

INTERNATIONAL UNION  
UNITED MINE WORKERS OF AMERICA  
PENSION PLAN  
amended and restated effective January 1, 2015

## TABLE OF CONTENTS

|  |    |
|--|----|
| Article I. - Introduction .....              | 1  |
| Article II. - Definitions .....              | 1  |
| Article III - Eligibility for Pension.....   | 9  |
| Article IV - Payment of Pension.....         | 16 |
| Article V - Amount of Pension .....          | 16 |
| Article VI – Joint and Survivor Annuity..... | 23 |
| Article VII – Death Benefit.....             | 26 |
| Article VIII – Miscellaneous .....           | 28 |
| Article IX - Top Heavy Plan Provisions ..... | 43 |
| Article X - Direct Rollovers.....            | 45 |

## Article I. - Introduction

Pursuant to the International Union, United Mine Workers of America Pension Trust, as amended December 15, 1976, this Pension Plan (hereinafter referred to as the "Plan") continues pension benefits awarded under the previous plans, including the International Union, United Mine Workers of America Pension Plan As Amended and Restated January 1, 1984, and provides pension and death benefits as hereinafter set forth. The Plan was amended and restated on February 28, 2002, and made effective as of January 1, 1998. The Plan was amended and restated effective January 1, 2009 (except where an earlier date is indicated) to (i) incorporate all prior amendments; (ii) amend the Plan for certain required changes including additional amendments to comply with the Pension Protection Act of 2006; and (iii) make certain clarifying changes. The Plan was further amended and restated effective January 1, 2015 (except where an earlier date is indicated) to (i) incorporate all prior amendments, including certain required changes to comply with the HEROES Earnings and Assistance Relief Tax Act of 2008 and the Worker, Retiree, and Employer Recovery Act of 2008; and (ii) make certain clarifying changes. The assets held under the 1976 Trust will continue to be held pursuant to the Plan as herein amended. The Provisions of the Plan as amended and restated herein are set forth below.

## Article II. - Definitions

2.01 "Employer" means, for the purposes of the Trust and Plan, the International Union, United Mine Workers of America and any of its Districts, numbered 1 through 31, including Districts which have been eliminated through consolidation or otherwise, and Districts which may be created in the future, but excluding District 50, and the UMWA-IBCBA LMPCP Trust. "Employer" shall not include the United Mine Workers of America Career Centers, Inc.

2.02 "Participant" means any person who is a full time employee of Employer on or after the effective date but excluding any person considered a leased employee within the definition of Section 2.22; any former full-time employee receiving or entitled to receive a pension under the Trust Fund; and any former full-time employee of the Employer who will be entitled to receive pension benefits upon reaching retirement age as provided in this Plan. References to the masculine gender shall be read to apply equally to both genders.

2.03 The International Union, United Mine Workers of America Pension Trust (hereinafter the "Trust") means the trust agreement entered into on December 15, 1976, between the United Mine Workers of America and its respective Districts pursuant to which the Plan is established.

2.04 "Trustee" shall refer to the Trustee of the Pension Trust designated in accordance with Article IV thereof, to hold in trust all funds and assets of the Pension Trust subject to

proper directions of the Pension Trust Committee in accordance with the Plan and applicable law.

2.05 "Pension Trust Committee" (hereinafter the "Committee") shall refer to the International President, International Vice President and International Secretary-Treasurer of the United Mine Workers of America, who shall be the named fiduciaries required pursuant to Section 402 of ERISA and who shall administer this Plan as provided herein and consistent with applicable law. After August 1, 2002, the "Pension Trust Committee" shall refer to the International President and International Secretary-Treasurer of the United Mine Workers of America.

2.06 "ERISA" shall refer to the Employee Retirement Income Security Act of 1974.

2.07 "Normal Retirement Age"

(a) For a Participant in active service who leaves employment on or after January 1, 1988, "Normal retirement age" shall be the earlier of:

- i. The later of age 65 or the Participant's fifth anniversary of commencing participation, or
- ii. The date upon which a Participant who has earned 5 years of service reaches age 60 or older.

(b) For a Participant who left active employment before January 1, 1988, "Normal retirement age" shall be the earlier of:

- i. The later of age 65 or the Participants' tenth anniversary of commencing participation, or
- ii. The date upon which a Participant who has earned 10 years of service reaches age 60 or older.

2.08 "Year of vesting service" shall include each calendar year after the effective date of this Plan during which a Participant completed at least 1,000 hours of employment or its equivalent. For purposes of an equivalency, 125 work days or 6 months shall be treated as the equivalency of 1,000 hours. Paid time off such as vacations, holidays and sick days shall be counted as employment time.

No Participant may receive credit for more than one year of vesting service in a single calendar year.

For periods commencing on or after January 1, 1985, and to the extent not already credited, hours of employment shall be credited solely for purposes of determining whether a severance of the employment relationship has ceased with respect to a

Participant who is absent from work regardless of whether the Participant is paid for such absence:

- (a) By reason of the pregnancy of the Participant,
- (b) By reason of the birth of a child of the Participant
- (c) By reason of the placement of a child with the Participant in connection with the adoption of such child by such Participant, or
- (d) For purposes of caring for such child for a period beginning immediately following such birth or placement.

Periods of employment denoted in (a) through (d) for which the Participant is not paid shall not be counted in the determination of a "year of vesting service." Hours of employment shall be credited for such purpose pursuant to IRC Section 411(a)(6)(E). Further, the Committee may request that the Participant furnish any information the Committee may require to establish that the absence is for the reasons hereinbefore provided and the number of days for which there was such an absence. In the event such information is not submitted in a timely manner, no hours of employment shall be credited pursuant to this paragraph.

For the purposes of awarding vesting service, any Participant who dies on or after January 1, 2007 while performing qualified military service, as defined in Code § 414(u), shall be treated as having resuming employment on the day preceding his or her death and terminated employment on the actual date of death or disability, in accordance with USERRA and HEART.

2.09 "Year of pension service" shall include each calendar year after the effective date of this Plan during which a full time Employee completed at least 2,080 hours of employment or its equivalent. For purposes of an equivalency, 260 work days or 12 months shall be treated as the equivalent of 2,080 hours. Paid time off such as vacations, holidays and sick days shall be counted as employment time. A Participant shall receive credit for a fractional year of pension service during each calendar year in which he earned at least a year of vesting service. The numerator of such fraction shall be the Participant's days of employment in the year and the denominator shall be 260. No Participant may receive credit for more than a year of pension service for a single calendar year.

For periods commencing on or after January 1, 1985, and to the extent not already credited, hours of employment shall be credited solely for purposes of determining whether a severance of the employment relationship has ceased with respect to a Participant who is absent from work regardless of whether the Participant is paid for such absence:

- (a) By reason of the pregnancy of the Participant,

- (b) By reason of the birth of a child of the Participant,
- (c) By reason of the placement of a child with the Participant in connection with the adoption of such child by such Participant, or
- (d) For purposes of caring for such child for a period beginning immediately following such birth or placement.

Periods of employment denoted in (a) through (d) for which the Participant is not paid shall not be counted in the determination of a "year of pension service." Hours of employment shall be credited for such purpose pursuant to IRC section 411(a)(6)(E). Further, the Committee may request that the Participant furnish any information the Committee may require to establish that the absence is for the reasons hereinbefore provided and the number of days for which there was such an absence. In the event such information is not submitted in a timely manner, no hours of employment shall be credited pursuant to this paragraph.

2.10 (a) "Annual basic salary" of Participants whose active employment terminated before January 1, 2000, but after January 1, 1976, shall refer to the annual rate of salary including cost-of-living allowance (but excluding all other forms of compensation such as bonus, commission or overtime) of the Participant for the average of the 2 highest calendar years during the last 5 calendar years of employment immediately preceding retirement. If the Participant worked less than full-time throughout any of such calendar years, the amount of compensation received in such year for the purpose of determining "annual basic salary" shall be the salary including cost-of-living allowance received by the Participant for such year multiplied by a fraction in which the numerator is 260 and the denominator is the Participant's days of employment in the year as computed under Section 2.09. Notwithstanding anything herein to the contrary, the annual basic salary during any period subsequent to a Participant's eligibility for an early retirement pension shall be less than a Participant's annual basic salary as of any date commencing after such Participant's eligibility for an early retirement pension and ending on his eligibility for an Age 60 Pension or normal retirement pension.

(b) "Annual basic salary" of participants whose active employment terminated on or after January 1, 2000 but before August 1, 2010 shall refer to the annual rate of salary including cost-of-living allowance, and accumulated graduated days (but excluding all other forms of compensation such as bonus, commission or overtime) of the Participant for the average of the 2 highest calendar years during the last 5 calendar years of employment immediately preceding retirement. "Annual basic salary" of Participants whose active employment terminated on or after August 1, 2010 shall refer to the annual rate of salary including cost-of-living allowance, accumulated graduated days-- and, in the case of bargaining unit members of OPEIU Local2, the signing bonus and longevity bonus -- (but excluding all other forms of compensation such as any other type of bonuses, or commission or overtime of the Participant) for the average of the 2 highest

calendar years during the last 5 calendar years of employment immediately preceding retirement. If the Participant's salary was offset or otherwise reduced as the result of having received compensation from a governmental entity pursuant to the UMWA Policy Against Duplicative Compensation (or any subsequent similar policy adopted by the International Union, United Mine Workers of America), the Participant's annual basic salary shall be determined without regard to any such offset or reduction. If the Participant worked less than full-time throughout any of such calendar years, the amount of compensation received in such year for the purpose of determining "annual basic salary" shall be the salary including cost-of-living allowance and accumulated graduated days received by the Participant for such year multiplied by a fraction in which the numerator is 260 and the denominator is the Participant's days of employment in the year as computed under Section 2.09. Notwithstanding anything herein to the contrary, the annual basic salary during any period subsequent to a Participant's eligibility for an early retirement pension shall be less than a Participant's annual basic salary as of any date commencing after such Participant's eligibility for an early retirement pension and ending on his eligibility for an Age 60 Pension or normal retirement pension. The Plan shall not take into account any annual compensation of a Participant in excess of the amount permitted under IRC section 401(a)(17)(B). Such amount shall be adjusted for increases in the cost of living in accordance with IRC Section 301(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan year beginning with or within such calendar year. For any short Plan year, the annual basic salary limit shall be an amount equal to the annual basic salary limit for the calendar year in which the Plan year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan year by twelve (12). The Plan shall also not take into account any compensation earned from the signatory to a Portability Agreement described in Section 8.08 who is not otherwise an Employer under the Plan.

(c) Effective for limitation years beginning on or after July 1, 2007, compensation in this Section 2.10 includes payments made by the later of 2 ½ 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.

2.11 "Accrued benefit" means, for any Participant, as of any date, the monthly retirement pension determined in accordance with Section 5.02 with annual basic salary as of such date and years of service of computing pension service being equal to the years of service for computing pension service the Participant will have completed at his eligibility for Age 60 Pension, assuming he remains in service until then (on the same basic work schedule applicable on the date of such determination); multiplied by the ratio that his years of service for computing pension service as of the date of such determination bears to the years of service for computing pension service he will have

completed at his eligibility for Age 60 Pension assuming he remains in service as an employee until then up to a maximum of 20 years.

2.12 Hours of employment means the sum of:

(a) Each hour for which a Participant is paid, or entitled to payment, for the performance of duties for the Employer during the applicable computation period.

(b) Each hour for which a Participant 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, or leave of absence.

(c) Each hour during which a Participant is paid, or entitled to payment during which no duties are performed due to military duty and any other periods in which an employee was not paid or entitled to payment and would presumably have performed services for the Employer but for the fact that such individual was on a military leave of absence for service in the armed forces of the United States of America, provided the individual entered such service directly from the employ of the Employer, was discharged from such service and was re-employed by the Employer within the period during which his employment rights as a veteran are protected by law.

Hours of employment shall not include any period during which the Participant was not employed by the Employer, unless the predecessor's organization maintained the plan or a predecessor plan.

Hours of employment under (a) and (c) above shall be determined from the Employer records. Hours of employment under (b) above shall be determined in accordance with Department of Labor Regulations 2530.200b-2. Hours of employment hereunder shall be credited to the appropriate computation period in accordance with Department of Labor Regulation 2530.200b-2(c). However, in the case of a Participant whose salary is not determined on the basis of a certain amount for each hour worked or for whom the Employer is not required by Federal law to record the hours worked, the Employer shall determine hours of employment by substituting 45 hours of employment for each week in which the Participant would have otherwise been credited with one hour of service. Notwithstanding anything herein to the contrary, nothing in this Section 2.12 shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law.

Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided as required by Sections 401(a)(37) and 414(u) of the IRC (USERRA and HEART Act).

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



2.14 “Key employee” means an employee who, at any time during the plan year, is

- (i) an officer of the employer having an annual compensation greater than \$130,000,
- (ii) a 5-percent owner of the employer as that term is defined in IRC Section 416(i)(1)(B), or
- (iii) a 1-percent owner of the employer having an annual compensation from the employer of more than \$150,000.

For purposes of subsection (i), no more than 50 employees (or, if lesser, the greater of 3 or 10 percent of the employees) shall be treated as officers. In the case of plan years beginning after December 31, 2002, the \$130,000 amount in clause (i) shall be adjusted at the same time and in the same manner as under IRC Section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2001, and any increase under this sentence which is not a multiple of \$5,000 shall be rounded to the next lower multiple of \$5,000. Such term shall not include any officer or employee of an entity referred to in IRC Section 414(d) (relating to governmental plans). For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(5) shall be excluded. Compensation shall have the same meaning as it is defined in IRC Section 414(q)(4).

2.15 “Limitation year” means the 12 month period commencing on January 1 and ending on December 31.

2.16 “Plan year” means each 12 month period beginning on January 1 and ending on December 31.

2.17 “Defined benefit plan” means a plan established and qualified under IRC section 401 or 403, except to the extent it is, or is treated as, a defined contribution plan.

2.18 “Defined contribution plan” means a plan which is established and qualified under IRC section 401 or 403, which provides for an individual account for each Participant therein and for benefits based solely on the amount contributed to each Participant’s account and any income and expenses or gains or losses (both realized and unrealized) which may be allocated to such accounts.

2.19 “Top heavy plan” generally means, on or after January 1, 1984, any plan under which, as of any determination date, the present value of the cumulative accrued benefits under the plan, or the sum of the present value of the cumulative accrued benefits in an aggregation group, for key employees exceeds 60% of the present value of the cumulative accrued benefits under the plan or aggregation group for all Participants.

For purposes of this definition:

(a) If such a plan is a defined benefit plan, the present value of cumulative accrued benefits shall be the lump sum present value determined pursuant to Article IX. If such plan is a defined contribution plan, the present value of cumulative accrued benefits shall be deemed to be the market value of all employee accounts under the plan. For purposes of determining the present value of the accrued benefits, distributions made within a 1- year period ending on the determination date must be included. Notwithstanding the above, in case of any distribution made for a reason other than severance from employment, death, or disability, the foregoing shall be applied by substituting "5-year period" for "1-year period."

(b) A plan shall be considered a top heavy plan for any plan year if, on the last day of the preceding plan year, the above rules were met. For the first plan year that the plan shall be in effect, the determination of whether said plan is a top heavy plan shall be made as of the last day of such plan year.

(c) Each plan of the Employer required to be included in an "aggregation group" shall be treated as a top heavy plan if such group is a top heavy group.

(d) The term "aggregation group" means

(i) each plan of the Employer in which a key employee is a Participant in the plan year containing the determination date or any of the four preceding four years, and

(ii) each other plan of the Employer which enables any plan in (i) to meet the requirements of IRC Section 401(a)(4) or 410.

(e) If any individual has not performed any services for any Employer (other than benefits under the plan) at any time during the 1-year period ending on the determination date, any accrued benefit for such individual shall not be taken into account in the testing procedure herein described.

(f) This definition shall be interpreted consistent with IRC Section 416 and rules and regulations issued thereunder. Further, such law and regulations shall be controlling in all determinations under this definition inclusive of any provisions and requirements stated thereunder but hereinabove absent.

2.20 "Actuarial equivalent" means a benefit of equivalent value when computed on the basis of interest at the rate of 7% per annum and the UP-1984 mortality table, as reflected by the tables contained in the Appendix to this Plan. For plan years beginning on or after January 1, 2008, the "actuarial equivalent" means a benefit of equivalent value when computed on the basis of interest at the rate of 5.5% per annum and the UP-1984 mortality table, as reflected by the tables contained in the Appendix to this Plan.

2.21 “Highly Compensated Employee” shall have the meaning set forth in IRC Section 414(q).

2.22 The term “leased employee” means any person who is not an employee of an Employer and who provides services to such Employer if –

such services are provided pursuant to an agreement between the Employer and any other person (in this subsection referred to as the “leasing organization”),

such person has performed such services for such Employer (or for such Employer and related persons) on a substantially full-time basis for a period of at least 1 year, and

such services are performed under primary direction or control by the Employer.

### Article III - Eligibility for Pension

#### 3.01 When Retirement Occurs

A Participant shall be considered to have retired on the date he terminates employment, if then immediately eligible to begin receiving benefits, or later, if so elected by the Participant (subject to the provisions of Section 5.10). For a Participant eligible only for a deferred vested pension, retirement shall occur on the date elected by the Participant and upon which the Participant is eligible to begin receiving benefits (subject to Section 5.10).

#### 3.02 Years of Service for Entitlement to Pension

A Participant with at least five (5) years of service with the Employer (including total years of service before January 1, 1976, and years of vesting service thereafter) or a Participant who reaches normal retirement age shall have a nonforfeitable right to a pension under this Plan.

#### 3.03 Age 60 Pension

Any Participant who has reached normal retirement age while in active employment shall be eligible for an Age 60 Pension.

#### 3.04 Early Retirement Pension

Any Participant working in active employment who has a total of at least five (5) years of service, and has attained the age of 55 years, shall be eligible for an Early Retirement Pension.

### 3.05 Disability Pension

Any Participant who, after January 1, 1976, becomes totally and permanently disabled from engaging in any occupation for wages and profit, whose employment with the Employer terminates as a result of such disability and who is determined to be eligible as of the time of his termination for Social Security Disability Insurance benefits under Title II of the Social Security Act or its successor, shall be eligible for a disability pension based on his years of service as provided herein, subject to continuation of total and permanent disability until he attains age 60. Upon reaching age 60, such benefit shall continue without regard to continuing disability.

### 3.06 Deferred Vested Retirement

Any Participant not eligible to receive a pension under any other provision of this Article III whose employment with the Employer terminates for any reason and who at the time of termination of employment has earned a nonforfeitable right to a pension under Section 3.02 shall be eligible for a pension (hereinafter "Deferred Vested Pension") upon reaching age 60, or, if the Participant has five (5) or more years of service, at his election, he shall be eligible for an actuarially equivalent reduced pension at any time after age 55.

### 3.07 Suspension of Benefits

A Participant who returns to work for the Employer after retirement shall have his or her benefits suspended until he or she severs employment with the Employer.

Payment of the monthly pension benefits hereunder shall be subject to the following requirements:

(a) Each Participant whose monthly pension benefit is suspended under this Section 3.07 shall be notified of the suspension. The notification shall be made by personal delivery or first class mail during the first calendar month or payroll period in which the Participant's monthly pension benefit is suspended. The notification shall contain the following information (either expressly or by reference to the Plan's summary plan description):

(i) A description of the specific reasons why benefit payments are being suspended;

(ii) A general description and copy of the Plan provisions relating to the suspension of benefit payments;

(iii) A statement that applicable Department of Labor regulations may be found in Section 2530.203-3 of the Code of Federal Regulations; and

(iv) A description of the Plan's procedure for affording a review of the suspension of benefits.

(b) A Participant's monthly pension benefit may be suspended under this Section 3.07 only so long as the Participant completes 40 or more hours of employment other than hours of employment credited only on account of back pay that was awarded or agreed to by the Employer during each calendar month or, if applicable, during each four (4) or five (5) week payroll period ending in a calendar month. Such a Participant shall be considered in the "service" of the Employer for purposes of this Section 3.07. A Participant who has reached his normal retirement age and who does not perform the requisite number of hours of employment during any such calendar month or payroll period (if applicable) shall not be considered to be in the service of the Employer. Such a Participant's monthly pension benefits shall not be suspended for such time as described in this Section 3.07, and the Participant shall not accrue any additional benefit under the Plan. Payment of such Participant's monthly pension benefit will commence not later than the first day of the third (3rd) calendar month after the calendar month in which the Participant retires. The first payment of a Participant's monthly pension benefit shall include any amounts withheld during any period of employment in which the Participant did not complete 40 or more hours of employment as hereinbefore provided.

(c) Following the procedure described in the Plan's summary plan description for the review of claims, a Participant may request, and the Committee shall render, a determination whether specific contemplated employment will result in a suspension of benefit payments.

### 3.08 Non-Duplication

A Participant shall be entitled to receive a pension under only one of the foregoing paragraphs of this Article III at any one time.

### 3.09 2003 Special Retirement Opportunity

(1)(a) Eligible Participants – This section shall apply only to Participants who are employed by the International Union, United Mine Workers of America, who work out of District 26, have at least five years of pension service and have reached age 50 as of January 1, 2003 and February 28, 2003. Such Participants are referred to in this Section as "Eligible Participants."

#### (b) Additional Years of Service

An Eligible Participant shall be credited with five additional years of Vesting Service and Pension Service for purposes of determining the amount of the monthly retirement benefit under Sections 5.20 and 5.03, and eligibility for a benefit under Sections 3.03, 3.04, and Article VII.

(c) Amount of Early Retirement Benefit

The reduction to the retirement benefit payable to an Eligible Participant who retires prior to age 60 shall be calculated under Section 5.03 as if the Participant were five years older than his actual age at the time of severance.

(d) Suspension of Benefits

Any Participant who retires under the provisions of this Section and who goes to work for an employer in the coal industry in a non-classified job shall have this or her benefit suspended until the first to occur of the following:

- (i) The Participant terminates such employment, or
- (ii) The Participant reaches age 60.

The foregoing suspension rule is in addition to, and not in lieu of, this Plan's existing rules regarding suspension of benefits.

(e) Applications

All applications for benefits under this Section must be received by the International Union, United Mine Workers of America, no later than February 28, 2003.

3.10 Limited Special Retirement Opportunity

(a) Eligible Participants

This Section shall apply only to the following designated non-highly compensated Participants who were employed by the International Union, United Mine Workers of America, had at least five years of pension service and reached age 50, were provided an inducement to separate from service prior to August 31, 2004 with the promise that they would be eligible for this benefit, and who actually separated from service prior to such date:

Gary Fritz  
Bernard Evans  
Edward Bowling

Such Participants are referred to in this Section as "Eligible Participants."

(b) Additional Years of Service

An Eligible Participant shall be credited with five additional years of Vesting Service and Pension Service for purposes of determining the amount of the monthly retirement benefit under Section 5.02 and 5.03, and eligibility for a benefit under Sections 3.03, 3.04. and Article VII.

(c) Amount of Early Retirement Benefit

The reduction to the retirement benefit payable to an Eligible Participant who retires prior to age 60 shall be calculated under Section 5.03 as if the Participant were five years older than his actual age at the time of severance.

(d) Suspension of Benefits

Any Participant who retires under the provisions of this Section and who goes to work for an employer in the coal industry in a non-classified job shall have his or her benefit suspended until the first to happen of the following:

- (i) The Participant terminates such employment, or
- (ii) The Participant reaches age 60.

The foregoing suspension rule is in addition to, and not in lieu of, this Plan's existing rules regarding suspension of benefits.

3.11 2004 Special Retirement Opportunity

(a) Eligible Participants

(i) Except as otherwise provided, this Section shall apply only to Participants who are employed by the International Union, United Mine Workers of America or one of its Districts on August 1, 2004, who have at least five years of pension service and have reached age 50 as of January 1, 2005, and who separate from service during the period between and including August 31, 2004 and December 31, 2004. Such Participants are referred to in this Section as "Eligible Participants."

(ii) Notwithstanding the forgoing, a person shall not fail to be an Eligible Person merely because, for bona fide business reasons, he or she is specifically authorized by the International Union, United Mine Workers of America, to delay his or her separation from service for a reasonable period, as determined by the United Mine Workers of America.

(b) Additional Years of Service

An Eligible Participant shall be credited with five additional years of Vesting Service and Pension Service for purposes of determining the amount of the monthly retirement benefit under Section 5.02 and 5.03, and eligibility for a benefit under Sections 3.03, 3.04, and Article VII.

(c) Amount of Early Retirement Benefit

The reduction to the retirement benefit payable to an Eligible Participant who retires prior to age 60 shall be calculated under Section 5.03 as if the Participant were five years older than his actual age at the time of severance.

(d) Suspension of Benefits

Any Participant who retires under the provisions of this Section and who goes to work for an employer in the coal industry in a non-classified job shall have this or her benefit suspended until the first to occur of the following:

- (i) The Participant terminates such employment, or
- (ii) The Participant reaches age 60.

The foregoing suspension rule is in addition to, and not in lieu of, this Plan's existing rules regarding suspension of benefits.

(e) Applications

All applications for benefits under this Section must be received by the International Union, United Mine Workers of America, no later than December 31, 2004.

3.12 Limited Special Retirement Opportunity

(a) Eligible Participants

Except as otherwise provided, this Section shall apply only to the following designated non-highly compensated Participants who are employed by the International Union, United Mine Workers of America (UMWA), were formally employed by the United Mine Workers of America District 12 or worked on behalf of District 12, have at least five years of pension service and have reached age 50 as of November 1, 2005, and who will separate from service during the period between and including September 15, 2005 and October 15, 2005:

Bill Brumfield

Such Participants are referred to in this Section as "Eligible Participants."

(b) Additional Years of Service

An Eligible Participant shall be credited with five additional years of Vesting Service and Pension Service for purposes of determining the amount of the monthly



retirement benefit under Section 5.02 and 5.03, and eligibility for a benefit under Sections 3.03, 3.04. and Article VII.

(c) Amount of Early Retirement Benefit

The reduction to the retirement benefit payable to an Eligible Participant who retires prior to age 60 shall be calculated under Section 5.03 as if the Participant were five years older than his actual age at the time of severance.

(d) Suspension of Benefits

Any Participant who retires under the provisions of this Section and who goes to work for an employer in the coal industry in a non-classified job shall have his or her benefit suspended until the first to happen of the following:

- (i) The Participant terminates such employment, or
- (ii) The Participant reaches age 60.

The foregoing suspension rule is in addition to, and not in lieu of, this Plan's existing rules regarding suspension of benefits.

3.13 Limited Special Retirement Opportunity

(a) Eligible Participants

(i) Except as otherwise provided, this Section shall apply only to the following designated non-highly compensated Participants who are employed by the International Union, United Mine Workers of America (UMWA), have at least five years of pension service and had reached age 50 as of January 1, 2005, and who separate from service during the period between and including July 15, 2008 and August 15, 2008:

Terry Osborne  
James F. Wright

Such Participants are referred to in this Section as "Eligible Participants."

(b) Age 60 Pension

Solely for the purpose of determining eligibility for an Age 60 Pension under Section 3.03, each Eligible Participant shall be considered to have attained 60 years of age.

## Article IV - Payment of Pension

### 4.01 Age 60, Early and Deferred Vested Retirement Pensions

The Age 60, Early and Deferred Vested Retirement Pension benefits shall be payable during the lifetime of the eligible, retired Participant effective the first day of each month following receipt of an application for retirement benefits or actual retirement, whichever comes later. Upon approval of the application, benefits will be paid retroactively to the later of the dates specified in the previous sentence.

### 4.02 Disability Pension

The pension benefits for Participants whose employment with the Employer terminates on account of total and permanent disability shall be paid during the lifetime of the Participant, subject to continuation of the total and permanent disability up to age 60. Payment of disability pension benefits shall commence on the first day of the sixth month following the month in which the Participant terminates on account of disability, subject to receipt and approval of a pension application.

### 4.03 Joint and Survivor Annuity

Where benefits are paid in the form of a Joint and Survivor Annuity, payments will continue during the lifetime of a qualified, surviving spouse as provided in Article V. Where benefits are paid in the form of a Joint and Survivor Annuity on account of a disability retirement and the Participant dies prior to reaching age 55, survivor annuity payments will be made to the qualified, surviving spouse beginning with the first day of the month after the Participant would have reached age 55.

## Article V - Amount of Pension

### 5.01 Years of Service for Computing Pension

The amount of pension under this Plan is based on the Participant's total years of service with the Employer (including total years of service prior to January 1, 1976, and years or fractional years of pension service thereafter).

### 5.02 Age 60 Pension

#### (a) Pension Tables

(i) For whose active employment terminated on or before December 31, 1988:

The amount of Age 60 Pension for a Participant whose active employment terminated on or before December 31, 1988, with at least 20 years of service as computed in Section 5.01, based on annual basic salary, shall be as follows. The annual basic salary

and the monthly benefit amounts on the chart below do not reflect reduction penalties for Participants with less than 20 years of service, reductions for Early Retirement Pensions (3% per year prior to age 60) or Deferred Vested Pension reduction (7% per year prior to age 60), or reductions under Article VI if no election to waive the Joint and Survivor Annuity is made.

#### ANNUAL BASIC SALARY MONTHLY PENSION

|                            |        |
|----------------------------|--------|
| less than \$5,000          | \$ 300 |
| 5,000 or less than 10,000  | 400    |
| 10,000 or less than 15,000 | 500    |
| 15,000 or less than 20,000 | 600    |
| 20,000 or less than 25,000 | 700    |
| 25,000 or less than 30,000 | 800    |
| 30,000 or less than 35,000 | 900    |
| 35,000 or less than 40,000 | 1,000  |
| 40,000 or less than 45,000 | 1,100  |
| 45,000 or less than 50,000 | 1,200  |
| 50,000 or greater          | 1,300  |

(ii) For Participants whose active employment terminated on or before July 31, 1994 but after December 31, 1988:

The amount of Age 60 Pension for a Participant whose active employment terminated on or before July 31, 1994, but after December 31, 1988, with at least 20 years of service as computed in Section 5.01, based on annual basic salary, shall be as follows. The annual basic salary and the monthly benefit amounts on the chart below do not reflect reduction penalties for Participants with less than 20 years of service, reductions for Early Retirement Pensions (3% per year prior to age 60) or Deferred Vested Pension reduction (7% per year prior to age 60), or reductions under Article VI if no election to waive the Joint and Survivor Annuity is made.

#### ANNUAL BASIC SALARY MONTHLY PENSION

|                            |        |
|----------------------------|--------|
| less than \$5,000          | \$ 300 |
| 5,000 or less than 10,000  | 400    |
| 10,000 or less than 15,000 | 500    |
| 15,000 or less than 20,000 | 600    |
| 20,000 or less than 25,000 | 700    |
| 25,000 or less than 30,000 | 800    |
| 30,000 or less than 35,000 | 900    |
| 35,000 or less than 40,000 | 1,000  |
| 40,000 or less than 45,000 | 1,100  |
| 45,000 or less than 50,000 | 1,200  |
| 50,000 or less than 55,000 | 1,300  |
| 55,000 or less than 60,000 | 1,400  |

|                            |       |
|----------------------------|-------|
| 60,000 or less than 65,000 | 1,500 |
| 65,000 or less than 70,000 | 1,600 |
| 70,000 or greater          | 1,700 |

(iii) For Participants whose active employment terminated on or before July 31, 1997, but after August 1, 1994:

The amount of Age 60 Pension for a Participant whose active employment terminated on or before July 31, 1997, but after August 1, 1994, with at least 20 years of service as computed in Section 5.01, based on annual basic salary, shall be as follows. The annual basic salary and the monthly benefit amounts on the chart below do not reflect reduction penalties for Participants with less than 20 years of service, reductions for Early Retirement Pensions (3% per year prior to age 60) or Deferred Vested Pension reduction (7% per year prior to age 60), or reductions under Article VI if no election to waive the Joint and Survivor Annuity is made.

#### ANNUAL BASIC SALARY MONTHLY PENSION

|                            |        |
|----------------------------|--------|
| less than 5,000            | \$ 360 |
| 5,000 or less than 10,000  | 480    |
| 10,000 or less than 15,000 | 600    |
| 15,000 or less than 20,000 | 720    |
| 20,000 or less than 25,000 | 840    |
| 25,000 or less than 30,000 | 960    |
| 30,000 or less than 35,000 | 1,080  |
| 35,000 or less than 40,000 | 1,200  |
| 40,000 or less than 45,000 | 1,320  |
| 45,000 or less than 50,000 | 1,440  |
| 50,000 or less than 55,000 | 1,560  |
| 55,000 or less than 60,000 | 1,680  |
| 60,000 or less than 65,000 | 1,800  |
| 65,000 or less than 70,000 | 1,920  |
| 70,000 or greater          | 2,040  |

(iv) For Participants who were actively employed on or before December 31, 2000, but after August 1, 1997:

The following table listed below is the amount of an Age 60 Pension for a Participant with at least 20 monetary years of service as computed in section 5.01, and who is employed by the Employer on or after August 1, 1997. The annual basic salary and the monthly benefit amounts on the chart below do not reflect reduction penalties for Participants with less than 20 years of service, reductions for Early Retirement Pensions (3% per year prior to age 60) or Deferred Vested Pension reduction (7% per year prior to age 60), or reductions under Article VI if no election to waive the Joint and Survivor Annuity is made.

## ANNUAL BASIC SALARY MONTHLY PENSION

|                             |        |
|-----------------------------|--------|
| less than 5,000             | \$ 360 |
| 5,000 or less than 10,000   | 480    |
| 10,000 or less than 15,000  | 600    |
| 15,000 or less than 20,000  | 720    |
| 20,000 or less than 25,000  | 840    |
| 25,000 or less than 30,000  | 960    |
| 30,000 or less than 35,000  | 1,080  |
| 35,000 or less than 40,000  | 1,200  |
| 40,000 or less than 45,000  | 1,320  |
| 45,000 or less than 50,000  | 1,440  |
| 50,000 or less than 55,000  | 1,560  |
| 55,000 or less than 60,000  | 1,680  |
| 60,000 or less than 65,000  | 1,800  |
| 65,000 or less than 70,000  | 1,920  |
| 70,000 or less than 75,000  | 2,040  |
| 75,000 or less than 80,000  | 2,160  |
| 80,000 or less than 85,000  | 2,280  |
| 85,000 or less than 90,000  | 2,400  |
| 90,000 or less than 95,000  | 2,520  |
| 95,000 or less than 100,000 | 2,640  |
| 100,000 or greater          | 2,760  |

(v) For Participants who were actively employed on or after January 1, 2001:

The following formula calculates the amount of an Age 60 Pension for a vested Participant whose active employment terminated after January 1, 2001. The calculation obtained using the formula does not reflect reduction penalties for Early Retirement Pensions (3% per year prior to age 60) or Deferred Vested Pension reductions (7% per year prior to age 60), or reductions under Article VI (if no election to waive the Joint and Survivor Annuity is made.)

$$\begin{array}{ccccc} \text{Participant's} & & \text{Participant's} & & \\ \text{annual basic} & & \text{years of service} & & \\ \text{salary} & \times & \text{as computed in} & \times & 2.3\% \\ & & \text{Section 5.01} & & \end{array}$$

Notwithstanding the forgoing, a Participant's benefit for years of service earned prior to January 1, 2001 shall be determined under Section 5.02 (a)(iv) (with the balance determined under this paragraph) if such a determination produces a greater benefit.

(b) The amount of Age 60 Pension for a Participant with less than the total of years stated in Section 5.02(a)(i), (ii), (iii) or (iv), but with sufficient years of service to

be entitled to an Age 60 Pension under Section 5.02(a), shall be computed as follows (subject to reduction if no election waiving the Joint and Survivor Annuity is made):

(i) The Age 60 Pension for which the Participant would be eligible if he had a total of at least 20 years of service as computed in Section 5.01 shall be computed by reference to the table in Section 5.02(a).

(ii) The Age 60 Pension so calculated shall be multiplied by a fraction, the numerator of which shall be the Participant's years of service as computed in Section 5.01 and the denominator of which shall be 20; the product shall be the Age 60 Pension for which the Participant is eligible.

(c) For Participants who were actively employed on or after October 1, 1996:

In the event a Participant's total service exceeds twenty years, that Participant's monthly benefit calculated under Section 5.02(a)(iii) or 5.02(a)(iv) shall be the amount set forth in such section for the Participant's Annual Basic Salary times a fraction, the numerator of which is the Participant's total years of Pension Service, and fractions thereof, and the denominator of which is twenty.

(d) For purposes of this Section 5.02, a participant will not be considered to be working in "active employment" or to be "employed by an Employer" if he is employed by a signatory to a Portability Agreement described in Section 8.08 who is not otherwise an Employer under the Plan.

### 5.03 Early Retirement Pension

A Participant retiring after attaining age 55, but before attaining age 60, who is eligible for a pension under Section 3.04 shall receive one of the following pensions, at his option (subject to reduction if no election waiving the Joint and Survivor Annuity is made):

(a) A deferred normal pension, commencing after attainment of age 60, computed under the provisions of Section 5.02(b)(ii) above; or

(b) An immediate pension, upon retirement or thereafter prior to age 60, equal to the deferred normal pension at which he would have been eligible under Section 5.03(a) above had he so elected, reduced by 1/4 of 1% for each full month (3% per year) between the date on which pension benefits begin and the date on which the Participant attains age 60.

### 5.04 Disability Pension

The amount of disability pension for a Participant eligible for disability retirement under Section 3.05 shall be computed as follows (subject to reduction if no election waiving the Joint and Survivor Annuity is made):

(a) The Age 60 Pension for which the Participant would be eligible if he had at least 20 years of service as computed in Section 5.01 shall be computed by reference to the table in Section 5.02(a).

(b) The Age 60 Pension so calculated shall be multiplied by a fraction, the numerator of which shall be the total of the Participant's years of service as computed in Section 5.01 of this Article and the denominator of which shall be 20; the product shall be the disability pension for which the Participant is eligible under Section 3.05.

#### 5.05 Deferred Vested Pension

The amount of a deferred vested pension shall be a pension, commencing on or after attainment of age 60, computed under the provisions of Section 5.02 or, at the Participant's election, between ages 55 and 60, with the pension reduced to its actuarial equivalent for early retirement. (The amount of deferred vested pension is also subject to a separate actuarial reduction under Article VI for Participants who are eligible for and elect the Joint and Survivor Annuity.)

#### 5.06 Deferred Retirement Date

A Participant who, pursuant to the provisions of section 3.01, 3.03, 3.04, and 3.06, defers his retirement past age 60 shall receive a monthly pension benefit which shall commence on the date of such retirement. The amount of such monthly retirement pension shall be the same amount as if the Participant were age 60.

#### 5.07 Election to Defer Annuity Starting Date

A Participant who is eligible for an age 55 retirement pension or for a deferred vested pension may wish to defer the commencement of retirement benefits in order to minimize the reduction for early retirement. When a Participant who is eligible for an age 55 retirement pension or will be eligible for a deferred vested pension terminates employment, the plan administrator shall furnish him with a written explanation of the terms and conditions of his eligibility including the financial effect upon his retirement benefits of an election to defer commencement of retirement benefits. Such an election shall be in writing, signed by the Participant, shall describe the benefit, and shall state the date on which the Participant desires benefits to commence. Notwithstanding the foregoing, any election to defer retirement is subject to the provisions of Section 5.09.

#### 5.08 Reemployment

(a) Retired Participants – If a Participant is reemployed as an employee after the commencement of a pension benefit pursuant to his or her retirement under the provisions of sections 3.04, 3.05 or 3.06, his or her pension benefits shall be discontinued. For purposes of calculating any subsequent pension benefits to which the participant may be entitled upon subsequent retirement, the participant shall be awarded a pension equal to the sum of the pension such Participant was previously receiving plus

an additional amount based on his or her additional years of service earned during his or her reemployment calculated in accordance with the Plan provisions then in effect.

Notwithstanding the above paragraph, the monthly pension benefit thereafter payable shall not be less than the monthly pension benefit payable immediately before his or her latest reemployment plus the actuarial equivalent of any monthly pension benefit suspended while the Participant is not employed in such service as is described in Department of Labor Regulations 2530.203-3(c)(1).

A Participant whose Age 60 Pension has been suspended under Section 3.07 shall, upon leaving reemployment, receive an Age 60 Pension determined under Section 5.02, which shall be based upon his or her total service, including service earned during such period of reemployment.

(b) Deferred Vested Participants – In the case of a Participant who is reemployed as a full time employee after having not earned any hours of employment for a period of at least five consecutive years, and who, at the time he or she last earned an hour of employment, was not eligible for any benefit under the Plan other than a deferred vested pension under Section 3.06, the following provisions will apply:

(i) If, following the Participant's return to work, the Participant earns fewer than 1,000 hours of employment (or its equivalent of 125 days), such Participant shall be awarded a pension equal to the sum of the pension such Participant was previously entitled to receive plus an additional amount based on his or her additional years of service earned during his or her reemployment calculated in accordance with the Plan provisions then in effect.

(ii) If, following the Participant's return to work, the Participant earns at least 1,000 hours of employment (or its equivalent of 125 days), such Participant shall be awarded a pension based upon his or her total years of service calculated in accordance with the Plan provisions then in effect.

#### 5.09 Payment of Benefits

Unless the Participant otherwise elects under the provisions of the Plan, any payment of benefits to the Participant shall begin not later than 60 days after the close of the plan year in which occurs the latest of:

- (a) the Participant's reaching his normal retirement age;
- (b) the 10th anniversary of the date the employee becomes a Participant; and
- (c) termination of service of the Participant.

Notwithstanding anything contained herein to the contrary, the entire interest of each Participant or former Participant who has attained age 70 ½ as of January 1, 2003 will be distributed to him beginning not later than the April 1 following the calendar year in which he attains age 70 ½:



(i) in accordance with regulations prescribed by the Secretary of Treasury, over the life of such employee or over the lives of such employee and his beneficiary, or

(ii) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancies of such employee and his beneficiary.

Effective for Participants who have not reached age 70 ½ prior to January 1, 2003, notwithstanding anything contained herein to the contrary, the entire interest of each such Participant or former Participant will be distributed to him beginning not later than the later of April 1 following the calendar year in which he attains age 70 ½ and the year in which he actually retires from the Employer:

(i) in accordance with regulations prescribed by the Secretary of Treasury, over the life of such employee or over the lives of such employee and his beneficiary, or

(ii) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancies of such employee and his beneficiary

In the event a Participant retires in a calendar year after the calendar year in which he attains age 70 ½, the Participant's accrued benefit shall be actuarially increased to take into account the period after age 70 ½ in which the Participant was not receiving any benefits under the Plan. Notwithstanding anything in the Plan to the contrary, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the code in accordance with Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9 that were issued on April 17, 2002 and June 15, 2004, including the incidental death benefit requirement.

## Article VI – Joint and Survivor Annuity

### 6.01 Pre-Pension Spouse Coverage

#### (a) Pre-Pension Spouse Coverage

A Participant who was last actively employed between January 1, 1976 and January 1, 2000, and had earned a nonforfeitable right to a pension under Section 3.02, is entitled to Pre-Pension Spouse Coverage. Pre-Pension Spouse Coverage is a survivor annuity in the amount of 50% of the pension benefit to which the Participant would have been entitled if he had chosen to receive an actuarially reduced pension with Joint and Survivor Annuity beginning immediately preceding the date of death (or, if the Participant is not yet age 55, the amount of such benefit payable at age 55, beginning at

the date the Participant would have reached such age), payable for the life of the surviving spouse.

(b) Pre-Pension Spouse Coverage for those who retire after January 1, 2000:

A Participant, actively employed after January 1, 2000, who has earned a nonforfeitable right to a pension under Section 3.02, but who has not yet retired is entitled to Pre-Pension Spouse Coverage. Pre-Pension Spouse Coverage is a survivor annuity in the amount of 75% of the pension benefit to which the Participant would have been entitled if he had chosen to receive an actuarially reduced pension with Joint and Survivor Annuity beginning immediately preceding the date of death (or, if the Participant is not yet age 55, the amount of such benefit payable at age 55, beginning at the date the Participant would have reached such age), payable for the life of the surviving spouse.

(c) For Participants who were actively employed on or after January 1, 2009:

A Participant who retires from employment, who is or will be entitled to a pension by virtue of his or her age and service, and who has a spouse may elect a reduced pension with 50% Joint and Survivor Annuity if he makes an election to waive the 75% Joint and Survivor Annuity, in accordance with Section 6.01(d) below. The monthly amount of the pension with 50% Joint and Survivor Annuity payable for the life of the Participant shall be actuarially reduced. Upon the death of the Participant, the spouse, if then living, shall receive a survivor annuity in the amount of 50% of the reduced pension.

(d) For all Participants:

A Participant who does not have a spouse at the time of commencement of pension payments is not eligible for a Joint and Survivor Annuity. A Participant who elects with the consent of his or her spouse to waive the 75% Joint and Survivor Annuity shall receive a pension in the amount applicable to him as provided in Article V. The plan administrator will furnish, no more than 180 days and no fewer than 30 days prior to the effective date of the pension, a written nontechnical explanation of the terms and conditions of the 75% Joint and Survivor Annuity, the 50% Joint and Survivor Annuity, and the effect of an election not to receive such annuities on such Participant and his spouse. The Plan Administrator will notify the Participant when a benefit under the Plan is requested. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of IRC §417(a)(3) and Treas. Reg. 1.417(a)(3)-1. Notwithstanding the foregoing, a Participant may elect to have benefits commence prior to 30 days after the provision of the Notice required under this Section, if such earlier commencement date is otherwise permitted by the Plan.

Prior to the commencement of pension payments, the Participant, with the consent of his spouse, may elect to waive the 75% Joint and Survivor Annuity, make a revocation of such election, and make subsequent election(s) and revocation(s). Once pension payments have commenced, no further revocations or elections will be allowed. Elections and revocations shall be in writing on forms to be furnished by the plan administrator.

It is specifically provided that the spouse of the Participant shall consent in writing to the Participant's election of any form of payment other than the 75% Joint and Survivor Annuity herein provided, and such consent shall be witnessed by a representative of the Committee or a notary public. The Committee may accept an election other than that provided hereunder without the consent of the spouse if there is not spouse, if the spouse cannot be located, or if the spouse is legally incompetent to give consent (in which case the spouse's legal guardian, even if the guardian is the Participant, may give consent). Also, if the Participant is legally separated or the Participant has been abandoned (within the meaning of local law) and the Participant has a court order to such effect, spousal consent is not required unless a Qualified Domestic Relations Order provides otherwise. Any spousal consent shall only be applicable to the spouse granting such consent.

#### 6.02 Automatic Joint and Survivor Option

(a) For Participants who left employment before January 1, 2000, but after January 1, 1976:

A Participant who separated from employment with the Employer before January 1, 2000, but after January 1, 1976, who is or will be entitled to a pension by virtue of his age and service and who has a spouse shall be presumed to have elected an actuarially reduced pension with 50% Joint and Survivor Annuity unless he makes an election to waive the Joint and Survivor Annuity.

(b) For Participants who were actively employed on or after January 1, 2000:

A Participant who retires from employment who is or will be entitled to a pension by virtue of his or her age and service and who has a spouse shall be presumed to have elected a reduced pension with 75% Joint and Survivor Annuity unless he makes an election to waive the Joint and Survivor Annuity. The monthly amount of the reduced pension with 75% Joint and Survivor Annuity payable for the life of the Participant shall be the same as the monthly amount of the actuarially reduced 50% Joint and Survivor Annuity. Upon the death of the Participant, the spouse, if then living, shall receive a Survivor Annuity in the amount of 75% of the reduced pension.

(c) For all Participants:

A Participant who does not have a spouse at the time of commencement of pension payments is not eligible for the Joint and Survivor Annuity. A Participant who

elects with the consent of his or her spouse to waive the Joint and Survivor Annuity shall receive a pension in the amount applicable to him as provided in Article V. The plan administrator will furnish, no more than 90 days and no fewer than 30 days prior to the effective date of the pension, a written nontechnical explanation of the terms and conditions of the Joint and Survivor Annuity and the effect of an election not to receive such annuity on such Participant and his spouse. Notwithstanding the forgoing, a Participant may elect to have benefits commence prior to 30 days after the provision of the Notice required under this Section, if such earlier commencement date is otherwise permitted by the Plan.

Prior to the commencement of pension payments, the Participant, with the consent of his spouse, may elect to waive the Joint and Survivor Annuity, make a revocation of such election, and make subsequent election(s) and revocation(s). Once pension payments have commenced, no further revocations or elections will be allowed. Elections and revocations shall be in writing on forms to be furnished by the plan administrator.

It is specifically provided that the spouse of the Participant shall consent in writing to the Participant's election of any form of payment other than the Joint and Survivor Annuity herein provided, and such consent shall be witnessed by a representative of the Committee or a notary public. The Committee may accept an election other than that provided hereunder without the consent of the spouse if there is no spouse, if the spouse cannot be located, or if the spouse is legally incompetent to give consent (in which case the spouse's legal guardian, even if the guardian is the Participant, may give consent). Also, if the Participant is legally separated or the Participant has been abandoned (within the meaning of local law) and the Participant has a court order to such effect, spousal consent is not required unless a Qualified Domestic Relations Order provides otherwise. Any spousal consent shall only be applicable to the spouse granting such consent.

## Article VII – Death Benefit

7.01 Upon the death of a Participant eligible for a Death Benefit as provided in this Article, his beneficiary will receive a Death Benefit, the amount of which shall be equal to the Participant's annual basic salary as defined in Section 2.10. A Participant shall be eligible for a Death Benefit if he:

(a) has retired under the Plan and has at least 20 years of service (as determined under Section 5.01);

(b) has retired under the Plan and has at least ten years of service (as determined under section 5.01) and whose years of such service in combination with his years of credited service under the United Mine Workers of America 1974 Pension Plan equals at least twenty,

(c) has retired under the Plan and has at least 10 years of service (as determined under Section 5.01) and retired under the Plan with a benefit other than a Deferred Vested Pension, or

(d) is actively employed and has earned sufficient service to be eligible for a Deferred Vested Retirement under Section 3.06.

For purposes of this Article, "years of service" shall include any years of service credited pursuant to a Special Retirement Opportunity. Upon request by the designated beneficiary or the legal representative of the estate or by the next of kin, as the case may be, the Committee, in the exercise of its sole discretion, shall have full authority to certify payment of said benefits in up to four equal annual payments.

Each Participant, on or before becoming entitled to death benefits hereunder, shall designate a beneficiary on forms furnished by the Committee. The Participant may from time to time change the beneficiary by written notice to the Committee and, upon such change, the rights of all previously designated beneficiaries to receive any benefits under the Plan shall cease. If at the date of death of the Participant, there is no valid and current beneficiary designation on file with the Committee, then any death benefits which would have been payable to the beneficiary shall be payable to the Participant's surviving spouse, if any; if none, to the Participant's children who survive him, equally; or if none survive, then to the Participant's estate. The interpretation of the Committee with respect to any beneficiary designation, subject to applicable law, shall be binding and conclusive upon all parties and no person who claims to be a beneficiary, or any other person, shall have the right to question any action of the Committee, which in the judgment of the Committee fulfills the intent of the Participant who filed such designation.

For the purpose of benefits under this Section 7.01, any Participant who dies on or after January 1, 2007 while performing qualified military service, as defined in Code § 414(u), shall be treated as having resumed employment on the day preceding his or her death and terminated employment on the actual date of death or disability, in accordance with USERRA and HEART.

## Article VIII – Miscellaneous

### 8.01 Determination of Eligibility

All applications for retirement benefits shall be made to the Pension Trust Committee which shall make all determinations of fact with respect to eligibility, including age, years of service, basic monthly salary rate and other matters, and calculate the rate of pension in accordance with this plan. The determination of the Committee as to any disputed question shall be conclusive. Benefits under this Plan will be paid only if the Committee decides in its discretion that the applicant is entitled to them. The Committee shall forward to the Trustee appropriate instructions with respect to the eligibility for pensions of such persons under this Plan, the monthly rate of pension payable and the date such monthly pension benefit shall commence. The Trustee may rely completely upon such instructions, and it shall have no authority or responsibility to make any independent determinations.

### 8.02 General

(a) The Pension Trust Committee shall act by a majority of the persons at the time comprising the Committee. The Committee may by such majority action authorize one or more persons, who may or may not be serving as members of the Pension Committee, to execute any document or documents on behalf of the Pension Committee, in which event the Pension Committee shall notify the Trustee in writing of such action and the name of the person so designated. The Trustee thereafter shall accept and rely upon any documents executed by such person or persons as representing action by the Pension Committee until the Pension Committee shall file with the trustee a written revocation of such designation.

(b) The Committee is authorized to promulgate rules and regulations to implement this Plan, and those rules and regulations shall be binding upon all persons dealing with, and Participants claiming benefits under, the Plan.

(c) Except as provided in IRC Section 402(a)(13)(B) related to qualified domestic relations orders, or as otherwise provided under IRC Section 401(a)(13) and applicable regulations, no benefits payable under this Plan shall be subject in any way to alienation, sale, or transfer, assignment, pledge, attachment, garnishment, execution, or encumbrance of any kind, and any attempt to accomplish the same shall be void. All pension payments shall be made directly to the retired employee. If court action should be brought to have said monthly pension paid to some other person, the Trustee in its discretion may suspend the monthly payments otherwise payable to said retired employee, pending final judicial determination, and in the event of a judicial determination of incompetency of the retired employee, the Trustee, after consultation with the Pension Committee, may pay said monthly pension to the Committee, conservator, or other fiduciary required by court order to use said funds for the sole benefit of the retired employee.

(d) The United Mine Workers of America, International Union, reserves the right, at any time and from time to time, by suitable action to amend or modify this Plan by written notice delivered to the Trustee; except that no such amendment or modification may (i) affect the rights, duties or responsibilities of the Trustee without its consent; (ii) reduce the schedule of monthly pensions; (iii) authorize or permit any part of the corpus or income of the Pension Fund to be used or diverted to purposes other than for the exclusive use and benefit of the Participants described hereunder, and in no event shall any part of the principal or income of the Pension Fund be paid to, or to the use of, or revert back to the Trustor; PROVIDED, that nothing in the above restrictions of the Trustor's right to amend or modify this Plan shall prevent an amendment or modification for the sole purpose of complying with any applicable State or Federal statute or law. The Trustor shall have no power to remove or reduce the above restrictions on its right to amend.

(e) In the event of partial or final termination of the Plan, or in the event of complete discontinuance of the Trustor's contributions, the rights of all employees covered hereunder to benefits accrued to the date of said termination or discontinuance shall be nonforfeitable. Notwithstanding the above, no Participant shall have any recourse toward the satisfaction of his accrued benefit from other than assets of the Plan or the Pension Benefit Guaranty Corporation (PBGC) if there shall be a PBGC liability present. The Committee shall allocate and administer the fund to provide benefits for the Participants on the date of termination and any spouse, surviving spouses or beneficiaries then receiving benefits. Such allocation of the fund shall be made in order of precedence indicated and in the amounts indicated in Section 4044 of ERISA as said Section may be amended, according to principles set forth in said section and such other portions of said act as it is incorporated by reference. For the purpose of making such allocation, any regulations issued pursuant to that Section shall be deemed part of such Section.

The allocation of that portion of the fund computed above shall be based on the method of payment of monthly pension benefits or death benefits as specified in the Plan. In the event that fund assets on or after the date of termination are insufficient to fund all benefits within any class, the benefits of all higher order of precedence shall be funded, the benefits of all lower order of precedence shall be unfunded, and the assets remaining shall be allocated among members of that class on the basis of their respective actuarial reserves, subject to the provisions of Section 4044 of ERISA.

In the event of failure of an Employer upon termination of its participation in this Plan to pay or to reimburse the Trustee, the actuary, accountant or attorney for the outstanding charges or expenses incurred hereunder, the Trustee is empowered to satisfy such claims by lien upon that portion of the fund attributable to that Employer, prior to making any allocation to Participants, vested terminated Participants, retired Participants, disabled Participants, spouses, surviving spouses and beneficiaries of the Plan in accordance with this Section. The application of the fund on the foregoing basis shall be calculated by the actuary and certified to the Trustee by the Committee as of the date on which the Plan terminated. Subject to the restrictions of ERISA, as it may be amended, when the calculations shall be completed, the interest of each Participant, vested

terminated Participant, retired Participant, disabled Participant, spouse, surviving spouse and beneficiary shall continue to be held in the fund as herein provided, or, at the direction of the Committee, the appropriate portion of the fund shall be liquidated and each of their interests distributed to them in the form of annuity contracts, annuity payments, installments or in a lump sum as determined by the Committee.

(f) In the event this Pension Plan is discontinued or becomes inoperative, the Pension Committee herein provided for shall continue in existence for the purpose of directing the Trustee in the disbursement of any funds remaining in the pension fund to persons entitled to receive pension benefits as herein provided until such time as the funds in such Fund at the time of such discontinuance or inoperation have been fully disbursed.

(g) Any Participant or beneficiary whose claim for benefits under this Plan has been denied shall be provided with adequate notice in writing setting forth the specific reasons for such denial, which notice shall be written in a manner calculated to be understood by the Participant or beneficiary as hereinafter provided. The applicant shall be notified in writing of any adverse decision with respect to his claim within 90 days after its submission. The notice shall be written in a manner calculated to be understood by the applicant and shall include:

- (i) The specific reason or reasons for the denial;
- (ii) Specific references to the pertinent Plan provisions on which the denial is based;
- (iii) A description of any additional material or information necessary for the applicant to perfect the claim and an explanation why such material or information is necessary;
- (iv) An explanation of the Plan's claim review procedures.

If special circumstances require an extension of time for processing the initial claim, a written notice of the extension and the reason therefore shall be furnished to the claimant before the end of the initial 90-day period. In no event shall such extension exceed 90 days.

In the event a claim for benefits is denied or if the applicant has had no response to the claim within 90 days of its submission (in which case the claim for benefits shall be deemed to have been denied), the applicant or his duly authorized representative, at the applicant's sole expense, may appeal the denial to the Committee within 60 days of the receipt of written notice of the denial or 60 days from the date such claim is deemed to be denied. In pursuing such appeal, the applicant or his duly authorized representative:

- (i) may request in writing that the Committee review the denial;
- (ii) may review pertinent documents; and



- (iii) may submit issues and comments in writing.

The decision on review shall be made within 60 days of receipt of the request for review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but no later than 120 days after receipt of the request for review. If such an extension of time is required, written notice of the extension shall be furnished to the claimant before the end of the original 60 day period. The decision on review shall be made in writing, shall be written in a manner calculated to be understood by the claimant, and shall include specific references to the provisions of the Plan on which the denial is based. The decision on review shall be final and binding on all parties. If the decision on review is not furnished within the time specified above, the claim shall be deemed denied on review.

(h) The Pension Committee is authorized to allocate fiduciary responsibility in any manner pursuant to Section 405(c) of ERISA.

(i) Contributions to the Pension Trust shall be paid by the Employer in accordance with the Pension Trust Indenture.

(j) In the event of a merger or consolidation of this Plan with any other plan or in the event of a transfer of the assets or liabilities of this Plan to any other plan, each Participant shall be entitled to receive a benefit equal to or greater than the benefit he would have been entitled to receive if the Plan had terminated immediately before said merger, consolidation or transfer.

#### 8.03 Maximum Retirement Benefit

(a) Effective for plan years commencing on and after January 1, 1983, the monthly pension benefit payable in the form of a straight life annuity from the Plan on behalf of a Participant, when combined with any benefits from another qualified defined benefit plan maintained by the Employer, shall not exceed the amount as provided in the following paragraphs of this Section 8.03. If the normal form of payment is other than a straight life annuity or a qualified joint and survivor annuity, the amount so determined hereunder shall be reduced on an actuarial equivalent basis to reflect such other payment form with the exception that the interest assumption shall in no event be less than 5%, and mortality shall be based upon a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 83 GAM, as provided in Revenue Ruling 95-6. For distributions with annuity starting dates beginning after December 31, 2002, mortality shall be determined as provided in Revenue Ruling 2001-62 or such other mortality table as may be prescribed by the Secretary of Treasury in accordance with section 417(e)(3) of the Code and the regulations thereunder.

For Plan Years prior to January 1, 2008, the term "applicable interest rate" is the annual rate of interest on 30-year Treasury securities for the month before the date of the distribution. For Plan Years beginning on or after January 1, 2008, the "applicable interest rate" is the adjusted first, second, and third segment rates applied under rules similar to the rules of Internal Revenue Code Section 430(h)(2)(C) for the month before the date of the distribution. For Plan Years 2008, 2009, 2010, 2011 and 2012 the "applicable interest rate" is a blend of the segment interest rate and the 30-year Treasury rate based on the transition rules described in Code Section 417(e)(3)(D)(iii).

(b) If a Participant has completed 10 or more years of service, the maximum monthly benefit payable in accordance with this Section 8.03 shall be as follows:

\$7,500, or such greater amount, determined by the Secretary of the Treasury as of January 1 of each calendar year. Effective January 1, 2002, such amount shall be \$13,333.33, or such greater amount as determined by the Secretary of the Treasury as of January 1 of each calendar year. Such amount shall be the maximum monthly amount pursuant to this Section 8.03(a) or that calendar year and shall apply to the limitation year ending with or within that calendar year.

(c) Adjustments to Limitations

(i) Post 65: Limitation Years Beginning Before July 1, 2007.

If the annuity starting date from the Participant's benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the defined benefit dollar limitation for the Participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 8.03(e) for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table (or other tabular factor) specified in Section 8.03(a) of the Plan; or (2) a 5-percent interest rate assumption and the applicable mortality table as defined in Section 8.03(a) of the Plan.

(ii) Post 65: Limitation Years Beginning On or After July 2007

(1) If the annuity starting date for the Participant's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the defined benefit dollar limitation at the Participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 8.03(e) for years of participation less

than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that annuity starting date as defined in Section 8.03(a) of the Plan (and expressing the Participant's age based on completed calendar months as the annuity starting date).

(2) If the annuity starting date for the Participant's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the defined benefit dollar limitation at the Participant's annuity starting date is the lesser of the limitation determination under section A above and the defined benefit dollar limitation (adjusted under Section 8.03(e) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65), both determined without applying the limitations of this Section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's annuity starting date is the annual amount of such annuity payable to the Plan at the Participant's annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustment even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Pre-62: Limitation Years Beginning Before July 1, 2007.

If the annuity starting date for the participant's benefits is prior to age 62 and occurs in a Limitation Year beginning before July 1, 2007, the defined benefit dollar limitation for the Participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 8.03(e) of the Plan for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table (or other tabular factor) specified in Section 8.03(a) of the Plan; or (2) a 5 percent interest rate assumption and the applicable mortality table as defined in Section 8.03(a) of the Plan.

(iv.) Pre-62: Limitation Years Beginning on or After July 1, 2007.

(1) If the annuity starting date for the Participant's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement the defined benefit dollar limitation for the Participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 8.03(e) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as defined in Section 8.03(a) of the Plan (and expressing the Participant's age based on completed calendar months as of the annuity starting date).

(2) If the annuity starting date for the Participant's benefit is prior to age sixty-two (62) and occurs in limitation year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the defined benefit dollar limitation for the Participant's annuity starting date is the lesser of the limitation determined under section A above the defined benefit dollar limitation (adjusted under Section 8.03(e) for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this article.

(v). Form adjustments: Benefits not subject to Section 417(e)(3)

For the purposes of applying the limits of Internal Revenue Code Section 415, a retirement benefit that is payable in any form other than a straight life annuity and that is not subject to Internal Revenue Code Section 417(e)(3) must be adjusted to an actuarially equivalent straight life annuity that equals:

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

(2) for limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same annuity starting date that has

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

(vi) Form adjustments: Benefits subject to Section 417(e)(3)

For the purposes of applying the limits of Internal Revenue Code Section 415, a retirement benefit that is payable in any form other than a straight life annuity and that is subject to Internal Revenue Code Section 417 (e)(3) must be adjusted to an actuarially equivalent straight life annuity as follows:

(1) Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the Participant's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of (I) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) specified in Section 8.03(a) of the Plan for adjusting benefits in the same form; (II) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using a five and five tenths percent (5.5%) interest rate assumption and the applicable mortality table defined in Section 8.03(a) of the Plan; or (III) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and the applicable mortality table defined in Section 8.03(a) of the Plan, divided by one and five hundredths (1.05).

(2) Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the Participant's form of benefit is in a Plan Year beginning in 2004 or 2005 the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount: (I) the interest rate and the mortality table (or other tabular factor) specified in Section 8.03(a) of the Plan for adjusting benefits in the same form; or (II) a five and five tenths percent (5.5%) interest rate assumption and the applicable mortality table defined in Section 8.03(a) of the Plan.

(d) Notwithstanding the preceding provisions of this Section 8.03, the benefits payable with respect to a participation under this Plan shall be deemed not to exceed the limitations of this Section 8.03 if:

- (i) the retirement benefits payable with respect to such Participant under this Plan and under all other "qualified" defined benefit plans to which the Employer contributions do not exceed \$10,000 for the applicable plan year and for any prior plan year, and
  - (ii) the Employer has not at any time maintained a "qualified" defined contribution plan in which the Participant participated.
- (e) If a Participant has completed less than 10 years of service, the maximum monthly benefit payable in accordance with this Section 8.03 shall be the maximum benefit under Section 8.03(b) above (or in the preceding paragraph, if applicable), multiplied by the ratio that the Participant's actual number of years of service bears to 10.
- (f) In the event a Participant is covered by one or more defined benefit plans maintained by the Employer, all such plans that are not multiemployer plans shall be aggregated only with the Participant's benefits provided by that particular Employer under the Plan, in accordance with Treasury Regulation 1.415(f)-1(g) in determining whether the maximum benefit limitations hereunder have been met. Further, the maximum pension benefit as noted above may be decreased as determined necessary by the Employer to ensure that all plans will remain qualified under the IRC. Any such adjustment by the Employer shall be communicated in writing to the Committee and the actuary employed on behalf of the Plan.
- (g) Retiree Cost-of-Living Limitation Adjustments: In determining the effect of the compensation limitation applicable to terminated Participants under IRC Section 415(b) as provided in Section 8.03(b), the Plan shall take into account increases in the cost-of-living, as provided in IRC Section 415(d) and 26 C.F.R. Section 1.415(d)-1.

#### 8.04 Multiple Plan Participation

For years prior to January 1, 2000, if a Participant is a Participant in one or more defined benefit plans and one or more defined contribution plans maintained by the Employer, the sum of his defined benefit plan fraction and his defined contribution plan fraction shall not exceed 1.0 during any limitation year.

If the sum of the defined benefit plan fraction and the defined contribution plan fraction shall exceed 1.0 for any limitation year, the Employer shall adjust or freeze the rate of benefit accrual for purposes of a defined benefit plan or the amount of "annual additions" [as defined in IRC Section 415(c)(2)] to a defined contribution plan on behalf of any Participant so that the sum of such fractions shall not exceed 1.0.

For purposes of maximum annual additions to defined contribution plans and maximum annual benefits payable from defined benefit plans, all defined contribution

plans and all defined benefit plans respectively, whether or not terminated, shall be combined and treated as one plan.

For purposes of this Section 8.04, the term, “defined benefit plan fraction” shall mean a fraction, the numerator of which is the Participant’s projected annual benefit (as defined in the said defined benefit plan) determined as of the close of the limitation year, and the denominator of which is the lesser of:

(a) the product of 1.25 multiplied by the dollar limitation in effect in Section 8.03(a) for such limitation year; or

(b) the product of 1.4 multiplied by the amount which may be taken into account in Section 8.03(b) with respect to each individual under the Plan for such limitation year.

The term “defined contribution plan fraction” shall mean a fraction the numerator of which is the sum of all of the annual additions to the Participant’s individual account under the Plan as of the close of the limitation year and the denominator of which is the sum of the lesser of the following amounts determined for such limitation year and for each prior limitation year of employment with the Employer:

(c) the product of 1.25 multiplied by the dollar limitation in effect pursuant to IRC Section 415(c)(1)(A) for such year determined without regard to IRC Section 415(c)(6); or

(d) the product of 1.4 multiplied by an amount determined pursuant to IRC Section 415(c)(1)(B) with respect to each individual under the Plan for such limitation year.

The limitation on aggregate benefits from a defined benefit plan and a defined contribution plan, which is contained in Section 2004 of ERISA as amended, shall be complied with by a reduction (if necessary) in the Participant’s benefits under this defined benefit plan before a reduction of any such defined contribution plan.

(e) This Section 8.04 shall have no applicability to years beginning on or after January 1, 2000.

#### 8.05 Twenty-Five Highest Paid Limitation

In the event that the Plan is terminated or a lump sum distribution is made to a Participant who is one of the 25 highest paid employees at any time before the expiration date, the following rules shall apply:

(a) Upon the occurrence of either of the above conditions, the basic benefit and any additional benefit which may be provided from contributions by the Employer for any of its 25 highest paid employees shall not be greater than the amount of benefits

which can be provided by the larger of the following amounts prior to the satisfaction of all Plan liabilities relating to other Plan Participants to whom this Section 8.05 does not apply:

- (i) \$20,000
- (ii) An amount equal to 20% of the first \$50,000 of the Participant's average annual compensation for the preceding 5 years multiplied by the number of years since the revision date, as hereinafter defined.
- (iii) With respect to a substantial owner, the dollar amount which equals the actuarial equivalent of the benefit guaranteed for such affected Participant under Section 4022 of ERISA, or if the Plan has not terminated, the actuarial equivalent of the benefit that would be guaranteed if the Plan terminated on the date the benefit commences, determined in accordance with regulations of the Pension Benefit Guaranty Corporation (PBGC).

With respect to Participants other than substantial owners, the dollar amount which equals the actuarial equivalent of the maximum benefit described in Section 4022(b)(3)(B) of ERISA (determined on the date the Plan terminates or on the date benefits are distributed, as if the Plan terminated, whichever is earlier and determined in accordance with PBGC regulations) without regard to any other limitation in Section 4022 of ERISA.

(b) The provisions of Section 8.05(a) shall not restrict the current payment of full retirement benefits called for by the Plan for any retired Participant while the Plan is in full effect. In the event that any funds are realized by operation of the restrictions set forth in Section 8.05(a), they shall be used to reduce subsequent contributions by the Employer, they shall be used for the benefit of employees other than those restricted by Section 8.05(a) on a basis which shall not result in substantial discrimination in favor of the more highly-compensated employees, but subject to any reversion of assets on Plan termination;

(c) For purposes of this Section 8.05, the following definitions shall apply:

- (i) "Additional benefits" - the benefits provided by the Plan which are over and above those which would have been provided by the provisions of the Plan in effect prior to the applicable revision date had the Plan been continued without changes;
- (ii) "Basic benefit" - the benefit initially provided by the Plan less any additional benefits;
- (iii) "Expiration date" - the 10th anniversary of any revision date;



(iv) "Revision date" - the effective date of adoption of the Plan by the Employer or the effective date of any amendment to the Plan which increases the benefits;

(v) "Substantial owner" - a Participant defined in Section 4022(b)(5) of ERISA; and

(vi) "25 highest paid Participants" - the 25 highest paid Participants of the Employer as of the applicable revision date, excluding, however, any employee whose anticipated annual benefits are not expected to exceed \$1,500.

(d) If, during the first 10 years after a revision date, any benefit is to be distributed to a Participant to whom this Section 8.05 is applicable in a lump sum (the amount of which represents the lump sum actuarial equivalent of the pension benefit to which the Participant otherwise would be entitled to receive as the normal form of pension), the Participant, prior to the payment of such lump sum, shall enter into an agreement with the Employer. This agreement shall be in accordance with requirements prescribed by the Committee, Revenue Ruling 81-135 and any rulings or regulations amendatory thereof, including provisions that the Participant (or in the event of his death, his estate) will repay to the fund a sum, as determined by the actuary, equal to the actuarial equivalent of the amounts by which the Participant's monthly pension benefit under the Plan would have been decreased during his then remaining lifetime in accordance with this Section 8.05, and secure such obligations to repay in the event the limitations contained in this Section 8.05 become effective. The agreement shall further require the Participant, promptly after the distribution to him of the lump sum payment under the Plan, to deposit as security with a depository, satisfactory to the Employer and the Committee, property real or personal, having a market value, as determined by the depository, as of the date of deposit at least equal to 125% of the amount which would be repayable if the Plan had terminated on the date of distribution of such lump sum.

In the event that the market value, as determined by the depository, of such property falls below 110% of the amount as determined by the actuary, which would have been repayable to the fund, the Participant shall deposit with the depository additional properties so as to render the total market value, as determined by the depository, of the security deposited equal to 125% of the amount which would have been repayable as determined by the actuary. If the conditions of this Section 8.05(d) are met for the 10-year period following such revision date, and the Plan is not terminated, such property deposited as security in the fund shall be redelivered to such Participant.

(e) The provisions of this Section 8.05 apply to former or retired Participants, as well as to Participants in active service.

(f) In the event that it should be determined by statute, court decision in which the Internal Revenue Service acquiesces, ruling by the Internal Revenue Service, or otherwise, that the provisions of this Section 8.05 are no longer necessary to qualify

the Plan under the IRC, this Section 8.05 shall be ineffective without amendment to the Plan.

#### 8.06 Indemnification

The employer shall indemnify and hold harmless each person or persons who may serve on the Committee from any and all claims, loss, damages, expense (including attorney's fees), and liability (including any amounts paid in settlement) arising from any act or omission of such member, except when the same is judicially determined to be due to the gross negligence or willful misconduct of such member. No Plan assets may be used for any such indemnification.

#### 8.07 Small Payments

If the pension benefit payable to a Participant at retirement is less than \$25.00 per month, the Committee, at its discretion, may direct that benefit payments be made on a quarterly, semi-annual or annual basis.

#### 8.08 Service Earned under Portability Agreements

##### (a) In General.

The Trustees may enter into agreements ("Portability Agreements") with plans sponsored by the AFL-CIO or labor organizations affiliated with the AFL-CIO, providing certain service credit for employees formerly employed by a sponsor of one plan who become employed by a sponsor of the other plan. Employers that sponsor plans that enter into Portability Agreements shall be referred to herein as "Signatory Organizations" and the plans that are parties to a particular Portability Agreement shall, with respect to such Agreement, be referred to as "Signatory Plans."

(1) This Section 8.08 shall apply to all current, former and future participants of Signatory Plans, and to all employers sponsoring such Signatory Plans, except as specified in this Section 8.08.

(2) Each Portability Agreement shall require the Signatory Plans to adopt and/or maintain provisions substantially identical to this Section 8.08.

(b) Portability Agreements Bilateral in Scope. All Portability Agreements shall be bilateral agreements between this Plan and the other Signatory Plan and shall not create any rights with respect to other organizations or plans that may become signatory to a Portability Agreement with this Plan or with the plan or plans of such other organizations.

(c) Eligibility as a Signatory Plan. The Trustees may enter into Portability Agreements only with plans that (1) are defined benefit pension plans meeting the requirements of section 401(a) of the Internal Revenue Code; and (2) are not multiemployer plans within the meaning of ERISA. If a Portability Agreement is entered into between this Plan and a plan that does not satisfy these requirements, such Agreement shall, notwithstanding its terms, be null and void.

(d) Effect of Subsequent Disaffiliation. If a Signatory Organization, other than a sponsor of the AFL-CIO Staff Retirement Plan, later ceases to be affiliated with the AFL-CIO, any Portability Agreement between this Plan and any Signatory Plans shall, notwithstanding the terms of any Portability Agreement, terminate at that time.

(e) Imputed Service. Subject to subsection (h), below, a Signatory Plan sponsored by an employer for which a participant has ceased employment ("Transferor Plan") shall credit such participant with service credited ("Imputed Service") to such individual as a participant under a Signatory Plan sponsored by the employer for whom such individual subsequently works ("Transferee Plan"). Such Imputed Service shall be credited for purposes of (1) vesting, and (2) entitlement to benefits and benefit forms (including, but not limited to, entitlement to subsidized early retirement benefits). Imputed Service, however, shall not be credited for purposes of benefit accrual. For this purpose, the term "benefit accrual" means any increase in a participant's accrued benefit under the plan. For purposes of entitlement to any benefit or benefit form that requires a participant to be in covered employment or active service at a particular time, a participant then earning Imputed Service shall be treated as being in covered employment or active service, as the case may be.

(f) Pre-participation Service. Subject to subsection (h), the Transferee Plan shall credit its participants with service credited to them as participants of the Transferor Plan ("Pre-participation Service") for purposes of vesting, and entitlement to benefits and benefit forms (including, but not limited to, entitlement to subsidized early retirement benefits). Pre-participation service, however, shall not be credited for purposes of benefit accrual. For this purpose, the term "benefit accrual" shall have the same meaning as under subsection (e), above.

(g) Effect of Permanent Break in Service. Under a Portability Agreement, the Transferee Plan shall not count as Pre-Participation Service any service that is disregarded under the Transferor Plan because of the application of the Transferor's Plan's permanent break-in-service rules. The preceding sentence shall apply only if such permanent break-in-service occurs before the employee commences employment with a Signatory Organization of the Transferee Plan.

(h) Restrictions on Crediting Service.

(1) Notwithstanding subsections (e) and (f) above, service of an individual credited under the Transferor Plan shall not be counted as Pre-participation Service under the Transferee Plan, and service credited under the Transferee Plan shall not be counted as Imputed Service under the Transferor Plan, if the Transferor Plan makes any distributions to such individual before such individual either:

- (A) ceases active participation in the Transferee Plan; or
- (B) attains normal retirement age under the Transferor Plan.

(2) The rule specified in paragraph (1) above will not apply where such distribution either:

- (A) results from the termination of the Transferor Plan; or

(B) was of a disability benefit the payment of which ceased prior to commencement of employment with an employer sponsoring the Transferee Plan.

(3) If a Signatory Plan has made any distribution to a participant prior to the effective date of the Portability Agreement, that Signatory Plan shall not credit Imputed Service or Pre-participation Service to such participant.

(i) No Double Crediting of Service. Imputed Service or Pre-participation Service shall not be credited if this would result in the double crediting of the same service to the participant under this plan.

(j) Effective Date of Agreements. Portability Agreements shall become effective on the date specified in such Agreement. However, should the IRS rule unfavorably on the tax-qualified status of a Signatory Plan, or refuse to rule favorably because such plan contains portability provisions based on this Section 8.08, the related Portability Agreement shall be null and void with respect to all individuals, to the extent otherwise covered by such Agreement.

(k) Merger of a Signatory Plan. After the effective date of a Portability Agreement, individuals who become participants in a Signatory Plan as a result of a plan merger (or transfer of assets and liabilities from another plan) will be credited with Imputed Service or Pre-participation Service only to the extent such service is rendered after the merger's effective date, unless the relevant Portability Agreement specifically provides otherwise.

(l) Addition of Plan Sponsor. Where an individual becomes a participant in a Signatory Plan because his or her employer has newly adopted such plan, Imputed Service and Pre-participation Service shall be credited as if the addition of such new employer were a merger subject to the rules set forth in subsection (k) above, and the employer's date of adoption of the Signatory Plan were the merger date. Past service that is granted to such individual for vesting and eligibility purposes under the Signatory Plan, however, shall nonetheless be credited as Imputed Service or Pre-participation Service under any other Signatory Plan with which the first plan has a Portability Agreement.

(m) Window Benefits. Additional service that is granted to participants as part of a retirement incentive program ("Window Benefit") shall not be counted as Imputed Service or Pre-participation Service under the other Signatory Plan. For this purpose, a Window Benefit is a benefit that:

(1) provides more favorable terms than otherwise would apply under the terms of their plan;

(2) is payable only upon retirement during a specified period of time that is less than one year; and

(3) is exempt as a window benefit from the anti-cutback rule of section 411(d)(6) of the Internal Revenue Code.

(n) Termination of Agreement by Mutual Consent. A Portability Agreement shall, by its terms, be terminable by either Signatory Plan at any time, provided that each Signatory Plan that is a party to such Agreement has received an opinion of counsel satisfactory to it to the effect that the termination of the agreement at such time and in such manner will not adversely affect the tax qualified status of such plan.

(o) Effect of Termination or Deemed Termination. When a Portability Agreement terminates or is deemed to terminate, an individual who has not become a participant in either plan as of the date of such termination shall not be eligible to receive Imputed Service or Pre-participation Service under the Portability Agreement. Individuals who were participants in either Signatory Plan prior to the date of such termination or deemed termination shall continue to receive Imputed Service and Pre-participation Service under the Agreement, including Imputed Service and Pre-participation Service attributable to service performed after the date of such termination or deemed termination.

(p) Exchange of Information. The Signatory Plans shall agree to exchange all information necessary to allow the full and complete administration of the Portability Agreement.

(q) Trustee Authority. No Portability Agreement shall limit the ability of either the Board of Trustees or other authorized party to interpret or amend the plan, except as otherwise explicitly provided in such Portability Agreement or this Section 8.08.

#### Article IX - Top Heavy Plan Provisions

9.01 Notwithstanding anything contained herein to the contrary, in the event that this Plan when combined with all other plans required to be aggregated pursuant to IRC Section 416(g) is deemed to be a top heavy plan for any plan year, the following conditions shall become operative.

(a) In the event the vesting schedule provided in Section 3.02 is less liberal than the vesting schedule hereinafter provided, then such vesting schedule shall be substituted with the following for each Participant with an hour of employment after the Plan becomes a top heavy plan.

(i) A Participant with at least three (3) years of service with the Employer (including total years of service before January 1, 1976, and years of vesting service thereafter) or a Participant who reaches normal retirement age shall have a nonforfeitable right to a pension under this Plan.

(b) For the first plan year commencing on or after January 1, 1984, that the Plan shall be deemed a top heavy plan, and any plan year thereafter in which the Plan is a top heavy plan, there shall be a minimum annual accrued benefit applicable to all non-

key employees who are Participants equal to the lesser of 2% of top heavy compensation multiplied by the Participant's number of years of top heavy service or 20% of his top heavy compensation.

(c) "Top heavy compensation" means his average annual full compensation during that period 5 consecutive testing years for which his aggregate full compensation was the greatest. If he shall have fewer than 5 consecutive testing years, his top heavy compensation shall mean his average annual full compensation during that period containing the largest number of consecutive testing years; provided that, if there shall be more than one such period, top heavy compensation shall be calculated on the basis of such period for which such average is the greatest.

(d) "Testing year" means a plan year which (i) constitutes a year of service for such Participant and (ii) begins prior to the end of the last plan year for which the Plan was a top heavy plan. Except to the extent excluded under the preceding sentence, plan years beginning before 1984 shall be testing years.

(e) "Full compensation" means, for any Participant for any plan year, his compensation [as such term is defined in Section 8.03(b)] from the Employer for such plan year except that full compensation for any plan year in which the Plan is deemed to be a top heavy plan shall not exceed \$200,000 or such greater amount as may be determined by the Secretary of the Treasury pursuant to IRC Section 416(d)(2).

(f) "Top heavy service" means a year of service in which the Plan is deemed to be a top heavy plan with the exception that years of service prior to January 1, 1984, shall be excluded.

(g) In the event the Plan is deemed to be a top heavy plan for the plan year, then the multiplier of 1.25 in Section 8.04(a) and Section 8.04(c) shall be reduced to 1.0 unless:

(i) All plans required to be aggregated and any other plans which may be permissively aggregated pursuant to IRC Section 416(g) are 90% or less top heavy, and

(ii) The minimum accrued benefit referenced in IRC Section 416(c)(1) is modified by IRC Section 416(h)(2)(A)(ii)(I).

(h) With respect to the operation of these top heavy plan provisions there shall be no requirement that the entire defined benefit minimum benefit and the defined contribution minimum contribution be provided. To the extent that there shall be a defined benefit accrued benefit, it shall be controlling. To the extent that there shall be an Employer contribution to a defined contribution plan, then there shall be a determination as to whether the defined contribution amount is comparable to the difference between the defined benefit minimum benefit and the minimum defined benefit accrued benefit required under IRC Section 416. In the event that the defined contribution amount shall

not be comparable, then the difference shall be provided in the defined benefit plan unless the next sentence shall apply. Notwithstanding the above, if there shall be a contribution to the defined contribution plan of at least 7 ½ % of compensation to non-key employees, it shall be conclusively presumed that the minimum benefit and/or contribution requirements of top heavy plans have been met.

(i) For purposes of determining whether a defined benefit plan is a top heavy plan, calculations shall be based on those used to determine actuarial equivalent values under the Plan as indicated in the appendix.

#### Article X - Direct Rollovers

10.01 This Section applies to distribution 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 part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more, any distribution to the extent such distribution is required under section 401(a)(9) of the Code; the portion of any distribution that is not includable in gross income (determined without regard to the exclusion of net unrealized appreciation with respect to employer securities).

(b) An "eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts that distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code Section 414(p). Further, in the case of an eligible rollover distribution made to a surviving spouse or non-spouse beneficiary within the meaning of section 402(c)(11) of the Code,

an individual retirement account or individual retirement annuity, or effective for distributions made on or after January 1, 2008, a Roth IRA described in section 408A of the Code, provided the eligible rollover distribution is considered a qualified rollover contribution under section 408A(e) of the Code.

(c) A "distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employees' or former Employees' spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(g) of the Code, and the Employees' designated beneficiary who is not the Employee's surviving spouse are distributees with regard to the interest of the spouse or former spouse.

(d) A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

IN WITNESS WHEREOF, the UMWA has caused its name to be signed by Cecil E. Roberts, its President, and Daniel J. Kane, its Secretary-Treasurer, on this \_\_\_\_ day of January, 2015.

INTERNATIONAL UNION,  
UNITED MINE WORKERS OF AMERICA

By: \_\_\_\_\_  
Cecil E. Roberts, President

By: \_\_\_\_\_  
Daniel J. Kane, Secretary-Treasurer