

**SHEET METAL, AIR, RAIL AND TRANSPORTATION
LOCAL UNION NO. 33 YOUNGSTOWN DISTRICT
ANNUITY PLAN**

SUMMARY PLAN DESCRIPTION

2024



**Sheet Metal, Air, Rail and Transportation
Local Union No. 33 Youngstown District
Annuity Fund**

To: ALL PARTICIPANTS

We are pleased to provide you with this Summary Plan Description. As a Summary Plan Description (SPD), this document summarizes the terms of the Sheet Metal, Air, Rail and Transportation Local Union No. 33 Youngstown District Annuity Fund Plan document (the Plan). This SPD is designed to help you understand how the Plan works, your rights and benefits, the rights and benefits of your beneficiaries, and how you may obtain these benefits. Please note that any word in this SPD written in the masculine gender is also intended to be in the feminine gender, and vice versa, where appropriate.

This SPD is not intended to cover every detail of the Plan or every situation that might occur. Instead, it is simply a *summary*. The complete Plan is available for inspection at any time at the Fund Office. If, however, there is any conflict between this SPD and the Plan, the Plan will control. For a more detailed statement of your rights, benefits, and obligations, please consult the complete Plan document.

The Trustees reserve the right to amend the Plan at any time. No amendment, however, can or will decrease a benefit already accrued, unless allowed by law.

Please read this SPD carefully and keep it in your records for future reference. This SPD replaces all other Summary Plan Descriptions and amendments thereto previously provided.

If you have any questions, please contact the Fund Office.

Respectfully,

**THE BOARD OF TRUSTEES OF THE SHEET METAL, AIR, RAIL AND
TRANSPORTATION LOCAL UNION NO. 33 YOUNGSTOWN DISTRICT ANNUITY
FUND.**

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ARTICLE 1 – NAME OF PLAN AND PURPOSE

- 1.1 Name of Plan.** The Plan will be known as the “Sheet Metal, Air, Rail and Transportation Local Union No. 33 Youngstown District Annuity Plan.” This Plan was formerly known as the "Sheet Metal Workers Local No. 33 Youngstown District Annuity Plan" and the "Sheet Metal Workers Local No. 5 Annuity Plan."
- 1.2 Purpose.** This Plan is created for the sole purpose of providing eligible Employees and/or their beneficiaries with additional financial security upon retirement, death, or termination of service.
- 1.3 Multi-Employer Plan.** This Plan is a multi-employer plan as that term is defined in the Employee Retirement Income Security Act (ERISA).
- 1.4 Defined Contribution Plan.** The Plan is a defined contribution plan as that term is defined in ERISA.

ARTICLE 2 – DEFINITIONS

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

Administrator means the Board of Trustees or a person or entity who may be designated by the Trustees to administer the Plan.

Administrative Manager means the Fund Office

Anniversary Date means January 1.

Annuity starting date means the first day of the first period for which an amount is paid as an annuity or any other form.

Beneficiary means a person designated by an eligible Employee or by the terms of this Plan to receive benefits which may be payable upon or after the participating Employee's death or as otherwise set forth in this Plan. To the extent that the rights of an Employee are limited by the terms of this Plan, his Beneficiary or Beneficiaries shall also be deemed bound thereby. If a Participant is not survived by a Surviving Spouse or does not properly designate a person as his Beneficiary, then the Participant's Beneficiary shall be the Participant's Estate.

Board of Trustees means the entity comprised of the Union and Employer Trustees, appointed pursuant to the terms of the Trust Fund Agreement, and their successors.

Chapter means the Sheet Metal & Roofing Chapter of Eastern Ohio and Western Pennsylvania.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Collective Bargaining Agreement means any collective bargaining agreement existing between the Chapter or an Employer, and the Union which provides for contributions into the Trust Fund, as well as any extension(s) or renewal(s) of any such Collective Bargaining Agreement or any new Collective Bargaining Agreement which provides for contributions into the Trust Fund.

Contributions or **Employer Contributions** mean the discretionary and required payments made to the Fund by the Employers.

Covered Employment means Employment for which Contributions are required to be made to this Plan under the terms of a Collective Bargaining Agreement, or other written agreement.

Credit Account or Account means the account created and maintained for accounting purposes for each Participant by the Trustees, which shall be credited the amount contributed by the Employer on behalf of such Employees.

Early Retirement Age means 55 years old.

Early Retirement Date means the first day of the month coinciding with or following the attainment of Participant's Early Retirement Age.

Employee means and includes members of a Collective Bargaining Unit represented by the Union and employed by an Employer or of any other employer required to be aggregated with such employer under sections 414(b), (c), (m) or (o) of the Code who are eligible to participate in and to receive the benefits of the Plan in accordance with this instrument, including Employees of the Union for whom Contributions are made to the Fund. In no event will a partner, self-employed person, or independent contractor of a business organization that is an Employer be considered an "Employee," as defined herein, no matter how designated; any such person is hereby expressly excluded from the benefits to be provided hereunder.

Employer means:

- (a) Any individual, firm, association, partnership or corporation who is a member of the Chapter, is represented in collective bargaining by the Chapter, or who is bound by a Collective Bargaining Agreement with the Union and in accordance therewith agrees to participate in and contribute to the Trust Fund. Any Employer who contributes to the Trust Fund shall, by the act of contributing, become a party to this Plan whether or not any such contributing Employer has signed the Plan, the Trust Fund Agreement or a counterpart thereof; and
- (b) The Union to the extent, and solely to the extent, that it acts in the capacity of an Employer of its Employees on whose behalf it makes contributions to the Trust Fund in accordance with the Collective Bargaining Agreement.

ERISA means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

Former Participant means a person who has been a Participant, but who has ceased to be a Participant for any reason.

Fund or Trust Fund means the Sheet Metal Workers Local No. 33 Annuity Plan Trust Fund Agreement, as amended, and the entire assets thereof, including all funds received by the Trustees in the form of Employer Contributions, together with all contracts (including dividends, interest, refunds, and other sums payable to the Trust Fund on account of such contracts), all investments made and held by the Trustees, all income, increments, earnings and profits therefrom, and any and all other property or funds received and held by the Trustees under this Plan and the Trust Fund Agreement.

Fund Office means BeneSys, Inc., 3660 Stutz Drive, Suite 101, Canfield, OH 44406.

Highly compensated Employee means an:

- (a) Employee who, at any time during the Plan Year or the preceding Plan Year, was a five percent owner (as defined in Code Section 416(i)(1)) of the Employer; or
- (b) Employee who received “compensation” during the preceding Plan Year from the Employer in excess of \$100,000 effective January 1, 2007, subject to adjustment by the Secretary of Treasury pursuant to Code Section (415(d).

For purposes of this Section, “compensation” means compensation within the meaning of Code Section 415(c)(3). The determination of who is a highly compensated Employee will be made in accordance with section 414(q) of the Code and the regulations promulgated thereunder.

Hours of Service means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed; and
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. No more than 501 hours of service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph will be calculated and credited pursuant to section 2530.200b-2 of the Department of Labor Regulations which is incorporated herein by reference; and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same hours of service will not be credited both under paragraph (A) or paragraph (B), as the case may be, and under this paragraph (C). These hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.
- (d) Effective December 12, 1994, each hour for which an Employee is absent from work due to military service in the Armed Forces of the United States, as defined in in this Article for the sole purpose of determining whether a Break in Service has occurred. Hours of Service pursuant to this subparagraph shall be credited only to the extent they would have been credited but for such absence, or if such number of Hours of Service cannot be determined, at the rate of eight Hours of Service per day of absence. In no event, however, shall the number of Hours of Service credited pursuant to this subparagraph (d) exceed the minimum number of Hours of Service needed to prevent the occurrence of a Break in Service in the Plan Year such absence begins. However, if in the Plan Year such absence begins, the Employee had earned a sufficient number of Hours of Service to prevent the occurrence of a Break in Service without regards to this subparagraph (d) the Employee shall be credited with the minimum number of Hours of Service needed to prevent the occurrence of a Break in Service during the Plan Year which immediately follows the Plan Year in which the absence begins.

- (e) Hours of service will be credited for employment with other members of an affiliated service group (under Code section 414(m)), a controlled group of corporations (under Code section 414(b)), or a group of trades or businesses under common control (under Code section 414(c)) of which the adopting employer is a member, and any other entity required to be aggregated with the employer pursuant to Code section 414(0). Hours of service will also be credited for any individuals considered an Employee for purposes of this Plan under Code sections 414(n) or 414(o).

- (f) Solely for purposes of determining whether a Break in Service for participation and vesting purposes has occurred in a computation period, an individual who is absent from work for Maternity or Paternity Leave of Absence shall receive credit for the hours of service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 hours of service per day of such absence. For purposes of this paragraph, a Maternity or Paternity Leave of Absence means an absence: (1) by reason of the pregnancy of the individual; (2) by reason of a birth of a child of the individual; (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual; or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement. The hours of service credited under this paragraph shall be credited (1) in the computation period in which the absence begins if the crediting is necessary to prevent a break in service in that period, or (2) in all other cases, in the following computation period.

Late Retirement Date means the first day of the month coinciding with or following a Participant's actual Retirement Date after having reached his Normal Retirement Date.

Military Service means any absence from work by reason of active duty in the Armed Forces of the United States.

Normal Retirement Age means age 59.5 years old.

Normal Retirement date means the first day of the month coinciding with or following the attainment of Participant's Normal Retirement Age.

Break-in-Service means any Vesting Computation Period during which the Participant has not completed more than four hundred thirty-five (435) Hours Worked (The foregoing notwithstanding, a Break-in Service shall not occur because of a Temporary Leave of Absence or Maternity or Paternity Leave of Absence). Temporary Leave of Absence means an unpaid, temporary cessation from active Employment with the Employer pursuant to an established nondiscriminatory policy, whether occasioned by illness, military service, or any other reason.

Marriage For purposes of the Plan, the term “marriage” will be read to include a same-sex marriage that is legally recognized as a marriage under any state law.

Maternity or Paternity Leave of Absence shall mean an absence from work for any period by reason of the Employee’s pregnancy, birth of the Employee's child, placement of the child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement. For this purpose, Hours Worked shall be credited for the Plan Year in which the absence from work begins only if credit therefore is necessary to prevent the Employee from incurring a Break-in-Service, or, in any other case, in the Plan Year immediately following the absence. The Hours Worked credited for a Maternity or Paternity Leave of Absence shall be those which would normally have been credited

but for such absence, or, in any case in which the Administrative Manager is unable to determine such hours normally credited, 8 Hours Worked per day of absence. The total Hours Worked credited for a Maternity or Paternity Leave of Absence shall not exceed 501.

Participant means an Employee who meets the eligibility requirements as set forth herein and who has not for any reason become ineligible to participate in the Plan.

Pensioner means a person who has retired from the service of an Employer and who is receiving retirement benefits from this Plan.

Plan means this document, as amended.

Plan Year means the twelve (12) month period beginning January 1 and ending December 31 of each calendar year.

Pre-Retirement Survivor Annuity means an annuity for the life of the Participant's Spouse, the payments under which must be equal to the amount of benefit which can be purchased with the Account of a Participant used to provide the death benefit under the Plan.

Qualified Joint and Survivor Annuity means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is not less than 50 percent and not more than 100 percent of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse, and which is the amount of benefit which can be purchased with the Participant's vested account balance. The percentage of the survivor annuity under the plan shall be 50%.

Qualified Optional Survivor Annuity means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is not less than 75 percent and not more than 100 percent of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse, and which is the amount of benefit which can be purchased with the Participant's vested account balance. The percentage of the optional survivor annuity under the plan shall be 75%.

Qualified Surviving Spouse or Spouse means any individual who is lawfully married under any state law, including an individual married to a person of the same sex who was legally married in a state that recognizes such marriages, but who are domiciled in a state that does not recognize such marriages, at the Participant's Retirement Date. A former Spouse shall be treated as Qualified Surviving Spouse to the extent provided by Code section 414(p).

Regulation means the Federal Income Tax Regulations as promulgated by the Secretary of the Treasury or his delegate, and as amended from time to time.

Retirement Date means the date as of which a Participant retires for reasons other than Total and Permanent Disability, whether such retirement occurs on a Participant's Early, Normal or Late Retirement Date.

Separate Account means the separate account that will be maintained by the Trustees for the Employer contributions of each Participant along with the respective investment earnings.

Total and Permanent Disability or Disability means a physical or mental condition of a Participant resulting from bodily injury, disease, or mental disorder which renders him incapable of continuing any gainful occupation that can be expected to result in death or which has lasted, or

can be expected to last, for a continuous period of not less than 12 months, and which condition constitutes total disability under the federal Social Security Act.

Trust Fund Agreement means the Sheet Metal Workers Local No. 33 Youngstown District Annuity Plan Trust Fund Agreement, as amended.

Trustee means any natural person designated as a Trustee pursuant to the terms of the Trust Fund Agreement, or his successor or successors.

Union means the Sheet Metal, Air, Rail, and Transportation Association Local Union No. 33 Youngstown District.

Vested means the portion of a Participant's Credit Account which is non-forfeitable. A Participant is vested in the Plan following one hour of service.

Vested account balance means the aggregate value of the Participant's vested account balances derived from Employer and Employee Contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. This definition shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee contributions, or both at the time of death or distribution.

Vesting Computation Period or Computation Period means, for purposes of measuring completion of Years of Service and for determining non-forfeitable accrued benefits, the same twelve (12) month period as the Plan Year.

Year of Service means a Vesting Computation Period during which an Employee has been credited with at least four hundred thirty-five (435) Hours Worked. If a Participant who has no vested interest in his Credit Account incurs a Break in Service which equals or exceeds (in number) the greater of five (5) or the aggregate Number of Years of Service attained prior to such Break, then all Years of Service prior to such Break shall be forfeited.

ARTICLE 3 – ELIGIBILITY FOR PARTICIPATION

3.1 Conditions of Eligibility

Every Employee on whose behalf an Employer is required, pursuant to a Collective Bargaining Agreement, to contribute to the Trust Fund, shall be eligible to participate in the Plan.

3.2 Effective Date of Participation

An Employee who is eligible to be a Participant shall become a Participant as of the first day an Employer Contribution is made or should be made on their behalf.

ARTICLE 4 – CONTRIBUTION AND ALLOCATION

4.1 Employer Contributions and Elective Contributions

(A) Each Employer shall make continuing and prompt payments to the Trust Fund on behalf of each Employee as required by the applicable Collective Bargaining Agreement and by the Trust Fund Agreement. The obligation of the Employer to make such Contributions shall continue during periods when the Collective Bargaining Agreement is negotiated.

(B) Elective Contributions

- (1) Effective December 1, 2022, Participants working under the Residential (Green) or the Service Technicians and Residential Applications of the Youngstown District Local Union No. 33 (Purple) Collective Bargaining Agreements who meet the eligibility requirements under Article IV (“Residential Participants”) may elect through payroll deduction, in accordance with an Elective Deferral Election Form filed with the Trustees, to have his or her wage for each hour worked reduced by the amounts agreed to by the Bargaining Parties via the current wage sheet of the applicable Collective Bargaining Agreement and to have a corresponding amount contributed to the Trust on his or her behalf by an Employer as an elective deferral (Elective Contributions). The Employers shall remit a Participant’s Elective Contributions to the Trustees no later than the date required under Labor Regulation section 2510.3-102.

Elective Contributions are made on a pre-tax basis.

- (2) The Participant must complete an Elective Deferral Form approved by the Trustees of the Sheet Metal, Air, Rail, And Transportation Association Local Union No. 33 Youngstown District Annuity Fund and provide this completed form to his/her Employer. The Employer will then begin the deferral the first full pay period following receipt. A Residential Participant must complete a new Deferral Election Form when commencing employment with a new Employer and the Employer must provide a copy of this Election Form to the Union and Fund Office within 3 days of receipt; the Employer will thereafter commence requested deferrals by the start of the first full pay period after receipt of the Election Form. If a completed Deferral Election Form is not timely submitted, the Residential Participant may not make an election until the month of November to be effective January 1st, or the month of May to be effective July 1st.
- (3) During the month of May or November, a Residential Participant may make an election or change an existing election to defer wages in the above dollar amounts effective July 1st or January 1st, respectively. A Residential Participant may revoke an election at any time by written notification to the Employer, and the Employer must provide a copy of this written notification to the Union and Fund Office within 3 days of receipt. Once revoked, an Employee who remains working for the same Employer cannot resume or modify their elections until the months of May or November, to be effective July 1st or January 1st.
- (4) Notwithstanding any other provision of the Plan to the contrary, a Participant’s Elective Contributions may not exceed the dollar limitation contained in Code section 402(g)(1) in effect at the beginning of such calendar year.

Elective Contributions in excess of the limitation described in Code section 402(g) and any income or loss allocable to such excess amount for the calendar year shall be distributed to Participants who claim excess Elective Contributions for a calendar year no later than April 15 following the calendar year in which such excess Elective Contributions are made.

The Participant's claim for a distribution of excess Elective Contributions shall: (a) be in writing, (b) be submitted to the Trustees no later than the March 1 following the close of the calendar year in which the excess Elective Contribution is made, (c) specify the amount by which the Participant's Elective Contributions exceed the limitation described in Code section 402(g) for such calendar year; and (d) be accompanied by the Participant's written statement that if such amounts are not distributed, such excess Elective Contributions, when added to amounts deferred under other plans or arrangements described in Code sections 401(k), 408(k), 403(b) or 501(c)(18), exceed the limit imposed on the Participant by Code section 402(g) for the year in which the deferral occurred. Notwithstanding, a Participant will be deemed to have notified the Trustees of an excess Elective Contribution to the extent that the individual has excess Elective Deferrals for the calendar year taking into account only Elective Contributions under the Plan.

- (5) The ADP test will be satisfied pursuant to Treas. Reg. §1.401(k)-2(a), including the use of the current year testing method described in Treas. Reg. §1.401(k)-2(a)(2)(ii). As determined by the ADP test, the Plan will make corrective distributions within 2½ months of the end of the Plan Year. For purposes of ADP testing, the Plan may use any permissible definition of compensation under Code section 414(s) or as otherwise permitted by the Internal Revenue Code.

4.2 Irrevocability of Employer Contributions

Any and all Employer Contributions made by the Employer shall be irrevocable and shall be transferred to the Fund to be used for the purposes set forth in Section 1.2, provided, however, that in the event an Employer makes a contribution erroneously or by a mistake of fact, such contribution maybe returned to the Employer within one (1) year after the payment of the contribution.

4.3 Administration of Assets

The Board of Trustees shall hold and administer the assets of the Fund as a single trust fund until the interest of each Participant, Pensioner, or Beneficiary is fully distributed.

4.4 Trust Fund

All Employer Contributions, together with all income, gains, accumulations, and losses therefrom, shall constitute the Fund and shall be held in trust for the exclusive benefit of all Participants, Pensioners, and Beneficiaries.

4.5 Accounting and Allocations

- (A) The Administrator shall establish and maintain an Account in the name of each Participant to which the Administrator, on each Anniversary Date or other valuation date, shall credit all amounts allocated to each Participant as hereafter set forth.
- (B) The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's Contribution. Within forty-five (45) days after the date of receipt by the Administrator of such information, the Administrator shall allocate such contributions to each Participant's Account in accordance with this section 4.5.

- (C) As of each Anniversary Date or other valuation date, before allocation of Employer Contributions, any earnings or losses (net appreciation or net depreciation) of the Trust Fund shall be allocated in the same proportion that each Participant's and Former Participant's non-segregated accounts bear to the total of all Participants' and Former Participants' non-segregated accounts as of such date.
- (D) Notwithstanding anything herein to the contrary, and effective January 1, 2017, the Board of Trustees shall designate Investment Funds and allow Participants to direct the investment of their Participant Accounts. Such Participant direction shall be subject to the following rules:
 - (1) A Participant shall specify the manner in which contributions to the Plan shall be invested in each Investment Fund then offered under the Plan. The investment election shall specify, in 1% increments from 0% to 100%, the percentage of future contributions to be invested in each Investment Fund. The investment elections made under this Section may be changed at any time (but only with respect to contributions made on and after such date of change) by submitting a new election in accordance with rules prescribed by the Board of Trustees. Changes in investment elections shall be made effective as soon as administratively practicable.
 - (2) A Participant shall also have the opportunity to change the manner into which that Participant's Account has been invested in the Investment Funds offered under the Plan. The investment election shall specify, in 1% increments from 0% to 100%, the percentage of the Participant Account to be invested in each Investment Fund. The investment election under this section may be changed at any time in accordance with rules prescribed the Board of Trustees. Any transfer of assets between the Investment Funds elected by the Participant shall occur as soon as administratively practicable after the date on which the election is made. An election under this Paragraph to change the manner in which any part of a Participant's Account is invested shall be subject to any restrictions imposed by the Board of Trustees or its designee.
 - (3) If a Participant's election under paragraphs (1) or (2) of this Section as of any pertinent date is incomplete, or in the event no election is properly made by a Participant, then the Participant shall be deemed to have elected to extend the Participant's most recent valid election or, if no previous valid election exists, then the Participant will be assumed to have chosen to invest in the Investment Fund(s) so designated by the Board of Trustees.

4.6 Limit on Account Contributions

- (A) Notwithstanding anything to the contrary contained herein, the maximum Annual Additions to a Participant's Credit Account in any Plan Year will not exceed the lesser of:
 - (1) \$40,000, as adjusted for increases in the cost-of-living under Code §415(d) of the Code, or

- (2) 100 percent of the Participant's Compensation, within the meaning of Code §415(c)(3) of the Code, for the Plan Year.
- (B) The compensation limit referred to in Section 4.6(A)(2) shall not apply to any contributions for medical benefits after separation from service (within the meaning of Code §§401(h) or 419(f)(2)), which is otherwise treated as an annual addition.
- (C) The definition of Compensation in the Plan includes payments made by the later of 2½ months after severance from Employment, or the end of the limitation year that includes the date of 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.

4.7 Excess Contributions

For Plan Years beginning on or after July 1, 2007. The Employee Plans Compliance Resolution System (EPCRS) shall be the only correction method for correcting excess annual contributions.

4.8 Crediting Contributions

The Employer Contributions shall be credited to the Credit Account of each Participant on whose behalf the Contributions are made. Nothing contained herein shall be construed as requiring the Board of Trustees to establish a separate trust for each Participant, or to segregate the assets of the Trust Fund on behalf of each Participant.

4.9 Valuation of Assets

The Board of Trustees shall revalue the assets of the Fund at fair market value as of the last day of each Plan Year and on such other dates, including on a daily basis, as designated by the Board of Trustees. The foregoing to the contrary notwithstanding, the Board of Trustees may elect to value a bond or other evidence of indebtedness which is held by the Fund and which is not in default as to principal or interest on an amortized basis running from initial cost at purchase to the amount payable at maturity (or, in the case of a bond which is callable prior to maturity, the earliest call date). Such election shall be made in accordance with rules adopted by the Secretary of the Treasury.

The valuation of each Employee's Credit Account as finally established, including the contribution allocation for the current year, shall be stated in dollars based on market value and (insofar as such account represents an interest in equity securities) and may also be stated in terms of numbers of shares of such securities, or fractions thereof. This valuation shall be the effective valuation of such account until a new valuation is established as of the last day of the succeeding Plan Year.

4.10 Limitation on Contributions

Notwithstanding any provision of this Plan to the contrary, neither the Chapter, the Employees, the Union, nor any of their representatives shall be liable to anyone in the event the Fund created by the Contributions is insufficient to provide any or all of the benefits described herein. There shall be no obligation to anyone to make any Contributions other than those made pursuant to a Collective Bargaining Agreement.

4.11 Limitations Imposed by the Internal Revenue Code

The annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual compensation limit, for determination periods beginning before January 1, 2002, shall be \$200,000.

ARTICLE 5 – CREDIT FOR MILITARY SERVICE

A Participant will be given credit for benefits and vesting for a period of military service (i.e. service covered under the Uniformed Services Employment and Reemployment Act) subject to the following:

Notification. Prior to entering military service (i.e., service covered under USERRA), a Participant must 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. Contributions will be deposited into the individual account of each Participant who served in the military and satisfies the re-employment requirements. Contributions shall be made for the military service as follows:

1. One-half (1/2) of the contribution cost shall be paid by the Annuity Fund from Plan Assets.
2. The remaining one-half (1/2) shall be paid by assessing the contribution cost to any Employer, not to exceed the last three (3), employing the Participant during the two (2) year period prior to the Participant's military leave. The cost will be shared on the basis of the percentage of time the participant spent with each of the last three (3) Employers just prior to the participant's military leave.

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 if he/she returns to Covered Employment 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.

ARTICLE 6 – DETERMINATION OF BENEFITS

6.1 Early Retirement

When a Participant reaches his Early Retirement Date and retires, his Credit Account shall be fully vested in him at the time of such retirement and paid to him pursuant to the provisions of this Article.

6.2 Normal Retirement

When a Participant reaches his Normal Retirement Date, his Credit Account shall be fully vested in him at the time of his retirement and paid to him pursuant to the provisions of this Article.

6.3 Late Retirement

When a Participant reaches his Late Retirement Date, his Credit Account shall be fully vested in him at the time of his retirement and paid to him pursuant to the provisions of this Article.

6.4 Benefits upon Death

If a Participant dies while an active Participant in the Plan, the full value of his Vested Credit Account shall be paid in the form of a Pre-Retirement Survivor Annuity, or, if the Beneficiary so elects, in a lump sum payment.

6.5 Total and Permanent Disability

- (A) When it is determined that a Participant is Totally and Permanently Disabled and the Participant has been approved by the Federal Social Security Administration for disability benefits prior to his Early or Normal Retirement, then such disabled Participant shall be entitled to receive the full value of his Vested Credit Account pursuant to the provisions of this Article. Notwithstanding, the Plan may implement and rely on internal rules, guidelines, protocols, or other similar criteria, including any medical judgment of a qualified physician satisfactory to the Trustees, in determining that a Participant is Totally and Permanently Disabled for purposes of this Section 6.5.
- (B) The benefit payable upon Total and Permanent Disability shall be paid in accordance with this Article and shall continue until the earliest of (i) the date the Participant recovers from said Total and Permanent Disability prior to his attaining his Normal Retirement Age, (ii) the Participant's death, or (iii) the date the Participant's Vested Credit Account has been completely exhausted.
- (C) In administering this section, the Board of Trustees shall treat alike situations in a uniform and consistent manner so there shall be no discrimination between Participants.

6.6 Other Termination of Employment

A Participant who terminates his service with his Employer, and who has no right to any other form of benefit described in this Article 6, shall be entitled to distribution of that

portion of his Credit Account which is nonforfeitable (the Termination Balance), Any such distribution of the Termination Balance is subject to the following limitations:

- (A) 25% of the Participant's Termination Balance may be distributed if no Employer Contributions are reported as due for the Participant for a 90-consecutive-day period.
- (B) If no Employer Contributions are reported as due for the Participant for the 90-consecutive-day period immediately following the period described in 6.6(A), then an additional 25% of the Participant's Termination Balance may be distributed.
- (C) If no Employer Contributions are reported as due for the Participant for the 90-consecutive-day period immediately following the period described in 6.6(B), then an additional 25% of the Participant's Termination Balance may be distributed.
- (D) If no Employer Contributions are reported as due for the Participant for the 90-consecutive-day period immediately following the period described in 6.6(C), then the remaining 25% of the Participant's Termination Balance may be distributed

6.7 Distribution of Benefits

- (A) The normal form of benefit for a Participant with a Spouse on his Annuity Starting Date shall be a 50% Qualified Joint and Survivor Annuity. The normal form of benefit for a Participant who does not have a Spouse on his Annuity Starting Date is a single life annuity.
- (B) A Participant who is eligible to receive a benefit under this Plan may elect by written notice to the Trustees to waive the normal form of benefit set forth in 6.7(A) and to take this benefit:
 - (1) in a lump sum distribution of his entire Account balance, or
 - (1) in substantially equal monthly payments, either (1) for a period certain, which period may not exceed the life expectancy of the Participant; or (2) for a fixed amount, from which any income tax withholding will be deducted from that fixed amount.
 - (2) in the form of a 75% survivor annuity, which means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Surviving Spouse equal to 75% of the annuity payable during the life of the Participant and equal to the actuarial equivalent of the Participant's Account as of the Annuity Starting Date.
 - (3) in partial distributions in any amount and any frequency as directed by the Participant. Partial distributions will be processed upon the Fund Office's receipt of a completed Distribution Election Form detailing the amount of the distribution and indicating the manner of distribution (in cash or via rollover).

Partial distributions under this subparagraph are subject to the following limitations:

- (i) A Participant who first elected to receive the benefit described in 6.7(B)(2), substantially equal monthly payments, may later elect to receive a partial distribution under 6.7(B)(4). If the Participant who first elected to receive the benefit described in 6.7(B)(2), substantially equal monthly payments, later elects to receive a partial distribution under 6.7(B)(4), the installment payment election will be terminated. Therefore, if the Participant desires that installment payments continue after the partial distribution, then a new Distribution Election Form must be received by the Fund Office.

- (C) Any election to waive the Qualified Joint and Survivor Annuity must be made by the Participant in writing during the election period and be consented to by the Participant's Qualified Surviving Spouse. Such Qualified Surviving Spouse's consent shall be irrevocable and must acknowledge the effect of such election and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Board of Trustees that the required consent cannot be obtained because there is no Qualified Surviving Spouse, the Qualified Surviving Spouse cannot be located, or due to other circumstances that may be prescribed by Regulation. The election made by the Participant and consented to by his Qualified Surviving Spouse may be revoked by the Participant in writing without the consent of the Qualified Surviving Spouse at any time during the election period. The number of revocations shall not be limited. Any new election must comply with the requirements of this subsection. A former Qualified Surviving Spouse's consent shall not be binding on a new Qualified Surviving Spouse.
 - (1) The election period to waive the Qualified Joint and Survivor Annuity shall be the 90-day period ending on the Annuity Starting Date.

 - (2) With regard to the election, the Board of Trustees shall provide to the Participant no less than 30 days and no more than 90 days before the Annuity Starting Date a written explanation of:
 - a. The terms and conditions of the Qualified Joint and Survivor Annuity;
 - b. The Participant's right to make, and the effect of, an election to waive the Qualified Joint and Survivor Annuity;
 - c. The right of the Participant's Qualified Surviving Spouse to consent to any election to waive the Qualified Joint and Survivor Annuity; and
 - d. The right of the Participant to revoke such election and the effect of such revocation.

In the case of a Qualified Optional Survivor Annuity, the Administrative Manager shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Optional Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements applicable to a Qualified Joint and Survivor Annuity.

- (D) Any distribution to a Participant who has a benefit which exceeds \$1,000 shall require such Participant's consent. With regard to this required consent:
- (1) No consent shall be valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan that would satisfy the notice requirements of Code Section 417.
 - (2) The Participant must be informed of his right to defer receipt of the distribution. If a Participant fails to consent, it shall be deemed an election to defer the commencement of payment of any benefit. However, any election to defer the receipt of benefits shall not apply with respect to distributions which are required under Section 6.11
 - (3) Notice of the rights specified under this paragraph shall be provided no less than 30 days and no more than 90 days before the Annuity Starting Date.
 - (4) Written consent of the Participant to the distribution must not be made before the Participant receives notice and must not be made more than 180 days before the Annuity Starting Date.
- (E) Notwithstanding anything in the Plan to the contrary, the written explanation may be provided after a Participant's Annuity Starting Date, in which case the election period set forth in Section 6.7(C)(1) shall not end before the 30th day after the date on which the written explanation is provided.
- (F) Notwithstanding anything in the Plan to the contrary, a Participant may elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the Annuity Starting Date (or to waive the 30-day requirement under Section 6.7(C)) if the distribution commences more than seven days after such explanation is provided.
- (G) Notwithstanding any provision in this Plan to the contrary, if the value of a Participant's benefit derived from Employer contributions does not exceed \$1,000, the Trustees shall immediately distribute such benefit in a single lump sum without such Participant's consent when the Participant incurs a Break in Service. No distribution may be made under the preceding sentence after the Annuity Starting Date unless the Participant consents in writing to such distribution. Any written consent required under this paragraph must be obtained not more than 180 days before commencement of the distribution and shall be made in a manner consistent with Section 6.7(C).

6.8 Pre-Retirement Survivor Annuity

- (A) Unless otherwise elected as provided in this Section, if a Participant dies before the annuity starting date, then the Participant's vested account balance shall be applied toward the purchase of an annuity for the life of the surviving Spouse, unless the Qualified Surviving Spouse requests payment in a lump sum. The Qualified Surviving Spouse may elect to have such annuity distributed within a reasonable period after the Participant's death.

- (B) Any election to waive the Qualified Pre-Retirement Survivor Annuity before the Participant's death must be made by the Participant in writing during the election period and shall require the Qualified Surviving Spouse's irrevocable consent in the same manner provided for in Section 6.7(C). Further, the Qualified Surviving Spouse's consent must acknowledge the specific non-spouse Beneficiary. Notwithstanding the foregoing, the non-spouse Beneficiary need not be acknowledged, provided the consent of the Qualified Surviving Spouse acknowledges that the Qualified Surviving Spouse has the right to limit consent only to a specific Beneficiary and that the Qualified Surviving Spouse voluntarily elects to relinquish such right.
- (C) The election period to waive the Qualified Pre-Retirement Survivor Annuity is the period which begins on the first day of the Plan Year in which the Participant attains age 35 and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age 35 is attained, with respect to the account balance as of the date of separation, the election period shall begin on the date of separation.
- (D) With regard to the election, the Administrator shall provide each Participant within the applicable period for such Participant, a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of 6.7(C) applicable to a Qualified Joint and Survivor Annuity. The applicable period for a Participant is whichever of the following periods ends last:
 - (1) the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the plan year in which the Participant attains age 35;
 - (2) a reasonable period ending after the individual becomes a Participant;
 - (3) A reasonable period ending after the Plan no longer fully subsidizes the cost of the Qualified Pre-Retirement Survivor Annuity with respect to the Participant;
 - (4) A reasonable period ending after Code Section 401(a)(11) applies to the Participant; or
 - (5) A reasonable period after separation from service in the case of a Participant who separates before attaining age 35. For this purpose, the Trustees must provide the explanation beginning one year before the separation from service and ending one year after such separation. If such Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

For purposes of applying this Section, a reasonable period ending after the enumerated events described in (2), (3) and (4) is the end of the two-year period beginning one year prior to the date the applicable event occurs and ending one year after that date.

A Participant who will not yet attain age 35 as of the end of any current Plan Year may make a special qualified election to waive the qualified preretirement survivor

annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age 35. Such election shall not be valid unless the Participant receives a written explanation of the Qualified Pre-retirement Survivor Annuity in such terms as are required under section 6.7(C).

Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the plan year in which the Participant attains age 35. Any new waiver on or after such date shall be subject to the full requirements of this article.

6.9 Cash-outs and Benefits Maximums

Notwithstanding Section 6.7, if the present value of a Participant's account is One Thousand Dollars (\$1,000.00) or less, the Plan Administrator may require distribution of the account. 60 days prior to the mandatory distribution of the account, the Participant will be given written notice of the option to roll the account balance into another eligible retirement plan or to retain the account balance as a taxable distribution. If the Participant fails to make an election within seven days prior to the mandatory distribution of the account, the account balance will be distributed to the Participant as a taxable distribution. However, a partial or total cash-out may not be made after the annuity starting date where the present value of the Qualified Joint and Survivorship Annuity or the Qualified Pre-Retirement Survivor exceeds One Thousand Dollars (\$1,000.00), unless the cash-out is consented to in writing by the Participant and the Participant's Spouse, if any, or where the Participant is dead, the Surviving Spouse.

6.10 Time of Distribution

Notwithstanding any provision of this Plan to the contrary, unless a Participant elects in writing to defer the receipt of benefits, (such election may not result in a death benefit that is more than incidental), the payment of benefits shall begin no later than the 60th day after the close of the Plan Year in which the latest of the following events occurs: (1) the date on which the Participant attains Normal Retirement Age (2) the 10th anniversary of the year in which the Participant commenced participation in the Plan, or (3) the date the Participant terminates his service with the Employer.

6.11 Minimum Distribution Requirements

- (A) Effective Date. The provisions of this Section will apply for purposes of determining required the minimum distributions for calendar years beginning after December 31, 1984.
- (B) Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.

Notwithstanding section 6.11(B) of the Plan, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the participant or beneficiary chooses to receive such distributions. Participants and beneficiaries described in the preceding sentence will

be given the opportunity to receive the distributions described in the preceding sentence.

- (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, 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 entire interest of a Participant will be distributed or begin to be distributed 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:
 - (i) For Participants who turn (or would have turned) 70½ on or before December 31, 2019 (i.e., whose birthdate is on or before June 30, 1949): the Participant would have attained age 70½, if later;
 - (ii) For Participants who turn (or would have turned) 70½ after December 31, 2019 (i.e., whose birthdate is on or after July 1, 1949): the Participant would have attained age 72, if later;
 - (iii) For participants who turn (or would have turned) 72 after December 31, 2022, and 73 before January 1, 2033 (i.e., whose birthday is on or after January 1, 1951, and on or before December 31, 1959); the Participant would have attained age 73, if later;
 - (2) If the Participant's Surviving Spouse is not the Participant's 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) Election to Apply 5-Year Rule to Distributions to Designated Beneficiaries. If the participant dies before distributions begin and there is a designated beneficiary, distribution to the designated beneficiary is not required to

begin by the date specified in subparagraphs (F)(1)(2) of this section, but the participant's entire interest will be distributed to the designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death.

- (5) 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 (J) and (K), unless paragraph (F)(3) applies, distributions are considered to begin on the Participant's Required Beginning Date. If paragraph (F)(3) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph (F)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's Surviving Spouse before the date distributions are required to begin to the Surviving Spouse under paragraph (F)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (G) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (H)(I)(J) and (K) below. 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.
- (H) **Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (2) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (I) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under paragraph (H) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
- (J) **Death On or After Distribution Begin.**

- (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
 - (a) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (b) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (c) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(K) Death Before Date Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in paragraph (J).
- (2) 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.

- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph (F)(1), this paragraph (K) will apply as if the surviving spouse were the Participant.
- (4) Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule of 6.11(F)(4) and 6.11(K)(1) apply to distributions after the death of a participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under section 6.11(F)(1)-(2) of the plan, or by September 30 of the calendar year which contains the fifth anniversary of the participant's (or, if applicable, surviving spouse's) death. If neither the participant nor beneficiary makes an election under this paragraph, distributions will be made in accordance with sections 6.11(F)(1)-(2) and sections 6.11(K)(1) of the plan.
- (L) Designated beneficiary means the individual who is designated as the Beneficiary as defined in Article 1 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code.
- (M) Distribution calendar year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (F). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (N) Life expectancy means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (O) Participant's account balance means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of the dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(P) Required beginning date means:

For Participants who turn 70½ on or before December 31, 2019 (i.e., whose birthdate is on or before June 30, 1949): the later of April 1 of the calendar year following the calendar year in which: (i) the Participant attains age 70½, or (ii) the Participant retires. Provided however, that the Required Beginning Date of a Participant who is a five-percent owner is April 1 of the calendar year following the year in which the Employee attains age 70 ½.

For Participants who turn 70½ after December 31, 2019 (i.e., whose birthdate is on or after July 1, 1949): the later of April 1 of the calendar year following the calendar year in which (i) the Participant attains age 72, or (ii) the Participant retires. Provided however, that the Required Beginning Date of a Participant who is a five-percent owner is April 1 of the calendar year following the year in which the Employee attains age 72.

For Participants who turn 72 after December 31, 2022, and 73 before January 1, 2033, (i.e., whose birthday is on or after January 1, 1951, and on or before December 31, 1959); the later of April 1 of the calendar year following the calendar year in which: (i) the Participant attains age 73, or (ii) the Participant retires. Provided however, that the Required Beginning Date of a Participant who is a five-percent owner is April 1 of the calendar year following the year in which the Employee attains age 73.

6.12 Distribution for Minor Beneficiary

In the event a distribution is to be made to a minor, then the Administrator may, in the Administrator's sole discretion, direct that such distribution be paid to the legal guardian, or if none, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains his residence, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the legal guardian or parent of a minor Beneficiary shall fully discharge the Trustee, Employer, Chapter, Union and Plan from further liability on account thereof.

6.13 Location of Participant or Beneficiary Unknown

In the event that all, or any portion, of a distribution becomes payable, but remains unpaid solely by reason of the inability of the Fund's Administrator to ascertain the whereabouts of the Participant or, if applicable, his/her Beneficiary, then the Fund shall make those efforts to locate such Participant or Beneficiary in accordance with the existing Department of Labor standards and regulations and the Department's Field Assistance Bulletins.

6.14 Limitations on Benefits and Distributions

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order" as those terms are defined in Code Section 414(p).

6.15 Hardship Withdrawals

(A) Upon the written application of any Participant (and, if the Participant is married, a written waiver by the Participant with their Spouse's irrevocable consent in the same manner provided for in Section 6.7 specifically acknowledging any non-Spouse Beneficiary), the Trustees in accordance with a uniform nondiscriminatory policy,

may, in their discretion, permit such Participant to withdraw all or a portion of the vested contribution then credited to his account needed for the purpose of:

- (1) The payment of medical expenses described in Internal Revenue Code Section 213(d) incurred by the Participant, his Spouse, or any of his Dependents as defined in Code Section 152); provided that such expenses are not covered under any hospitalization or health and welfare plan;
 - (2) Costs directly related to the purchase of a principal resident for the Participant (excluding mortgage payments);
 - (3) Payment of tuition, related educational fees, room and board expenses for up to the next 12 months of post-secondary education for the employee or the employee's spouse, children or dependents (as defined in IRC 152);
 - (4) Alleviating any extraordinary financial hardship arising outside the usual course of the Participant's business affairs other than those set forth above.
- (B) A Participant making an application for a hardship withdrawal under this Section shall have the burden of presenting to the Trustees proof of such immediate and heavy need, and the Trustees shall not permit withdrawal under this Section without first receiving such proof. In no event shall the total amount withdrawn under this Section exceed the value at the time of such withdrawal of the vested amount credited to such Participant's Account.
- (C) If a Participant's application for a hardship withdrawal is approved, the amount of proof for withdrawal payable from the Funds (valued as of the evaluation date immediately preceding the date of the receipt of the application by the Plan Administrative Manager) shall be cancelled and debited from the Participant's Account. The Plan's Administrative Manager shall then instruct the proper officers to make payments of the amount of the hardship withdrawal to the Participant.
- (D) You may receive a hardship withdrawal only once each calendar year and you must withdraw a minimum of \$3,000.00, or your entire Credit Account if less than \$3,000.00, except for hardship withdrawals for medical expenses.

ARTICLE 7 – CLAIMS AND APPEAL PROCEDURE

7.1 Timing and Notification of Benefit Determination

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

The Board of Trustees shall have the right to require submission of all necessary information before any benefit is paid, including records of employment, proofs of date of birth, marriage and death. No benefit which is dependent in any way upon such information shall be payable unless and until the information so required has been furnished.

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 of 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.

7.2 Manner and Content of Notification of Benefit Determination

The Fund shall provide the 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 as 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.

- (A) The notification shall be written in a manner calculated to be understood by the Claimant, and shall contain:
1. the specific reason or reasons for the adverse determination;
 2. specific reference to pertinent plan provisions on which the determination was based;
 3. 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; and
 4. a description of the Plan'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 after two levels of review; and
 5. 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.

7.3 Appeal of Adverse Benefit Determination

- (A) The Claimant or his authorized representative may appeal the decision of the Fund by written notice received by the Board of Trustees within sixty (60) days following

receipt of the notice of an adverse benefit determination. The written notice only needs to state the Claimant's name, address, and the fact that the Claimant is appealing from the decision of the Board of Trustees, giving the date of the decision appealed from. The appeal shall be addressed as follows:

Board of Trustees
Sheet Metal Workers Local No. 33 Youngstown District Annuity Plan
3660 Stutz Drive Suite 101
Canfield, Ohio 44406

- (B) The Plan shall:
1. provide Claimant the opportunity to submit written comments, documents, records, and other information relating to the claim for benefits;
 2. provide Claimant, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's claim for benefits; and
 3. 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.
- (C) The Board of Trustees shall consider the Claimant's appeal of an adverse benefit determination (First Level Review) no later than its regular quarterly meeting, which immediately follows the receipt of the notice of appeal, unless such notice was filed within thirty (30) days preceding the date of such meeting. If the notice of appeal was received within thirty (30) days prior to the next regular quarterly meeting, the Board of Trustees may consider the appeal at the second regular quarterly meeting following the receipt of the notice of appeal.
- (D) If special circumstances exist regarding a benefit claim, the Board of Trustees may take an extension of time, to the third board meeting following the receipt of the request for review, provided that the Claimant or his representative are given a notice describing the special circumstances and the date as of which the benefit determination will be made prior to the expiration of the original review period.
- (E) After consideration of the appeal as above, the Plan Administrator shall advise the claimant or his representative of the decision of the Board of Trustees, in writing, as soon as possible, but no later than five (5) days following the meeting at which the benefit determination is made.
- (F) The notification of the decision of the Board of Trustees shall set forth specific reasons for their conclusions and shall be written in a manner calculated to be understood by the Claimant and shall make references to the pertinent Plan provision(s) upon which the decision is based. The decision shall be final and binding upon the Claimant unless further appealed as provided below. Notification of an adverse benefit determination upon First Level Review, shall contain:
1. the specific reasons or reasons for the adverse benefit determination;
 2. reference to 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 his claim for benefits;
4. a description of the Plan's procedures regarding the Second Level Review allowing a hearing before the Board of Trustees and the time limits applicable to such procedures, including a statement of the Claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination from the Board of Trustees from the Second Level Review;
5. 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; and
6. the following statement "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency."

(G) Full hearing before the Board of Trustees.

Following an adverse benefit determination upon a First Level Review, the claimant or his representative may request a full hearing before the Board of Trustees (Second Level Review) by written notice within fifteen (15) days after receipt of the Board of Trustees' decision on the First Level Review. The written notice needs to state only the Claimant's name, address, and the fact that you are requesting a full hearing before the Board of Trustees, giving the date of the decision of the Board of Trustees.

The Plan will provide a hearing at the next meeting of the Board of Trustees following the receipt of the request for a Second Level Review as long as the request is received at least 30 days prior to the scheduled meeting date. If the request for a Second Level Review is not received at least 30 days prior to the next scheduled meeting following the receipt of Request for a Second Level Review, the Board may provide a hearing at the second meeting following the Plan's receipt for the request for a Second Level Review.

A full, written report shall be kept of the proceedings of the hearing. The following procedures are applicable to Second Level Reviews:

- (a) In conducting the hearing, the Board of Trustees shall not be bound by the usual common law or statutory rules of evidence.
- (b) The Claimant or his attorney shall have the right to review the written record of the hearing, make a copy of it and file objections to it.
- (c) There shall be copies made of all documents and records introduced at the hearing, attached to the record of the hearing, and made a part of it.

- (d) All information upon which the Board of Trustees based its original decision shall be disclosed to the Claimant or his representative at the hearing.
 - (e) In the event that additional evidence is introduced by the Board of Trustees which was not made available to the Claimant prior to the hearing, the Claimant shall be granted a continuance of as much time as the Claimant desires, not to exceed thirty (30) days.
 - (f) The Claimant shall be afforded the opportunity of presenting any evidence on his behalf. If the Claimant offers new evidence, then the hearing may be adjourned for a period of not more than thirty (30) days so the Board of Trustees may, if they wish, investigate the accuracy of the Claimant's new evidence or determine whether additional evidence should be introduced.
- (H) After consideration of the appeal at the Second Level Review, the Board of Trustees shall notify the Claimant or his representative of its decision in writing as soon as possible but not later than five (5) days after the benefit determination is made. The decision of the Board of Trustees shall set forth specific reasons for their conclusion, shall be written in a manner calculated to be understood by the Claimant and shall make reference to the pertinent Plan provisions upon which the decision is based.

Notification of an adverse benefit determination upon a Second Level Review, shall contain:

1. the specific reasons or reasons for the adverse benefit determination;
2. reference to 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 his claim for benefits;
4. a statement of the Claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination from the Board of Trustees from this Second Level Review;
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;
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; and
7. The following statement "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency."

7.4 Disability Benefits

Claims for Total and Permanent Disability Benefits shall be subject to the following claims and appeals procedures:

- (A) The Plan Administrator shall notify the Claimant of an adverse benefit determination by the Plan within a reasonable period of time, but not later than 45 days after receipt of the claim by the Administrator. This period may be extended for up to 30 days, provided the Plan administrator determines such extension is necessary due to matters beyond the control of the Plan and notifies the Claimant (prior to the expiration of the initial 45-day period) the circumstances requiring the extension and the date the Plan expects to render a decision. An additional 30-day extension is allowed, provided the Plan Administrator again determines it is necessary and notifies the Claimant (prior to the end of the first 30-day extension period). Any notice of extension will specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and additional information needed to resolve those issues. The Claimant shall be afforded at least 45 days to provide such information.
- (B) A Claimant for disability benefits will be allowed 180 days following the receipt of a notice of an adverse benefit determination to appeal the decision.
- (C) Review of a claim for disability benefits will not afford deference to the initial benefit determination. Review of a claim for disability benefits upon appeal will continue to be made at quarterly meetings of the Board of Trustees.
- (D) All notices of an adverse benefit determination will include:
 - 1. An explanation as to why the Plan disagreed with the views of:
 - a. a health care or vocational professional who evaluated the claimant or advised the Plan or
 - b. a disability determination of the Social Security Administration.
 - 2. If an adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, then either an explanation of the scientific or clinical judgment for the determination or a statement that such explanation will be provided free of charge upon request.
 - 3. If the adverse benefit determination is following the final level of appeal provided by the Plan, then the calendar date by which the Claimant must file a civil action under ERISA Section 502(a).
- (E) Notices of adverse benefit determinations will be provided in a culturally and linguistically appropriate manner.
- (F) The Plan's decision to hire, compensate, terminate or promote any individual, such as a claims adjudicator or medical or vocational expert, will not be based on the likelihood that the individual will support an adverse benefit determination.
- (G) Before the Plan issues an adverse benefit determination, the Plan Administrator will provide the Claimant, free of charge, with any new or additional rationale or evidence considered, relied upon, or generated by the Plan. Any such rationale or evidence will be provided to the Claimant sufficiently in advance of the date on which the notice of decision is required to give the Claimant a reasonable opportunity to respond prior to that date.

7.5 Discretion of Trustees

The Plan shall be administered solely by the Trustees, and the decisions of the Trustees in all matters pertaining to the administration of the Plan shall be final. The Trustees shall have full discretionary authority to determine eligibility for benefits, interpret plan documents, and determine the amount of benefits due. The Trustees shall make such rules and prescribe such procedures for the administration of the Plan as they deem necessary and reasonable.

7.6 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.

7.7 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.

7.8 Miscellaneous

The following shall apply to all claims and appeals procedures:

- (A) The Plan will not administer the claims and appeals procedures in any way that unduly inhibits or hampers the initiation or processing of claims for benefits.
- (B) The Plan will not require payment of a fee or costs as a condition to making a claim or appeal.
- (C) The Plan will not preclude an authorized representative of a Claimant from acting on behalf of such Claimant in pursuing a benefit claim or appeal of an adverse benefit determination.
- (D) The Plan will follow administrative processes and safeguards to ensure and verify that benefit claim determinations are made in accordance with the governing Plan documents and that the Plan provisions have been applied consistently with respect to similarly-situated Claimants. In order to do so, the Plan Administrator will do the following:
 - (1) Maintain a file of appeals organized based on the governing plan provisions;
 - (2) Provide, upon request, to the Board of Trustees or requesting Participants or Beneficiaries, a summary of previous determinations based on the governing plan provisions; and
 - (3) Present information regarding benefit determinations and appeals anonymously to parties outside the Plan Administrator's office.
- (E) If a Participant or Beneficiary contacts the Plan Administrator and attempts to file an application for benefits, the administrator will inform the Participant or Beneficiary of the proper procedures for filing an application for benefits.

ARTICLE 8 – MISCELLANEOUS

8.1 Participant's Rights

This Plan shall not be deemed to constitute a contract between the Trustees, the Union, the Chapter, or an Employer and any Participant, or a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be

deemed to give any Participant or Employee the right to be retained in the service of the Union, the Chapter, or an Employer, or to interfere with the right of the Union, the Chapter, or an Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

8.2 Alienation

- (A) Subject to the exceptions provided below, no benefit which shall be payable out of the Trust Fund to any person (including a Participant or his Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Trustees, except to such extent as required by law.
- (B) This provision shall not apply to the extent a Participant or Beneficiary is indebted to the Plan, for any reason, under any provision of this Plan. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such proportion of the amount distributed as shall equal such indebtedness shall be paid to the Trustees or the Administrative Manager, at the direction of the Administrative Manager, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given written notice by the Administrative Manager that such indebtedness is to be paid in whole or part from his Participant's Credit Account. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against his Credit Account, he shall be entitled to a review of the validity of the claim in accordance with appeal procedures provided in Article 6.
- (B) This provision shall not apply to a "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order," a former Spouse of a Participant shall be treated as the Spouse or Surviving Spouse for all purposes under the Plan.

8.3 Construction of Agreement

This Plan and the accompanying Trust Fund shall be construed and enforced according to ERISA and the laws of the State of Ohio to the extent not preempted by federal law.

8.4 Gender and Number

Wherever any words are used herein in the masculine, feminine or neutral gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

8.5 Prohibition Against Diversion of Funds

- (A) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement, or by any other means, for any part of the corpus or income of any trust fund maintained pursuant to the Plan, or any funds contributed thereto, to be used for, or diverted to, purposes other than the exclusive benefit of Participants, Retired Participants, or their Beneficiaries.
- (B) In the event the Employer shall make an excessive contribution under a mistake of fact, pursuant to Section 403(c)(2)(A) of the Act, the Employer may demand repayment of such excessive contribution at any time within one (1) year following the time of payment and the Trustees shall return such amount to the Employer within the one (1) year period. Earnings of the Plan against the Trustee, the Union, the Chapter and the Employer, any of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustees, the Union, the Chapter or Employer.

8.6 Rollover Provisions

- (A) This Section 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 determined by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (B) Definitions.
 - (1) 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: (1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; (2) any distribution to the extent such distribution is required under Section 401(A)(9) of the Code; or (3) 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) and hardship withdrawals.

For purposes of Section 9.6 of the Plan, a portion of a distribution shall not fail to be an “eligible rollover distribution” merely because the portion consists of after-tax Employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such

distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) Eligible Retirement Plan: An “eligible retirement plan” is an individual retirement account described in Section 408(A) of the Code, an individual retirement annuity described in Section 403(A) of the Code, or a qualified trust described in Section 401(A) of the Code, and effective January 1, 2008, a Roth individual retirement account described in Section 408(A) of the Code that accepts the distributee's eligible rollover distribution.

However, in the case of an eligible rollover distribution to the surviving Spouse, an “eligible retirement plan” is only an individual retirement account or individual retirement annuity.

- (3) Distributee: A “distributee” includes an Employee or former Employee, and effective January 1, 2010, a non-spouse beneficiary. 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.
- (4) Direct rollover: A “direct rollover” is a payment by the Plan to an eligible retirement plan specified by the distributee.
- (5) This section shall apply to distributions made after December 31, 2001. For purposes of the direct rollover provisions in this section of the Plan, 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 and which agrees to separately account for amounts transferred into such plan from this Plan. This 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.

Effective January 1, 2010, a non-Spouse Beneficiary may also elect a direct rollover into an inherited IRA.

8.7 Qualified Domestic Relations Orders

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any “alternate payee” under a “qualified domestic relations order.” Furthermore, a distribution to an “alternate payee” shall be permitted if such distribution is authorized by a “qualified domestic relations order,” even if the affected Participant has not separated from service and has not reached the Earliest Retirement Age. For the purposes of this Section, “alternate payee” and “qualified domestic relations order” shall have the meaning set forth under Code Section 414(p).

Copies of the Plan's procedure for Qualified Domestic Relations Orders shall be available, upon request, to all Participants and Beneficiaries at no cost.

ARTICLE 9– GENERAL PLAN INFORMATION

The following information is required to be provided by law:

- A. Type of Administration/Plan Administrator/Plan Sponsor/Counsel:** The Board of Trustees of the Sheet Metal, Air, Rail and Transportation Local Union No. 33 Youngstown District is the Plan Administrator and Plan Sponsor. As such, the Trustees are responsible for overall Plan administration. There are 3 Trustees appointed by the Union and 3 Trustees appointed by the Association. The current Trustees are:

UNION TRUSTEES

Timothy Dwyer (Chairman)
6960 Youngstown Pittsburgh
Road
Poland, OH 44514-8158

Jesse Wright
Sheet Metal Workers Local 33
200 McClurg Road
Boardman, Ohio 44512

Lawrence McQuillan
3005 Southwind Trail
Poland, Ohio 44514

ASSOCIATION TRUSTEES

Ronald Fagert (Secretary)
York Mahoning Mechanical
P. O. Box 3077
Youngstown, Ohio 44511-0077

William Wierly
WW Heating
11400 Market Street
North Lima, Ohio 44452

LEGAL COUNSEL FOR THE PLAN

Jacqueline Asher Kelly, Esq.
Michael J. Asher, Esq.
AsherKelly
25800 Northwestern Hwy, Suite 1100
Southfield, MI 48075
(248) 746-2710

The day-to-day responsibilities for Plan administration are performed by the Plan Office, BeneSys, Inc., 3660 Stutz Drive, Suite 101, Canfield, Ohio, 44406, telephone number (330) 270-0912.

- B. Effective Date of Plan:** 06/1/1986
- C. Agent for Service of Legal Process:** Service of process should be made upon the Plan Office, BeneSys, Inc, 3660 Stutz Drive, Suite 101, Canfield, Ohio, 44406, telephone number (330) 270-0912. Service of legal process may also be made upon any Trustee.
- D. Type of Plan/Employer Identification Number/Plan Year:** The Plan is a profit-sharing defined contribution pension plan. The employer identification number assigned by the IRS is 34-6596079. The Plan Number is 111. The Plan’s fiscal year is the calendar year.
- E. Collective Bargaining Agreements:** The Plan is maintained pursuant to collective bargaining agreements. Copies of such agreements may be obtained upon written request to the Fund Office or are available for examination by participants and beneficiaries at the Fund Office. Alternatively, within 10 days of a written request, such agreements will be

made available at the Union Hall or at any employer establishment where at least 50 or more participants are customarily working. The Plan may impose a reasonable charge for such copies.

- F. Source of Plan Contributions:** The primary source of financing for the benefits provided under the Plan and for the expenses of the Plan operations are employer contributions. The rate of contribution is set forth in the Collective Bargaining Agreement, or other written agreement requiring contributions to the Fund. A complete list of the employers contributing to the Plan may be obtained upon written request to the Plan Office and may be examined at the Plan Office. Additionally, certain Participants may electively make contributions via wage reduction.
- G. Pension Trust Assets and Reserves:** The Board of Trustees holds all assets in trust for the purpose of providing benefits to eligible participants and defraying reasonable administrative expenses.
- H. PBGC:** Benefits under this pension plan are not guaranteed by the Pension Benefit Guaranty Corporation (PBGC), as the PBGC only guarantees benefits under a defined benefit pension plan.
- I. Statement of ERISA Rights:** As a participant in the Sheet Metal, Air, Rail and Transportation Local Union No. 33 Youngstown District Annuity Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

Receive Information About Your Plan and Benefits:

- Examine, without charge, at the Plan Office and at other specified locations, such as worksites and union halls, all documents governing the plan, including collective bargaining agreements and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, including collective bargaining agreements and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Administrator may make a reasonable charge for the copies.
- Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.
- Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (age 59.5) and if so, what your benefits would be at normal retirement age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every 12 months. The Plan must provide the statement free of charge.

Prudent Actions by Plan Fiduciaries: In addition to creating rights for plan participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called “fiduciaries” of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire

you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

Enforce Your Rights: If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with Your Questions: If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

- J. Termination of the Plan:** If the Plan is terminated, plan assets shall be used to pay benefits and expenses incurred prior to termination and expenses incident to the termination. The Trustees will, in their discretion, allocate any remaining assets in a manner which best effectuates the purposes of the Trust. In no event will plan assets revert to or inure to the benefit of contributing employers or the Association.

This Summary Plan Description is not intended to cover every detail of the Plan or every situation that might occur. It is simply a summary. The complete Plan is available for inspection at any time at the Plan Office. If there is any conflict between this summary and the Plan, the Plan controls. For a more detailed statement of your rights and obligations consult the Plan document.