

**PLUMBERS LOCAL 98  
DEFINED BENEFIT PENSION PLAN**

**Effective August 5, 2019**

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## PREAMBLE

**WHEREAS**, the Union and the Association established the Plumbers Local 98 Defined Benefit Fund by entering into an Agreement and Declaration of Trust dated January 1, 1993 (“Trust”);

**WHEREAS**, under the terms of the Trust, the Trustees have the authority to adopt and amend a plan to administer the benefits of the Fund; and

**WHEREAS**, the Trustees desire to amend and restate such plan;

**NOW THEREFORE**, the Trustees amend, restate, and continue the plan for the Plumbers Local 98 Defined Benefit Fund as follows:

### **ARTICLE 1 - DEFINITIONS**

**Accrued Benefit** means the Legacy Benefit plus the Cash Balance Benefit.

**Actuarial Equivalent** means a benefit of equal value to the benefit for which it is substituted. The value of both benefits shall be determined by the application of the appropriate factor for the benefit being calculated as set forth in Appendix A to this Plan.

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

**Break in Continuous Service** means the interruption of credited service which occurs with respect to any Participant who, after December 31, 1992, fails to earn at least 1/4 year of Credited Service during two consecutive calendar years. The Break in Continuous Service shall be deemed to have occurred on December 31 immediately preceding January 1 of the first of the two consecutive calendar years during which the Employee fails to be credited with at least 1/4 year of Credited Service. A Break in Service Year means any calendar year in which an Employee fails to earn at least 375 Hours of Service. No Break in Continuous Service will be deemed to occur because a Participant has not earned the requisite hours needed to prevent a Break in Continuous Service during the period of time he/she is receiving a disability benefit pursuant to §4.3.

**Cash Balance Benefits** mean benefits accrued on or after August 5, 2019, as set forth in Articles 6 and 7.

**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.

**Covered Employment** means employment with an Employer, for which the Employer has agreed to a written Collective Bargaining Agreement with the Union, or other written agreement, to contribute to the Pension Fund.

**Employee** means any person:

- (a) actively employed by an Employer who is obligated to make Contributions to the Fund on his/her behalf on or after January 1, 1993;
- (b) employed by the Union for whom Contributions are made to the Fund;
- (c) employed by the Metropolitan Detroit Plumbing Industry Training Trust Fund for whom Contributions are made to the Fund; or
- (d) a self-employed worker who is party to a written agreement with the Union requiring Contributions to the Fund, but only to the extent permitted by law.

This definition includes any individual who once qualified as an Employee according to the immediately preceding sentence, and who later became employed by an Employer connected with the plumbing and pipefitting industry in the Detroit Area in a different capacity, but who, while employed in such different capacity, can satisfy the Trustees that he is still regarded as an Employee by both himself and his Employer.

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

**Employer or Contributing Employer** means:

- (a) any association, member of the Association, individual, partnership, private corporation, municipal or governmental corporation, board of education, or university or college governing board which employs workers coming under the jurisdiction of the Union and which has a written agreement with the Union requiring periodic payments to the Plan for the purpose of providing pension and retirement benefits for such workers, or
- (b) the Union or an affiliate of the Union, or
- (c) any other employer who is obliged by a Collective Bargaining Agreement, or other written agreement satisfying the requirements of the National Labor Relations Act and acceptable to the Trustees, to make Contributions to the Fund; or
- (d) the Metropolitan Detroit Plumbing Industry Training Trust Fund.

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

**Employer Contributions or Contributions** means the payments made by an Employer to the Fund on behalf of an Employee or Employees.

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

**Former (or Inactive) Participant** means an individual entitled to receive a deferred vested pension benefits.

**Fund Office** is Benesys, Inc., 700 Tower Drive, Suite 300, Troy, Michigan 48098, telephone number (248) 813-9800 or (866) 646-8919.

**Hour of Service** means each hour for which an Employee is paid, or entitled to payment, by an Employer, for the performance or non-performance of service as well as for each hour for which back pay, irrespective of mitigation of damages, is awarded or is agreed to by an Employer. Such hours shall be credited to the computation period in which the services were performed or to which the award or agreement pertains in accordance with D.O.L. regulation 2530.200b-2.

If contributions received by the Fund via reciprocity agreements or collective bargaining agreements to which the Association is not a party are paid at a lower rate than the rate established by the current collective bargaining agreement between the Associations and Union ("the Local 98 DB rate"), then the Employee on whose behalf such contributions are made will be credited a full Hour of Service for purposes of eligibility and vesting, but for purposes of benefit accrual, i.e. amount of benefit, the Hour of Service will be pro-rated. For example, if the Local 98 DB rate is \$3.00 per hour and the reciprocated rate is \$1.50 per hour, an Employee will be credited a full Hour of Service for purposes of eligibility and vesting, and ½ hour of service for purposes of benefit accrual. (If the reciprocated rate is higher than the 98 DB rate, the Employee shall be credited one Hour of Service for all purposes, and the amount by which the reciprocated rate exceeds the 98 DB rate shall be credited to an Employee's account in the 98 Defined Contribution Fund.)

**Legacy Benefits** mean benefits accrued before August 5, 2019, as set forth in Articles 4 and 5.

**Normal Retirement Age** means age 65.

**Participant** means any Employee who satisfies the conditions to become a Participant in accordance with Section 3.1 of this Plan and is not a Former Participant.

**Pensioner** means any person to whom the Fund is paying a Normal Pension Benefit, an Early Pension Benefit, a Disability Pension Benefit, a Deferred Vested Pension Benefit, a Surviving Spouse Pension Benefit, or a Dependent Child's Benefit.

**Permanent and Total Disability** for purposes of a Disability Pension Benefit under Plan §4.3 commencing prior to May 1, 2010, means a physical or mental condition of a Participant, which totally and for a period of one year or longer beyond the date of his application for a permanent and total disability pension benefit, in the opinion of a physician satisfactory to the Trustees, will prevent such Participant from engaging in any regular occupation or employment or

remuneration or profit as a plumber provided, however, that no Participant shall be deemed to be totally and permanently disabled for the purpose of the Plan if his incapacity consists of chronic alcoholism or results from substance abuse or if such incapacity was contracted, suffered or incurred while he was engaged in a felonious enterprise involving moral turpitude or resulted therefrom, or resulted from an intentionally self-inflicted injury, or from service in the Armed Forces of any country. This definition is not applicable to a Disability Pension Benefit under Plan §4.3 commencing on or after May 1, 2010.

**Permanently and Totally Disabled** for purposes of a Disability Pension Benefit under Plan §4.3 commencing on or after May 1, 2010 and prior to May 31, 2015, means that the Participant has been awarded Social Security disability benefits under the Federal Social Security Act, provided such award has an effective date within 12 months of the last date the Participant performed an Hour of Service for which Contributions were required to be made to the Fund on his/her behalf. Such Participant shall continue to be Permanently and Totally Disabled only for the duration of such award.

**Permanently and Totally Disabled** for purposes of a Disability Pension Benefit under Plan §4.3 commencing on or after June 1, 2015, means either:

- (1) that the Participant has been awarded Social Security disability benefits under the Federal Social Security Act, provided such award has an effective date within 12 months of the last date the Participant performed an Hour of Service for which Contributions were required to be made to the Fund on his/her behalf; or
- (2) that the Participant:
  - (a) has been awarded Social Security disability benefits under the Federal Social Security Act, provided such award has an effective date within 24 months of the last date the Participant performed an Hour of Service for which Contributions were required to be made to the Fund on his/her behalf, and
  - (b) that Social Security Administration has issued an opinion which, as interpreted in the sole discretion of the Trustees, holds that the Participant was disabled from engaging in any regular occupation or employment or remuneration or profit as a plumber as of a date that is within 12 months of the last date the Participant performed an Hour of Service for which Contributions were required to be made to the Fund.

**Plan or Pension Plan** means this document, the Plumbers Local No. 98 Defined Benefit Pension Plan (98 DBPP).

**Plan Year** means the calendar year.

**P&PPF** means Plumbers Local No. 98 and Pipefitters Local No. 636 Pension Fund and Plumbers Local 98 and Pipefitters Local No. 636 Pension Plan.

**50% Joint and Survivor Pension for Legacy Benefits** means an annuity payable to the Pensioner during his lifetime with 50% of such annuity continued to the Surviving Spouse, if living, for the duration of the Spouse's lifetime after the death of the Pensioner, which annuity is the Actuarial Equivalent of the Pensioner's benefit payable in the form of a single life annuity determined pursuant to the factors set forth in Appendix A.

**50% Preretirement Survivor Annuity for Legacy Benefits** means a survivor annuity for the life of the Surviving Spouse of the Participant equal to the amount which would have been payable under the 50% Joint and Survivor Pension if (i) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate 50% Joint and Survivor Pension on the day before the participant's date of death, or (ii) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had separated from service on the date of death, survived to the earliest retirement age, retired with an immediate 50% Joint and Survivor Pension at the earliest retirement age, and died on the day after the day on which such participant would have attained the earliest retirement age.

**Retire** means a Participant's complete cessation of (i) work previously performed for an Employer or (ii) any work in the same craft or industry within the jurisdiction of the Union. Notwithstanding, a Participant age 65 or above no longer working with the tools of the trade who is the owner of an employer who has a collective bargaining agreement with the Union requiring contributions to the Fund will be deemed Retired.

**Surviving Spouse** means the person married to the Participant throughout the 1-year period ending on the earlier of the Participant's annuity starting date or the date of the participant's death (and, therefore, in all instances this person must be married to the Participant as of the Participant's annuity starting date). For purposes of the definition, if a Participant marries within 1 year before the annuity starting date, and the Participant and the Participant's spouse in such marriage have been married for at least a 1-year period ending on or before the date of the Participant's death, such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant's annuity starting date. Notwithstanding the foregoing, if a Pensioner divorces after the annuity starting date (as defined in the Internal Revenue Code), in the absence of a qualified domestic relations order providing otherwise, the Surviving Spouse shall be the individual to whom he/she was married on the annuity starting date. Further, "Spouse" or "Surviving Spouse" as used in this Plan means the Pensioner's or Participant's legal spouse who has met all requirements of a valid marriage contract in the state of marriage of such parties.

**Trust Agreement** means the Agreement and Declaration of Trust of Plumbers Local No. 98 Defined Benefit Pension Fund, effective January 1, 1993, as amended from time to time.

**Trust Fund, Trust, Fund, or Pension Fund** means the Plumbers Local No. 98 Defined Benefit Pension Fund.

**Trustees** mean the Employer Trustees and the Union Trustees, and Alternate Employer Trustees and Alternate Union Trustees, collectively, as appointed pursuant to the Trust Agreement, and as constituted from time to time, in accordance with the provisions of the Trust Agreement. Trustee means any one of the Trustees.

**Union** means Plumbers Local No. 98 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO.

**ARTICLE 2 - CREDITED AND VESTING SERVICE**

**2.1 Credited Service**

The Credited Service of an Employee is the time, computed in accordance with this Article, for which the Employee is given credit as having been employed for the purpose of computing his Legacy benefits under this Plan. For the purpose of computing years of Credited Service under this Plan, quarter years, where applicable, shall be added to make full years, and benefits and Credited Service shall be computed for a quarter year's, a half year's and three quarter year's service, as well as for a full year's service. Effective January 1, 1999, for the purpose of computing years of Credited Service under this Plan, partial years, where applicable, shall be added to make full years, and benefits and Credited Service shall be computed for a partial year as set forth in paragraph (c) below.

(a) Credited Service prior to January 1, 1993

Every participant of the Plan shall be credited with the credited and vesting service the participant acquired under P&PPF so that, commencing January 1, 1993, the credited and vesting service of every participant will be comprised of the participant's credited and vesting service under P&PPF plus all credited and vesting service acquired under the 98 DBPP.

(b) For the Period between January 1, 1993 and December 31, 1998

An Employee who earns 1500 or more Hours of Service in a calendar year shall be credited with a year of Credited Service. An Employee who earns less than 1500 Hours of Service in a calendar year shall be credited with Credited Service in accordance with the following schedule:

<u>Hours of Service</u>	<u>Fractional years of Credited Service</u>
Less than 375	0
375 but less than 750	1/4
750 but less than 1040	1/2
1040 but less than 1500	3/4
1500 or more	1

- (c) For the Period Commencing January 1, 1999

An Employee who earns 1500 or more Hours of Service in a calendar year shall be credited with a year of Credited Service.

An Employee who earns less than 1500 Hours of Service in a calendar year shall be credited with Credited Service in accordance with the following formula:

<u>Hours of Service</u>	<u>Fractional years of Credited Service</u>
Less than 375	0
375	.25

For all Hours of Service in excess of 375 in any one year, the hours shall be multiplied by .000667 to determine the fractional portion of the Year with which the employee shall be credited, except that any employee who earns between 1040 and 1125 hours shall be credited with .75 percent of one year of Credited Service. However, effective March 1, 2000, employees who earn between 1040 and 1125 hours shall be credited with a Fractional Year of Credited Service by multiplying the Hours of Service by .000667.

Examples: 800 hours x .000667 = .53 percent of one year of Credited Service

450 hours x .000667 = .30 percent of one year of Credited Service

**For Plan Year 2019 only:** Notwithstanding the foregoing, if a Participant has less than 1,500 Hours of Service as of August 5, 2019, he/she shall receive a fractional Year of Credited Service based on all Hours of Service for the 2019 Plan Year, calculated by multiplying Hours of Service from January 1 to August 4, 2019, by .000667.

- (d) No more than one year of Credited Service shall be recorded for any Employee in any single calendar year.
- (e) Each Employee who has accumulated Credited Service under this Plan and who thereafter becomes a member of the armed forces of the United States of America shall be entitled to accumulate one year of Credited Service for each year served in said armed forces up to a maximum of 5 years provided in accordance with the terms of Section 2.3 of this Plan.
- (f) For the purpose of eligibility for Vesting Service only, any Participant who applies for a pension under this Plan shall receive Vesting Service Credit for any Credited Service received under Plumbers Local No. 98 Defined Benefit Pension Fund.

- (g) For plan years 1/1/93-12/31/16, hours of work included 40 hours for each week for which the Employee was paid a supplemental unemployment benefit by Plumbers Local 98 Supplemental Unemployment Benefit Fund.

**2.2. Vesting Service**

The Vesting Service of an Employee is the time, computed in accordance with this Section 2.2, for which the Employee is given credit for the purpose of determining his eligibility for a Deferred Vested Pension Benefit.

An Employee's Vesting Service shall be hours of service after January 1, 1993, determined according to the following schedule, based on the number of Hours of Service credited to him during each calendar year:

<u>Number of Hours of Service During Calendar Year</u>		<u>Fractional Years of Vesting Service</u>
Less than	375	None
375 but less than	750	1/4
750 but less than	1000	1/2
	1000 or more	1

Vesting Service shall also include the amount of Vesting Service granted under P&PPF.

Hours of work for vesting purposes only shall also include 40 hours for each week for which the Employee was paid a supplemental unemployment benefit by Plumbers' Local No. 98 Supplemental Unemployment Benefit Fund.

After an Employee has acquired one or more Years of Credited Service, he shall receive Vesting Service for each year or part year of Service, in accordance with the schedule above, for bargaining unit work performed for an employer which is party to a Collective Bargaining Agreement with Plumbers Local No. 98, even though the employer was not obligated by the Collective Bargaining Agreement to make contributions on the Employee to the Plumbers Local No. 98 Defined Benefit Pension Plan or its predecessor, Plumbers Local No. 98 and Pipefitters Local No. 636 Pension Fund. This provision shall apply to Hours of Service performed while the Employee was a participant of Plumbers Local No. 98 and Pipefitters Local No. 636 Pension Fund.

For Participants who do not work an Hour of Service on or after August 5, 2019, a Participant is fully vested upon attaining five years of Vesting Service. For Participants who work an Hour of Service on or after August 5, 2019, a Participant is fully vested upon attaining three years of Vesting Service. Notwithstanding:

- Prior to January 1, 1998, a Participant had to have 10 years of Vesting Service to be fully vested. See §§2.3 and 4.6, below.
- As to service prior to July 1, 1956, the Plan provides that if you were credited with at least 375 hours of Employer contributions in any one of five consecutive calendar years between January 1, 1957 and January 1, 1972, you are not entitled to any Vested/Credited Service for the period prior to July 1, 1956.

### 2.3 Break in Continuous Service

Commencing January 1, 1993, an Employee who incurs a Break in Continuous Service before he has met the requirements for pension benefits or for a deferred vested pension benefit as provided in Section 4.6 shall forfeit his Vesting Service and Credited Service. If a former Employee, who has incurred such a Break in Continuous Service, returns to work as an Employee, as defined in the Pension Plan, and earns at least 375 Hours of Service in a calendar year, his prior Vesting Service and Credited Service will be restored only if the number of his consecutive Break in Service Years since his date of Break in Continuous Service is less than the greater of 5 years or the aggregate number of years of pre-break Vesting Service.

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

Effective January 1, 2007, the beneficiary of a Participant on a leave of absence to perform military service with reemployment rights under Section 414(u) of the Internal Revenue Code shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Participant died as an Active Participant in accordance with Section 401(a)(37) of the Internal Revenue Code.

Notwithstanding any term of this Plan to the contrary, up to 375 hours of work credited to an Employee under Section 2.2 for vesting purposes due to weeks the Employee was paid a supplemental unemployment benefit by the Plumbers' Local No. 98 Supplemental Unemployment Benefit Fund will count towards the 375 Hours of Service necessary to avoid a Break in Service Year.

**Maternity/Paternity Leave.** Notwithstanding the foregoing, in the case of an Employee who is credited with an Hour of Service after January 1, 1993, and who is absent from

work (a) by reason of the pregnancy of the Employee, (b) by reason of the birth of a child of the Employee, (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee, or (d) for the purpose of caring for such child for a period beginning immediately following such birth or placement, such Employee shall not be deemed to have had a Break in Service Year for eligibility and vesting purposes. The Employee is treated as having completed the number of Hours of Service which normally would have been credited to the Employee if such absence had not occurred, or, in any case in which such Hours of Service cannot be determined, 8 Hours of Service per day of such absence shall be credited to the Employee. For purposes of this paragraph, a maximum of 375 Hours of Service shall be credited to the Employee only in a year in which such absences begins if crediting of such Hours of Service is necessary in order to prevent a Break in Service for that year. If such credit is not necessary for the year in which such absence begins, such Hours of Service shall be credited in the immediately following year.

**Military Leave.** An Employee's failure to earn sufficient Hours of Service in a Plan Year due to service in the Uniformed Services of the United States, shall not constitute a Break in Service and such military service shall be considered as service for purposes of Years of Service under the Plan, provided that the Employee complies with all of the requirements of Federal law in effect on the date of his separation from such service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided only in accordance with Section 414(u) of the Internal Revenue Code.

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

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

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

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

**Allocation of Liability:** Liability associated with the crediting of military service shall be added to all other Plan liabilities for a particular Plan year and funded in the same manner as any other Plan liability.

Service and Discharge: Credit will be given under this section only if service is for no more than 5 years, unless extended at the government's request, and the Participant is discharged under honorable conditions.

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

Effective January 1, 2007, the beneficiary of a Participant on a leave of absence to perform military service with reemployment rights under Section 414(u) of the Internal Revenue Code shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Participant died as an Active Participant in accordance with Section 401(a)(37) of the Internal Revenue Code.

#### **2.4 Non-Covered Employment**

Non-Covered Employment shall be employment with an Employer which does not come within the work jurisdiction of the Union. If an Employee who was employed in Non-Covered Employment becomes a Participant of the Plan while working for the same Employer, he shall be given Vesting Service for his continuous employment with that Employer immediately prior to the date his work comes within the work jurisdiction of the Union, but in no event for any such employment prior to the date the Employer becomes a party to a collective bargaining agreement with the Union. The Vesting Service thus granted retroactively shall be based on the number of hours worked by the Employee in each Plan Year and shall be used only for determining eligibility for benefits and vesting and shall not be used for purposes of benefit accrual.

A Participant who becomes employed in a Non-Covered Employment for the same Employer for whom he was working within the work jurisdiction of the Union, shall continue to accrue Vesting Service for such continuous Non-Covered Employment based on the number of hours worked by the Employee in each Plan Year, but such years shall be used only for determining eligibility for benefits and vesting and shall not be used for purposes of benefit accrual.

Notwithstanding:

- a. in the event a Participant leaves Covered Employment to become employed in Non-Covered Employment for a different Employer ("Noncontiguous Non-Covered

Employment”) and remains in the continuous employ of such Employer until he becomes employed by the Metropolitan Detroit Plumbing Industry Training Trust Fund, such Participant shall be given credit for such years of Noncontiguous Non-Covered Employment for vesting and eligibility purposes only; or

- b. in the event a Participant leaves Covered Employment to become employed by the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (UA) or Association, such Participant shall be given credit for his/her years of employment with the UA or Association for vesting and eligibility purposes only.

### **ARTICLE 3 – PARTICIPATION**

#### **3.1 Participation Requirements**

An Employee shall become a Participant of the Plan on the first day of the month following the completion of 375 Hours of Service within a Plan Year, but all Employees who were Participants of P&PPF on December 31, 1992, shall automatically be Participants of Plumbers Local 98 Defined Benefit Pension Plan.

#### **3.2 Termination of Participant**

An Employee shall cease to be a Participant of the Plan when he suffers a Break in Continuous Service. An Employee whose participation has terminated in accordance with this Section 3.2 shall again become a Participant when he satisfies the requirements of Section 3.1. Such participation shall be retroactive to the date of rehire.

### **ARTICLE 4 - ELIGIBILITY FOR LEGACY BENEFITS**

No Legacy Benefits shall be paid to any Participant or Beneficiary who does not meet the requirements of this Article. This Article applies exclusively to benefits accrued prior to August 5, 2019, i.e. Legacy Benefits.

#### **4.1 Normal Pension Benefit**

A Participant who is credited on the records of the Plan with 5 or more years of Credited Service (three or more years of Vesting Service for Participants who have an Hour of Service on or after August 5, 2019) and who has Retired (as defined in Article 1) on or after he attains the age of 65, shall be eligible to receive a normal pension benefit. The Normal Pension Benefit shall be in the form of a single life annuity for single Participants and a 50% Joint and Survivor Pension for married Participants.

A Participant’s right to his normal pension benefit shall be nonforfeitable upon the earlier of:

- (a) the attainment of age 65 and the completion of 5 years of Credited Service (three years of Vesting Service for Participants who have an Hour of Service on or after August 5, 2019), or
- (b) the attainment of age 65 and the fifth anniversary of the year in which he first earned Credited Service under the Plan.

#### **4.2 Early Pension Benefit**

An early pension benefit is available for a Participant who has not incurred a Break in Continuous Service, has Retired, and either:

- (a) has 5 or more years of Credited Service and is at least 60 years of age; or
- (b) has 10 or more years of Credited Service and is at least 58 years of age.

Notwithstanding the above, for Plan Years on or after 2019, Years of Vesting Service shall be used in lieu of Credited Service.

#### **4.3 Disability Pension Benefit**

- (a) A Participant who is credited on the records of the Plan with 10 or more years of Credited Service and who has Retired because he has become Permanently and Totally Disabled, shall be eligible to receive a disability pension benefit.
- (b) In an appropriate case, by special action of the Trustees taking into account all relevant facts, the Trustees may grant a temporary disability pension to a Participant who is Permanently and Totally Disabled, has Retired, and has been credited with 5 or more years of Credited Service but less than 10.

Notwithstanding the above, no Participant shall be eligible to receive a disability pension benefit under the Plan for the period during which he is maintained in a government-supported institution because of such disabling condition, at no charge to him, to his estate or to his relatives, but, under these circumstances, the Trustees may pay the disability pension benefit to the disabled Participant's wife or dependent child or children under the age of 19.

Notwithstanding the above, for Plan Years on or after 2019, Years of Vesting Service shall be used in lieu of Credited Service (i.e, prior to 2018 for a year to count toward the 5 or 10 years it must be a Year of Credited Service, and after 2019 it must be a Year of Vesting Service).

#### **4.4 Surviving Spouse's Pension Benefit**

The Surviving Spouse of:

- (a) a Pensioner, or
  - (b) a Participant who has 5 or more years of Vesting Service (three or more years of Vesting Service for Participants who have an Hour of Service on or after August 5, 2019), or who has satisfied the requirements for a normal pension benefit, at the time of his death, or
  - (c) a Former Participant entitled to receive a Deferred Vested Pension Benefit,
- shall be eligible for a Surviving Spouse's pension.

#### **4.5 Dependent Children's Benefit**

Upon the death of:

- (a) a Pensioner who had been awarded a normal, early or disability pension benefit,
- (b) a Participant who, at the time of his death has 5 or more years of Credited Service (three or more years of Vesting Service for Participants who have an Hour of Service on or after August 5, 2019), or
- (c) a Former Participant entitled to receive a Deferred Vested Pension Benefit,

who is survived by a dependent child or children younger than 19 years of age, the child or children shall be awarded a monthly dependent children's benefit.

#### **4.6 Deferred Vested Pension Benefit**

A Participant who, at the time he incurs a Break in Continuous Service, has at least 5 years of Vesting Service (three or more years of Vesting Service for Participants who have an Hour of Service on or after August 5, 2019) shall be eligible to receive a Deferred Vested Pension Benefit.

Beginning January 1, 1998, the period for full vesting was reduced from 10 years to 5. Thus, notwithstanding the foregoing paragraph, if a Participant had less than 10 years of Vested Service before January 1, 1998, and incurred a Break in Continuous Service, his entire Vested/Credited Service was forfeited, and he is not entitled to a Deferred Vested Pension Benefit, unless his prior Vesting Service and Credited Service are restored per §2.3.

#### **4.7 Failure to Meet Eligibility Requirements**

No benefits shall be paid to any Participant or Beneficiary who does not meet the requirements of this Article 4.

## ARTICLE 5 - AMOUNT OF LEGACY BENEFITS

This Article applies exclusively to benefits accrued prior to August 5, 2019, i.e. Legacy Benefits.

### 5.1 Normal Pension Benefit

The benefit rate for each year of Credited Service is as follows:

<u>DATE OF PAYMENT</u>	<u>BENEFIT RATE IN DOLLARS FOR EACH YEAR OF CREDITED SERVICE EARNED</u>
Before 08/01/59	1.40 to 2.50*
08/01/59 to 04/01/62	2.90*
05/01/62 to 02/01/64	3.00
03/01/64 to 03/01/65	3.30
04/01/65 to 09/01/66	4.50
10/01/66 to 08/01/68	6.00
09/01/68 to 12/01/69	10.00
01/01/70 to 06/01/73	12.00
07/01/73 to 11/01/74	14.00
12/01/74 to 06/01/78	16.00
07/01/78 to 12/01/84	17.00
01/01/85 to 12/31/86	51.00
01/01/87 to 12/31/97	70.00
01/01/98 to 12/31/98	90.00
01/01/99 to 12/31/99	100.00
01/01/00-12/31/00	120.00
01/01/01 to 06/28/09	150.00
06/29/09 to 12/31/09	20 multiplied by (total Credited Service for 2009 minus Credited Service from 1/1/09 thru 6/28/09). Accrual for 2009 in total cannot exceed 150.00.
01/01/10- 5/31/10	100.00
6/1/10 – 8/4/19	100.00**

\*Maximum of 30 years of Credited Service for these periods combined

\*\* The benefit rate for Credited Service earned after June 1, 2010, shall be reduced to the extent that the contribution rate upon which such Credited Service is based is less than journeyman contribution rate under the collective bargaining agreement between the Union and Association in effect December 31<sup>st</sup> of each Plan Year. Thus, the benefit rate for such Credited Service shall be the current benefit rate multiplied by a fraction where the numerator is the contribution rate upon which such Credited Service is based and the denominator is the journeyman rate under the collective bargaining agreement between the Union and Association using the rates in effect as of December 31<sup>st</sup> of the Plan Year in which the Credited Service was earned.

In addition to the above, the following benefit increases are applicable to any Participant who was an Active Participant of the Plan or a Pensioner in pay status on the effective date of each increase:

- Effective January 1, 1992: The benefit level increased by \$3.00 for each year of Credited Service earned between January 1, 1956, and December 31, 1966.
- Effective January 1, 1997: The benefit level increased by \$3.00 for each year of Credited Service earned between January 1, 1967, and December 31, 1984.
- Effective January 1, 1999: The benefit level increased by \$5.00 for each year of Credited Service earned between January 1, 1956, and December 31, 1984.
- Effective January 1, 2001: The benefit level increased by \$4.00 for each year of Credited Service earned between January 1, 1956, and December 31, 1984 (without reduction for Pensioners who would have had such an increase actuarially reduced at the time of retirement).

The benefit rate for every Plan Year after 1993 shall be the benefit rate paid in the prior Plan Year, provided that the prior Plan Year rate can be sustained based on the total employer contributions received by the 98 DBPP in the prior Plan Year, as if all such employer contributions were dedicated to produce a benefit rate, as determined by the 98 DBPP's Fund Actuary. If the 98 DBPP's Fund Actuary determines that the benefit rate paid in the prior Plan year cannot be sustained by the contributions received in the prior Plan Year, then the Actuary shall determine what benefit rate the total employer contributions received in the prior Plan Year would produce, if the total employer contributions were dedicated. In the event that a Motion is made at a meeting of the Trustees to pay a benefit rate which is different from the benefit rate which the Actuary has determined pursuant to the immediately preceding sentence, which Motion results in a deadlock, the benefit rate to be paid shall be that rate which has been determined by the Actuary but not to exceed the benefit rate paid in the prior Plan Year.

## **5.2 Early Pension Benefit**

- (a) The monthly pension benefit of an eligible early retiree who has not incurred a Break in Continuous Service shall be the in the amount of his/her normal pension benefit, reduced 6% per year from age 65, except for the reductions as set forth below:
  - (1) For those with at least 20 Years of Credited Service, the reduction shall be 6% per year from age 61;
  - (2) For those with at least 25 Years of Credited Service, the reduction shall be 3% per year from age 61;
  - (3) For those with at least 30 Years of Credited Service, the reduction shall be 3% per year from age 60; and

- (4) For those with at least 35 Years of Credited Service, no reduction shall be taken.

Notwithstanding the above, for Plan Years on or after 2019, Years of Vesting Service shall be used in lieu of Credited Service in making the above calculations.

- (b) Notwithstanding the foregoing, the monthly pension benefit of an eligible early retiree who has not incurred a Break in Continuous Service and who as of May 1, 2010 was (i) fully vested under §2.2, and (ii) had Vesting Service under §2.2 as the result of bargaining unit work performed under a Collective Bargaining Agreement with the Union which did not require the employer to make contributions for such work to the Pension Fund or the P&PPF, shall be in the amount of his/her normal pension benefit, reduced 6% per year from age 65, except for the reductions as set forth below:

- (1) For those with at least 20 Years combined (i) Credited Service and (ii) Vesting Service for each year for which a year of Credited Service was not earned, the reduction shall be 6% per year from age 61;
- (2) For those with at least 25 Years combined (i) Credited Service and (ii) Vesting Service for each year for which a year of Credited Service was not earned, the reduction shall be 3% per year from age 61;
- (3) For those with at least 30 Years combined (i) Credited Service and (ii) Vesting Service for each year for which a year of Credited Service was not earned, the reduction shall be 3% per year from age 60; and
- (4) For those with at least 35 Years combined (i) Credited Service and (ii) Vesting Service for each year for which a year of Credited Service was not earned, no reduction shall be taken.

### **5.3 Disability Pension Benefit**

- (a) The monthly disability pension benefit of a Participant eligible for a disability pension benefit under 4.3(a) and who applies for a disability pension benefit shall be equal to his normal pension benefit determined in accordance with Section 5.1, subject to a full actuarial reduction from his/her earliest retirement age determined pursuant to the factors set forth in Appendix A.
- (b) The monthly disability pension benefit of a Participant eligible for a disability benefit under 4.3(b) shall be based on the amount resulting from the total Credited Service which such participant has at the time of his disability but shall be paid only for that period of time equal to the number of Credited Years which the participant has. The amount of the benefit shall be 50% percent of the amount of the benefit which would have been payable to the participant if the participant was of retirement age and was granted his normal pension benefit, subject to a full

actuarial reduction from his/her earliest retirement age determined pursuant to the factors set forth in Appendix A.

- (c) No Participant shall be eligible to receive a disability pension benefit while receiving a disability benefit from Plumbers Local No. 98 Insurance Fund.
- (d) Effective January 1, 1993, pursuant to MCL 418.354; MSA 17.237 §354(14) of the Michigan Workers' Compensation Act, payments made to disability pensioners under this Pension Plan shall not be coordinated with any workers' compensation payments paid or payable to the disability pensioner.
- (e) Upon attainment of earliest retirement age the Participant can elect to receive an early or normal retirement benefit, as applicable.

#### **5.4 Surviving Spouse's Pension Benefit**

##### **(a) Surviving Spouse of Pensioner**

The Surviving Spouse of a Pensioner shall receive a monthly pension benefit, until her death, in an amount equal to the 50%, 75% or 100% (with pop up) survivor portion of the Joint and Survivor Pension Benefit elected at the time of the Pensioner's retirement. If no election was made, the benefit is automatically payable in the form of a 50% Joint and Survivor Pension Benefit. All joint and survivor options shall be the actuarial equivalent of the single life annuity, determined pursuant to the factors in Appendix A.

Under the Joint and Survivor Pension Benefits, a Participant shall receive a reduced monthly benefit for his lifetime. Upon his death, his Surviving Spouse shall receive 50%, 75%, or 100% of the reduced monthly amount that the Participant was receiving upon his/her death. This amount shall remain payable until the death of the Surviving Spouse, even if she remarries.

For the 100% option with pop up only, if the Spouse predeceases the Participant, the Participant's monthly benefit shall automatically increase to the amount the Participant would have received had this Option not been elected.

A Disability Pensioner with a Spouse who is receiving a Disability Pension Benefit may elect to receive such pension benefit in the form of 50%, 75%, or 100% (with pop up) Joint and Survivor Option, determined pursuant to the factors set forth in Appendix A, upon attainment of earliest retirement age.

##### **(b) Surviving Spouse of an Employee**

The monthly Surviving Spouse pension benefit payable to an eligible Surviving Spouse of a vested Participant shall be the 50% Preretirement Survivor Annuity. This benefit shall be payable upon application but no sooner than the first of the

month following the month in which the Participant would have attained earliest retirement age.

The Surviving Spouse may elect to waive the foregoing and instead receive a monthly benefit payable the first of the month following the Participant's death equal to 50% of the Participant's accrued benefit. Such benefit shall be payable for 120 months. Such benefit payments will cease upon the death of the Surviving Spouse even if 120 payments have not been made.

Notwithstanding the above, the Surviving Spouse of a vested Participant who survived to his/her required beginning date but had not commenced benefits shall be entitled to a benefit as a Surviving Spouse of a Pensioner under 5.4(a).

**(c) Optional Benefit for Surviving Spouse of a Participant of the Plan -- Pre-Retirement 100% Pop-Up Option**

Effective September 1, 2019, any Participant who has a Spouse and who has attained age 50 and who has 5 or more years of Vesting Service may elect coverage under this paragraph (c) in lieu of the benefits automatically provided under paragraph (b).

A Former Participant may not elect coverage under this paragraph (c).

If a Participant has elected this Pre-Retirement 100% Pop-Up Option and dies, the Participant's Spouse will be entitled to a Pre-Retirement 100% Pop-Up Option. The amount which his Spouse is entitled to receive shall be determined as if the Participant had elected to retire on the first day of the calendar month immediately following the Participant's date of death and had elected to receive his Normal Retirement Benefit less the cost of this Pre-Retirement 100% Pop-Up Option. The Spouse's Benefit will commence on the first day of the calendar month immediately following the Participant's date of death.

The Trustees shall furnish each Participant with a written explanation of the terms and conditions of a Pre-Retirement 100% Pop-Up Option and the Participant's right to make and the effect of an election of this option (Election Notice). Such written explanation shall be provided to each Active Participant in the month in which he/she turns age 50 and any such election must be received by the Fund Office no later than the day before he/she turns age 51. The election of this optional benefit will become effective the first day of the month following receipt by the Trustees of a written election for such coverage or, if later, the first day of the month in which the Participant satisfies the above age and service conditions for eligibility. Notwithstanding:

- An Active Participant who is age 50 or older as of September 1, 2019, and who has not elected this benefit shall have a one-time opportunity to do so.

The Fund Office shall provide an Election Notice. An election must thereafter be received by the Fund Office by the later of 120 days after the date of the Election Notice or the day before the Participant turns age 51.

- If an Active Participant who was single at age 50 notifies the Fund Office of his/her marriage within 60 days of the date of marriage, he/she will be provided an Election Notice. An election must thereafter be received by the Fund Office by the later of 120 days after the date of the Election Notice or the day before the Participant turns age 51.
- If an Active Participant first becomes a Participant after age 50, he/she will be provided a Notice upon becoming a Participant. An election must thereafter be received by the Fund Office by the later of 120 days after the date of the Election Notice or the day before the Participant turns age 51.
- If an Active Participant was a Former Participant as of the date he/she turned age 50, he/she will be provided an Election Notice upon becoming an Active Participant. An election must thereafter be received by the Fund Office by the later of 120 days after the date of the Election Notice or the day before the Participant turns age 51.

If Participant who has elected coverage wishes to stop coverage he must do so by filing a written form with the Trustees. The coverage will cease the first day of the month following receipt of such form. However, in no event will coverage continue beyond the end of the month in which a Spouse dies.

The cost of this Pre-Retirement 100% Pop-Up Option will be paid for by the Participant through a reduction in the Participant's Normal Pension or Early Pension Benefit as described in Article 5. The amount of the reduction in such benefit shall equal one-twelfth (1/12) of 0.52% (.0052) for each month such coverage was in effect. However, if a Participant's Spouse dies before the Participant retires, the Participant will not be charged for this benefit.

## **5.5 Dependent Children's Benefit**

The monthly pension benefit payable to an eligible dependent child or children will be equal to either 50% of the pension benefit being paid to the Pensioner at the time of his death or 50% of the benefit to which the deceased Employee would have been entitled if he had been granted a normal pension benefit based on Credited Service to the date of his death. This benefit shall be paid for the support of such child or children to the mother, father, legal guardian or the person who is acting as a parent of such child or children or to the child (or children) himself, if the child is emancipated. The decision of the Trustees with respect to whom the monthly benefit is paid shall be completely within the discretion of the Trustees. The monthly benefit shall terminate when the youngest child of the deceased Employee or deceased Pensioner reaches the age of 19.

Notwithstanding the foregoing, the dependent children's benefit is not available if a Participant has elected the Pre-Retirement 100% Pop Up Option pursuant to §5.4(c) or

the 100% Survivor Option with Pop Up pursuant to §5.4(a), or the 75% Survivor Option pursuant to §5.4(a).

## **5.6 Deferred Vested Pension Benefit**

The monthly deferred vested pension benefit (the total accrued benefit based on all past and future service credit) of an eligible Former Participant shall be equal to the normal retirement benefit computed on the basis of his total Credited Service and the benefit rate in effect at the time of his Break in Continuous Service. The Employee may elect to commence benefit payments either:

- (a) as a normal pension benefit at age 65 in the full amount, or
- (b) as an early pension benefit at age 60 with 5 or more Years of Credited Service or at age 58 with 10 or more Years of Credited Service, with the amount reduced 6% per year from age 65.

If the Trustees increase the rate of pension benefit after the date on which an Employee incurs a Break in Continuous Service and before the Employee applies for a pension benefit, such increase in pension benefit shall not be granted to such Employee when such Employee applies for and is granted a pension. After an Employee has incurred a Break in Continuous Service and has applied for and has been granted a pension, he shall receive any increase in pension benefit rate put into effect by the Trustees, if such increase in pension benefit rate is made applicable to all Pensioners generally.

## **5.7 Maximum 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) If the benefit under the plan is payable in any form other than the form described in 5.7(a), the determinations as to whether the limitation described in 5.7(a) has been satisfied shall be made by adjusting such benefit so that it is equivalent to the benefit described in 5.7(a). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in section 417) not be taken into account. For purposes of adjusting any benefit under this paragraph, the reduction shall be made using an interest rate not be less than the greater of 5 percent or the Applicable Interest Rate as set forth in Appendix A and Applicable

Mortality Table as set forth in Appendix A. Notwithstanding, for any benefit under 5.7(b) subject to section 417(e)(3), the interest rate assumption shall not be less than the greatest of—

- (1) 5.5 percent,
  - (2) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3) were the interest rate assumption, or
  - (3) The Applicable Interest Rate as set forth in Appendix A.
- (c) If the benefit of a Participant begins prior to age 62, the \$160,000.00 limit set forth in Section 5.7(a) above shall be reduced so that this limit equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000 annual benefit beginning at age 62. The reduction shall be made using an interest rate not be less than the greater of 5 percent or the Applicable Interest Rate as set forth in Appendix A and Applicable Mortality Table as set forth in Appendix A.
- (d) If the benefit of a Participant begins after age 65, the \$160,000.00 limitation set forth in Section 5.7(a) shall be increased so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000 annual benefit beginning at age 65. The increase shall be made using an interest rate not be greater than the lesser of 5 percent the Applicable Interest Rate as set forth in Appendix A and Applicable Mortality Table as set forth in Appendix A.
- (e) For purposes of adjustments set forth in 5.7(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 5.7(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.
- (g) In the case of a Participant with less than 10 years of service, the limitation referred to in Section 5.7(a) shall be multiplied by a fraction, the numerator of which is the number of years of participation and the denominator of which is 10, but in no event reduce the limitation in Section 5.7(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 5.7(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 5.7(a) will be determined as of each annuity starting date (and shall satisfy the limitations of section 5.7(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) Notwithstanding anything contained in this Article to the contrary, the limitations, adjustments, and other requirements prescribed in this Article shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder, the terms of which are specifically incorporated herein by reference. Compensation, as used herein, shall have the same meaning defined in Section 415(c)(3) and 26 CFR 1.415-2(d)(1) of the regulations. The definition of compensation includes payments made by the later of 2 ½ months after severance from employment, if, absent a severance from employment, such payments would have been paid to the employee while the employee continued in employment with the employer, and are regular compensation for services during the employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation.
- (m) Notwithstanding anything contained in this Article to the contrary, the limitations, adjustments, and other requirements prescribed in this Article shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder, the terms of which are specifically incorporated herein by reference. Compensation, as used herein, shall have the same meaning defined in Section 415(c)(3) and 26 CFR 1.415-2(d)(1) of the regulations. The definition of compensation includes payments made by the later of 2 ½ months after severance from employment, if, absent a severance from employment, such payments would have been paid to the employee while the employee continued in employment

with the employer, and are regular compensation for services during the employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation. To further clarify, this Article 5.7 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).

## **ARTICLE 6 – ELIGIBILITY FOR CASH BALANCE BENEFITS**

No Cash Balance Benefits shall be paid to any Participant or Beneficiary who does not meet the requirements of this Article. This Article applies exclusively to benefits accrued on or after August 5, 2019, i.e. Cash Balance Benefits.

### **6.1 Normal Pension Benefit**

An Active Participant who is credited on the records of the Plan with three or more years of Vesting Service and whose Covered Employment terminates on or after he attains the age of 65, shall be eligible to receive a normal pension benefit as set forth in Section 7.1.

A Participant's right to his normal pension benefit shall be nonforfeitable upon the earlier of:

- (a) the attainment of age 65 and the completion of three years of Vesting Service, or
- (b) the attainment of age 65 and the third anniversary of the year in which he first earned Vesting Service under the Plan.

### **6.2 Early Pension Benefits**

An Active Participant who is credited on the records of the Plan with:

- (1) ten or more years of Vested Service and whose Covered Employment terminates after he attains the age of 58, or
- (2) five or more years of Vested Service and whose Covered Employment terminates after he attains the age of 60,

shall be eligible to receive an early pension benefit as set forth in §7.2.

### **6.3 Disability Benefit**

An Active Participant is entitled to a Disability Benefit under the same terms and conditions as set forth in Section 4.3, payable as set forth in Section 7.3, with the exception that ten or more years of Vesting Service or five or more years of Vesting

Service in sections 4.3(a) and 4.3(b), respectively, shall replace the eligibility requirement of years of Credited Service in these sections.

**6.4 Deferred Vested Pension Benefit**

An Inactive Participant who, at the time he incurs a Break in Continuous Service, has at least three years of Vesting Service shall be eligible to receive a Deferred Vested Pension Benefit, as set forth in Section 7.4.

**ARTICLE 7 – AMOUNT OF CASH BALANCE BENEFITS**

**7.1 Normal Retirement Benefit**

An individual account shall be established for each Participant who has an Hour of Service on or after August 5, 2019 (Individual Account). This shall be a notional account, for accounting purposes. Each Individual Account shall be credited with Principal Credits and Interest Credits, as set forth below.

**(a) Principal Credit**

For each Hour Worked on or after August 5, 2019, a Participant with an Individual Account will be credited with the Principal Credit, as set forth in the Collective Bargaining Agreement, to his or her Individual Account as of the first day of the second month following the month in which such hours were worked, as follows:

Number of Hours Worked in:	Multiplied by:	Will be credited to the Participant's Individual Account the first day of the following:
January	Principal Credit	March
February	Principal Credit	April
March	Principal Credit	May
April	Principal Credit	June
May	Principal Credit	July
June	Principal Credit	August
July	Principal Credit	September
August	Principal Credit	October
September	Principal Credit	November
October	Principal Credit	December
November	Principal Credit	January
December	Principal Credit	February

The amount of the Principal Credits shall adjust from time to time per the Collective Bargaining Agreement. The amount of the Principal Credits per hour in effect as of August 5, 2019, are as follows:

BTJ Journeyperson: \$5.30;  
 SRC Journeyperson: \$3.00, increasing \$0.30 per CBA year to \$4.50 as of 6/3/24;  
 Working Principal: \$5.30; and  
 Apprentice: \$1.00, increasing \$0.40 per CBA year to \$3.00 as of 6/3/24.

**(b) Interest Credits**

The sum of all Principal Credits in all Individual Accounts shall be separately invested by the Trustees. The actual return (loss or gain) on such investment, less investment expenses, shall be credited to a Participant's Individual Account. This is the "Interest Credit." The first of each month, the Interest Credit will be applied to the balance in an Individual's Account as follows:

Interest Credit (i.e. actual return less investment expenses) for:	Multiplied by the Individual Account Balance as of the first day of:	Will be credited to the Participant's Individual Account the first day of the following:
January	February	March
February	March	April
March	April	May
April	May	June
May	June	July
June	July	August
July	August	September
August	September	October
September	October	November
October	November	December
November	December	January
December	January	February

Investment expenses shall be calculated and provided to the Trustees by the Investment Consultant. Such expenses will include, but may not be limited to:

1. Investment management fees for both active and passive management;
2. Commingled Pooled Fund internal expenses; and
3. Custodial fees.

Interest credits will continue to be credited on a monthly basis to a Participant's Individual Account until the Participant, Surviving Spouse, or Beneficiary receives a full distribution of the Participant's Individual Account by way of payment of a lump sum benefit or the date of the first annuity payment, i.e. until the annuity starting date (as defined in the Internal Revenue Code).

Interest credits after Plan termination shall be as required under Treas. Reg. 1.411(b)(5)-1(e)(2) or as otherwise required by applicable law.

**(c) Accumulated Benefit as of Annuity Starting Date**

As of the Annuity Starting Date, the accumulated benefit in a Participant's Individual Account, upon which payment of his normal retirement benefit is based, will be the greater of (1) the sum of all Principal Credits as determined under Section 7.1(a), or (2) the value of the Participant's Individual Account as determined under Sections 7.1(a) and (b).

Where there is a subsequent Annuity Starting Date due to a return to Covered Employment, the accumulated account balance as of the subsequent annuity starting date shall be the accumulated account balance as of the prior annuity starting date, less prior distributions, plus the remaining balance, as required by applicable regulations.

**7.2 Early Pension Benefit**

Early Pension Benefits, equal to the accumulated benefit under Section 7.1(c), shall be payable to a Participant with:

- (1) ten or more years of Vesting Service and whose Covered Employment terminates after he attains the age of 58, or
- (2) five or more years of Vesting Service and whose Covered Employment terminates after he attains the age of 60,

**7.3 Disability Pension Benefit**

The disability pension benefit of an Active Participant who applies for a disability pension benefit shall be equal to his accumulated benefit, determined in accordance with Section 7.1(c), provided, however, that such Participant shall not be eligible to receive a disability pension benefit while receiving a disability benefit from Plumbers Local 98 Insurance Fund.

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

**7.4 Deferred Vested Pension Benefit**

Upon satisfying eligibility conditions, a vested Inactive Participant may elect to receive his pension benefit as either a Normal Retirement Benefit under Section 7.1 or an Early Retirement Benefit under 7.2.

## **7.5 Form of Benefits**

### **(a) Single Participants**

#### **(1) Normal Form of Benefit**

The Normal Form of Benefit is a single life annuity which is the actuarial equivalent of the accumulated benefit determined under section 7.1(c) as of the annuity starting date, determined in accordance with the factors set forth in Appendix A.

#### **(2) Optional Form of Benefit**

A single participant may waive the Normal Form of Benefit and receive a lump sum distribution of the accumulated account balance as determined under section 7.1(c) as of the annuity starting date.

#### **(3) Preretirement Death Benefit**

A single Participant may designate a Beneficiary to receive payment of his accumulated account balance as determined under Section 7.1(c) as of the date of death, in the event he dies prior to distribution of his benefit under Section 7.5(a)(1) or (2), above. Such benefit shall be paid in the form of a lump sum after receipt of an application for payment from the designated Beneficiary.

For purposes of this section, Beneficiary means the beneficiary(ies) designated by a Participant to receive his Cash Balance Benefit accumulated account balance. Such designation must be made on a beneficiary designation card approved and received by the Fund Office (Beneficiary Designation Card). A Participant shall have the right to change his beneficiary at any time and the change shall become effective on the date of receipt of a revised Beneficiary Designation Card by the Fund Office. If a beneficiary is not designated, or if the designated beneficiary predeceases the Participant or dies after the Participant but prior to a distribution of the Cash Balance Benefit, then beneficiary shall mean, in the following order: (1) spouse; (2) children; (3) parents; (4) siblings, or (5) the Participant's estate.

**(b) Married Participants**

**(1) Benefits Upon Retirement**

**(A) Normal Form of Benefit**

The normal form of benefit for a married Participant is the 50% Joint and Survivor Annuity, which is an annuity payable to the Pensioner during his lifetime with 50% of such annuity continued to the Surviving Spouse, if living, for the duration of the Spouse's lifetime after the death of the Pensioner, which annuity is the Actuarial Equivalent of the accumulated benefit set forth in Section 7.1(c) determined pursuant to the factors set forth in Appendix A.

**(B) Optional Forms of Benefit for Married Participants**

In lieu of the normal form of benefit, a married Participant, with appropriate spousal waiver, may elect to receive retirement benefits payable as:

- a lump sum of the accumulated account balance as determined under Section 7.1(c); or
- a 100% Survivor Option with Pop-Up, a 75% Survivor Option, or a 75% Survivor Option with Pop-Up, as described in Section 5.5(b), however such annuities shall be the actuarial equivalent of the accumulated account balance as determined under Section 7.1(c), as determined pursuant to the factors set forth in Appendix A.

Upon filing a written application for benefits in accordance with Section 8.1, the Participant shall be provided with a written explanation of such Optional Forms and the procedures necessary to elect any such form of payment.

**(2) Preretirement Death Benefits**

- (A)** Upon the death of a vested Participant prior to his/her annuity starting date, his Surviving spouse will receive a single life annuity based on the life of the Surviving Spouse, which is the actuarial equivalent of the accumulated account balance as determined under Section 7.1(c) as of date of death, payable as soon as practicable after receipt of an application.

- (B) In lieu of the foregoing, the Surviving Spouse may elect a lump sum payment of the Participant's accumulated account balance as determined under Section 7.1(c) as of the date of death. Such benefit shall be paid as soon as practicable after receipt of an application.
- (C) In the event of the death of the Surviving Spouse prior to a distribution of the Cash Balance Benefit, then the accumulated account balance of the Participant as of the Participant's date of death shall be paid as a lump sum benefit to the Participant's Beneficiary, which for purposes of this section shall mean, in the following order: (1) children; (2) parents; (3) siblings, or (4) the Participant's estate.

**(c) Disability Pensioner**

A disability pensioner makes the elections set forth above as of the date he first enters pay status. However, if he elects the lump sum option and has not yet received a Social Security Disability award, he will receive a monthly benefit not to exceed the amount that would be paid under a single life annuity (during which time Interest Credits will continue to be made to his Individual Account), and upon receipt of a Social Security Disability Award will receive the balance in his accumulated account (less prior monthly distributions).

**(d) No Partial Lump Sums or Partial Annuitizations**

As set forth above, Participant, Beneficiary, or Surviving Spouse may not elect a partial lump sum/partial annuitization.

**(e) Additional Provisions Regarding Elections for Participants with Both Legacy Benefits and Cash Balance Benefits**

A Participant who has accrued Legacy Benefits and Cash Balance Benefits:

- (1) Must elect to receive both Legacy Benefits and Cash Balance Benefits on the same annuity starting date, except a disability pensioner makes his survivor election as of his earliest retirement date for his Legacy Benefits and as of the date he first enters pay status for Cash Balance Benefits.
- (2) May elect different forms of benefit for the Legacy Benefits and the Cash Balance Benefits.

## ARTICLE 8 - PAYMENT OF BENEFITS

### 8.1 Application for Benefits

Benefits shall be payable on the first day of the month following the month in which an eligible Participant delivers an application to the Fund Office.

### 8.2 Payment of Benefits

Benefits shall be payable on the first day of the month following the month in which an eligible Participant delivers an application to the Fund Office.

### 8.3 Payment of Disability Pension Benefits

Disability pension benefits shall be payable on the first day of the month in which an eligible Participant delivers an application to the Trustees, or to an agent of the Trustees. If the application is approved by the Trustees, the benefits shall be payable on the first day of each month thereafter during the life of such Participant, subject to all other provisions of this Plan. The Trustees shall have the power to require a Participant claiming a benefit under this Section to be examined by a physician or clinic.

Disability pension benefits shall be terminated if the Participant ceases to be Permanently and Totally Disabled or:

- (a) If the Participant engages in an occupation or employment (except for rehabilitation as determined by the Trustees) for remuneration or profit, which employment would be inconsistent with the finding of total and permanent disability, or
- (b) If the Trustees determine on the basis of a medical examination that the Participant has sufficiently recovered to return to any regular work as a Plumber, or
- (c) If the Participant refuses to undergo a medical examination ordered by the Trustees; provided, however, that the Participant may not be required to undergo medical examination more often than once every six (6) months.

### 8.4 Recovery of Disabled Employee

In the event a disabled Participant temporarily recovers and is re-employed, but subsequently retires, the benefits shall resume the first of the month following subsequent retirement. The pension payable upon such subsequent retirement based upon Legacy benefits shall be calculated as if the Participant were then first retired, but shall be based upon his total Credited Service at the time of his latest retirement.

As to a participant's cash balance benefit, if the Participant elected an annuity and recovers, elected a lump sum but recovered before receipt of a Social Security award, or disability benefits are terminated for otherwise failing to meet eligibility requirements, then as of the date that disability benefits cease, his accumulated cash balance account balance shall be calculated as follows:

- (a) the balance of the accumulated cash balance upon which such disability annuity payments were based;
- (b) less distributions made for disability benefits,
- (c) with both (a) and (b) above brought forward to the date that disability benefits cease with applicable Interest Credits.

### **8.5 Payment of Deferred Vested Pension Benefits**

Every Participant eligible for a deferred vested pension benefit shall be required to make application for such benefit. Any pension benefit granted by the Trustees as a result of these provisions shall be payable in accordance with Section 8.2.

### **8.6 Delay in Applying for Benefit**

#### **(a) Late Retirement**

(1) **Legacy Benefit:** The monthly Legacy Benefit of a Participant who applies for a pension benefit after normal retirement age shall be the greater of the actuarial equivalent of the Legacy Benefit he would have been entitled to as of attaining normal retirement age, or the amount of his/her normal retirement Legacy Benefit with accruals as of the Annuity Starting Date.

#### **(2) Cash Balance Benefit:**

(A) The Cash Balance Benefit of a Participant who applies for a pension benefit after Normal Retirement Age shall be the greater of (i) or (ii), provided (B) is not applicable:

(i) The single life form of payment based on the actuarial equivalent of the accumulated benefit in a Participant's Individual Account as of the Participant's Normal Retirement Age.

(ii) The single life form of payment based on the accumulated benefit in the Participant's Individual Account as of the Participant's Annuity Starting Date.

(B) If the Participant engages in Plan Related Employment after normal retirement age and has received notice of the effect of engaging in such employment no later than the month in which he

attains normal retirement age, his cash balance benefit shall the amount set forth in (A)(ii), above.

“Actuarial equivalent” used in this Section 8.6(a)(2) shall mean the accumulated benefit in a Participant's Individual Account as of the Participant's Normal Retirement Age plus the Interest Credits to the Participant's Annuity Starting Date.

- (b) An accrued benefit is forfeited by a Participant to the extent it has not been paid or distributed to him/her prior to his/her death. This does not affect the benefits payable to the Surviving Spouse upon such death.

## **8.7 Reemployment of a Pensioner**

### **(a) In General**

Notwithstanding any other provision of this Plan, the payment of monthly retirement benefits to a Retiree and/or Participant who would otherwise be eligible to receive such retirement benefits (collectively “Retiree” for purposes of this section) shall be suspended in accordance with the provisions of this Section if the Retiree returns to or continues in “Plan Related Employment” of the type and for the periods of time set forth herein, for any period prior to the first day of April following the calendar year in which he reaches age 70½.

### **(b) Plan Related Employment**

Notwithstanding any other provision of this Plan, the payment of monthly retirement benefits to a Retiree who would otherwise be eligible to receive such retirement benefits shall be suspended in accordance with the provisions of this Section if the Retiree returns to or continues in “Plan Related Employment” of the type and for the periods of time set forth herein, for any period prior to the first day of April following the calendar year in which he reaches age 70½. Plan Related Employment is defined as:

#### **(1) For Pension Benefits Accrued before September 1, 1996:**

Plan Related Employment for a Retiree who retires and receives a normal or early pension benefit is 40 or more Hours of Service in a month following the completion of 400 Hours of Service in a Plan Year.

#### **(2) For pension benefits accrued between September 9, 1996, and January 1, 2000:**

- (A) 40 hours of work as a plumber, pipefitter, or sprinkler fitter for an Employer in a month following the completion of 400 Hours of

Service in a Plan Year, if such Participant did not return to work for at least 6 months following his/her retirement; or

- (B) 40 hours of work as a plumber, pipefitter, or sprinkler fitter for an Employer in a month following the completion of 40 Hours of Service in a Plan Year if work is resumed within 6 months of retirement; or
  - (C) 40 hours of work in a month as a plumber, pipefitter, or sprinkler fitter for a non-contributing employer.
- (3) **For pension benefits accrued between January 1, 2000 and January 1, 2007:**
- (A) 40 hours of work in the same Industry and in the same Trade or Craft in which the employees were employed at any time under the plan, including supervisory work for an Employer, in a month following the completion of 600 Hours of Service in a Plan Year if such Participant did not return to work for at least 6 months following his/her retirement; or
  - (B) 40 hours of work in the same Industry and in the same Trade or Craft in which the employees were employed at any time under the plan, including supervisory work for an Employer if work is resumed within 6 months of retirement; or
  - (C) 40 hours of work in the same Industry and in the same Trade or Craft in which employees were employed at any time under the Plan, including supervisory work, for a non-contributing employer.
- (4) **For pension benefits accrued after January 1, 2007:**
- (A) Plan Related Employment for Normal Retirees is defined as employment for 40 or more hours in any calendar month:
    - (i) in the same Industry in which Employees covered by the Plan were employed and accrued benefits as a result of such employment at the time that the payment of benefits commenced or would have commenced if the Retired Participant had not remained in or returned to employment; and
    - (ii) in the same Trade or Craft in which the Retired Participant was employed at any time under the Plan, including supervisory activities relating to such Trade or Craft; and

(iii) in the same Geographic Area covered by the Plan at the time that the payment of benefits commenced or would have commenced if the Retired Participant had not remained in or returned to employment.

(B) Plan Related Employment for Class I and Class II Early Retirees is any work related to the construction industry in any geographic area.

**(5) Trustee Discretion**

The Trustees shall have sole and complete discretion to determine whether work falls within the definition of "Plan Related Employment" and their decision shall be binding upon any Retired Participant or any other interested party.

(6) The definition of Plan Related Employment in paragraphs (1) through (4) shall not apply to a Participant whose benefit commencement date is on or after May 1, 2010, who engages in Plan Related Employment on or after June 1, 2010, and has not yet reached normal retirement age of 65. For such participants, Plan Related Employment is any work related to the construction industry in any geographic area.

(7) Notwithstanding any term to the contrary, Plan Related Employment shall not include employment as a part- or full- time instructor for the Metropolitan Detroit Plumbing Industry Training Trust Fund.

(8) Notwithstanding any term to the contrary, Plan Related Employment shall not include work as an owner of an employer Age 65 or above who is no longer working with the tools of the trade if such employer has a collective bargaining agreement with the Union requiring contributions to the Fund.

**(c) For All Participants Whose Benefits Are Suspended**

(1) When Benefits are Suspended: Benefits shall be suspended for any calendar month in which the Retiree and/or Participant returns to or continues in Plan-Related Employment. Such suspension shall continue until the Retiree and/or Participant notifies the Trustees in writing that he has stopped working in Plan-Related Employment. Thereafter, payments of benefits shall resume not later than the first day of the third calendar month after the calendar month in which the Retiree and/or Participant ceases said employment or the first day of the calendar month after receipt of the Retiree and/or Participant's written notice to the Trustees, whichever is later. The initial payment to the Retiree and/or Participant upon resumption shall include the payment scheduled to occur in the

calendar month in which such payments resume plus amounts withheld during the period between the cessation of employment in Plan-Related Employment and the date for resumption of payments, less any amount which are subject to offset or deduction.

- (2) **Offset:** Deductions shall be made from the resumed benefits payment for any payments previously made by the Plan during those calendar months in which the Retiree and/or Participant was employed in Plan-Related Employment. Any such deduction or offset shall not exceed in any month twenty-five (25%) percent of that month's total benefit payment which would have been due but for the offset, except that deduction or offset may be made without limitation as to any initial resumption payment which is due to be made to Retiree and/or Participant no later than the first day of the third calendar month after the Retiree and/or Participant ceased Plan-Related Employment. Any such offsets or deductions shall also be made to any benefit payments to the Beneficiary of a Retiree and/or Participant in the event the Retiree and/or Participant dies before the total amount subject to offset has been recovered.
- (3) **Verification and Determination of Status:** Every Retiree who has retired and is receiving Retirement Benefits and every Participant who would be eligible to receive retirement Benefits but for his reemployment or continued employment who engages in any employment described in this Section, shall promptly notify the Trustees in writing of such employment or reemployment and shall provide the Trustees with all reasonable information and assistance for the purpose of verifying such employment. At such time and with such frequency as is reasonable, as a condition to receiving future benefits the Trustees may also require that a Retiree certify that he/she is unemployed or provide factual information sufficient to establish that any employment in which he/she may be engaged is not Plan Related Employment.

A Retiree and/or Participant may request an advance determination from the Trustees as to whether or not any specific contemplated employment will be regarded as Plan-Related Employment for purposes of this Section. Requests for such advance determinations may be considered in accordance with the claims procedure adopted by the Trustees and shall be submitted on such forms as may be required by the Trustees.

- (4) **Presumptions:** If the Trustees become aware that a Retiree and/or Participant is working in employment which would constitute Plan-Related Employment and if the Retiree and/or Participant has not complied with the Plan's reporting requirements as to such employment, the Trustees may, unless it is unreasonable to do under the circumstances, act upon a rebuttable presumption that such employment constitutes Plan-Related Employment and suspend payment of benefits to such Retiree

and/or Participant. Such suspension shall commence with the next regularly scheduled payment of benefits after the Trustees become aware of the employment which would constitute Plan-Related Employment.

In addition, if the Trustees become aware that a Retiree and/or Participant is working in employment at a construction site which would constitute Plan-Related Employment and if the Retiree and/or Participant has not complied with the Plan's reporting requirements as to such employment, the Trustees may, unless it is unreasonable to do so under the circumstances, act on the basis of a rebuttable presumption that the Retiree and/or Participant engaged in such employment for so long as the employer of the Retiree and/or Participant performed work at the construction site at which the Retiree and/or Participant is working.

- (5) Notification: The Trustees shall notify each Retiree and/or Participant whose benefit payments are suspended pursuant to this Section of such suspension in writing, by personal delivery or first class mail, during the first calendar month in which suspension takes place. Such notification shall contain the following information:
- (A) A description of the specific reasons why benefit payments are being suspended;
  - (B) A general description of the Plan provisions relating to the suspension of benefits;
  - (C) A copy of such Plan provisions;
  - (D) A statement referring to the applicable Department of Labor regulations concerning suspension of benefits;
  - (E) An explanation of the Plan's procedures for affording a review of a Retired Participant's suspension of benefits;
  - (F) An explanation of the requirements to file a notice of termination of Plan-Related Employment in order to resume benefit payments, including procedures and forms related to such notice; and
  - (G) If offset is applicable, an explanation of the offset procedures, identifying specifically the periods of employment in Plan-Related Employment, the suspendible amounts which are subject to offset and the manner in which the Plan intends to offset such suspendible amounts.
- (6) Employment Beneficial to the Industry: A Retiree may return to employment in a position that is not covered by a collective bargaining

agreement and not have his benefit be suspended or delayed only if such employment is deemed by the Trustees as employment beneficial to the Plan, Participants and the unionized segment of the plumbing industry. The criteria to be used in making such a determination shall include:

- (A) Such employment does not fill a position covered by a collective bargaining agreement;
  - (B) The position does not result in the impingement upon the jurisdictional claims of Plumbers and their Unions;
  - (C) The position results in or provides an opportunity for the promotion or expansion of employment opportunities in covered employment for current or future Participants of the Plan;
  - (D) The position is authorized or approved by the Union and is for an employer approved by the Board of Trustees; and
  - (E) The Retiree was not employed in the same or similar position prior to his retirement date.
- (7) Waiver of Suspension Rules: The Trustees may waive, in whole or in part, the forfeiture aspect of this provision for a specified period of time by resolution, subject to the condition that any such waiver be equally applicable to similarly situated Retirees then receiving early or normal retirement benefits.

## **8.8 Payment Due an Incompetent**

In the event it shall be found that any Pensioner to whom a pension is payable is unable to care for his affairs because of illness (including mental or emotional) or accident, any payment due (unless prior claim shall have been made by a duly qualified guardian or other legal representative) may be paid to the spouse, parent, brother, sister, or any other person deemed by the Trustees to have incurred expenses for such pensioner. Any such payment shall be a payment for the account of the Pensioner and shall be a complete discharge of any liability of the Plan or the Trustees therefore.

## **8.9 Voluntary Suspension of Benefits**

Notwithstanding any other provisions of this Plan, a Pensioner entitled to receive a benefit may, for personal reasons and without disclosure thereof, request the Trustees, in writing, to suspend for any period, payment of all or any part of such benefit otherwise payable to him hereunder. The Trustees, upon receipt of such request, shall authorize such suspension, in which event, the Pensioner shall be deemed to have forfeited all rights to the benefit suspended, but shall remain the right to have the full benefit otherwise payable to him hereunder reinstated as to future monthly payments, upon

written notice to the Trustees of his desire to revoke his prior request for a suspension under this Section, except that the Trustees shall not reinstate the benefit where the effect of such reinstatement would be to violate Section 6.7 of this Plan.

#### **8.10 Payment of Small Amounts**

If the monthly pension benefit payments from this Plan are less than \$25.00, the Trustees shall direct that pension benefit payments be made in a lump sum; provided, however, that any such payments shall be the Actuarial Equivalent of the pension benefit otherwise payable under the Plan and distribution of such benefits shall not be made in the form of a lump sum if the present value of such benefit exceeds \$5,000.00. Such lump sum payment shall be in lieu of any other benefit prescribed by this Plan and the Participant shall have no further rights or title to benefits, Vesting Service, nor Credited Service under this Plan.

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

#### **8.11 Commencement of Pension Payments**

Unless a Participant otherwise elects in writing an alternate date for the commencement of his pension, payment of his benefit under the Plan shall commence not later than the 60th day after the latest of the close of the Plan Year in which:

- (a) occurs the date on which the Participant attains Normal Retirement Age, or
- (b) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan, or
- (c) the Participant terminates employment with Employers who contribute to the Plan.

#### **8.12 Outstanding Payments**

If any benefit payment made by the Trustees out of the Fund is unclaimed for a period of 2 years, it shall revert to and again become part of the Fund, free and discharged from any claim therefore, 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 as set forth on the payment issued by the Fund, such payment is void and reverts to the Plan as a plan asset.

### **8.13 Rights to Plan Benefits**

No Participant, no Former Participant, no Pensioner, no beneficiary nor any person claiming by or through any foregoing referred to person, shall have any right, title or interest in or to any benefits under the Trust Agreement, the Plan or the Fund, except as such right, title or interest shall have been specifically granted pursuant to the terms of this Plan.

### **8.14 Required Distributions**

- (a) Required Beginning Date. Payment of a Participant's retirement income must commence no later than April 1st of the calendar year following the later of:
  - (i) the calendar year in which the Participant attains age 70½; or
  - (ii) the year the Participant retires.

However, the Required the Required Beginning Date of a Participant who is a five-percent owner is April 1 of the calendar year following the year the employee attains age 70 ½.

- (b) Requiring 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. The only Optional Form of Payments provided for in this plan are the provided for in Section 5.4(a) and 7.5(b)(1)(B).
- (c) Surviving Spouse Benefit. Where the Retirement Death Benefit is paid in accordance with Article V, payments must commence before the date the Participant would have reached age 70½, 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 imposed by the minimum distribution incidental benefit requirements.
- (f) All distributions required under this Article shall be determined and made in accordance with the proposed regulations under Section 401(a)(9) of the Code,

including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the proposed regulations. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This paragraph shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a)(9) of the Code or such other date as may be specified in guidance published by the Internal Revenue Service.

(g) 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 (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; any distribution made 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 Code Section 408(b), 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) **Distributee:** 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.

#### **8.15 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 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 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:
- (i) 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

- (ii) 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 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 8.14(a) of the Plan.

### **8.16 Proof of Eligibility**

The Trustees may require Social Security earnings information, copies of tax returns, and any other pertinent information to establish eligibility for a pension or disability benefit.

## ARTICLE 9 - ADMINISTRATION

### 9.1 Administration of the Plan

The Trustees shall have sole authority and discretion to interpret and administer the Plan, including without limitation the discretion to determine eligibility for benefits, determine the amount of benefits, interpret and construe the Plan's terms, and to make any other findings or determinations which the Trustees, in their discretion, deem necessary or proper to effectuate the administration of the Plan.

### 9.2 Reciprocity Agreements

The Fund may enter into reciprocity agreements, including pro rata or partial pension reciprocity agreements. Reciprocated money received by the Fund under such agreements, whether from a defined benefit or defined contribution fund, will be allocated pursuant to policies and procedures adopted by the Trustees. Reciprocated contributions received from a defined contribution or defined benefit fund from any jurisdiction, including a National Pension Fund jurisdiction, will be credited as follows:

- (a) If the reciprocated rate is less than the rate established for contributions to the 98 Defined Benefit Pension Fund (98 DB Fund) by the applicable Local 98 collective bargaining agreement ("the 98 DB rate"), a Participant will be credited under the 98 DB Fund a full hour of service for purposes of eligibility and vesting, but for purposes of benefit accrual, i.e. amount of benefit, the hour of service will be pro-rated.
- (b) If the reciprocated rate received is higher than the 98 DB rate, a Participant will be credited under the 98 DB Fund a full hour of service for all purposes, and the amount by which the reciprocated rate exceeds the 98 DB rate will be credited to the Participant's individual account in the Plumbers Local 98 Defined Contribution Pension Fund.

Where the reciprocating jurisdiction is sending both defined contribution and defined benefit money, the rates will be combined for a per hour reciprocated rate and credited as set forth above.

See also definition of Hour of Service, Article 1.

## ARTICLE 10 - FINANCING OF THE PLAN

### 10.1 Establishment of Trust

A Trust Agreement has been executed between the Employers and the Union, and subscribed and accepted by the Trustees, under the terms of which Trust Agreement a Pension Fund is to be established to receive and hold the contributions payable by the

Employers, interest and other income, and from which are to be paid the benefits provided under this Plan and the expenses of operation of the Plan.

## **10.2 Rights of the Fund**

The corpus or income of the trust may not be diverted to or used for other than the exclusive benefit of the participants or their beneficiaries. No Contributing Employer shall have any right, title or interest in the Fund and neither at the termination of the Plan nor at any other time shall any part of the Fund revert to any Contributing Employer.

## **10.3 Limit of Benefits**

The benefit of this Plan shall be only such as can be provided by the assets of the Pension Fund and there shall be no liability or obligation on the part of the Employers to make any further contributions to the Pension Fund in the event of termination of the Plan, subject to relevant provisions of ERISA and the IRC.

# **ARTICLE 11 - ALIENATION OF BENEFITS AND QUALIFIED DOMESTIC RELATIONS ORDER**

## **11.1 Inalienability of Benefits**

No benefit payable at any time under the Plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind. Any attempt to alienate, sell, transfer, assign, pledge or otherwise encumber any such benefit, whether presently or thereafter payable, shall be void. No retirement benefit, nor the Pension Fund, shall in any manner be liable for, or subject to the debts or liability of any Participant or retired Participant entitled to any retirement benefits.

If the Participant, retired Participant or any other beneficiary shall attempt to, or shall alienate, sell, transfer, assign, pledge or otherwise encumber any part of his benefits under this Plan, or if by reasons of his bankruptcy or other event happening at any such time, such benefits would devolve upon anyone else or would not be enjoyed by him or in the event of a legal disability of a Participant, a retired Participant or any other beneficiary, or in the event of his inability to care for his affairs, the Trustees, in their discretion, may hold or apply such benefits to or for the benefit of such person, his spouse or children or other dependents, or any of them, in such manner as the Trustees may deem proper.

Notwithstanding the provisions of the preceding paragraph, the creation, assignment or recognition or a right to any benefit payment with respect to a Participant pursuant to a Qualified Domestic Relations Order as described in Section 11.2 shall not be treated as an assignment or alienation prohibited in this Section 11.1.

Notwithstanding any provision of this Section to the contrary, an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the

Plan with respect to a judgment, order or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Code Section 401(a)(13)(C) and (D).

## **11.2 Qualified Domestic Relations Order**

A Qualified Domestic Relations Order is a judgment, decree or order (including approval of a property settlement agreement) that:

- (a) relates to the provision of support, alimony payments or marital property rights to a Spouse, former spouse, child or other dependent of a Participant,
- (b) is made pursuant to a state domestic relations order,
- (c) creates or recognizes the existence of an alternate payee's right to or assigns to an alternate payee the right to receive all or a portion of the pension benefit payable to a Participant under this Plan,
- (d) clearly specifies the following information:
  - (1) the name and last known mailing address of the Participant and the name and mailing address of each alternate payee covered by the order;
  - (2) the amount or percentage of a Participant's pension benefit to be paid to any alternate payee, or in the manner in which such amount or percentage is to be determined;
  - (3) the number of payments or the period to which the order applies; and
  - (4) each plan to which the order applies;
- (e) does not alter the type, amount or form of payment of the Plan benefits; and
- (f) provides that:
  - (1) the Alternate Payee must apply for her pension benefit on a form to be provided by and available from the Pension Plan Administration Office;
  - (2) if the Alternate Payee dies before receiving her first payment under the QDRO, the Alternate Payee's benefit shall revert to the Participant;
  - (3) in the event that the Participant dies prior to the commencement of payments to the Alternate Payee, the Alternate Payee shall be treated as a surviving spouse;

- (4) if the Participant dies before the Alternate Payee begins to receive her pension benefit, she shall be eligible to receive her benefit, effective as of the first day of the month following the date of the Participant's death;
- (5) if the Alternate Payee dies after having begun to receive her benefit and the Participant is still alive, the Alternate Payee's benefit shall revert to the Participant;
- (6) if the Participant dies after the Alternate Payee has begun to receive her benefit, and the Alternate Payee is still alive, the Participant's pension benefit shall not be paid to the Alternate Payee; and
- (7) the alternate payee is a beneficiary and not a Participant of the Plan.

An alternate payee for purposes of the foregoing is a spouse, former spouse, or child or other dependent of a Participant who is recognized by a Qualified Domestic Relations Order as having a right to receive all, or a portion of, the benefits under this Plan with respect to the Participant.

A domestic relations order will be a Qualified Domestic Relations Order even if the current mailing address of the alternate payee is not specified if the Trustee has reason to know of the address independent of the order.

A domestic relations order shall meet the requirements of this Section 9.2 for a Qualified Domestic Relations Order if the order provides that payments begin to the alternate payee on or after the date on which a Participant is eligible for an early retirement pension benefit, even though the Participant may not have retired or terminated employment.

A domestic relations order shall remain a Qualified Domestic Relations Order with respect to a successor plan of the Employer or a plan of a successor employer.

### **11.3 Administration of a Qualified Domestic Relations Order**

The determination as to whether or not a domestic relations order satisfies the requirements of a Qualified Domestic Relations Order shall be made in accordance with the following three-step procedure:

- (a) The Trustees shall promptly notify the Participant and the alternate payee upon receipt of a domestic relations order.
- (b) The Trustees shall outline for the Participant and the alternate payee the procedure it will follow to determine if such order satisfies the requirements for a Qualified Domestic Relations Order.
- (c) Within a reasonable period of time, the Trustees shall determine, pursuant to the provisions of Section 9.2, if the order is a Qualified Domestic Relations Order.

If the domestic relations order satisfies the requirements for a Qualified Domestic Relations Order, the Trustees shall administer distributions from the Plan in accordance with such order.

An alternate payee is entitled to any death benefits under the Plan only if the Qualified Domestic Relations Order requires such benefits to be paid and the Pension Plan provides for death benefits.

If the lump sum value of benefits awarded to an alternate payee, determined in accordance with Appendix A of the Plan, does not exceed \$5,000, such benefit must be immediately distributed to the alternate payee in the form of a lump sum.

## **ARTICLE 12 - AMENDMENT OF THE PLAN**

### **12.1 Retroactive Amendment**

Any amendment to this Plan may be made retroactively by the unanimous action of the Trustees, to the extent permitted by law.

### **12.2 Right to Amend**

The Trustees may amend this Plan as provided by the Trust; provided, however, that no amendment of the benefits payable under this Plan shall be made except upon the advice and counsel of a qualified actuary or actuarial firm; and provided further, that no such amendment in benefit shall be permitted to reduce the benefits of a Participant who is already a Pensioner on the date the amendment in benefit is made unless allowed by applicable law. No amendment to the Plan shall be effective to the extent that it has the effect of decreasing an Employee's accrued benefit, except to the extent permitted under Section 412(c)(8) of the Internal Revenue Code of 1986, as amended, or to the extent allowable under other applicable law. In addition, no amendment to the Plan shall have the effect of decreasing an Employee's vested interest determined without regard to such amendment as of the later of the date such amendment is adopted or becomes effective unless allowed by applicable law.

### **12.3 Tax Exempt Status**

It is intended by the Trustees that the provisions of the Pension Plan shall conform to all applicable provisions of the United States Internal Revenue Code or any other applicable statute in order to maintain and preserve the tax exempt status of the Trust Fund. At any time, if it is determined by any court of competent jurisdiction or any agency of government with jurisdiction, that any provision of the Plan impairs the tax exempt status of the Trust Fund, the Trustees shall amend the Plan and take such other actions as may be necessary to maintain and preserve the tax exempt status of the Trust Fund.

#### **12.4 Merger or Consolidation**

The Plan may not be merged or consolidated with, nor may its assets or liabilities be transferred to, any other Plan unless each Participant, Spouse, vested Former Participant, dependent or Pensioner under the Plan would, if the resulting Plan were then terminated, receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer if the Plan had been terminated.

### **ARTICLE 13 - TERMINATION**

#### **13.1 Right to Terminate**

The Union and Association may terminate this Plan.

#### **13.2 Withdrawal Not a Termination**

The withdrawal or elimination of some (but not all) groups of Employees from the Plan shall not constitute a termination of this Plan, which shall continue to exist for the benefit of other Employees remaining in or subsequently brought under said continuing Plan, unless otherwise provided by applicable law.

#### **13.3 Allocation of Assets on Termination**

Notwithstanding any other provision of the Plan, if the Plan is completely or partially terminated, the rights of all Participants, Pensioners and others having an interest in the Plan, to benefits accrued to the date of such complete or partial termination, to the extent then funded, shall be nonforfeitable.

In the event of the termination of the Plan, the Trustees, after reserving an amount from the Fund sufficient to pay expenses and charges, including payment of all expenses incurred in effectuating such termination or discontinuance, such as the fees and retainers of the Plan's Actuary, Certified Public Accountant, Legal Counsel, funding agent, and any other specialists, shall allocate the assets of the Fund in the following manner and order to the extent of the sufficiency of such assets:

- (a) First - An amount shall be allocated to provide for (1) benefits payable to Pensioners, Surviving Spouses and dependent children who commenced receiving benefits under the Plan on a date at least 36 months prior to the termination date of the Plan, such pension benefits to be based on the lowest level of benefits in effect at any time during the 60 month period prior to the termination date of the Plan; and (2) benefits payable to Participants and vested Former Participants entitled to a deferred vested pension benefit not included in (1) above who could have retired with a benefit payable under the Plan commencing on a date at least 36 months prior to the termination date of the Plan, such pension benefits to be

based on the lowest level of benefits in effect at any time during the 60 month period prior to the termination date of the Plan.

(b) Second - If there is any balance remaining in the Fund after complete allocation and in accordance with paragraph (a), above, an amount shall be allocated to provide for pension benefits, or a portion of pension benefits (other than those benefits described in paragraph (a), above, payable to Pensioners entitled to a deferred pension benefit, described in this paragraph (b), subject to the following:

(1) In the event the level of benefits under the Plan was increased within the 60 month period prior to the termination date of the Plan, the amount to be allocated under this paragraph (b) to the Pensioners, Surviving Spouses, Participants and vested Former Participants described in paragraph (a), above, shall be in the amount required to provide a benefit equal to the product of:

- (A) the greater of \$20 dollars or 20% of the additional benefit which, except for the limitations in said paragraph (a), would have been provided for persons described in paragraph (a), and
- (B) the number of years the increased level(s) of benefit has been in effect.

For purposes of this subparagraph (1), the first 12 months thereafter constitutes one year and each consecutive period of 12 months thereafter constitutes an additional year.

(2) The amount to be allocated to all Pensioners, Surviving Spouses, Participants and vested Former Participants who are not included in paragraph (a), above, and who, as of the termination date of the Plan, could have retired with a benefit payable under the Plan; or have 10 or more years of service, shall be the amount required to provide their pension benefit, subject to the same limitation described in paragraph (a), above, plus any additional benefit level within the 60 month period prior to the termination date, subject to the same limitation described in subparagraph (1) of this paragraph (b).

(c) Third - If there is any balance remaining in the Fund after complete allocation in accordance with paragraph (a) and (b), above, an amount shall be allocated to provide for all other nonforfeitable pension benefits under the Plan which are not included in said paragraphs (a) and (b).

(d) Fourth - If there is any balance remaining in the Fund after complete allocation in accordance with paragraphs (a), (b) and (c), above, an amount shall be allocated to provide for all other benefits under the Plan.

In addition to the limitation of benefits payable pursuant to paragraphs (a) and (b) of this Section 11.3, benefits payable under said paragraphs shall not have an actuarial value which exceeds the actuarial value of a monthly pension benefit payable in the form of a life annuity commencing at age 60.

If the assets available for allocation under any paragraph are insufficient to satisfy in full the pension benefits of all individuals within such paragraph, the assets shall be allocated pro rata among such individuals on the basis of the present value (as of the termination date) of their respective pension benefits.

#### **13.4 Disposition of Assets**

The allocations referred to in Section 11.3, when determined by the Actuary and the Trustees, may be implemented through the continuance of the existing Fund for that purpose or through the purchase by the Trustees of insurance annuity contracts or by a combination of these media.

#### **13.5 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 an Employer 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 - CLAIMS AND APPEAL PROCEDURE**

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

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

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

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

**(b) Disability Benefits**

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

In the case of a claim for disability benefits, the Fund Office shall notify the claimant, in accordance with this Section of the Fund's adverse benefit determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the Fund Office.

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

**14.2 Manner and Content of Notification of Benefit Determination**

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

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

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

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

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

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

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

### **14.3 Appeal of Adverse Benefit Determination**

- (a) Appeals must be forwarded to and received by the Fund Office within 60 days (180 days for appeals involving disability benefits) following receipt of a notification of an adverse benefit determination (i.e. denial of claim). As part of any such appeal, a claimant may submit written comments, documents, records, and other information relating to the claim for benefits.
- (b) A claimant, free of charge and upon request, shall be provided reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.
- (c) Upon appeal, the Trustees will review all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- (d) If the appeal is a denial of disability benefits:
  - (1) A review on appeal will not afford deference to the initial denial and an individual who made the initial denial, or a subordinate of such individual will not decide an appeal.
  - (2) In deciding an appeal of a benefit based on medical judgment, the fiduciary deciding the appeal shall consult with a health care professional who has appropriate training in the field of medicine involved (and who was not involved in reviewing the initial claim);
  - (3) A plan must provide for the identification of any medical or vocational experts whose advice was obtained by the plan in connection with the initial denial, regardless of whether the advice was relied upon.

### **14.4 Trustees Decision on Appeal**

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

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

If special circumstances require a further extension of time for processing, a benefit determination shall be rendered not later than the third board meeting following the Fund Office's receipt of the request for review. If such an extension

of time for review is required because of special circumstances, the Fund Office shall provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Fund Office shall notify the claimant of its decision on appeal but not later than 5 days after the benefit determination is made.

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

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

- (1) The specific reason or reasons for the adverse determination;
- (2) Reference to the specific plan provisions on which the determination is based;
- (3) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
- (4) A statement of the claimant's right to bring a civil action under section 502(a) of ERISA;
- (5) A statement describing any contractual limitation period that applies to the Claimant's right to bring an action under ERISA §502(a) and the calendar date on which such contractual limitation expires; and
- (6) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request, or if applicable, a statement that such rules or guidelines do not exist.

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

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

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

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

#### **14.5 Discretion of Trustees**

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

#### **14.6 Timely Submission of Appeals**

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

#### **14.7 Limitations of Actions**

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

#### **14.8 Failure to Follow Claims Procedures**

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

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

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

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

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

#### **14.9 Avoiding Conflicts of Interest**

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

### **ARTICLE 15 – 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 to the extent allowed by law. At the Fund's sole option, it may enforce this provision by offsetting future benefits until the amount owed has been recovered.

**ARTICLE 16 – EFFECT OF AMENDMENTS**

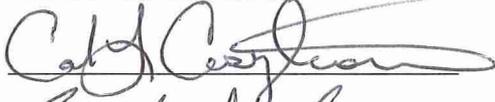
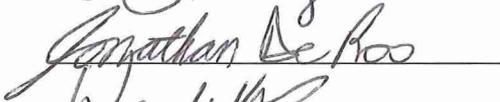
Except as otherwise set forth in this Plan or as otherwise required by law, the benefits of a Participant who has a Break in Continuous Service shall be determined in accordance with the provisions of the Plan in effect on the date of such Continuous Break in Service and subsequent Plan amendments shall be disregarded. Except as otherwise set forth in this Plan or otherwise required by law, the benefits of a Pensioner (and his/her Surviving Spouse, if any) shall be determined in accordance with the provisions of the Plan in effect on the annuity starting date and subsequent Plan amendments shall be disregarded.

**ARTICLE 17 – WITHDRAWAL LIABILITY**

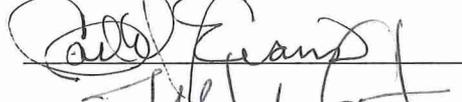
The Withdrawal Liability Procedures of the Plumbers Local 98 Defined Benefit Pension Fund are incorporated by reference, and any amendment to same, into the Plan.

This Plan has been executed by the Trustees 11/21, 2019.

**UNION TRUSTEES**


**EMPLOYER TRUSTEES**


## APPENDIX A

For purposes of calculating the "Actuarial Equivalent" of a benefit payable in the form of a single life annuity, the following factors shall be applied.

<b>Form of Payment</b>	<b>Factors Applied</b>
50% Joint and Survivor Pension, 75% Joint and Survivor Pension, and 100% Joint and Survivor Pension with Pop Up	Benefits payable under the 50% Joint and Survivor Pension, 75% Joint and Survivor Pension, and 100% Joint and Survivor Pension with Pop Up will be determined as the actuarial equivalent of the straight life annuity, based on 6% interest and UP-1984 mortality, set back 5 years for the Spouse.
Disability Benefit	With respect to each disabled participant who commences disability benefits on or after May 1, 2010, an immediate disability benefit will be the actuarial equivalent of a straight life annuity, based on 6% interest and UP-1984 mortality.

As applicable to lump sum distributions and distributions and conversions from lump sum distributions to single life annuities under the cash balance benefit, the Applicable Mortality table is the mortality table prescribed by the Internal Revenue Service under Code Section 417(e)(3)(B) and ERISA Sec. 205(g)(3)(B)(i) as amended by the Pension Protection Act of 2006 (PPA), and the Applicable Interest Rate means the interest rate prescribed by the Internal Revenue Service under Code Section 417(e)(3)(C) and ERISA Sec. 205(g)(3)(B)(ii) as amended by PPA, not to exceed 6% if applicable to cash balance benefits. The Applicable Interest Rate shall be determined as of the November prior to the Plan Year that includes the annuity starting date.

Under any form of payment, the percentage of the amount payable cannot exceed one hundred (100%) percent of the single life annuity.

For purposes of calculations under a Qualified Domestic Relations Order, actuarial equivalence shall be based on 6% interest and UP-1984 mortality, set back five years for the Spouse.