
- (c) The Board of Trustees shall make a full and complete review of each appeal and issue its decision in writing within sixty (60) days after receipt of the written request for an appeal unless such circumstances require an extension of time for processing, in which case the decision shall be rendered as soon as possible, but not later than one hundred and twenty (120) days after receipt of a request for review.

The decision of the Board of Trustees on the appeal shall be written in a clear and understandable manner and shall include the specific reasons for the decision.

#### **Section 8.2 Information and Proof.**

Every Participant, Beneficiary or Pensioner shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If the claimant makes a willfully false statement, material to an application, or furnishes fraudulent information or proof, material to his claim, benefits not vested in this Plan may be denied, suspended or discontinued.

#### **Section 8.3 Action of Trustees.**

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

All questions or controversies of whatsoever character arising in any matter or between any parties or persons in connection with this Plan or its operation, whether as to any claim for benefits, as to the construction of the language of this Plan or any rules and regulations adopted by the Trustees, or as to any writing, decision, instrument or account in connection with the operation of the Plan or otherwise, shall be submitted to the Board of Trustees for decision. In the event a claim for benefits has been denied, no lawsuit or other action against the Fund or its Trustees may be filed until the matter has been submitted for review under the ERISA-mandated review procedure set forth in Section 8.1. The decision on review shall be binding upon all persons dealing with the Plan or claiming any benefit hereunder, except to the extent that such decision may be determined to be arbitrary or capricious by a court or arbitrator having jurisdiction over such matter.

Any discretionary actions taken by the Board of Trustees hereunder shall be uniform in their nature and application to all persons similarly situated; and no discretionary actions shall be taken which would be discriminatory under the provisions of the Internal Revenue Code, as amended, relating to employee retirement plans and exempt trusts.

## **ARTICLE 9- ALIENATION OF BENEFITS AND QUALIFIED DOMESTIC RELATIONS ORDER**

### **Section 9.1. Rights to Plan Benefits.**

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

### **Section 9.2. Non-Assignment of Benefits.**

No Participant, Pensioner or Beneficiary entitled to any benefits under this Pension Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate or impair in any manner his legal or beneficial interest, or any interest in assets of the Pension Fund, or benefits of this Pension Plan. Neither the Pension Fund nor any of the Pension Fund's assets shall be liable for the debts of any Participant, Pensioner or Beneficiary entitled to any benefits under this Plan, no be subject to attachment or execution or process in any court or action or proceeding.

### **Section 9.3 Qualified Domestic Relations Order**

Notwithstanding any of the foregoing, benefits shall be paid in accordance with the applicable requirements of any Qualified Domestic Relations Order as defined by Section 206(d)(3) of ERISA.

## **ARTICLE 10 - AMENDMENTS**

### **Section 10.1. Amendment.**

This Plan may be amended at any time by the Board of Trustees, consistent with the provisions of the Trust Agreement. However, no amendment may deprive any Participant or Beneficiary of any of the benefits to which he or she is entitled with respect to benefits previously accrued, except:

- (a) as necessary to establish or maintain the qualification of the Plan or the Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA; or
- (b) if the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(c)(8) of the Internal Revenue Code, and the Secretary of Labor has

been notified of such amendment and has either approved of it, or within ninety (90) days after the date on which such notice was filed, the Secretary of Labor failed to disapprove.

All amendments approved by the Board of Trustees must be adopted in writing.

#### **Section 10.2. Amendment to Vesting Schedule.**

If the Plan's vesting schedule is amended or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's non-forfeitable percentage, each Participant with at least three (3) years of Vesting Service with the Employer may elect, with a reasonable period after the adoption of the amendment, to have his or her non-forfeitable percentage computed under the Plan without regard to the amendment. The period during which the election may be made commences with the date the amendment is adopted and ends on the later of:

- (a) sixty (60) days after the amendment is adopted;
- (b) sixty (60) days after the amendment becomes effective; or
- (c) sixty (60) days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

In no event will a change of vesting schedules result in a reduction in the vested portion of a Participant's accrued benefit as of the date of amendment.

### **ARTICLE 11 - TOP HEAVY PROVISIONS**

If the Plan is or becomes top-heavy in any Plan Credit Year beginning after December 31, 1983, the provisions of this Article 11 shall supersede any conflicting provisions in the Plan.

#### **Section 11.1 Key Employee.**

"Key employee" means any employee or former employee (including any deceased employee) who at any time during the Plan Credit Year that includes the determination date was an officer of the employer having Annual Compensation greater than \$130,000 (as adjusted under Section 416(i)(1) of the Internal Revenue Code for Plan Credit Years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the Employer having Annual Compensation of more than \$150,000. For this purpose, Annual Compensation means compensation within the meaning of Section 415(c)(3) of the Internal Revenue Code. 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 applicable regulations and other guidance of general applicability issued thereunder.

### **Section 11.2 Top-Heavy Plan.**

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

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

### **Section 11.3 Top-Heavy Ratio.**

- (a) If the Employer maintains one or more defined benefit plans and the Employer has not maintained any defined contribution plan (including any Simplified Employee Pension Plan) which during the five year period ending on the determination date(s) has or has had accrued benefits, the top-heavy ratio for this Plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the account balances of all key employees as of the determination date(s) (including any part of any accrued benefit distributed in the five (5) year period ending on the determination date(s), and the denominator of which is the sum of the present value of accrued benefits (including any part of any account balance distributed in the five (5) year period ending on the determination date(s), both computed in accordance with Section 416 of the Internal Revenue Code and the regulations thereunder. The present values of accrued benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distribution made with respect to the Section 416(g)(2) of the Internal Revenue Code during the one (1) year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Internal Revenue Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year Period."
- (b) If the Employer maintains one or more defined benefit plans and the Employer maintains or has maintained one or more defined contribution plans (including any Simplified Employee Pension Plan) which during the five (5) year period ending on the determination date(s) has or has had any accrued benefits, the top-

heavy ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the present value of accrued benefits under the aggregated defined benefit plan or plans for all key employees, determined in accordance with Subsection (a) above, and the sum of account balances under the aggregated defined contribution plan or plans for all key employees as of the determination date(s), and the denominator of which is the sum of the present value of accrued benefits under the defined benefit plan or plans for all Participants, determined in accordance with (a) above, and the account balances under the aggregated defined contribution plan or plans for all Participants as of the determination date(s), all determined in accordance with Section 416 of the Internal Revenue Code and the regulations thereunder. The present values of accrued benefits and the amounts of accounts balances of an Employee as of the determination date shall be increased by the distributions made with respect to the employee under the Plan and may plan aggregated with the Plan under Section 416(g)(2)(A)(i) of the Internal Revenue Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

(c) For purposes of Subsections (a) and (b) above, the value of account balances and the present value of accrued benefits shall be determined as of the most recent valuation date that falls within or ends with the twelve (12) month period ending on the determination date, except as provided in Section 416 of the Internal Revenue Code and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of Participant:

- (i) who is not a key employee but who was a key employee in a prior year, or
- (ii) Who has not been credited with at least one (1) hour of service with any employer maintaining the plan at any time during the five (5) period ending on the determination date will be disregarded.

The calculation of the top-heavy ratio and the extent to which distributions, rollovers and transfer are taken into account will be made in accordance with 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) The accrued benefit of a Participant other than a key employee shall be determined under:

- (i) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or
- (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Section 411(b)(1)(C) of the Internal Revenue Code.

**Section 11.4 Permissive Aggregation Group.**

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

**Section 11.5. Required Aggregation Group.**

"Required aggregation group" means a group consisting of the following:

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

**Section 11.6 Determination Date.**

"Determination date" means:

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

**Section 11.7 Non-Key Employee.**

"Non-key employee" means any Employee who is not a key employee.

**Section 11.8 Valuation Date.**

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

**Section 11.9 Present Value.**

This Section shall apply for purposes of determining the present values of accrued benefits and

the amounts of account balances of employees as of the determination date.

(a) Actuarial Factors.

For purposes of establishing present value to compute the top-heavy ratio; any benefit shall be discounted using the interest and mortality rates described in Section 1.1.

(b) Distributions during Year Ending on Determination Date.

The present values of accrued benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under Section 415(g)(2) of the Internal Revenue Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Internal Revenue Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

(c) Employees Not Performing Services during Year Ending on Determination Date.

The accrued benefits and accounts of any individual who is not a key employee and is a Participant in this Plan shall receive a minimum allocation or benefit accrual as follows:

**Section 11.10 Minimum Allocation or Benefit Accrual under Top Heavy Plan.**

In the event this Plan becomes top heavy, any Participant who is not a key employee and is a Participant in this Plan shall receive a minimum allocation or benefit accrual as follows:

(a) Participation in Defined contribution Plan:

If - the Participant who is not a key employee is covered by a defined contribution plan maintained by the Employer, the Participant shall receive an allocation equal to five percent (5%) of compensation under the defined contribution plan. The minimum allocation shall be determined without regard to any Social Security contribution. This minimum allocation shall be made even though, under other provisions of the Plan, the Participant would not otherwise be entitled to receive an allocation, or would have received a lesser allocation for the year because of:

- (i) the Participant's failure to complete 1,000 hours of work (or any equivalent provided in the Plan), or

(ii) the Participant's failure to make mandatory employee contribution to the Plan, or

(iii) compensation less than a stated amount.

(b) Non-Application to Participant Not Employed on Last Day of Plan Credit Year.

The provisions of this Section shall not apply to any Participant who was not employed by the Employer on the last day of the Plan Credit Year.

(c) Non Application to Participant Covered by Plan Providing Minimum Top-Heavy Allocation or Benefit Accrual.

The provisions of the Section shall not apply to any Participant to the extent the Participant is covered under any other plan or plans of the Employer and the Employer has provided in those plans that the minimum allocation or benefit requirement applicable to top-heavy plans will be met in the other plan or plans.

(d) NonForfeitability of Minimum Allocation or Benefit Accrual.

The minimum allocation or benefit accrual under this Section (to the extent required to be nonforfeitable under Section 416(b) of the Internal Revenue Code) may not be forfeited under Section 411(a)(3)(B) or 411(a)(3)(D) of the Internal Revenue Code. For any Plan Credit Year in which this Plan is top-heavy, the six-year graded vesting schedule described in Section 416(b)(1)(B) of the Internal Revenue Code shall apply to the Plan. The minimum vesting schedule applies to all benefits within the meaning of Section 411(a)(7) of the Internal Revenue Code except those attributable to employee contributions, including benefits accrued before the effective date of Section 416 of the Internal Revenue Code and benefits accrued before the Plan became top-heavy. Further, no decrease in a Participant's nonforfeitable percentage may occur in the event the Plan's status as top-heavy changes for any Plan Credit Year. However, this Section shall not apply to the account balances of any employee who does not have an hour of service after the Plan has initially become top-heavy, and such employee's account balance attribute to Employer contributions and forfeitures shall be determined without regards to this Section.

(d) Calculation of Minimum Allocation or Benefit Accrual.

For purposes of computing the minimum allocation or benefits accrual, compensation shall mean compensation as defined in Section 5.02(B), except that the word "Employee" shall be substituted for the work "Participant."

## **ARTICLE 12 - NON-BARGAINED EMPLOYEES**

### **Section 12.1 Employer.**

For purposes of identifying Highly Compensated Employees and applying the rules on participation, vesting and statutory limits on benefits under the Fund for such employees, but not for determining covered service, the term "Employer" includes all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the Internal Revenue Code and all other businesses aggregated with the Employer under Section 414(o) of the Internal Revenue Code.

For this purpose, an "Employer" also includes all corporations, trades or businesses under common control with the Employer within the meaning of Sections 414(b) and (c) of the Internal Revenue Code.

For all other purposes, the term "Employer" shall have the meaning stated at Article 1.

### **Section 12.2 Non-Bargained Employees.**

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

### **Section 12.3 Highly Compensated Employee.**

- (a) Effective June 1, 1997, the term "Highly Compensated Employee" includes highly compensated active employees and highly compensated former employees of an Employer. Whether an individual is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that individual's compensation form or status with respect to that Employer.
- (b) A highly compensated active employee is an employee of the Employer who performs service for the Employer during the determination year and who during the look-back year:
  - (i) received compensation from the Employer in excess of \$80,000 (as adjusted under Section 414(q) of the Internal Revenue Code) and, if the Employer so elects, was in the top-paid group of employees for such preceding year. An employee is in the top-paid group of employees for any year if such employee is in the group consisting of the top twenty percent (20%) of the total employees when ranked by compensation paid during such year, or
  - (ii) is a 5% owner at any time during the look-back year.

#### **Section 12.4 Vesting for Non-Bargained Employees.**

(a) Non-Bargained Employees.

A Non-Bargained Employee who has at least one hour of Work after May 31, 1988 will attain Vested Status after accumulating five (5) years of Vesting Service in Nonbargained Work, as defined below.

(b) Transfer between Bargained and Non-Bargained Status.

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

- (i) The maximum credit a Participant may receive for any Plan Credit Year is one Year of Vesting Service. If a Participant works part of a Plan Credit Year in Nonbargained Work and part of a Plan Credit Year in Bargained Work, the Participant will receive credit for the Plan Credit Year as a Bargained Year if the majority of the hours of Service were in Bargained Work; and conversely, the Participant will receive credit for the Plan Credit Year as a Nonbargained Year if the majority of hours of Service were in Nonbargained Work; provided, however, an Employee works 1,000 hours of Service in Nonbargained Work in a Plan Credit Year the Employee shall receive credit for that year as a Year of Vesting Service in Nonbargained Work.
- (ii) Prior to June 1, 1997, a Participant to whom this Subsection (b) applies shall acquire Vested Status when the Participant's combined Years of Vesting Service attributable to Bargained Work and Nonbargained Work equal ten (10), or if sooner, when the Participant's Years of Vesting Service attributable to Nonbargained Work equal five (five).
- (iii) Effective June 1, 1997, a Participant to whom this Subsection (b) applies shall acquire Vested Status when the Participant's combined Years of Vesting Service attributable to Bargained Work and Nonbargained Work equal five (5), or if sooner, when the Participant's Years of Vesting Service attributable to either Bargained Work or Nonbargained Work equal five (5).

(c) Break in Service.

Years of Vesting Service that are not taken into account because of a Permanent Break in Service shall not count in determining a Participant's Vested Status.

### **Section 12.5 Nondiscrimination, Coverage and Participation.**

- (a) Effective June 1, 1989, participation in the Plan by Non-Bargained Employees shall be in compliance with Section 401(a)(4) (nondiscrimination rules), 410(b) (coverage rules), and 401(a)(26) (minimum participation rules) of the Internal Revenue Code.
- (b) A Non-Bargained, Highly Compensated Employee shall not receive any Pension Credit (although vesting credit may be earned) for any Plan Credit Year in which the Employer fails to meet the requirements of Sections 410(b) and 401(a)(26) of the internal Revenue Code with respect to coverage and participation of Non-Bargained Employees. Section 401(a)(26) applies during any Plan Credit Year in which there are less than 50 Participants, including Participants covered by a Collective Bargaining Agreement.
- (c) In administering the "Alumni Coverage" provided in Section 12.6, the Trustees shall not permit any coverage inclusions or exclusions which would contravene the nondiscrimination requirements of the Internal Revenue code and Federal Tax Law. The Trustees are authorized to take any and all steps as outlined herein and otherwise to ensure compliance with such Federal Tax Law requirements, including requiring an Employer to retroactively include in its coverage one or more of its eligible "alumni" employees and make contributions on behalf of such employee(s) in accordance with the terms of Section 12.6, and such authority is expressly recognized by all Employers which hereby agree to be bound by such actions.

### **Section 12.6 Alumni Coverage.**

- (a) Any Employer which has agreed to contribute to the Plan on behalf of Employees in the bargaining unit as defined in an agreement between an Employer and the Union and/or is an Employer as that term is defined in Article 1 may contribute on behalf of each and every Non-Bargained Employee who meets the following conditions:
  - (i) during the current Plan Credit Year or a prior Plan Credit Year, at least one-half (1/2) of the Employee's total hours of Work for that year with any and all Employers were performed in a Union bargaining unit ("Alumni Coverage"); and
  - (ii) the Employee is not included in another unit of employees covered by a collective bargaining agreement with a labor union, if retirement benefits were the subject of good faith bargaining between such Employer and the labor union.
- (b) For any Alumni Coverage permitted under Subsection (a), each Employer must:

- (i) execute a written Participation Agreement as required by the Trustees which binds the Employer to the terms of the Plan and any applicable Rules and Regulations promulgated therein and, thereby, specifies the detailed basis upon which the contributions are to be made to the Plan;
  - (ii) specify in its written Participation Agreement that such Employer is electing coverage of its "alumni" employees;
  - (iii) certify in a manner acceptable to the Trustees that it is, in fact, covering all of its "alumni" employees, except those that may be excluded under Subsection (a)(ii) above, and
  - (iv) execute such documents as may be required by the Internal Revenue Service, or reasonably required by the Trustees, to enable the Plan to secure a determination letter of federal tax exemption or to support its tax exemption and/or qualified plan status.
- (c) The total number of "alumni" employees participating in the Plan shall never exceed five percent (5%) of the total number of Employee Participants.

#### **ARTICLE 13 - TERMINATION OF PLAN**

##### **Section 13.1. Termination or Merger of Plan.**

**(a) Trustees' Right to Discontinue or Terminate Plan.**

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

**(b) Trustees' Right to Merge or Consolidate Plan or Transfer Plan Assets.**

In addition to the right at any time to discontinue or terminate the Plan, the Board of Trustees shall also have the sole right at any time to merge or consolidate with, transfer the assets and liabilities of the Plan and Trust Fund to any other qualified plan and trust fund or receive the assets and liabilities of any other qualified plan and trust fund. All such actions shall be done by the Board of Trustees in its sole discretion and must be adopted in writing.

##### **Section 13.2 Merger and Consolidation of the Plan, Transfer of Plan Assets.**

In the case of any merger or consolidation with, or transfer of assets and liabilities to any other plan, provisions shall be made so that each Participant in the Plan on the date of merger, etc. (if the Plan is then terminated) would receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to

receive immediately prior to the merger, consolidation or transfer (if the Plan had then terminated).

**Section 13.3 Effect of Termination and Partial Termination.**

On termination of the Plan or on partial termination of the Plan by operation of law, any adjustments required under the Plan as of the valuation date coincident with or following the termination or partial termination shall be made and each affected Participant's benefits will be fully vested and nonforfeitable to the extent sufficient assets exist to pay these benefits after satisfaction of prior claims and to the extent benefits are guaranteed by the Pension Benefit Guaranty Corporation.

**Section 13.4 Termination Distributions — Sufficient Assets.**

If the value of the Fund's assets is equal to or greater than the present value of all vested Accrued Benefits, then the Plan may distribute assets to each Participant (subject to Article 5 and 13.3), equal to the present value of that Participant's vested Accrued Benefit. All present values and the value of Plan assets shall be computed using assumptions which satisfy Section 4044 of ERISA. The excess of the value of the assets over the aggregate present value of vested Accrued Benefits shall be allocated among Plan Participants; as the Board of Trustees elects. This allocation shall be done by amending the benefit formula, as of the date of termination, in a nondiscriminatory manner which meets the requirements of Section 401 of the internal Revenue Code.

**Section 13.5 Termination Distributions — Insufficient Assets.**

If value of Fund's assets is less than the present value of vested Accrued Benefits (computed in accordance with Section 4044 of ERISA), then the following rules apply:

- (a) Notwithstanding any other provision of the Plan, the termination shall not become effective until and unless the Pension Benefit Guaranty Corporation determines that the Plan termination qualifies as a distress termination under Section 4041(c) of ERISA. Once the Pension Benefit Guaranty Corporation has made this determination, the Plan may distribute assets as prescribed in Subsection (B) below. However, if the Pension Benefit Guaranty Corporation finds that assets are insufficient to pay Pension Benefit Guaranty Corporation guaranteed benefits, the Plan shall not make any distributions except as directed by the Pension Benefit Guaranty Corporation.
- (b) The Plan will distribute assets in accordance with the priority classes set forth in Section 1044 of ERISA and regulations thereunder, giving highest priority to the first class. If the assets are insufficient to provide for all benefits within a priority class (except the 4<sup>th</sup> class); the remaining assets will be allocated based on the ratio that the value of the benefit in the class for that Participant bears to the total value of benefits in that class for all Participants. If the deficiency occurs in the 4<sup>th</sup> class, then the remaining Trust Fund (and Policy values) shall be distributed first to provide all benefits included in the 4<sup>th</sup> class which would be payable and

non-forfeitable under the Plan provisions in effect five years prior to the date of termination, then successively to changes in non-forfeitable benefits payable due to each amendment of the Plan, in chronological order, effective during the five year period ending on the date of termination. After distribution to provide all benefits in prior sub-classes of the 4<sup>th</sup> class, the remaining assets shall be distributed within the first sub-class to which the assets are insufficient in the ratio that the value of each Participant's benefit within such sub-class bears to the value of total benefits within such sub-class.

### **Section 13.6. Limit on Employer Liability**

Subject to relevant provisions of the Employee Retirement Income Security Act of 1974, there shall be no liability expressed or implied, on the part of the Employers to provide any benefits or further contributions to the Trust fund after the date of termination of the Trust. The Trust Fund shall be the sole source of benefit payments during continuance of the Pension Plan or after termination of the Trust, if any.

## **ARTICLE 14 - WITHDRAWAL LIABILITY**

The Withdrawal Liability Procedures of the Plumbers and Steamfitters Local No. 166 AFL-CIO Pension Plan, including any amendments, are incorporated by reference into the Plan.

## **ARTICLE 15 - MISCELLANEOUS PROVISIONS**

### **Section 15.1. Trustees' Reliance.**

The Trustees shall be entitled to rely on written representations, consents and revocations submitted by Participants, Spouses or other parties in making determinations under this Article and, unless such reliance is arbitrary or capricious, the Trustees' determinations shall be final and binding, and shall discharge the Fund and the Trustees from liability to the extent of the payments made. This means that, unless the Plan is administered in a manner determined to be inconsistent with the fiduciary standards of Part 4 of Title I of ERISA, the Fund shall not be liable under this Article for duplicate benefits with respect to the same Participant, or for surviving Spouse benefits in excess of the present Value of the benefits described in this Article, determined as of the Annuity Starting Date of the Participant's pension or, if earlier, the date of the Participant's death.

### **Section 15.2 Exclusive Benefit.**

This Plan has been executed for the exclusive benefit of the Participants hereunder and their Beneficiaries. The Plan shall be interpreted in a manner consistent with this intent and with the intention of the Employer that this Plan satisfies Sections 401 and 501 of the Internal Revenue Code. Under no circumstances shall the Trust Fund ever revert to or be used or enjoyed by the Employer, except as permitted under Section 15.3.

**Section 15.3 Irrevocability of Employer Contributions.**

Employer contributions made by the Employer shall be irrevocable and shall be used for the purposes set forth in Section 15.2; provided, however, that in the event an Employer makes a contribution due to a good faith mistake of fact, or a good faith mistake in determining the deductibility, such contribution may be returned to the Employer within six (6) months after the Plan Administrator determines that the contribution was made by such a mistake.

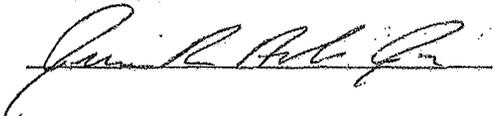
The maximum amount that may be returned to the Employer in the case of a mistake of fact or the disallowance of a deduction is the excess of:

- (a) the amount contributed, over, as relevant,
- (b) (i) the amount that would have been contributed had no mistake of fact occurred, or  
(ii) the amount that would have been contributed had the contribution been limited to the amount that is deductible after any disallowance by the Service.

Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20 day of January, 2015.

Union Trustees

  
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Employer Trustees

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**Section 15.3 Irrevocability of Employer Contributions.**

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

- (a) the amount contributed, over, as relevant,
- (b) (i) the amount that would have been contributed had no mistake of fact occurred, or
- (ii) the amount that would have been contributed had the contribution been limited to the amount that is deductible after any disallowance by the Service.

Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20 day of January, 2015.

Union Trustees

Scott L. Pappas  
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Employer Trustees

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**Section 15.3 Irrevocability of Employer Contributions.**

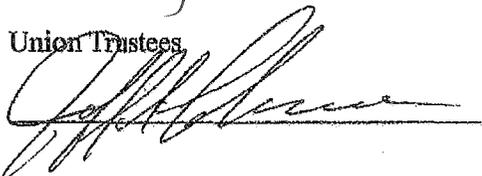
Employer contributions made by the Employer shall be irrevocable and shall be used for the purposes set forth in Section 15.2; provided, however, that in the event an Employer makes a contribution due to a good faith mistake of fact, or a good faith mistake in determining the deductibility, such contribution may be returned to the Employer within six (6) months after the Plan Administrator determines that the contribution was made by such a mistake.

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

- (a) the amount contributed, over, as relevant,
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Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20 day of January, 2015.

Union Trustees  
  
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Employer Trustees  
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W1061394-3

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

- (a) the amount contributed, over, as relevant,
- (b) (i) the amount that would have been contributed had no mistake of fact occurred, or
- (ii) the amount that would have been contributed had the contribution been limited to the amount that is deductible after any disallowance by the Service.

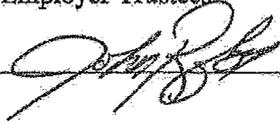
Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20 day of January, 2015.

Union Trustees

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Employer Trustees

  
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W1061394-3

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

- (a) the amount contributed, over, as relevant,
- (b) (i) the amount that would have been contributed had no mistake of fact occurred, or
- (ii) the amount that would have been contributed had the contribution been limited to the amount that is deductible after any disallowance by the Service.

Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20 day of January, 2015.

Union Trustees

Employer Trustees

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Thomas L. Scare  
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W1061394-3

**Section 15.3 Irrevocability of Employer Contributions.**

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- (a) the amount contributed, over, as relevant,
- (b) (i) the amount that would have been contributed had no mistake of fact occurred, or
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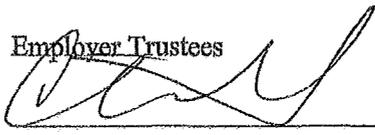
Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistake or nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or undeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction in accordance with Internal Revenue Service Ruling 91-4.

IN WITNESS WHEREOF, the Trustees have hereby adopted this restated Plumbers and Steamfitters Local No. 166 Pension Plan by affixing their signatures as of this 20<sup>th</sup> day of JANUARY, 2015.

Union Trustees

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Employer Trustees

  
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## APPENDIX A

Pensioners and Beneficiaries on the rolls as of May 31, 1997 shall have their monthly benefits increased 5%, effective with the benefits paid for the month of June 1997.

Pensioners and Beneficiaries on the rolls as of May 31, 1998 shall receive a one-time payment equal to one month of benefits with the benefits paid for the month of June 1998. The Pensioners and Beneficiaries shall not have any right, vested or otherwise, to a lump-sum payment in the future. The Trustees shall in their sole discretion determine whether to provide said lump-sum payment at any time in the future.

Pensioners and Beneficiaries who are receiving pensions as of May 31, 1999 shall receive an additional one-time payment equal to the May 1999 benefit which will be paid in June 1999. The Pensioners and Beneficiaries have no right, vested or otherwise, to a lump-sum payment in the future. The Trustees shall in their sole discretion determine whether to provide said lump-sum payment at any time in the future.

Pensioners and Beneficiaries who are receiving pensions as of May 31, 1999 shall have their monthly benefits increased 3% effective June 1, 1999.

Pensioners and Beneficiaries who are receiving pensions as of May 31, 2000 shall have their monthly benefits increased 5% effective June 1, 2000.

Any Pensioner or Beneficiary who is retired and receiving monthly payments on May 31, 2001, shall receive an additional one-time payment equal to the May 2001 benefit which will be paid in June 2001. The Pensioners and Beneficiaries have no right, vested or otherwise, to a lump-sum payment in the future. The Trustees shall, in their sole discretion, determine whether to provide another lump sum payment at any time in the future.

Pensioners and Beneficiaries on the rolls as of May 31, 2002 shall have their monthly benefits increased 3% effective with the benefits paid for the month of June 2002.

**TABLE 1****Plumbers and Steamfitters Local No. 166 Pension Plan Annuity Factors for Converting Pension Payments Prior to Suspension of Benefits**

Years	Months											
	0	1	2	3	4	5	6	7	8	9	10	11
55	159.33	159.10	158.88	158.65	158.42	158.19	157.97	157.74	157.51	157.28	157.06	156.83
56	156.60	156.37	156.14	155.91	155.68	155.45	155.22	154.99	154.76	154.53	154.30	154.07
57	153.84	153.61	153.38	153.15	152.92	152.69	152.46	152.23	152.00	151.77	151.54	151.31
58	151.08	150.85	150.62	150.39	150.16	149.93	149.70	149.46	149.23	149.00	148.77	148.54
59	148.31	148.08	147.85	147.62	147.39	147.16	146.93	146.70	146.47	146.24	146.01	145.78
60	145.55	145.32	145.09	144.86	144.63	144.40	144.17	143.94	143.71	143.48	143.25	143.02
61	142.79	142.56	142.34	142.11	141.88	141.65	141.43	141.20	140.97	140.74	140.52	140.29
62	140.06	139.83	139.61	139.38	139.15	138.92	138.70	138.47	138.24	138.01	137.79	137.56
63	137.33	137.11	136.89	136.66	136.44	136.22	136.00	135.77	135.55	135.33	135.11	134.88
64	134.66	134.44	134.22	134.00	133.78	133.56	133.34	133.12	132.90	132.68	132.46	132.24
65	132.02	131.80	131.59	131.37	131.15	130.94	130.72	130.50	130.29	130.07	129.85	129.64
66	129.42	129.21	129.00	128.79	128.57	128.36	128.15	127.94	127.73	127.52	127.30	127.09
67	126.88	126.67	126.47	126.26	126.06	125.85	125.65	125.44	125.23	125.03	124.82	124.62
68	124.41	124.21	124.01	123.81	123.61	123.41	123.21	123.01	122.81	122.61	122.41	122.21
69	122.01	121.82	121.62	121.43	121.23	121.04	120.84	120.65	120.45	120.26	120.06	119.87
70	119.67											

Normal Form: 10-Year Certain and Life.

**TABLE 2****Plumbers and Steamfitters Local No. 166 Pension Plan Early Retirement Reduction Factors Age at Commencement of Benefits**

Years	Months											
	0	1	2	3	4	5	6	7	8	9	10	11
55	0.8600	0.8617	0.8633	0.8650	0.8667	0.8683	0.8700	0.8717	0.8733	0.8750	0.8767	0.8783
56	0.8800	0.8817	0.8833	0.8850	0.8867	0.8883	0.8900	0.8917	0.8933	0.8950	0.8967	0.8983
57	0.9000	0.9017	0.9033	0.9050	0.9067	0.9083	0.9100	0.9117	0.9133	0.9150	0.9167	0.9183
58	0.9200	0.9217	0.9233	0.9250	0.9267	0.9283	0.9300	0.9317	0.9333	0.9350	0.9367	0.9383
59	0.9400	0.9417	0.9433	0.9450	0.9467	0.9483	0.9500	0.9517	0.9533	0.9550	0.9567	0.9583
60	0.9600	0.9617	0.9633	0.9650	0.9667	0.9683	0.9700	0.9717	0.9733	0.9750	0.9767	0.9783
61	0.9800	0.9817	0.9833	0.9850	0.9867	0.9883	0.9900	0.9917	0.9933	0.9950	0.9967	0.9983
62	1.0000											

Effective for Early Retirement Pensions commencing on or after June 1, 1997 pursuant to Section 4.5(c), Deferred Pensions commencing on or after November 1, 2009 pursuant to Section 5.4(c)(i), and Disability Pensions commencing on or after November 1, 2009 pursuant to Section 5.5(b).

**TABLE 3****Plumbers And Steamfitters Local No. 166 Pension Plan Deferred Pension Reduction Factor Age at Commencement of Benefits**

Years	Completed Months											
	0	1	2	3	4	5	6	7	8	9	10	11
55	0.51053	0.51426	0.51804	0.52188	0.52578	0.52974	0.53375	0.53783	0.54197	0.54617	0.55044	0.55478
56	0.55918	0.56333	0.56754	0.57181	0.57615	0.58055	0.58502	0.58957	0.59418	0.59886	0.60362	0.60846
57	0.61337	0.618	0.62269	0.62746	0.6323	0.63721	0.6422	0.64727	0.65243	0.65766	0.66298	0.66838
58	0.67388	0.67905	0.6843	0.68963	0.69504	0.70054	0.70613	0.71181	0.71758	0.72344	0.7294	0.73546
59	0.74162	0.74741	0.7533	0.75928	0.76535	0.77152	0.77779	0.78417	0.79064	0.79723	0.80393	0.81074
60	0.81767	0.82418	0.8308	0.83752	0.84435	0.85129	0.85835	0.86553	0.87283	0.88025	0.8878	0.89548
61	0.9033	0.91064	0.91809	0.92568	0.93338	0.94122	0.94919	0.9573	0.96554	0.97393	0.98247	0.99116
62	1											

Effective for Deferred Pensions commencing on or after November 1, 2009 pursuant to Section 5.4(c)(ii).