

**RULES AND REGULATIONS**  
**of the**  
**LABORERS' PENSION FUND**

**Restated and Effective June 1, 2014**

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# INTRODUCTION

Effective as of June 1, 1963, the Rules and Regulations of the Laborers' Pension Fund (the "Plan") was adopted in accordance with the terms of the Agreement and Declaration of Trust (the "Trust Agreement") dated effective June 1, 1963, establishing the Laborers' Pension Fund (the "Trust Fund") to provide retirement benefits for employees covered under the Plan. The Plan and Trust Fund have been amended from time to time pursuant to the authority provided in Article 12 of the Plan and the applicable provisions of the Trust Agreement.

The Plan and the Trust Fund maintained under the Trust Agreement are intended to meet the requirements of Sections 401(a) and 501(a) of the Internal Revenue Code of 1986 (as amended), the Employee Retirement Income Security Act of 1974 (as amended), and other legislative requirements necessary to maintain the Plan's qualified status.

Effective June 1, 2009, the Plan was amended and restated to comply with the Pension Funding Equity Act of 2004 ("PFEA"), the Pension Protection Act of 2006 ("PPA"), the final regulations under Internal Revenue Code Section 415, and other applicable legislative changes pertaining to the Plan's continued qualification.

The Plan is further being amended and restated effective June 1, 2014 to comply with the applicable requirements of the (1) Pension Protection Act of 2006 (PPA '06); (2) Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act); (3) Worker, Retiree, and Employer Recovery Act of 2008 (WRERA); (4) Small Business Jobs Act of 2010 (SBJA); and (5) other applicable rules and regulations pertaining to the Plan's qualified status. The Plan has also been revised to comply with the requirement to apply provisions of the Plan for Participants who are married to an individual of the same gender in the same manner as the Plan provisions are applied to Participants who are married to an individual of the opposite gender.

The provisions of this Plan shall apply only to an Employee who terminates employment with an Employer on or after June 1, 2014. Except as otherwise provided herein, a former Employee's eligibility for benefits, and the amount of benefits, if any, payable to or on behalf of a former Employee shall be determined in accordance with the provisions of the Plan in effect on the date his employment terminated. The benefit payable to or on behalf of a Participant included under the Plan in accordance with the following provisions shall not be affected by the terms of an amendment to the Plan adopted after such Participant's employment terminates, unless the amendment expressly provides otherwise.

## **ARTICLE 1     DEFINITIONS**

### **Section 1.1     Actuarial Present Value**

- (a) “Actuarial Equivalence” means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provisions in which that phrase is used or, if not otherwise specified, based on the assumptions described in this Section.
- (b) For lump sum payments made before June 1, 2000, other than pursuant to a Qualified Domestic Relations Order, unless otherwise specified in the Plan, the “Actuarial Present Value” of a benefit shall be determined using the full set of interest rates prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single-employer plans that terminate without a Notice of Sufficiency on the first day of the Plan Year in which the date as of which the benefit value occurs.

Notwithstanding the foregoing, if the value so calculated under the preceding paragraph exceeds \$25,000, the “Actuarial Present Value” of a lump sum benefit shall be determined using 120% of the full set of interest rates prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single-employer plans that terminate without a Notice of Sufficiency on the first day of the Plan Year in which the date as of which the benefit is valued occurs.

For lump sum payments made on or after June 1, 2000, or Partial Lump Sum Pensions or Level Income Options made on or after June 1, 2001, the “Actuarial Present Value” of a benefit shall be determined using the 1983 Group Annuity Mortality Table, weighted 50% Male and 50% Female and the interest rate for 30-year Treasury Securities (“the Applicable Interest Rate”). The Applicable Interest Rate in effect for a Plan Year shall be determined in the month of April preceding that Plan Year.

For lump sum payments made on or after January 1, 2003 and notwithstanding any other Plan provisions to the contrary, any reference in the Plan to the applicable mortality table or the mortality table prescribed in Revenue Ruling 95-6 shall be construed as a reference to the mortality table prescribed in Revenue Ruling 2001-62 for all purposes under the Plan.

With respect to any lump sum payment, the following rules apply effective for distributions on or after June 1, 2008:

- (1) The Applicable Interest Rate for a Plan Year shall be the adjusted first, second and third segment rates applied under the rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code for the second full calendar month preceding the Plan Year which contains the date of distribution or such other time as the Secretary of Treasury may by regulations prescribe. For this purpose, the first, second, and third segment rates are the first, second and third segment rates that would be determined under Section 430(h)(2)(C) of the Internal Revenue Code if:
  - (i) Section 430(h)(2)(D) of the Internal Revenue Code were applied by substituting the average yields for the second full calendar month preceding the Plan Year which contains the date of distribution or such other time as the Secretary of Treasury may by regulations prescribe for the average yields for the 24-month period described in such Section, and
  - (ii) Section 430(h)(2)(G)(i)(II) of the Internal Revenue Code were applied by substituting “Section 417(e)(3)(A)(ii)(II) for “Section 412(b)(5)(B)(ii)(II),” and
  - (iii) The applicable percentage under Section 430(h)(2)(G) of the Internal Revenue Code is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011.
- (2) The Applicable Mortality Table for all purposes under the Plan shall be the mortality table prescribed in regulations under Section 417(e) of the Internal Revenue Code for use in the Plan Year that contains the date of distribution.
- (c) For converting the normal form of benefit to all optional forms other than lump sum payments, except pursuant to a Qualified Domestic Relations Order, the “Actuarial Present Value” of a benefit shall be determined using the interest rate of 7%, unless otherwise specified in the Plan.
- (d) For payments pursuant to a Qualified Domestic Relations Order under which the determination date is before June 1, 2000, the “Actuarial Present Value” of a benefit shall be determined using the immediate interest rate prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single-employer plans that terminate without a Notice of Sufficiency on the first day of the Plan Year in which the date as of which the benefit is valued occurs. For payments

pursuant to a Qualified Domestic Relations Order under which the determination date is on or after June 1, 2000, an interest rate of 7% shall be used.

- (e) For lump sum payments made before June 1, 2000 and converting the form of benefit to all optional forms, the mortality assumption shall be based on the 1971 Group Annuity Mortality Table, weighted as follows:
  - (1) For a Participant's benefit, 100% male and 0% female; and
  - (2) For the benefit of a Participant's Spouse or former Spouse, 0% male and 100% female.

## **Section 1.2      Annuity Starting Date or Effective Date**

- (a) "Annuity Starting Date" or "Effective Date" means the date as of which benefits are calculated and paid under the Plan and shall be the first day of the first month after or coincident with the later of:
  - (1) The first day of the month following submission by the Participant of an application for benefits;
  - (2) The first day of the month following termination of Covered Employment; provided that, payments shall not commence until after the Participant has responded to the notice provided by the Plan of the available benefit payment options, which notice provides for a 30-day period to change the options selected. Upon receipt of such information, benefits shall be paid retroactive to the Effective Date.
- (b) Payment of benefits may begin before the end of the 30-day period for selecting the method of payment, provided:
  - (1) The Participant and Spouse, if any, consent in writing to the commencement of payments before the end of that 30-day period; or
  - (2) The Participant's benefit was previously being paid and no additional Pension Credits were earned after a suspension of benefit, or
  - (3) The benefit is being paid out automatically as a lump sum under provisions of the Plan.
- (c) The Annuity Starting Date will not be later than the Participant's Required Beginning Date as defined in Section 1.18.



- (d) The Annuity Starting Date for a Beneficiary or alternate payee under a Qualified Domestic Relations Order (within the meaning of Sections 206(d)(3) of ERISA and 414(p) of the Internal Revenue Code) will be determined as stated in Subsections 1.2(a), (b), and (c) above, except that references to spousal consent do not apply.

### **Section 1.3 Collective Bargaining Agreement or Participation Agreement**

“Collective Bargaining Agreement” or “Participation Agreement” means a written agreement between the Union and an Employer or an association of Employers or a Participation Agreement between the Trustees and an Employer which requires contributions to the Fund.

### **Section 1.4 Contiguous Employment**

“Contiguous Employment” means any period of non-Covered Employment with a Contributing Employer that is not separated by quit, discharge, or other termination of employment from a period of Covered Employment with the same Contributing Employer. Employment with an Employer at a time when it is not a Contributing Employer shall not be considered Contiguous Employment, except as set forth in Subsections 4.3(d) and (e).

### **Section 1.5 Contribution Date**

“Contribution Date” means the date of commencement of contributions to the Pension Fund as specified in the Collective Bargaining Agreements or any Participation Agreement as defined in Section 1.3 herein.

### **Section 1.6 Contribution Period**

“Contribution Period” means, with respect to a unit or classification of employment, the period during which the Employer is a Contributing Employer with respect to the unit or classification of employment.

### **Section 1.7 Covered Employment**

“Covered Employment” means:

- (a) Employment after the Contribution Date for which the Employer is obligated to contribute to the Pension Plan; and
- (b) Employment with Employers, prior to the Contribution Date which, in the reasonable judgment of the Trustees, would have required contributions to the Pension Plan had the Pension Plan been in existence at the time of such employment.

## **Section 1.8 Employee**

- (a) “Employee” means a person who is an employee of an Employer and who is covered by a Collective Bargaining Agreement or any written Participation Agreement requiring Employer contributions to be made to this Pension Fund.
- (b) “Employee” also means all persons employed by the Union on whose behalf the Union makes payment to the Pension Fund at the times and at the rates of payment equal to that required of other Employers who are covered by this Trust.
- (c) For purposes of Participation, nondiscrimination, vesting and benefit limits, all leased employees of an Employer, within the meaning of Section 414(n) or 414(o) of the Internal Revenue Code of 1986, who have performed services for a Contributing Employer on a substantially full-time basis for a period of at least one year under the primary direction and control of a contributing employer shall be treated as an employee, but shall not be eligible to become a Participant under this Plan.
- (d) The term “Employee” shall not include:
  - (1) A sole proprietor who is a Contributing Employer;
  - (2) A partner of a partnership who is a Contributing Employer, regardless of the size of the partner’s partnership interest;
  - (3) Any other individual whose ownership would, in the opinion of the Trustees, jeopardize the tax exempt status of the Fund or violate any provisions of ERISA or the Labor-Management Reporting and Disclosure Act of 1959.

## **Section 1.9 Employer or Contributing Employer**

- (a) “Employer” or “Contributing Employer” means any employer who now or hereafter has a Collective Bargaining Agreement with the Union requiring periodic contributions to the Pension Fund or signs a Participation Agreement requiring periodic contributions to the Pension Fund. Signing the Fund’s remittance report shall bind the Employer to the terms of the applicable Collective Bargaining Agreement and this Trust and Plan. Any Employer who contributes to the Pension Fund pursuant to a Collective Bargaining Agreement, a Participation Agreement, or signed remittance report agrees to be covered by the terms and provisions of the Trust Agreement and this Plan.

- (b) Employer or Contributing Employer shall also mean the Union or a fund sponsored by the Union that contributes to this Plan for the purpose of providing benefits in accordance with these Rules and Regulations for the Employees for whom the Union or fund has agreed to contribute to the Pension Fund.
- (c) An Employer shall not be deemed a Contributing Employer simply because it is part of a controlled group of corporations or of a trade or business under common control within the meaning of Sections 414(b) and (c) of the Internal Revenue Code, some other part of which is a Contributing Employer.

### **Section 1.10 Gender**

Except as the context may specifically require otherwise, use of the masculine gender shall be understood to include both masculine and feminine genders.

### **Section 1.11 Normal Retirement Age**

- (a) “Normal Retirement Age” means the later of age 65 or the age of the Participant on the tenth anniversary of his Participation in the Plan.
- (b) Notwithstanding the foregoing, for a Participant who completes one or more hours of Work after May 31, 1988, “Normal Retirement Age” means age 65 or, if later, the age of the Participant on the fifth anniversary of his Participation in the Plan.
- (c) In calculating the fifth or tenth anniversary of Participation, Participation before a Permanent Break in Service shall not be counted.

### **Section 1.12 Other Terms**

Additional terms are defined in other Sections of this Plan as follows:

<b>Term</b>	<b>Section(s)</b>
(a) Absence from Covered Employment	3.3(c)
(b) Bonus Credits	4.2
(c) Break in Service (One-Year Break in Service, Permanent Break in Service	4.4
(d) Deferred Pension	3.8
(e) Disability Pension	3.10
(f) Disqualifying Employment	7.7

(g)	ERISA	2.1
(h)	Early Pension	3.5
(i)	100% Joint and Survivor Annuity Pension	5.2
(j)	50% Joint and Survivor Annuity Pension	5.3(d)
(k)	Initial Plan Contribution Date	4.2(b)
(l)	Normal Retirement Age Pension	3.6
(m)	Past Pension Credits or Past Pension and Bonus Credits	4.2
(n)	Pension Credits	4.2
(o)	Reciprocal Pension	6.1
(p)	Regular Pension	3.3
(q)	Retired or Retirement	7.6
(r)	Small Benefit Cashout	7.11
(s)	Vested Status	7.9
(t)	Year of Vesting Service	4.3

### **Section 1.13 Participant**

“Participant” means a Pensioner or an Employee who meets the requirements for Participation in the Plan as set forth in Article 2, or a former Employee who has acquired a right to a pension under this Plan.

### **Section 1.14 Pensioner**

- (a) “Pensioner” means an Employee awarded a pension in accordance with the terms of the Pension Plan.
- (b) A Pensioner who has returned to Covered Employment and is accruing benefits on the same basis as other Employees as of the Effective Date of a benefit increase for Pensioners will not be considered a Pensioner for purposes of that benefit increase.

### **Section 1.15 Pension Fund, Trust Fund or Fund**

“Pension Fund,” “Trust Fund” or “Fund” means the Laborers’ Pension Fund established under the Trust Agreement.

### **Section 1.16 Pension Plan or Plan**

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

### **Section 1.17 Plan Year**

“Plan Year” means the twelve month period from June 1 through the next May 31. For purposes of ERISA regulations, the Plan Year shall serve as the vesting computation period, the benefit accrual computation period and, after the initial period of employment or re-employment following a Break in Service, the computation period for eligibility to participate in the Plan.

### **Section 1.18 Required Beginning Date**

Effective April 1, 1988, a Participant’s “Required Beginning Date” is April 1 of the calendar year following the year the Participant attains age 70-1/2; provided that, for a Participant who attains age 70-1/2 before 1988, other than a 5% owner, as defined in the Internal Revenue Code, the Required Beginning Date is April 1 of the calendar year in which the Participant ceases Work in Covered Employment if that is later.

### **Section 1.19 Spouse**

“Spouse” means the individual to whom the Participant is lawfully married under any state law or the laws of a foreign jurisdiction. Effective June 26, 2013, this includes the marriage of individuals of the same gender who are legally married in any state or foreign jurisdiction that recognizes same gender marriages, even if the individuals are domiciled in a state that does not recognize the validity of same gender marriages. A former Spouse will be treated as the Spouse to the extent provided under the terms of a Qualified Domestic Relations Order pursuant to Internal Revenue Code Section 414(p).

A domestic partner or individuals in civil unions shall not be considered a Spouse.

### **Section 1.20 Trust Agreement**

“Trust Agreement” means the Agreement and Declaration of Trust establishing the Laborers’ Pension Fund dated effective as of June 1, 1963, restated as of January 1, 1976, and as restated through May 31, 2002.

### **Section 1.21 Trustees**

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

## **Section 1.22     Union**

“Union” means the Construction and General Laborers’ District Council of Chicago and Vicinity and all local unions now or hereafter affiliated therewith.

## **Section 1.23     Work or Service**

“Work” or “Service” is:

- (a) Each hour for which an Employee is paid, or entitled to payment, by an Employer for hours of Work in Covered Employment. These hours shall be credited to the Employee for the computation period or periods in which the duties are performed, and
- (b) Each hour for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an Employer, to the extent that such award or agreement is intended to compensate an Employee for periods during which the Employee would have been engaged in Covered Employment for the Employer. These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement, or payment was made.

## **ARTICLE 2      PARTICIPATION**

### **Section 2.1      Purpose**

This Article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as ERISA). It should be noted that once an Employee has become a Participant, the provisions of this Plan may give him credit in accordance with the rules of the Plan for some or all of his Work before he became a Participant.

### **Section 2.2      Participation**

- (a) An Employee who is engaged in Covered Employment during the Contribution Period shall become a Participant in the Plan on the earliest June 1 or December 1 following completion of a 12 consecutive month period during which he completed at least 870 hours of Work in Covered Employment. The required hours may also be completed with any hours of Work in other employment with an Employer if that other employment is Contiguous with the Employee's Covered Employment with that Employer.
- (b) An individual who does not become a Participant because he fails to complete at least 870 hours of Work as described in Subsection 2.2(a) above and earns Pension Credit subject to entry in the Plan shall become a Participant when his Pension Credits (excluding Bonus Credits) equal ten. The Break in Service provisions in Section 4.4 shall be applied in determining the number of Pension Credits.

### **Section 2.3      Termination of Participation**

A Participant who incurs a One-Year Break in Service shall cease to be a Participant as of the last day of the Plan Year which constituted the One-Year Break, unless such Participant is a Pensioner, or has acquired the right to a pension from the Plan (other than for disability), whether immediate or deferred.

### **Section 2.4      Reinstatement of Participation**

- (a) An Employee who has lost his status as a Participant in accordance with Section 2.3 shall again become a Participant by meeting the requirements of Section 2.2 on the basis of Work after the Plan Year during which his Participation is terminated. An Employee who meets these requirements shall become a Participant retroactively to his reemployment commencement date.

- (b) The re-employment commencement date is the first day the Employee is credited with an hour of Work after the Plan Year in which he incurred his last One-Year Break in Service.



## **ARTICLE 3    PENSION ELIGIBILITY AND AMOUNTS**

### **Section 3.1    General**

An eligible Participant must meet the age and Pension Credit requirements to receive a pension benefit and must submit an application for benefits and must retire. Depending on the Participant's Effective Date, there may be a maximum number of Pension and Bonus Credits he can earn under the Plan. Participants who retired prior to June 1, 2000 shall be entitled to receive pension benefits in accordance with the terms of the Plan in effect at the time they retired except to the extent that their benefits may have been increased by subsequent amendments.

The benefit amount will be calculated based on Pension and Bonus Credits earned for Work in Covered Employment for which contributions were paid to the Fund, and will include contributions required to be paid and not received for Work in Covered Employment on or after June 1, 1976. The accumulation and retention of Pension Credits, Bonus Credits and Years of Vesting Service for eligibility are subject to the provisions of Article 4.

Effective June 1, 2000 a Participant shall be entitled to a pension based on Pension and Bonus Credits earned during his Work in Covered Employment and for certain periods of employment before the Contribution Period. Those Participants who retired prior to June 1, 2000 whose pensions were not based on all their Pension and Bonus Credits because of Pension Credit Maximums previously in effect shall be entitled to their monthly benefit amounts increased beginning in June 2000 by the amount of the additional Pension and Bonus Credits allowed times the accrual rate in effect for the Participant when he retired (less all appropriate reductions).

The Pension Credit Maximums (described below) are eliminated for all Participants retired on a Pension, effective June 1, 2000.

Prior to June 1, 2000 the Pension Credit Maximum that applied to a Participant's pension calculation for benefits payable prior to June 1, 2000 were:

<u>Effective Date of Retirement</u>	<u>Pension Credit Maximum</u>
Prior to January 1, 1985	25
After December 31, 1984 and before June 1, 1992	30
After May 31, 1992 and before June 1, 1993	31
After May 31, 1993 and before June 1, 1997	32
After May 31, 1997 and before June 1, 1998	33
After May 31, 1998 and before June 1, 1999	35
After May 31, 1999 and before June 1, 2000 and did not earn at least one half (1/2) Pension Credit between June 1, 1997 and before June 1, 2000	35
After May 31, 1999 and before June 1, 2000 and earned at least one-half (1/2) Pension Credit between June 1, 1997 and May 31, 1999	No maximum

## **Section 3.2 Regular Pension — Eligibility**

### **(a) Work Requirement For Unreduced Regular Pension at Age 55**

- (1) *General Rule: At Least Ten Years of Vesting Service or Ten Pension Credits Are Required for an Unreduced Regular Pension. Participants who are Credited With Years of Vesting Service in Accordance With Subsection 4.3(d) Must Have at Least Ten Years of Vesting Service for Work In Covered Employment During the Contribution Period for Which Contributions Were Required to Be Paid to the Fund or at Least Five Pension Credits (Not Counting Bonus Credits) to be Eligible for an Unreduced Regular Pension. All Pension and Bonus Credits Earned After June 1, 1999 Are Payable Unreduced at Age 55. Pension and Bonus Credits Earned Prior to June 1, 1999 Are Payable Unreduced at Age 56 Unless the Participant Meets the Requirements Set Forth in (2) or (4) Below. See Section 3.4 and 3.5 for unreduced Early Pension provisions.*
- (2) *Work Requirement Rule for Having Past Pension and Bonus Credits Payable at Age 55. Past Pension and Bonus Credits earned prior to June 1, 1999 may be payable as an unreduced Regular Pension as early as age 55 if a Participant earns at least one-half (1/2) Pension Credit between June 1, 1997 and May 31, 1999 (the “work requirement”).*

- (3) *Rules Applicable where Work Requirement Not Met Between June 1, 1997 and May 31, 1999.* A Participant who does not meet the work requirement in Subsection 3.2(a)(2) above (a “shortage of hours”) shall be entitled to retire in accordance with the terms of the Plan in effect when he last Worked in Covered Employment.
- (4) *Curing a 1997-1999 Shortage of Hours.* A Participant who does not meet the work requirements in Subsection 3.2(a)(2) above has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 1999 and May 31, 2004. A shortage of hours of more than five Plan Years cannot be cured and the Participant’s benefits shall be determined in accordance with Subsection 3.3(c). See Subsection 3.3(d) for an explanation of a five-year absence.

(b) **Service Requirements**

A Participant who meets any of the service requirements below for Work in Covered Employment on or after June 1, 1997 may retire on a Regular or Early Pension. A Participant satisfies the requirements if he has:

- (1) At least ten Years of Vesting Service. Participants who are credited with Years of Vesting Service in accordance with Subsection 4.3(d) must have at least ten Years of Vesting Service for Work in Covered Employment during the Contribution Period, or at least five Pension Credits (not counting Bonus Credits), or
- (2) At least ten Pension Credits (excluding Bonus Credits) for Work in Covered Employment during the Contribution Period. Prior to June 1, 1976 the contributions had to be paid to the Fund for the Work to be credited. After June 1, 1976, Work for which contributions were paid or required to be paid to the Fund will be credited, or
- (3) At least 15 Pension Credits (excluding Bonus Credits) of which at least one Pension Credit was earned for Work in Covered Employment during the Contribution Period.

**Section 3.3 Regular Pension — Amount**

The monthly amount of a Regular Pension, payable for the Participant’s life with the first 60 monthly payments guaranteed (defined as a Single Life Annuity), will be calculated by multiplying the number of Pension and Bonus Credits by the applicable benefit accrual rate. Benefit amounts are rounded to the next whole dollar amount. The applicable benefit accrual rate will be determined by the Effective Date of the Pension and when the Pension and Bonus Credits were earned. Different accrual rates may apply to

different periods of service if an Absence from Covered Employment occurs (see Subsection (c) below) or a Participant retires and then returns to Covered Employment and earns Pension Credits.

(a) **Work Requirement for \$107.00 Benefit Accrual Rate**

(1) *General Rule: \$107.00 For Pension and Bonus Credits Earned On or After June 1, 2008.* The applicable accrual rate is \$107.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2008.

(2) *Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$107.00 Rate.* Past Pension and Bonus Credits earned after any five-year Absence from Covered Employment (see Subsection (d) below) and before June 1, 2008 may be payable at the \$107.00 rate if a Participant earns at least one-half (1/2) Pension Credit between June 1, 2006 and May 31, 2008 (the “work requirement”).

(3) *Rules Applicable where Work Requirement is Not Met Between June 1, 2006 and May 31, 2008.* A Participant who does not meet the work requirement in Subsection 3.3(a)(2) above (a “shortage of hours”) shall be entitled to retire at the rates set forth in Table 2 of the Plan.

(4) *Curing a 2006-2008 Shortage of Hours.* A Participant who does not meet the work requirements in Subsection 3.3(a)(2) above has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in each of two consecutive Plan Years between June 1, 2008 and May 31, 2013.

(b) The applicable accrual rate for Pension Credits, including Bonus Credits, earned prior to June 1, 2008 is outlined in Table 2 of the Plan. In addition, for a Participant whose Effective Date is prior to June 1, 2008, the applicable benefit accrual rate shall be determined in accordance with Table 2 of the Plan.

(c) An “Absence from Covered Employment,” for purposes of this Section 3.3, means Plan Years in which a Participant Works less than 250 hours in Covered Employment except, when a Participant is, for a period of up to two Plan Years, either:

(1) Receiving workers’ compensation benefits for at least seven weeks in a Plan Year, or

(2) Working under a reciprocal agreement to which this Plan is signatory for the equivalent of at least 250 hours in a Plan Year. Under the exceptions noted above, a Participant can Work less than 250 hours in a Plan Year and that Plan Year shall not be counted as an

absence. Work in Covered Employment and credit for workers' compensation or Covered Employment under a reciprocal agreement to which this Plan is signatory can be combined to avoid a year of absence.

If a Participant who does not meet the requirements of Subsection 3.3(a) above or Subsection (p), (q), (r), (s), (t), (u), (v), or (w) from Table 2 of the Plan returns to Work in Covered Employment following an Absence from Covered Employment of five or more consecutive Plan Years, the amount of his pension based on the Pension Credit, including Bonus Credits, earned before the Absence from Covered Employment shall be determined in accordance with the work requirements and the appropriate accrual rate in effect at the time the Pension Credit was earned and the amount of his pension based on the Pension Credit earned after the Absence from Covered Employment shall be determined in accordance with the work requirements and the appropriate accrual rate in effect when the Pension Credit was earned.

- (d) If a Participant fails to earn at least two-quarters (2/4) of a Pension Credit in any five consecutive Plan Year period, he shall be deemed to have separated from Covered Employment. The Participant's pension benefit shall be calculated by multiplying the number of Pension and Bonus Credits earned before a separation from Covered Employment by the accrual rate in effect at the time the five-year period began.

In the event a Participant returns to Work in Covered Employment following a five-year absence, the amount of his benefit based on the Pension and Bonus Credits earned before the five-year absence shall be determined in accordance with the work requirements and the appropriate accrual rate in effect before the five-year absence and the amount based on the Pension and Bonus Credits earned after the five-year absence (his Past Pension and Bonus Credits) shall be determined in accordance with the work requirements and the appropriate accrual rate in effect after the five-year absence.

- (e) The maximum number of Pension and Bonus Credits used in determining the amount of a pension for a Participant shall be determined in accordance with Section 3.1 hereof. In the event a Participant has more than the maximum allowable Pension and Bonus Credits based on his Effective Date, those Pension and Bonus Credits which will produce the highest amount shall be used, except as provided in Section 3.1 hereof.
- (f) Notwithstanding the foregoing effective June 1, 1999, if the Participant satisfies all of the other eligibility requirements for a benefit improvement, and Works at least 250 hours in Covered

Employment in the Plan Year in which he retires, he will be eligible for any benefit improvements that may be implemented on the following June 1. At such time, his pension shall be re-calculated accordingly.

### **Section 3.4 Early Pension — Eligibility**

A Participant shall be entitled to retire on an Early Pension if he meets both the following work requirements and service requirements:

(a) **Service Requirement**

A Participant must meet the service requirements set forth in Subsection 3.2(b) to be eligible to retire on an Early Pension.

(b) **Work Requirements for Early Pension between Age 50 and Age 55**

- (1) *General Rule: A Participant Who Meets the Service Requirements for an Unreduced Regular Pension at Age 55 (or Age 56), as Set Forth in Subsection 3.2(a) and 3.4(a), May Take an Early Pension between Age 50 and Age 55 (or Age 51 and Age 56 if Eligible for an Unreduced Regular Pension at Age 56) in the Adjusted Amount Set Forth in Section 3.5.*
- (2) The provisions of Subsections 3.2(a)(2), (3) and (4) apply to the work requirements for Early Pensions, at age at which an unreduced Regular Pension can be the basis for an Early Pension prior to that age and curing a shortage of hours.

### **Section 3.5 Early Pension — Amount**

A Participant who retires on an Early Pension in accordance with Section 3.4 shall be entitled to a monthly pension determined by reducing the amount of his Regular Pension by the appropriate factors set forth below:

(a) **Requirements for Regular Pension Reduced by One-Half Percent (1/2%) For Each Full Month the Participant is Less Than Age 55 On His Annuity Starting Date**

- (1) *General Rule: Early Pension Reduced 1/2% per Month Under Age 55 on Annuity Starting Date for Participants Eligible to Receive an Unreduced Regular Pension at Age 55. Early Pension Reduced, Per Table 4 of the Plan for Pension and Bonus Credits not Applicable to Age 55 Regular Pension. Where a Participant is eligible for an*

unreduced Regular Pension at age 55, a Participant's Early Pension shall be computed by reducing:

- (i) His Regular Pension by one-half percent (1/2%) for each full month that his Annuity Starting Date is earlier than age 55, and
  - (ii) His Regular Pension attributable to Pension and Bonus Credits earned prior to June 1, 1999 in accordance with Table 4 of the Plan.
- (2) *Work Requirement Rule for Having Past Pension and Bonus Credits Subject to 1/2% Per Month Reduction From Age 55.* A Participant's Early Pension shall be computed by reducing his entire Regular Pension by one-half percent (1/2%) for each full month that his Annuity Starting Date is earlier than age 55, not merely the portion set forth in Subsection 3.5(a)(1)(i) above, if the Participant earns at least one-half Pension Credit between June 1, 1997 and May 31, 1999 (the "work requirement").
- (3) *Rule Applicable where Work Requirement Not Met Between June 1, 1997 and May 31, 1999.* A Participant who does not meet the work requirements in Subsection 3.5(a)(2) above (a "shortage of hours") shall be entitled to retire on an Early Pension in accordance with the different reduction factors in Table 4 of the Plan.
- (4) *Curing a 1997-1999 Shortage of Hours.* A Participant who does not meet the work requirement in Subsection 3.5(a)(2) above has a "shortage of hours" which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 1999 and May 31, 2004. A shortage of hours of more than five Plan Years cannot be cured and the Participant's benefits shall be determined in accordance with Subsection 3.3(c). See Subsection 3.3(d) for an explanation of a five-year absence.

### **Section 3.6 Normal Retirement Age Pension — Eligibility**

- (a) A Participant who has terminated his service in Covered Employment may retire on a Normal Retirement Age Pension, payable at his Normal Retirement Age, if he has at least five Years of Vesting Service, provided:
- (1) He Works one or more hours in Covered Employment on or after June 1, 1998 (A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the "Working one or more hours in Covered Employment on or after June 1, 1998" requirement for purposes of obtaining vested status only); and

(2) If he has incurred a temporary (but not a Permanent) Break in Service of one year or more prior to June 1, 1998, he must return to Covered Employment and re-establish his Participation in the Plan after June 1, 1998, by Working at least 870 hours in Covered Employment during a Plan Year. (A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the “Working at least 870 hours in Covered Employment during a Plan Year” requirement for purposes of obtaining vested status only.)

(b) A Participant who attains his Normal Retirement Age may retire on a Normal Retirement Age Pension at anytime after his fifth anniversary of Participation in the Plan, regardless of his number of Years of Vesting Service.

If he does not have five Years of Vesting Service and he has incurred a Break in Service of one or more years as of that date (but not a Permanent Break in Service), he must return to Work in Covered Employment and re-establish his Participation in accordance with Section 2.4 of the Plan.

In order to determine the “fifth anniversary of Participation” as described above, the Plan shall begin counting anniversaries of Participation once the Participant has satisfied the requirements for initial Participation set forth in Section 2.2 of the Plan.

### **Section 3.7 Normal Retirement Age Pension — Amount**

The amount of Normal Retirement Age Pension to which a Participant is entitled shall be determined the same as a Regular or Deferred Pension.

Notwithstanding the foregoing, a Participant who qualifies for a Normal Retirement Age Pension under Section 3.6 shall not be entitled to receive the Normal Retirement Age Pension until attainment of Normal Retirement Age.

### **Section 3.8 Deferred Pension — Eligibility**

(a) If a Participant terminates his service in Covered Employment prior to meeting the age and Pension Credit requirements to receive any other pension benefit under the Plan and has not earned at least two quarters (2/4) of a Pension Credit during any five consecutive Plan Year period, he shall be entitled to a Deferred Pension under the provisions of either Subsection (b) or (c) below.



- (b) A Participant shall be entitled to a Deferred Pension payable at his Normal Retirement Age, if he has at least five Years of Vesting Service, provided
- (1) He Works one or more hours in Covered Employment on or after June 1, 1998 (A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the “Working one or more hours in Covered Employment on or after June 1, 1998” requirement for purposes of obtaining vested status only); and
  - (2) If he has incurred a temporary Break in Service of one year or more prior to June 1, 1998, he must return to Covered Employment and re-establish Participation in the Plan after June 1, 1998 by Working at least 870 hours in Covered Employment during a Plan Year. (A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the “Working at least 870 hours in Covered Employment during a Plan Year” requirement for purposes of obtaining vested status only.)
- (c) A Participant shall be entitled to a Deferred Pension payable as early as age 50 for all Pension and Bonus Credits earned on or after June 1, 1999. Pension and Bonus Credits earned prior to June 1, 1999 may be payable as early as age 50, provided the Participant’s Effective Date of retirement is on or after June 1, 1999 and he earns at least two-fourths (2/4) of a Pension Credit between June 1, 1997 and May 31, 1999 (or other ages in accordance with Table 3 of the Plan) and if he has:
- (1) At least ten Years of Vesting Service. Participants who are credited with Years of Vesting Service in accordance with Subsection 4.3(d) must have at least ten Years of Vesting Service for Work in Covered Employment during the Contribution Period, or at least five Pension Credits (not counting Bonus Credits), or
  - (2) At least ten Pension Credits (excluding Bonus Credits) for Work in Covered Employment during the Contribution Period. Prior to June 1, 1976, the contributions had to be paid to the Fund for the Work to be credited. After June 1, 1976, Work for which contributions were paid or required to be paid to the Fund will be credited, or
  - (3) At least 15 Pension Credits (excluding Bonus Credits) of which at least one Pension Credit was earned for Work in Covered Employment during the Contribution Period.

### **Section 3.9      Deferred Pension — Amount**

The amount of Deferred Pension to which a Participant is entitled shall be determined the same as a Regular or Early Pension.

### **Section 3.10      Disability Pension — Eligibility and Commencement**

A Participant shall be eligible for a Disability Pension if he meets all of the following requirements:

- (a) He becomes Totally and Permanently Disabled before he attains his Normal Retirement Age.
- (b) He has:
  - (1) For Employees hired on or after June 1, 2008, at least ten Pension Credits (excluding Bonus Credits), or ten Years of Vesting Service, based on Work in Covered Employment during the Contribution Period; or
  - (2) Effective January 1, 1993, at least five Pension Credits (excluding Bonus Credits), or five Years of Vesting Service, based on Work in Covered Employment during the Contribution Period; or
  - (3) Effective prior to January 1, 1993, at least ten Pension Credits, or ten Years of Vesting Service, based on Work in Covered Employment during the Contribution Period.
- (c) He earned at least one-quarter (1/4) of a Pension Credit for Work during the Contribution Period during a period of three consecutive Plan Years immediately preceding the Plan Year during which he became Totally and Permanently Disabled (Reciprocal Pension Credits are disregarded for the purposes of this subsection).
- (d) Effective as of June 1, 1989, if the Annuity Starting Date for a Participant who is Totally and Permanently Disabled is more than two months after the date payments would have begun if an application had been filed on the date the Participant last Worked in Covered Employment or, if later, the date of the disability, the Participant shall be entitled to an Auxiliary Disability Benefit. The Auxiliary Disability Benefit is an amount, payable as a lump sum, equal to the monthly benefits payable as the Participant's Disability Pension (in the payment form elected by the Participant for that pension) multiplied by the number of complete months between the Annuity Starting Date and the date the Disability Pension payments would have commenced if the Participant had applied at the later of (i) the date the Participant last Worked in Covered Employment or (ii) the date of the disability or (iii) the first day of the month following his last

payment of Weekly Income Benefits from the Health and Welfare Department of Construction and General Laborers' District Council of Chicago and Vicinity Welfare Program ("Laborers' Welfare Fund"), but no longer than two years prior to the date of application. If the Participant receives extended Weekly Income Benefits from the Laborers' Welfare Fund and pension benefits are paid retroactively for the same period, the Participant must reimburse the Welfare Fund based on the full amount of benefits paid by the Pension Fund and such reimbursement shall be up to the amount of the pension benefit.

- (e) If a disabled Participant meets the requirements for an Early or Regular Pension at the time he becomes disabled, he shall be entitled to apply for and receive an Early or Regular Pension, while his application for a Disability Pension is pending with the Trustees.

If his Disability Pension application is later approved, his monthly Early or Regular Pension shall be converted to a Disability Pension, retroactive to the date his Disability Pension would have started. In addition, if the Participant was married and he and his Qualified Spouse elected to receive the Early or Regular Pension in the form of a Joint and Survivor Annuity Pension, he must also choose the same Joint and Survivor Annuity Pension option on his Disability Pension. If the Participant was married and he and his Qualified Spouse rejected the Joint and Survivor Annuity optional form of payment on his Early or Regular Pension, the Participant and his Qualified Spouse will be given a new election as to the form of payment of the Disability Pension.

However, if the Participant's Disability Pension application is later denied, within 60 days of the denial, notwithstanding Section 5.2(d)(4)(ii), he may revise the Joint and Survivor Annuity Pension option (switching 50% to 100% or vice versa) under which he was receiving his Early or Regular Pension, retroactive to the date his Early or Regular Pension started, with the consent of his Qualified Spouse, if applicable.

- (f) Notwithstanding Subsection 3.10(d), if a Totally and Permanently Disabled Participant applies for a Disability Pension and dies prior to the benefit starting date, it shall be presumed that the benefit was in pay status and the surviving Spouse or Beneficiary, if applicable, shall receive the monthly benefit in the form elected by the deceased Participant, provided the Trustees approve the Disability Pension application.

### **Section 3.11      Disability Pension — Amount**

The calculation of the monthly amount of the Disability Pension is the same as the Regular Pension prior to any adjustment for payment in the form of the Joint and Survivor Annuity Pension or any other optional form of benefit.

### **Section 3.12      Non-Auxiliary Disability Benefit**

- (a) Notwithstanding any provision of the Plan to the contrary, effective as of June 1, 1989, the Disability Pension will be paid as a 100% Joint and Survivor Annuity Pension (50% Joint and Survivor Annuity Pension for Effective Dates prior to June 1, 2009), subject to waiver in accordance with Section 5.2, or any other actuarially equivalent benefit payment form (does not apply to a Partial Lump Sum Pension or a Level Income Option) that would be available to the Participant under the Plan if he were retiring at his Normal Retirement Age (or, if the Participant is then eligible for it, an Early Pension).
- (b) In converting the Disability Pension to actuarially equivalent alternate payment form, the following factors shall be used in lieu of the other factors prescribed for those payment forms:
  - (1) 100% Joint and Survivor Annuity Pension: See Subsection 5.2(a).
  - (2) 50% Joint and Survivor Annuity: See Subsection 5.3(d).
  - (3) 60-Month Post-Retirement Pension: See Subsection 5.3(e).

### **Section 3.13      Definition of Totally and Permanently Disabled**

Totally and Permanently Disabled means that the Participant is totally and permanently unable as a result of bodily injury or disease to engage in any further employment or gainful pursuit, and the Trustees shall be the sole and final judges of whether a Participant is Totally and Permanently Disabled and of the entitlement to a Disability Pension hereunder.

A Disability Pensioner shall report any and all earnings from any employment or gainful pursuit to the Trustees, in writing, within fifteen (15) days after the end of any month in which he has such earnings. If a Disability Pensioner fails to make timely reports as required in this Section, he shall be disqualified for benefits until he re-establishes before the Trustees that he is Totally and Permanently Disabled.

### **Section 3.14 Proof of Total and Permanent Disability**

A Participant applying for a Disability Pension may be required to submit to an examination by a physician, or physicians, selected by the Trustees, and may be required to submit to re-examination periodically as the Trustees may direct.

The Trustees may take into consideration written verification that the Participant has received a determination by the Social Security Administration that he is entitled to Disability payments in connection with his Old Age and Survivor's Insurance coverage.

In accordance with the discretionary powers given to the Trustees, pursuant to Section 7.3 of the Plan, the Trustees shall be the sole and final judges of whether a Participant is Totally and Permanently Disabled and of a Participant's entitlement to a Disability Pension hereunder.

### **Section 3.15 Cessation of Total and Permanent Disability**

Any Participant retiring under the Disability Pension provisions of the Plan who subsequently ceases to be Totally and Permanently Disabled may:

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

### **Section 3.16 Designation of Beneficiary**

- (a) As used herein, the term "Designated Beneficiary" means the person designated by a Participant or Pensioner on a written form received by the Trustees or a contingent Designated Beneficiary listed on a written form by the Participant or Pensioner in the event of the death of the first named person. If a Minor Child is listed as a Designated Beneficiary but not a contingent Designated Beneficiary, such Minor Child will automatically become a contingent Designated Beneficiary if such Minor Child reaches age 21 and is no longer considered a Minor Child, unless the Fund Office is otherwise notified by the Participant. If no person is named as Designated Beneficiary or contingent Designated Beneficiary, or if the person or persons so designated do not survive the Participant or Pensioner, the person or persons in the first of the following successive classes of

beneficiaries surviving at the death of the Participant shall be the Designated Beneficiary or Beneficiaries:

- (1) Participant's widow or widower (including one who is not a Qualified Spouse as defined in Subsection 5.1(d));
  - (2) Participant's child or children, including adopted children and Minor Children who are no longer Minor Children, equally to the survivor or survivors;
  - (3) Participant's parents, equally to the survivor or survivors;
  - (4) Participant's brothers and sisters, equally to the survivor or survivors, including half-brothers and half-sisters.
- (b) If a Survivor Benefit or a Minor Child Benefit is in effect, any Designation of Beneficiary in this Section 3.16 shall not be applicable as long as either a Qualified Spouse or Minor Child is entitled to receive the pension benefits of a deceased Participant or Pensioner. If a Qualified Spouse dies while receiving a survivor benefit, any Minor Child or Minor Children shall be entitled to receive the Minor Child Benefit until reaching age 21. If guaranteed monthly pension benefits remain to be paid and there is no Qualified Spouse or Minor Child eligible to receive such benefits, the remaining guaranteed benefits shall be paid to the Designated Beneficiary, or Beneficiaries, or contingent Designated Beneficiary or Beneficiaries, as defined above. In the absence of any Qualified Spouse, Minor Child, Designated Beneficiary or contingent Designated Beneficiary, no remaining pension benefits shall be paid.
- (c) Any Beneficiary so designated may be changed at any time during the Participant's or Pensioner's life. If the Participant or Pensioner is married and the elected Beneficiary is not the Qualified Spouse, the written consent of the Qualified Spouse to the designation of Beneficiary is required. The last written designation received by the Trustees shall be controlling over any other testamentary or other disposition; provided, however, that no designation or change thereof shall be effective unless received by the Trustees prior to the Participant's or Pensioner's death and in no event shall it be effective as of a date prior to such receipt.

Notwithstanding the foregoing, effective for any Participant or Pensioner whose death occurs on or after October 1, 2005, a designation of Beneficiary in effect prior to a Participant's or Pensioner's divorce that names the Spouse as Beneficiary shall not be valid with respect to such former Spouse as of the date the divorce was granted (except for the Joint and Survivor Annuity Pension provision or in accordance with a Qualified Domestic Relations Order). Further, the

former Spouse shall not be eligible to be a Beneficiary unless, after the divorce, the Participant or Pensioner files a new Beneficiary designation naming the former Spouse as the Beneficiary.

- (d) In the event that a Designated Beneficiary commences receiving payments and dies after June 1, 2000 and prior to receipt of all payments, a monthly payment through the end of the payment period shall be paid to the contingent Designated Beneficiary. In the event that a Designated Beneficiary commences receiving payments and dies prior to June 1, 2000 and prior to receipt of all payments, a monthly payment through the end of the payment period shall be paid to that Designated Beneficiary's estate.

If one or more primary Beneficiaries are designated and any dies prior to receipt of all payments, the payment will be redistributed among the remaining primary Beneficiary or Beneficiaries, unless otherwise specified.

- (e) If the individual to whom the pension shall be paid cannot be identified or located after a reasonable search, as set forth in a policy established by the Trustees, the Trustees may pay the benefits to the next class of individuals in accordance with the above order.
- (f) If the Trustees are unable to make such payments within two years after any benefits become payable to a Beneficiary because the identity or whereabouts of such person or persons cannot be ascertained, the Trustees shall direct that such payments be forfeited and all liability for the payment thereof shall terminate.
- (g) If payment of a benefit has begun to the Participant's Designated Beneficiary and additional Beneficiaries come forward and claim entitlement to the benefit more than one year after the date benefits commence, such additional Beneficiaries shall not be considered Beneficiaries unless a court determines that the Designated Beneficiary withheld information or provided false information to the Fund in order to obtain the benefit. In such a case, the court shall determine the disposition of future benefits payable under the Plan.

### **Section 3.17      Non Duplicating Pensions**

Nothing contained in this Plan shall be construed as permitting any Participant to be entitled simultaneously to more than one type of pension from this Pension Fund.

### **Section 3.18 Pension Waiting Period**

No pension payment shall be made to any Participant who is receiving Weekly Income or long-term Disability Benefits from the Laborers' Welfare Fund, until the first month following the last payment from said Welfare Fund.

In the event that a Participant receives the extended Weekly Income Benefits from the Laborers' Welfare Fund and he is subsequently approved for a Disability Pension for the same period, he must reimburse the Laborers' Welfare Fund for benefits received up to the amount of the pension benefit.

### **Section 3.19 Benefit Improvements**

- (a) All Pensioners and Beneficiaries with a pension Effective Date before August 31, 1993, shall receive a 1% increase in their monthly benefits effective June 1, 2005.
- (b) All Pensioners and Beneficiaries with a pension Effective Date before August 31, 1993 shall receive a 2% increase in their monthly benefits effective June 1, 2007. This 2% increase shall also be paid for all pensions with Effective Dates between September 1, 1993 and May 31, 2007 for Pensioners who had less than 15 Pension Credits (not including Bonus Credits).
- (c) All Pensions and Beneficiaries with a pension Effective Date before May 31, 2008 receiving a Regular, Early, Normal Retirement Age, or Disability Pension, shall receive an additional payment of \$1,450.00 effective June 1, 2008. This additional payment shall also be paid to all Reciprocal Pensions with Effective Dates before May 31, 2008 for Pensioners who have more than ten (10) Pension Credits (not including Bonus Credits). No additional payment will be made to those receiving a Deferred Pension.



## **ARTICLE 4      PENSION CREDITS, BONUS CREDITS AND YEARS OF VESTING SERVICE**

### **Section 4.1      General**

The purpose of this Article is to define the manner in which Participants can earn Pension Credits, Bonus Credits and Years of Vesting Service toward eligibility for a Pension. This Article also defines the conditions under which a Participant loses the Pension Credits, Bonus Credits and Years of Vesting Service which he may have accumulated.

Pension Credits, Bonus Credits, and Years of Vesting Service shall be based upon Work in Covered Employment for which contributions were paid to the Fund, and will include contributions required to be paid and not received for Work in Covered Employment on or after June 1, 1976.

### **Section 4.2      Pension Credits, Bonus Credits and Past Pension and Bonus Credits**

#### **(a)      For Employment after the Initial Plan Contribution Dates**

- (1) For periods of employment after the Initial Plan Contribution Dates, a Participant shall be credited with Pension Credits (or portions thereof) on his hours of Work in Covered Employment in each Plan Year for which contributions to the Pension Fund were made or, effective June 1, 1976, were required to be made in accordance with the following schedule:

<b><u>Hours Worked in Covered Employment in a Plan Year</u></b>	<b><u>Pension Credits</u></b>
Less than 250 Hours	No Credit
250-499 Hours	One Quarter Pension Credit
500 – 749 Hours	Two Quarters Pension Credit
750 – 999 Hours	Three Quarters Pension Credit
1,000 Hours or More	One Pension Credit

Hours Worked in excess of 1,000 in any Plan Year shall not be cumulative.

(2) Bonus Credits

(i) Bonus Credits can be earned retroactively as follows:

<b><u>For Pension Annuity Starting Dates Effective:</u></b>	<b><u>Bonus Credits can be Earned Retroactive to Periods Beginning:</u></b>
On or after June 1, 2008	June 1, 1986
Between June 1, 2007 and May 31, 2008	June 1, 1991
Between June 1, 2002 and May 31, 2007	June 1, 1994
Between June 1, 2001 and May 31, 2002	June 1, 1996
Between June 1, 2000 and May 31, 2001	June 1, 1997
Between June 1, 1999 and May 31, 2000	June 1, 1998

(ii) Bonus Credits are earned as follows:

<b><u>Hours Worked in Covered Employment in a Plan Year</u></b>	<b><u>Bonus Credits</u></b>
Less than 1,500 Hours	No Credit
1,500 – 1,899 Hours	One Quarter Pension Credit
1,900 Hours of More	One Half Pension Credit

Such additional Bonus Credits shall only count toward the amount of a Participant's pension and shall not count toward eligibility for a Pension from the Plan.

(3) For benefit purposes, the number of hours Worked for which Participants will be credited for "Reciprocal Service" with an employer outside of the jurisdiction of the Union will be based on the amount of contributions transferred to this Fund for Reciprocal Service. "Reciprocal Service" shall mean service as a laborer performed by a Participant for which the employer is obligated to contribute to another pension fund ("Away Fund") with which this Fund has an agreement whereby contributions paid on behalf of Participants temporarily working in the jurisdiction of the Away Fund may be transferred to this Fund. The dollar amount of contributions transferred to this Fund for Reciprocal Service shall be divided by the hourly rate that Contributing Employers are required to pay this Fund for each hour Worked by a Participant. The resulting total of hours will be the number of hours Worked for which the Participant will be credited as a result of the Reciprocal Service for the purpose of determining the number of Pension Credits accrued by the Participant.

Example: This Fund requires Contributing Employers to contribute \$8.37 per hour Worked and an Away Fund requires employers to contribute \$8 per hour for purposes of this example. If a Participant works 100 hours for an employer who contributes to the Away Fund, the Away Fund will transfer the \$800 employer contribution to this Fund. This Fund will then credit the Participant with 96 hours ( $800 \div 8.37 = 95.5$ , rounded to 96) for benefit purposes. Those 96 hours will count toward the Participant's annual total of hours Worked for the purpose of calculating the Participant's Pension Credits under this Section.

This Subsection is only applicable to money-follows-the-man type reciprocal agreements rather than partial-pension type reciprocal agreements that are the subject of Article 6. The foregoing proration rule is not applicable to the calculation of hours Worked when calculating a Participant's Years of Vesting Service. Actual hours worked, both hours of Work and hours of Reciprocal Service, are counted for vesting purposes.

(b) **For Employment before the Initial Plan Contribution Dates**

- (1) Pension Credit is recognized for Work in Covered Employment before the Initial Plan Contribution Dates, as defined in Subsection 4.2(b)(2) for which contributions to the Pension Fund would have been paid in accordance with the Collective Bargaining Agreement if the Pension Fund had existed at that time. For periods before the Initial Plan Contribution Dates, a Participant shall be credited with Pension Credits based on his hours of Work in Covered Employment in each Plan Year in accordance with the following schedule:

<b><u>Hours Worked in Covered Employment in a Plan Year</u></b>	<b><u>Pension Credits</u></b>
Less than 250 Hours	No Credit
250 – 499 Hours	One Quarter Pension Credit
500 – 749 Hours	Two Quarters Pension Credit
750 – 999 Hours	Three Quarters Pension Credit
1,000 Hours or More	One Pension Credit

- (2) If a Participant Worked at least 250 hours in Covered Employment in any fiscal year prior to the Initial Plan Contribution Dates (July 1, 1967, for members of Local Unions 96 and 288, June 1, 1966 for members of Local Union 75, and June 1, 1963 for all other Participants), he shall be credited with one Pension Credit for each fiscal year prior to the Initial Plan Contribution Dates provided he was a member of the Union for each such full fiscal year.
- (3) In the absence of proof under Subsection 4.2(b)(2), the Trustees may accept other satisfactory evidence of Covered Employment.

(c) **Pension Credit for Non-Work Periods**

A Participant will be entitled to receive additional credit for certain non-work periods as if he had actual hours of Work in Covered Employment during such periods, as follows:

- (1) (i) After the Contribution Date and for pension Annuity Starting Dates on or after June 1, 2001, an Employee who has Past Pension and Bonus Credits earned during the Contribution Period will receive additional Pension and Bonus Credits for each week of absence from Covered Employment as the result of total disability for which Weekly Income Benefits are paid by the Laborers Welfare Fund. Such weekly benefits shall be recorded as being equivalent to 40 hours of Work. This does not apply to extended Weekly Income Benefits. Any waiting period prescribed by the Rules and Regulations of said Laborers Welfare Fund shall similarly entitle the Participant to credit at the rate of 40 hours of Work per week of the waiting period. This shall apply for both non-occupational and occupational disabilities. Hours credited for disability under this provision shall be treated as if contributions were received by the Fund for purposes of determining the appropriate benefit accrual rate. In addition, the Participant cannot receive a pension from this Fund at the same time they are receiving Weekly Income Benefits.
- (ii) After the Contribution Date and for pension Annuity Starting Dates prior to June 1, 2001, an Employee who has Past Pension and Bonus Credits earned during the Contribution Period will receive additional Pension and Bonus Credits for each week of absence from Covered Employment as the result of total disability for which Weekly Income Benefits are paid by the Laborers Welfare Fund. Such weekly benefits shall be recorded as being equivalent to 25 hours of

Work. Any waiting period prescribed by the Rules and Regulations of said Laborers Welfare Fund shall similarly entitle the Participant to credit at the rate of 25 hours of Work per week of the waiting period. This shall apply for both non-occupational and occupational disabilities. No more than a total of one Pension Credit may be granted to any Participant under this Subsection 4.2(c)(1)(ii) over the full period of his active Participation under the Pension Plan. Hours credited for disability under this provision shall be treated as if contributions were received by the Fund for purposes of determining the appropriate benefit accrual rate. In addition, the Participant cannot receive a pension from this Fund at the same time they are receiving Weekly Income Benefits.

- (2) During a period of “qualified military service” as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (or any predecessor statute), provided the Employee leaves Covered Employment for qualified military service and makes himself available for Covered Employment within two years after discharge or recovery from a service connected disability which continues after his discharge from qualified military service. For such non-work periods, an Employee who has Past Pension and Bonus Credits earned during the Contribution Period shall receive additional Pension and Bonus Credits for each week of absence from Covered Employment as a result of qualified military service as if they had been working in Covered Employment during those periods at 40 hours per week. The cost of complying with this Subsection 4.2(c)(2) shall be borne by the Plan.

Notwithstanding the foregoing, the requirement to return to Covered Employment does not apply in the case where the Employee leaves Covered Employment to enter qualified military service and dies or incurs a service connected disability while in qualified military service that renders the Employee unable to work as a laborer for at least two years. The Employee shall receive additional Pension and Bonus Credits for each week of absence from Covered Employment for the period he was engaged in such qualified military service prior to his death or prior to the date he incurred the service connected disability that renders him unable to return to work as a laborer for at least two years as if the Employee had been Working in Covered Employment at 40 hours of Service per week during such period of qualified military service. The cost of complying with this Subsection 4.2(c)(2) shall be borne by the Plan.

A Participant shall not be entitled to receive additional non-work Pension and Bonus Credits for the same non-work period for which he has already received Pension and Bonus Credits by virtue of Employer contributions made on his behalf.

(d) **Past Pension Credits or Past Pension and Bonus Credits**

Past Pension Credits or Past Pension and Bonus Credits are the Pension and Bonus Credits that a Participant earned, in accordance with Section 4.2, following:

- (1) The date the Participant began Working in Covered Employment provided the Participant has been Working continuously, or
- (2) The date the Participant returned to Work in Covered Employment following a period of five or more Plan Years in which he failed to earn at least two quarters of Pension Credit.

**Section 4.3 Years of Vesting Service**

- (a) A Participant shall be credited with one Year of Vesting Service for each Plan Year during the Contribution Period including periods before he became a Participant in which he Worked in Covered Employment for 870 hours or more.
- (b) Contiguous Employment during the Contribution Period after May 31, 1976 shall be counted toward a Year of Vesting Service.
- (c) A Participant shall not be entitled to credit toward a Year of Vesting Service for the following periods:
  - (1) Any period prior to the Contribution Period.
  - (2) Years preceding a Permanent Break in Service as defined in Subsection 4.4(b) for periods prior to June 1, 1976.
  - (3) Years preceding a Permanent Break in Service as defined in Subsection 4.4(d).
- (d) In addition to the provisions in Subsection (b) for crediting of service based upon Contiguous Employment, an Employee of an Employer who is hired on or after January 1, 2002 and who previously was employed by employers that contributed to Building Trades union-sponsored employee pension benefit plans shall be given credit for vesting purposes for such continuous service.

In order for such service to be credited, the Employee must have been a participant in one or more Building Trades union-sponsored employee pension benefit plans prior to becoming a Participant in the Laborers' Pension Fund.

In order for such a Participant to be eligible for an unreduced Regular Pension, as provided in Section 3.2, at least five Pension Credits (not counting Bonus Credits) must have been earned with the Laborers' Pension Fund. If a Participant leaves Covered Employment with less than five Pension Credits (not counting Bonus Credits) but more than five Years of Vesting Service (between this Plan and the other union-sponsored employee pension benefit plans) the pension will be payable at the Participant's Normal Retirement Age.

- (e) In addition to the provisions in Subsection (b) and (d) for crediting service based on Contiguous Employment or for participation in one or more Building Trades union-sponsored pension plans, an Employee who performs the job functions of a material tester for a Contributing Employer will be credited with Years of Vesting Service for each Plan Year in which he performed the job functions of a material tester for the years prior to any of his past Employers becoming a Contributing Employer based on the number of hours he performed such functions.
- (f) Notwithstanding the proration of hours for benefit purposes set forth in Subsection 4.2(a)(3), the actual number of a Participant's hours of Reciprocal Service, combined with the number of hours Worked for Contributing Employers, will be used for calculating whether the Participant earned the required 870 hours to qualify for a Year of Vesting Service.
- (g) An Employee who leaves Covered Employment to enter qualified military service (as described in the Uniformed Services Employment and Reemployment Rights Act of 1994, or any predecessor statute) and makes himself available for Covered Employment within two years after discharge or recovery from a service connected disability which continues after his discharge from qualified military service will be entitled to credit towards a Year of Vesting Service. For purposes of determining whether the Employee will be granted a Year of Vesting Service, the Employee will receive credit for the period he was engaged in qualified military service as if he had been working in Covered Employment during such period at 40 hours of Service per week. For each Plan Year, the Employee will receive one Year of Vesting Service for 870 or more hours of service during such period of qualified military service in the Plan Year. The cost of complying with this Subsection 4.3(g) shall be borne by the Plan.

Notwithstanding the foregoing, the requirement to return to Covered Employment does not apply in the case where the Employee leaves Covered Employment to enter qualified military service

and dies or incurs a service connected disability while in qualified military service that renders the Employee unable to return to work as a laborer for at least two years. The Employee shall receive additional Years of Vesting Service as described in the foregoing paragraph for the period he was engaged in qualified military service prior to his death or prior to the date he incurred the service connected disability that renders him unable to return to work as a laborer for at least two years as if the Employee had been working in Covered Employment at 40 hours of Service per week during such period of qualified military service. The cost of complying with this Subsection 4.3(g) shall be borne by the Plan.

#### **Section 4.4      Breaks in Service**

- (a) If a Participant has a Break in Service before he acquires the right to a pension, whether immediate or deferred, it has the effect of canceling his previously credited Years of Vesting Service, and his previous Pension and Bonus Credits. However, after June 1, 1976 a Break in Service may be temporary, subject to repair by a sufficient amount of subsequent Service.

(b) **Permanent Break in Service before June 1, 1976**

- (1) Before the Initial Plan Contribution Dates, as outlined in Subsection 4.2(b)(2), there shall be no Breaks in Service.
- (2) A Participant shall have incurred a Permanent Break in Service if between the Initial Plan Contribution Dates, as outlined in Subsection 4.2(b)(2) and June 1, 1976 he failed to earn at least two quarters (2/4) Pension Credit during any period of five consecutive Plan Years. There shall be no retroactive effect of these provisions to retirees who have received benefits or to Participants who applied for benefits and were acted upon prior to June 1, 1976.

(c) **One-Year Break in Service after May 31, 1976**

- (1) As of June 1, 1976, a Participant has a One-Year Break in Service in any Plan Year during the Contribution Period in which he fails to complete at least 435 hours of Work in Covered Employment.
- (2) Time of employment with a Contributing Employer in non-Covered Employment after May 31, 1976, if creditable under Subsection 4.3(b), shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.



- (3) A One-Year Break in Service is repairable, in the sense that its effects are eliminated, if before incurring a Permanent Break in Service the Employee subsequently becomes a Participant. In such case, previously earned Years of Vesting Service, Pension and Bonus Credits shall be restored. However, nothing in this paragraph shall change the effect of a Permanent Break in Service.

(d) **Permanent Break in Service after May 31, 1976**

A Participant has a Permanent Break in Service if he has consecutive One-Year Breaks in Service, including at least one after May 31, 1976 and the number of such consecutive One-Year Breaks in Service equal or exceed the number of full Years of Vesting Service or Pension Credits earned during the Contribution Period, whichever is greater, with which he had been credited.

In any event, however, a Participant shall not incur a Permanent Break in Service after May 31, 1976 until his consecutive One-Year Breaks equal at least five.

Once a Participant who has acquired the right to a pension in accordance with Sections 3.2, 3.4, 3.6, 3.8 or 3.10, they cannot suffer a Permanent Break in Service. In determining whether a Participant has acquired the right to a pension under Section 3.2, 3.4, 3.6, 3.8 or 3.10, Pension Credits, Bonus Credits and Years of Vesting Service lost as a result of a prior Permanent Break in service are not counted.

In order to avoid incurring a Permanent Break in Service, a Participant must return and complete at least 435 hours of Work in Covered Employment in a Plan Year prior to incurring a Permanent Break in Service.

(e) **Effect of a Permanent Break in Service**

If a Participant who has not met the requirements for a pension has a Permanent Break in Service, his previous Pension Credits, Bonus Credits, Years of Vesting Service and his Participation are canceled, with new Participation being subject to the provisions of Section 2.4.

**Section 4.5      Grace Periods**

- (a) Solely for the purpose of determining whether a Break in Service has occurred, the absence of an Employee from Work by reason of:

- (1) Her pregnancy,
- (2) Birth of a child of the Employee,
- (3) Placement of a child with the Employee in connection with his or her adoption of the child, or
- (4) Care for such child for a period beginning immediately after such birth or placement, shall be credited as hours of Work to the extent that hours of Work would have been credited but for such absence (or, where that cannot be determined, eight (8) hours of Work per day of absence) to a maximum of 501 hours for each such pregnancy, childbirth, or placement. The hours so credited shall be applied to the Plan Year in which such absence begins, if doing so will prevent the Employee from incurring a One-Year Break in Service in that Plan Year; otherwise, they shall be applied to the next Plan Year. The Trustees may require, as a condition for granting such credit, that the Employee establish in timely fashion and to the satisfaction of the Trustees, that the Employee is entitled to such credit. This Subsection shall apply only to absences that begin on or after December 31, 1986.

- (b) Family and Medical Leave: Solely for the purpose of determining whether a Participant has incurred a Break in Service after February 4, 1994, any leave of absence granted by an Employer, up to 12 weeks, that qualifies under the Family and Medical Leave Act (FMLA) shall not be counted as a Break in Service for purposes of determining eligibility and vesting.

## ARTICLE 5 FORMS OF PENSION PAYMENT

### Section 5.1 General

- (a) If the Effective Date of a pension payable to a married Participant is after December 31, 1984, the benefit is to be paid in the Automatic Joint and Survivor Annuity Pension form of payment unless:
  - (1) The Participant and Spouse (qualified or otherwise) may waive the Automatic Joint and Survivor Annuity Pension form of payment and elect another optional form of payment in accordance with Subsection 5.2(d); or
  - (2) The Spouse is not a Qualified Spouse at the time of retirement or on the Participant's death as defined below; or
  - (3) The benefit is payable as a Small Benefit Cashout.
- (b) If a married Participant with a vested right to a pension dies after August 22, 1984 but before his Annuity Starting Date, a surviving Spouse Pension shall be payable as described in this Article.
- (c) For purposes of this Plan, a Spouse is a person to whom a Participant is considered married under applicable law and, if and to the extent provided in a Qualified Domestic Relations Order (within the meaning of Sections 206(d) of ERISA and 414(p) of the Internal Revenue Code), a Participant's former Spouse.
- (d) To be eligible to receive the survivor's pension in accordance with Automatic Joint and Survivor Annuity Pension form of payment or a surviving Spouse Pension, the Spouse must be a "Qualified Spouse." At retirement, a Spouse is a Qualified Spouse if the Participant and Spouse were married throughout the one-year period ending on the Annuity Starting Date or if the Participant and Spouse became married within the year immediately preceding the Annuity Starting Date and were married for at least one year before the Participant's death.

Prior to retirement, a Spouse is a Qualified Spouse if the Participant and Spouse were married throughout the one-year period ending on the Participant's date of death.

A former Spouse may also be required to be treated as a Qualified Spouse if the Participant and former Spouse were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations

Order within the meaning of Sections 206(d)(3) of ERISA and 414(p) of the Internal Revenue Code.

## **Section 5.2      Automatic Joint and Survivor Annuity Pension**

Effective June 1, 2009, the Automatic Joint and Survivor Annuity Pension means the 100% Joint and Survivor Annuity Pension described in paragraph (a) of this Section 5.2. Prior to June 1, 2009, the Automatic Joint and Survivor Annuity Pension shall mean the 50% Joint and Survivor Annuity Pension described in Subsection 5.3(d).

(a) A 100% Joint and Survivor Annuity Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before 60 monthly payments have been made, his Qualified Spouse or Beneficiary will continue to receive the same monthly pension until 60 monthly payments have been made. If the Participant's Qualified Spouse is living after 60 monthly payments have been made, the Qualified Spouse will receive a monthly benefit for her lifetime equal to 100% of the Participant's adjusted monthly amount. The Participant's monthly amount shall be reduced by a percentage of the full monthly amount otherwise payable as a Single Life Annuity (after adjustment, if any, for early commencement) as follows:

(1) If the Participant's pension is not a Disability Pension, the reduction percentage shall be as follows: For Participants whose Annuity Starting Date is on or after June 1, 1998 the reduction percentage shall be as follows: 4% plus 0.10% for each year\* that the Qualified Spouse is younger than the Participant or minus 0.10% for each year\* that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%. For Participants whose Annuity Starting Date is earlier than June 1, 1998, see Table 5 of the Plan.

(2) If the Participant's pension is a Disability Pension, the reduction percentage shall be 35% plus 0.6% for each year\* that the Qualified Spouse is younger than the Participant or minus 0.6% for each year\* that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.

\* The Plan uses rounding in determining the number of years the Qualified Spouse is considered older or younger than the Participant. For example: If the age gap between the Qualified Spouse and Participant is 1 year, 6 months and 2 days, then the age is rounded to 2 years. If the age gap between the Qualified Spouse and Participant is 1 year, 5 months and 29 days, then the age is rounded to 1 year.

- (b) A Joint and Survivor Annuity Pension, once payments have begun, may not be revoked nor the Pensioner's benefits increased by reason of subsequent divorce or, before June 1, 1988, death of the Qualified Spouse before that of the Participant.

If a Participant retires with a Joint and Survivor Annuity Pension and subsequently divorces, the former Qualified Spouse will receive the survivor benefit upon the Participant's death, unless a qualified domestic relations order provides otherwise.

- (c) A retiring Participant shall be advised of the effect of payment on the basis of the Joint and Survivor Annuity Pension, including a comparison of the full Single Life Annuity amount and of the adjusted amount.

- (d) The Joint and Survivor Annuity Pension may be waived in favor of another form of distribution only as follows:

- (1) The Participant files the waiver in writing in such form as the Trustees may prescribe, and the Participant's Qualified Spouse acknowledges the effect of the waiver and consents to it in writing, witnessed by a notary public or such representative of the Plan as the Trustees may designate for that purpose.

- (2) The Participant establishes to the satisfaction of the Trustees that:

- (ii) He or she is not married;

- (iii) The Qualified Spouse whose consent would be required cannot be located; or

- (iv) Consent of the Qualified Spouse cannot be obtained because of extenuating circumstances, as provided in Internal Revenue Service regulations.

- (3) A waiver is valid only if a written explanation of the effect of the Joint and Survivor Annuity Pension has been provided to the Participant no earlier than 180 days before the Annuity Starting Date and no later than 30 days before the Annuity Starting Date. The Participant may file a new waiver or revoke a previous waiver at any time during the 180-day period prior to the Annuity Starting Date. Notwithstanding the foregoing, a Participant may commence receiving benefits before 30 days have elapsed from receipt of such notice provided the Participant and Spouse waive such 30-day advance waiting period, in writing. Notwithstanding any other provisions of the Plan, a waiver of the Joint and Survivor Annuity Pension shall not be effective if given more than 180 days before the Annuity Starting Date.

- (4) (i) A Qualified Spouse's consent to a waiver of the Joint and Survivor Annuity Pension shall be effective only with respect to that Qualified Spouse, and shall be irrevocable unless the Participant revokes the waiver to which it relates within the period described in (3) above.

- (ii) Notwithstanding the foregoing, effective for retirements occurring on or after June 1, 1995, the Participant shall be entitled to re-elect one of the following optional forms of payment: the 50% Joint and Survivor Annuity Pension or the 100% Joint and Survivor Annuity Pension (switching 50% to 100% or vice versa) before a sixth pension check has been issued.

A surviving Qualified Spouse shall also be entitled to elect the survivor benefit under the 100% Joint and Survivor Annuity Pension (switching from 50% Joint and Survivor Annuity Pension) if the Participant dies before a sixth pension check has been issued. This provision shall only be applicable if the surviving Qualified Spouse presents proper proof of the Participant's death to the Trustees.

Such monthly benefit shall commence the month following the Participant's re-election of payment form, or the death of the Participant, whichever is applicable.

If a Participant or surviving Qualified Spouse makes the re-election as described above, adjustments shall be made to the monthly pension until such time as the Plan has recovered the difference between the monthly amount which was paid to the Participant before such re-election and the monthly amount which would have been payable to him had he elected such optional form of payment as of his Effective Date of pension.

Once the Participant or surviving Qualified Spouse has re-elected one of the optional forms of benefit, such re-election shall be irrevocable.

In no event shall more than one survivor benefit be payable from the Plan unless provided for in a Qualified Domestic Relations Order.

- (5) A Participant must file with the Trustees, before his Annuity Starting Date, a written representation on which the Trustees are entitled to rely concerning the Participant's marital status which, if false, gives the Trustees the right to adjust the dollar amount of the pension payments made to the alleged surviving Spouse, or suspend payments, so as

to recover any benefits which may have been erroneously paid prior to paying benefits to the surviving Spouse.

- (e) If the Joint and Survivor Annuity Pension would be payable except for the fact that the Spouse is not a Qualified Spouse on the date the Participant's pension payments start because the Participant and Spouse have not been married for at least a year at that time, pension payments to the Participant shall be made in the amount adjusted for the Joint and Survivor Annuity Pension and if the Participant and Spouse have not been married to each other for at least a year before the death of the Participant or divorce (unless a QDRO provides otherwise), the difference between the amounts that had been paid and the amounts that would have been paid if the monthly amount had not been adjusted shall be paid to Participant's Designated Beneficiary.

If a non-Qualified Spouse dies before she becomes a Qualified Spouse, then the Joint and Survivor Annuity Pension shall cease to be effective as of the Participant's Effective Date. The Participant's benefit shall revert to the Single Life Annuity retroactive to his Effective Date and the difference between the amounts that had been paid and the amounts that would have been paid if the monthly amount had not been adjusted shall be paid to the Participant.

### **Section 5.3      Optional Forms of Pension**

- (a) This Section applies only to Participants whose pension was first effective on or after June 1, 1992.
- (b) An Optional Form of Pension, once payments have begun, may not be revoked nor the Pensioner's benefits increased by reason of subsequent divorce.
- (c) The general terms and conditions for surviving Spouse pensions under Sections 5.1 and 5.2 shall apply to all optional forms of pension.
- (d) **50% Joint and Survivor Annuity Pension**

Effective June 1, 2009, a Participant may elect to take his pension in the optional form of a 50% Joint and Survivor Annuity Pension. A 50% Joint and Survivor Annuity Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before 60 monthly payments have been made, his Qualified Spouse or Beneficiary will continue to receive the same monthly pension until 60 monthly payments have been made. If the Participant's Qualified Spouse is living after 60 monthly payments have been made, the Qualified Spouse will receive a monthly benefit for her lifetime equal to 50% of the Participant's adjusted monthly

amount. The Participant's monthly amount shall be reduced by a percentage of the full monthly amount otherwise payable as a Single Life Annuity (after adjustment, if any, for early retirement) as follows:

- (1) Non-disability Pension. If the Participant's pension is not a Disability Pension, the percentage shall be as follows: For Participants whose Annuity Starting Date on or after June 1, 1998, the percentage shall be 2%, plus 0.1% for each year\* that the Qualified Spouse is younger than the Participant or minus 0.1% for each year\* that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%. For Participants whose Annuity Starting Date is earlier than June 1, 1998, see Table 5 of the Plan.
- (2) Disability Pension. If the Participant's pension is a Disability Pension, the percentage shall be 21% plus 0.4% for each year\* that the Qualified Spouse is younger than the Participant or minus 0.4% for each year\* the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.

\* The Plan uses rounding in determining the number of years the Qualified Spouse is considered older or younger than the Participant. For example: If the age gap between the Qualified Spouse and Participant is 1 year, 6 months and 2 days, then the age is rounded to 2 years. If the age gap between the Qualified Spouse and Participant is 1 year, 5 months and 29 days, then the age is rounded to 1 year.

Prior to June 1, 2009, the 50% Joint and Survivor Annuity Pension described in the above paragraph is the Automatic Joint and Survivor Annuity Pension. Subsections 5.2(b) through (c) shall also apply to the 50% Joint and Survivor Annuity Pension.

(e) **60-Month Post-Retirement Pension**

A Participant may elect to take his pension in the form of a 60-Month Post-Retirement Pension. A 60-Month Post-Retirement Pension means that the Participant will receive an adjusted monthly amount for life with the first 60 monthly payments guaranteed. Following the Participant's death, or the end of the original 60 monthly payment period if earlier, an additional 60 monthly payments will be made to the Participant's Designated Beneficiary. The Participant's monthly amount shall be reduced in accordance with Section 1.1 (after adjustment, if any, for early retirement).



Once the 60-Month Post-Retirement Pension has been approved by the Trustees and the first monthly payment made, it cannot be revoked. Notwithstanding the foregoing sentence, the Beneficiary designation can be changed as set forth in Section 3.16 of the Plan.

(f) **Partial Lump Sum Pension**

A Participant who initially retires from active employment on or after June 1, 2001, with at least ten Years of Vesting Service or at least ten Pension Credits, earned under the Laborers' Pension Fund, other than on a Disability Pension, and on or after age 55 may elect to take his pension in the form of a Partial Lump Sum Pension. Initially retiring from active employment for purpose of this Section 5.3 means that the Participant is retiring for the first time and that he has earned at least one-quarter (1/4) Pension Credit payable at the highest benefit accrual rate as defined in Subsection 3.3(a). In addition, if the Participant initially starts his pension payments on or after age 55 and has at least twenty (20) Years of Vesting Service or at least twenty (20) Pension Credits earned under the Laborers' Pension Fund, other than on a Disability Pension, he may elect to take his pension in the form of Partial Lump Sum Pension regardless of whether or not he retired from active employment.

A Partial Lump Sum Pension means that the Participant may elect to have the amount of his monthly pension payable as a Single Life Annuity, any of the Joint and Survivor Annuity Pensions or the 60-Month Post-Retirement Pension reduced, by ten percent (10%), in return for the payment to him of a lump sum, equal to the Actuarial Equivalent Value of the reduced portion of his original monthly pension, determined at the time his monthly pension is first payable. Both the lump sum and the reduction in the Participant's monthly pension will take effect beginning with the seventh (7<sup>th</sup>) pension check.

The Partial Lump Sum Pension is subject to the following conditions:

- (1) The Partial Lump Sum Pension can only be elected by the Participant prior to the approval of his pension application by the Trustees. Thereafter, a Participant may not elect a Partial Lump Sum Pension, even following subsequent reemployment.
- (2) Once the Partial Lump Sum Pension has been approved by the Trustees and the first monthly pension payment made, it can only be revoked if the Participant revokes the Partial Lump Sum Pension election before the lump sum payment and the reduced seventh (7<sup>th</sup>) pension check are made. If the Participant revokes his Partial Lump Sum Pension election, the Plan will only pay his pension in the standard form of a Single Life

Annuity or, if previously elected, a Joint and Survivor Annuity Pension or 60-Month Post-Retirement Pension.

- (3) The Partial Lump Sum Pension may not be elected unless the Participant and his Qualified Spouse provide written consent in accordance with the provisions of Subsection 5.2(d).
- (4) If a Joint and Survivor Annuity Pension or a 60-Month Post-Retirement Pension is elected in conjunction with the Partial Lump Sum Pension, the amount of the Joint and Survivor Annuity Pension or 60-Month Post-Retirement Pension shall be computed after adjustment for the Partial Lump Sum Pension.
- (5) Only one Partial Lump Sum Pension will be paid to a Participant during his lifetime.
- (6) If the Partial Lump Sum Pension is elected, the Participant, Qualified Spouse or named Beneficiary will receive the full amount of the monthly pension under the optional form of payment elected for the first six monthly pension payments. Beginning with the seventh (7th) monthly pension payment, the monthly amount of the pension payment will be reduced by ten percent (10%) for the Partial Lump Sum Pension. In addition, the Participant, Qualified Spouse or named Beneficiary will receive the lump sum at the same time they receive the seventh (7th) monthly pension payment.

(g) **Level Income Option**

A Participant who initially retires from active employment on or after June 1, 2001, with at least ten (10) Years of Vesting Service or at least ten Pension Credits, earned under the Laborers' Pension Fund, other than on a Disability Pension, and on or after age 55 may elect to take his pension in the form of a Level Income Option. Initially retiring from active employment for purpose of this Section 5.3 means that the Participant is retiring for the first time and that he has earned at least one-quarter (1/4) Pension Credit payable at the highest benefit accrual rate as defined in Subsection 3.3(a). In addition, if the Participant initially starts his pension payments on or after age 55 and has at least twenty (20) Years of Vesting Service or at least twenty (20) Pension Credits earned under the Laborers' Pension Fund, other than on a Disability Pension, he may elect to take his pension in the form of a Level Income Option regardless of whether or not he retired from active employment.

A Level Income Option means that the Participant may elect to have the amount of his monthly pension payable as a Single Life Annuity, any of the Joint and Survivor Annuity Pensions or the

60-Month Post-Retirement Pension increased by twenty percent (20%) beginning with his first monthly pension payment and ending with the last monthly pension payment prior to the date he turns age 62. Beginning with the first monthly pension payment on or after the date he turns age 62, his remaining monthly pension payments are reduced so that his total expected monthly pension payments under the Level Income Option are the Actuarial Equivalence of the monthly pension payments he would have been expected to receive had he not elected this option.

The Level Income Option is subject to the following conditions:

- (1) Once the Level Income Option has been approved by the Trustees and the first monthly pension payment made, it cannot be revoked.
- (2) The Level Income Option may not be elected unless the Participant and his Qualified Spouse provide written consent in accordance with the provisions of Subsection 5.2(d).
- (3) The amount of the monthly pension for a Pensioner whose benefit is paid as a Joint and Survivor Annuity Pension or a 60-Month Post-Retirement Pension in the Level Income Option shall be determined as follows:
  - (i) Determine the monthly pension without adjustment for the Joint and Survivor Annuity Pension or the 60-Month Post-Retirement Pension or the Level Income Option.
  - (ii) Adjust the amount payable in paragraph (i) above for the Level Income Option.
  - (iii) Adjust the amount in paragraph (ii) above to the amounts payable as Joint and Survivor Annuity Pension or a 60-Month Post-Retirement Pension.
- (4) Upon the death of the Participant prior to the payment of 60 monthly payments, the Qualified Spouse or named Beneficiary will receive the greater of the following amounts for the remainder of the 60-month period:
  - (i) The regular payments that would have been paid to the Participant had he not died in the form of the Level Income Option, or
  - (ii) The amount payable under the survivor portion of the standard original optional form elected by the Participant and his Qualified Spouse without regard to the Level Income Option.

Following the 60-month period, or if the Participant died after 60 monthly payments had been made, the Qualified Spouse or named Beneficiary will receive the amount payable under the survivor portion of the standard original optional form of payment selected without regard to the Level Income Option.

- (5) If the adjustment would reduce the monthly pension amount payable after age 62 to less than \$100 a month, the Level Income Option shall not be effective.
- (6) The Partial Lump Sum Pension may not be elected if the Level Income Option is elected.

#### **Section 5.4 Pop-Up Provision**

For pensions effective on or after June 1, 1988, if a Spouse predeceases a Participant on or after June 1, 1988, and after the 100% Joint and Survivor Annuity Pension, or 50% Joint and Survivor Annuity Pension has commenced, the 100% Joint and Survivor Annuity Pension, or 50% Joint and Survivor Annuity Pension shall cease to be effective as of the date of the Spouse's death. The Pensioner shall then have his monthly pension amount increased to the amount that would have been payable had the Pensioner and his Spouse waived the 100% Joint and Survivor Annuity Pension or not elected the 50% Joint and Survivor Annuity Pension at the time of his retirement. This increase in the amount of the monthly pension amount shall commence with the first day of the month following the month of the Spouse's death.

#### **Section 5.5 Pre-Retirement Surviving Spouse Pension ("Surviving Spouse Pension")**

- (a) If a Participant who has a Qualified Spouse dies after August 22, 1984 and before his pension payments start, a Surviving Spouse Pension shall be paid to his surviving Qualified Spouse provided:
  - (1) He has:
    - (i) At least ten Years of Vesting Service, or
    - (ii) At least five but less than ten Years of Vesting Service (see Subsection (e) below for an explanation of a deferred payment), or
    - (iii) At least ten Pension Credits (excluding Bonus Credits) for Work in Covered Employment during the Contribution Period. Prior to June 1, 1976 the contributions had to be paid to the Fund for the Work to be credited. After

June 1, 1976 Work for which contributions were paid or required to be paid to the Fund will be credited, or

- (iv) At least 15 Pension Credits (excluding Bonus Credits) of which at least one Pension Credit was earned for Work in Covered Employment during the Contribution Period, and
  - (v) At least one hour of Work after June 1, 1976.
- (b) A Spouse is a Qualified Spouse for the purpose of this Section if the Participant and Spouse have been married to each other throughout the one-year period ending immediately before his death, or if the couple were divorced after being married for at least one year, and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations Order within the meaning of Sections 206(d) of ERISA and 414(p) of the Internal Revenue Code.
- (c) If the Participant described in Subsection (a) above dies at a time when he would have been eligible to begin receiving payment of a pension (other than a Disability Pension) had he retired, the surviving Qualified Spouse shall be entitled to a lifetime benefit determined as if the Participant had retired the day before he died, elected his pension payable as a 100% Joint and Survivor Annuity Pension, and then died.
- (d) If the Participant described in Subsection (a) above dies before age 50,
  - (1) And on or after October 1, 1994, the surviving Qualified Spouse shall be entitled to a Pre-Retirement Surviving Spouse Pension payable the first of the month following the month of the Participant's death,
  - (2) And prior to October 1, 1994 the Pre-Retirement Surviving Spouse Pension is not payable until the 1st day of the month after the Participant would have attained 50.

The benefit amount will be calculated as if the Participant had survived to the earliest date he would have qualified for an Early Pension under this Plan and elected his pension payable as a 100% Joint and Survivor Annuity Pension.

- (e) If a Participant who qualifies for a Deferred Pension under Subsection 3.8(b) of the Plan dies before Normal Retirement Age, the surviving Qualified Spouse shall be entitled to a Surviving Spouse Pension payable the first of the month after the month the Participant would have attained Normal Retirement Age. The amount of the benefit under the Surviving Spouse Pension would be

determined under the terms of the Plan in effect when the Participant last Worked in Covered Employment unless otherwise expressly specified.

- (f) Notwithstanding any other provision of this Article, a Surviving Spouse Pension shall not be paid in the form, manner, or amount described above if the Actuarial Present Value of the benefit is \$3,500 or less through May 31, 2001, or \$5,000 or less through March 27, 2005, or \$1,000 or less on or after March 28, 2005, and the Trustees shall make a Small Benefit Cashout to the Qualified Spouse in an amount equal to that Actuarial Present Value in full discharge of the Surviving Spouse Pension. For benefits payable on or after March 28, 2005, the Qualified Spouse may consent to a lump sum distribution of the benefit in lieu of the form, manner and amount described above if the Actuarial Present Value of the benefit is greater than \$1,000 but less than or equal to \$5,000.
- (g) The Qualified Spouse may elect in writing, filed with the Trustees, and on whatever form the Trustees may prescribe, to defer commencement of the Surviving Spouse Pension until a specified date that is no later than the first of the month following the date the Participant would have reach Normal Retirement Age. The benefit amount will be determined as if the Participant survived to the date the surviving Qualified Spouse elected to begin receiving that benefit, retired at that age with an immediate 100% Joint and Survivor Annuity Pension and died the next day.

#### **Section 5.6      Benefit Adjustments if Payment of Surviving Spouse Pension Postponed**

- (a) Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for the Surviving Spouse Pension is after the Participant's earliest retirement date, the benefit shall be determined as if the Participant had died on the surviving Spouse's Annuity Starting Date after retiring with a 100% Joint and Survivor Annuity Pension the day before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have applied as of that date.
- (b) If a surviving Qualified Spouse dies before the Annuity Starting Date for the Surviving Spouse Pension, that benefit will be forfeited and there will be no payments to any other party.

#### **Section 5.7      Pre-Retirement Minor Child Benefit ("Minor Child Benefit")**

The benefit in this Section 5.7 shall be effective for deaths occurring on or after January 1, 1995 and shall be payable to the Participant's "Minor Children." The term "Minor Children" or "Minor Child," as the case may be, means the surviving children (both natural born and adopted) of the Participant at the time of his death who are under 21 years of age.

- (a) If a Surviving Spouse Pension is payable, this benefit shall not be payable, except as provided in Subsection (c)(3)(ii) below.
- (b) If the Participant has attained the earliest age at which he is eligible to receive an Early Pension from the Plan and is eligible for both the Minor Child Benefit and the 60-Month Pre-Retirement Survivor Benefit, the Minor Child Benefit shall prevail and shall be divided equally among all of the Participant's surviving Minor Children while they meet the definition of Minor Children, for a minimum of 60 months. If any of the 60 payments remain unpaid when the last Minor Child has attained age 21, the remainder:
  - (1) On and after June 1, 2000, shall be paid to the Designated Beneficiary, and
  - (2) Prior to June 1, 2000, shall be paid to the youngest Minor Child.
- (c) (1) If a Participant who does not have a Qualified Spouse dies on or after June 1, 2001 and he has:
  - (i) A least ten Years of Vesting Service, or
  - (ii) At least five but less than ten Years of Vesting Service but died after age 65, or
  - (iii) At least ten Pension Credits (excluding Bonus Credits) for Work in Covered Employment during the Contribution Period. Prior to June 1, 1976 the contributions had to be paid to the Fund for the Work to be credited. After June 1, 1976 Work for which contributions were paid or required to be paid to the Fund will be credited, or
  - (iv) At least 15 Pension Credits (excluding Bonus Credits) of which at least one Pension Credit was earned for Work in Covered Employment during the Contribution Period, and
  - (v) At least one hour of Work after June 1, 1976,

his "Minor Children" shall receive a monthly pension beginning the first of the month following his death.
- (2) If a Participant who does not have a Qualified Spouse dies prior to June 1, 2001, meets the service requirements as set forth in Subsection 5.7(c)(1) and dies while actively engaged in Covered Employment, his "Minor Children" shall receive a monthly pension

beginning the first of the month following his death. A Participant will be deemed actively engaged in Covered Employment for purposes of this Section if he has completed at least 435 hours of Covered Employment in one of the two Plan Years immediately prior to the date of his death.

- (3) If there are no “Minor Children,” the Minor Child Benefit is not payable. This benefit shall apply to the Minor Children of:
  - (i) A Participant who does not have a Qualified Spouse at the time of his death, or
  - (ii) A Participant who has a Qualified Spouse at the time of his death and whose Qualified Spouse dies at a time when his Minor Child(ren) meet the age requirements for the Minor Child Benefit.
- (d) The monthly amount of the Minor Child Benefit shall be the monthly benefit amount that the Participant would have been entitled to receive had he retired with a pension from the Plan on the day preceding his death. Such Minor Child Benefit shall be reduced for early commencement, but not below the earliest age at which he is eligible to receive an Early Pension from the Plan.
- (e) The Minor Child Benefit shall be divided equally among each of the Minor Children and shall be payable until the youngest child reaches age 21.
- (f) This total benefit amount will remain constant and will be terminated for each Minor Child(ren) as they attain age 21 and adjusted to benefit the remaining Minor Child(ren).
- (g) A written application for this Minor Child Benefit must be made to the Trustees within 24 months from the date of the Participant’s death.
- (h) Notwithstanding any other provision of the Plan, payment of the Minor Child Benefit shall comply with the provisions of the Plan and the limits of Section 401(a)(9) of the Internal Revenue Code and the incidental benefit rule and the regulations prescribed under them, including Sections 1.401(a)(9)-1 and 1.401(a)(9)-2 of the Proposed Treasury Regulations.
- (i) To qualify as Minor Children, the claimants must submit their birth certificates or adoption papers to the Fund office. Such children shall be required to meet the standard of proof determined by the Trustees.
- (j) If payment of the Minor Child Benefit has begun to the Participant’s Minor Children, any additional children claiming entitlement to the benefit more than one year after the date benefits



commence shall not be considered Minor Children unless the court determines that the Minor Children withheld information or provided false information to the Fund in order to obtain the benefit. In such a case, the court shall determine the disposition of future benefits payable under the Plan.

- (k) Notwithstanding any other provision of this Article, a Minor Child Benefit shall not be paid in the form, manner, or amount described above if the Actuarial Present Value of the benefit is \$3,500 or less through May 31, 2001, \$5,000 or less through March 27, 2005, or \$1,000 or less on or after March 28, 2005, and the Trustees shall make a Small Benefit Cashout to the Minor Children in an amount equal to that Actuarial Present Value in full discharge of the Minor Child Benefit. For benefits payable on or after March 28, 2005, the Minor Children may consent to a lump sum distribution of the benefit in lieu of the form, manner and amount described above if the Actuarial Present Value of the benefit is greater than \$1,000 but less than or equal to \$5,000.

#### **Section 5.8      Pre-Retirement – 60-Month Pre-Retirement Survivor Benefit**

- (a) A 60-Month Pre-Retirement Survivor Benefit shall be payable to a Participant's Designated Beneficiary, provided that the Participant had no Qualified Spouse or Minor Children, he dies after May 31, 1992 and prior to retiring with a pension from the Fund and:
  - (1) He has:
    - (i) At least ten Years of Vesting Service, or
    - (ii) At least five but less than ten Years of Vesting Service but died after age 65, or
    - (iii) At least ten Pension Credits (excluding Bonus Credits) for Work in Covered Employment during the Contribution Period. Prior to June 1, 1976 the contributions had to be paid to the Fund for the Work to be credited. After June 1, 1976 Work for which contributions were paid or required to be paid to the Fund will be credited, or
    - (iv) At least 15 Pension Credits (excluding Bonus Credits) of which at least one Pension Credit was earned for Work in Covered Employment during the Contribution Period, and
    - (v) At least one hour of Work after June 1, 1976.

- (2) Effective for deaths occurring on or after June 1, 1992 and prior to June 1, 2001, a Participant must have earned at least one-half (1/2) Pension Credit for Work during the Contribution Period for which contributions were paid or were required to be paid to the Fund during a period of three consecutive Plan Years immediately preceding the Plan Year during which he died.
  - (3) Effective for deaths occurring on or after June 1, 1992 and prior to June 1, 2000, a Participant must have attained the Early Pension age at the time of his death for any benefit to be payable under this Section 5.8.
- (b) The amount payable to the Participant's Designated Beneficiary shall be equal to 60 times the monthly benefit amount that the Participant would have been entitled to receive had he retired on the day preceding his death and elected immediate payment of his pension as a Single Life Annuity, payable in 60 equal monthly installments, commencing on the first day of the first month following the month of his death. If the Participant is younger than age 50 at the time of his death, it will be assumed that he was age 50 for purposes of this Section. The 60-Month Pre-Retirement Survivor Benefit amount shall be determined in accordance with Section 3.3, Section 3.5, Section 3.7, Section 3.9 or Section 3.11 depending on the Participant's age at the time of his death.
- (c) Notwithstanding any other provision of this Article, a 60-Month Pre-Retirement Survivor Benefit shall not be paid in the form, manner, or amount described above if the Actuarial Present Value of the benefit is \$3,500 or less through May 31, 2001, \$5,000 or less through March 27, 2005, or \$1,000 or less on or after March 28, 2005, and the Trustees shall make a Small Benefit Cashout to the Participant's Designated Beneficiary in an amount equal to that Actuarial Present Value in full discharge of the 60-Month Pre-Retirement Survivor Benefit. For benefits payable on or after March 28, 2005, the Beneficiary may consent to a lump sum distribution of the benefit in lieu of the form, manner and amount described above if the Actuarial Present Value of the benefit is greater than \$1,000 but less than or equal to \$5,000.

## **Section 5.9 Commencement of Survivor Benefits**

- (a) Notwithstanding any other provision in the Plan, payment of survivor benefits will commence within a reasonable time after receiving an application and the Participant's death certificate.

If the survivor benefit is being paid to a Designated Beneficiary other than the Participant's Qualified Spouse, payments shall either:

- (1) Be completed by December 31 of the fifth calendar year following the year of the Participant's death, or
  - (2) Commence no later than the end of the year following the Participant's death and be paid out over a period no greater than the Designated Beneficiary's life or life expectancy, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, except that payments can continue until the end of the fifth calendar year following the year of the Participant's death if longer.
- (b) If the Designated Beneficiary is the Participant's Qualified Spouse, survivor benefit payments shall commence no later than April 1 of the year the Participant would have attained age 70-1/2 paid over the life or life expectancy of the Qualified Spouse, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, and benefits shall be actuarially increased for the delay.

#### **Section 5.10 Survivor Benefit Limitations**

Notwithstanding any other provision of the Plan, payment of the Joint and Survivor Annuity Pensions, the 60-Month Post-Retirement Pension, the Surviving Spouse Pension, all death benefits and optional benefits shall comply with the limits of Section 401(a)(9) of the Internal Revenue Code and the incidental benefit rule and the regulations prescribed under them, including Sections 1.401(a)(9)-1 and 1.401(a)(9)-2 of the Treasury Regulations.

#### **Section 5.11 Relation to Qualified Domestic Relations Order**

Any rights of a former Spouse or other alternate payee under a Qualified Domestic Relations Order within the meaning of Sections 206(d) of ERISA and 414(p) of the Internal Revenue Code, with respect to a Participant's pension, shall take precedence over those of any later Spouse of the Participant under this article.

#### **Section 5.12 Trustees' Reliance**

The Trustees shall be entitled to rely on written representations, consents, and revocations submitted by Participants, Spouses or other parties in making determinations under this Article and, unless such reliance is arbitrary or capricious, the Trustees' determinations shall be final and binding, and shall discharge the Fund and the Trustees from liability to the extent of the payments made. This means that, unless the Plan is administered in a manner determined to be inconsistent with the fiduciary standards of Part 4 of Title I of ERISA, the Fund shall not be liable under this Article for duplicate benefits with

respect to the same Participant, or for surviving Spouse benefits in excess of the Actuarial Present Value of the benefits described in this Section, determined as of the Annuity Starting Date of the Participant's pension or, if earlier, the date of the Participant's death.

## **ARTICLE 6      RECIPROCAL PENSION**

### **Section 6.1      Purpose**

Effective November 1, 1978, reciprocal pensions shall be provided under this Pension Plan for Participants who otherwise lack sufficient Pension Credit or Years of Vesting Service to be eligible for any pension because their years of employment were divided between different participating pension plans participating in the National Reciprocal Agreement of the Laborers' International Union of North America (Reciprocal Agreement). The terms of the Reciprocal Agreement shall apply except where modified herein, effective May 31, 2001.

### **Section 6.2      Recognized Reciprocal Pension Credits and Reciprocal Years of Vesting Service**

For purposes of this Pension Plan, the term "Reciprocal Pension Credits" or "Reciprocal Years of Vesting Service" shall mean those periods of service after the Initial Plan Contribution Date during which credit is granted for benefit eligibility purposes. Reciprocal Pension Credit and Reciprocal Years of Vesting Service shall not necessarily cover periods for which a plan grants credit for vesting purposes under ERISA. Reciprocal Pension Credits accumulated and maintained by a Participant under one of the plans signatory to the Reciprocal Agreement shall be recognized under the Reciprocal Agreement by the other signatory plans. Reciprocal Pension Credits under each plan shall be based on the rules in effect in that plan at the time the employment occurred.

### **Section 6.3      Total Reciprocal Pension Credit and Total Reciprocal Years of Vesting Service**

The Reciprocal Pension Credit or Reciprocal Years of Vesting Service granted under each of the plans signatory to the Reciprocal Agreement together comprise the Participant's Total Reciprocal Pension Credit or Total Reciprocal Years of Vesting Service with respect to benefit eligibility purposes under this Plan. In no event will more than one year of Reciprocal Pension Credit or Reciprocal Years of Vesting Service be counted for any twelve consecutive calendar months.

If the Participant has, in a calendar year, Worked under two or more plans and accumulated fractional years of Reciprocal Pension Credit or Reciprocal Years of Vesting Service which together add up to more than one year of credit for that calendar year; then the Total Reciprocal Pension Credit or Total Reciprocal Years of Vesting Service recognized under this Pension Plan shall be limited to one year.

## **Section 6.4      Eligibility for Benefits**

A Participant shall be eligible for a Reciprocal Pension under each of the signatory plans if he satisfies all of the following requirements:

- (a) He would be eligible for any type of pension under each plan if his Total Reciprocal Pension Credit or Total Reciprocal Years of Vesting Service were treated as service under each plan; and
- (b) He has, under each of the signatory plans, at least one year of Reciprocal Pension Credit or Reciprocal Years of Vesting Service after the Initial Plan Contribution Date; and
- (c) In the case of a Participant applying for a pension based on disability, he is able to meet the definition of Totally and Permanently Disabled in each of the signatory plans; and the work requirements of this Plan as outlined in Subsection 3.10(c); and
- (d) In the case of a Participant applying for a pension based on age, for pensions effective on or after July 1, 1995, he meets the minimum age requirement under this Plan. For pensions effective prior to July 1, 1995, he was required to meet the minimum age requirement in each of the signatory plans.
- (e) For Pension Effective Dates on or after July 1, 1995, this Plan shall not be required to coordinate Pension Effective Dates with the other signatory plans. Therefore, if a Participant meets the requirements in (a) and (b) above and meets this Plan's age requirement or this Plan's definition of Totally and Permanently Disabled, his Pension Effective Date from this Plan may be based on the provisions of this Plan, regardless of the Pension Effective Date from the other signatory plans (provided the reciprocal fund agrees to participate at a later date).

## **Section 6.5      Reciprocal Pension Amount**

The amount of the Reciprocal Pension payable by each signatory plan under which a Participant qualifies for a pension shall be the benefit amount he accrued under that plan during the period he earned pension benefits under that plan.

## **Section 6.6      Benefit Increases**

If a Participant leaves the jurisdiction of one of the signatory plans and the benefit level in that plan is later increased, benefits from that plan shall be computed at the benefit level in effect at the time the Participant last earned benefits under that plan.

## **Section 6.7      Breaks in Service**

In applying the rules of each signatory plan with respect to cancellation of Reciprocal Pension Credit or Reciprocal Years of Vesting Service, any Reciprocal Pension Credit or Reciprocal Years of Vesting Service earned for a period during which the Participant Worked in the jurisdiction of another signatory plan shall be considered in determining whether the Participant has incurred a Permanent Break in Service. Once a Participant has left the coverage of all the signatory plans, the determination as to whether he has incurred a Permanent Break in Service under each signatory plan shall be determined by each such plan based upon the Total Reciprocal Pension Credit or Total Reciprocal Years of Vesting Service earned by the Participant under all signatory plans by which he has been covered.

## **ARTICLE 7     APPLICATION, BENEFIT PAYMENTS AND RETIREMENT**

### **Section 7.1     Applications**

A pension must be applied for in writing and filed with the Trustees in advance of the Annuity Starting Date. The earliest Annuity Starting Date is the first day of the month following the date a Participant files a completed application with the Fund Office.

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

### **Section 7.2     Information and Proof**

Every Participant, Beneficiary or Pensioner shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If the claimant makes a willfully false statement material to his application or furnishes fraudulent information or proof material to his claim, benefits may be denied, suspended, or discontinued (subject to the provisions of Section 7.9). The Trustees shall have the right to recover any benefit payments made in reliance on any willfully false statement or fraudulent statement, information, or proof submitted by a Participant, Beneficiary or Pensioner or any benefit payments made in error. Recovery of benefits may be made through, but not limited to, an offset or reduction of any future benefits which the Participant, Beneficiary or Pensioner may have been entitled to receive from the Fund.

### **Section 7.3     Action of Trustees**

- (a) The Trustees shall, subject to the requirements of the law, be the sole judges of the standard or proof required in any case and the application and interpretation of this Plan; and decisions of the Trustees shall be final and binding on all parties. Benefits under this Plan will be paid only if the Trustees, or its delegated agents, including the Administrator, Pension Committee, Appeals Committee or Director as applicable, decides in their discretion that the applicant is entitled to the benefits.
- (b) Wherever in the Plan the Trustees are given discretionary powers, the Trustees shall exercise such powers in a uniform and non discriminatory manner.



- (c) All questions or controversies of whatsoever character arising in any manner or between any parties or persons in connection with this Plan or its operation, whether as to any claim for benefits, as to the construction of language of this Plan or any rules and regulations adopted by the Trustees, or as to any writing, decision, instrument or account in connection with the operation of the Plan or otherwise, shall be submitted to the Trustees for decision. In the event a claim for benefits has been denied, no lawsuit or other action against the Fund or its Trustees may be filed until the matter has been submitted for review under the ERISA-mandated review procedure set forth in Section 7.4. The decision on review shall be binding upon all persons dealing with the Plan or claiming any benefit hereunder, except to the extent that such decision may be determined to be arbitrary or capricious by a court or arbitrator having jurisdiction over such matter.

#### **Section 7.4 Claim Review and Right of Appeal**

*Disability Pension Claims.* Claims for disability pensions will be decided within 45 days. The Fund may notify the applicant of up to two 30-day extensions if an extension is needed for reasons beyond the control of the Plan. The applicant will be notified of any extension before expiration of the initial 45-day period or prior extension period (in the event of a second extension period). The Participant shall be provided with at least 45 days to provide any additional information and any such time period shall extend the time for a decision on the claim.

*Non-Disability Pensions.* For pensions other than Disability Pensions the decision will be made on a claim within 90 days from receipt of the claim unless special circumstances make additional time necessary (up to an additional 90 days) to investigate or obtain facts concerning the Claim. In that event, the Fund shall notify the applicant of the delay and the reason for the delay before the initial 90-day period expires.

A Participant whose application for benefits under this Plan has been denied, in whole or in part, is to be provided with adequate notice in writing setting forth the specific reasons for such denial, and shall have the right to appeal by written request filed with the Administrator or Trustees. The denial notice shall be plainly worded and contain:

- (a) The specific reasons for denial of the claim;
- (b) The specific reference to provisions in the Plan that relate to the denial of the claim;
- (c) A description of additional information or material the applicant must submit to complete claim, along with an explanation of why the information or material is necessary;

- (d) A statement that the applicant may:
  - (1) Request a review of the denial of the claim,
  - (2) Review pertinent documents, and
  - (3) Submit issues and comments in writing; and
- (e) Information about how the applicant may appeal the decision denying the claim.

*Appeals of Denied Claims.* If a Participant or Beneficiary disagrees with the decision on his claim, he must file a request for review with the Appeals Committee, or any Trustee, established by the Trustees within 60 days for a Regular or Early Pension or within 180 days for a Disability Pension. If the applicant fails to file a request for review within the required time, a decision will be final. A request for review must be in writing and state reasons the applicant is disputing the decision. Copies of any supporting evidence must be attached.

The Trustees' review shall consider all comments, documents, records and other information submitted or considered in the initial determination. The review shall consider all comments and records submitted by the Participant for the appeal review. The appeal cannot defer to the initial claim determination. If a determination for a Disability Pension is based on whether the applicant is Totally and Permanently Disabled, the Appeals Committee shall consult a medical professional who is not the same individual who consulted on the initial review of the claim or a subordinate of that individual.

The Appeals Committee shall complete its review and notify the applicant of its decision in the case of a Disability Pension within 45 days and in the case of a Regular or Early Pension within 60 days, except that, for such an appeal, if special circumstances arise (such as the need to hold a hearing), the applicant may be notified of an extension and the reason therefore (an additional 45 days in the case of a Disability Pension and an additional 60 days in the case of a Regular or Early Pension) . The decision on an Appeal shall be sent to the Applicant within five days of the decision of the Appeals Committee.

The Trustees' written decision on a claimant's appeal shall:

- (a) Contain the reason or reasons for the decision;
- (b) Refer to specific Plan provisions on which the decision is based;
- (c) Notify the claimant of his right to access and copy (free of charge) all documents, records and other information relevant to the claim;

- (d) Notify the claimant of the right to bring a civil action under ERISA; and
- (e) Notify the claimant of any additional voluntary appeal procedures offered by the Plan, if any.

The determination rendered by the Trustees shall be binding upon all parties.

## **Section 7.5      Benefit Payments Generally**

- (a) A Participant who is eligible to receive benefits under this Plan and makes application in accordance with the Pension Plan shall be entitled upon retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan.
- (b) Benefit payments shall be payable commencing with the Annuity Starting Date.
- (c) Payment of benefits may begin sooner but shall begin no later than 60 days after the last of the following dates:
  - (1) The end of the Plan Year in which the Participant attained Normal Retirement Age.
  - (2) The end of the Plan Year in which the Participant retired, as defined in Section 7.6.
  - (3) The date the Participant filed a claim for benefits.
  - (4) The date the Trustees were first able to ascertain entitlement to, or the amount of, the pension.
- (d) Effective as of June 1, 1989, if the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between:
  - (1) The earliest date the Participant would be entitled to receive a benefit on or after Normal Retirement Age; and
  - (2) The Annuity Starting Date of the Pension, for which benefits were payable and were not suspended pursuant to Section 7.7, and then converted as of the Annuity Starting Date to the benefit payment form elected in the pension application or to the Automatic Joint and Survivor Annuity Pension under Section 5.2, if no other form is elected.
    - (i) If a Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit

increase, the actuarial increase in those benefits will start from the date they would first have been paid rather than Normal Retirement Age.

- (ii) The actuarial increase will be 1% per month for the first 60 months after Normal Retirement Age and 1.5% per month for each month thereafter.
  - (iii) For purposes of this Subsection 7.5(d), a pension shall not be considered due and payable for any month in which the Participant is engaged in Disqualifying Employment as defined in Section 7.7.
- (e) Pension payments shall end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with the Automatic Joint and Survivor Annuity Pension (and any other provision of this Plan for payments after the death of the Pensioner).
- (f)
  - (1) Notwithstanding any provision on the Plan to the contrary, effective April 1, 1988, the Fund will begin benefit payments to all Participants by their Required Beginning Date as defined in Section 1.18, whether or not they apply for benefits.
  - (2) A Participant who earns additional Pension and Bonus Credit and who is being paid a pension will have his pension recalculated each June 1 for the additional Pension and Bonus Credits earned during the Plan Year, reduced in accordance with Section 7.8.
  - (3) A Participant who has been definitely located, who has attained his Required Beginning Date, and fails to file a completed application for benefits on a timely basis, the Fund will establish the Participant's Required Beginning Date as the Annuity Starting Date and begin payments as follows:
    - (i) If the Actuarial Present Value of the Participant's benefit is \$3,500 or less through May 31, 2001, \$5,000 or less through March 27, 2005, or \$1,000 or less on or after March 28, 2005, as a Small Benefit Cashout. If the Actuarial Present Value of the benefit is greater than \$1,000 but less than or equal to \$5,000 on and after March 28, 2005, as a lump sum distribution provided that the Participant consents to such a distribution.
    - (ii) In any other case, in the form of an Automatic Joint and Survivor Annuity Pension calculated on the assumptions that the Participant is and has been married for at least one year by the date payments start and that the husband is four years older than the wife. Notwithstanding the foregoing sentence, in the

case where the Participant is in a same gender marriage, the assumption in the preceding sentence shall be that such individuals are the same age.

- (iii) The benefit payment form specified here will be irrevocable once it begins, with the sole exception that it may be changed to a Single Life Annuity if the Participant proves that he did not have a Qualified Spouse (including an alternate payee under a Qualified Domestic Relations Order) on the Required Beginning Date; also, the amounts of future benefits will be adjusted based on the actual age difference between the Participant and Spouse if proven to be different from the foregoing assumptions.
  - (iv) Federal, state, and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by the Trustees to be appropriate for the protection of the Fund and the Participant.
- (g) Effective January 18, 2006, if a Participant received a distribution of all or part of his benefits in connection with his or her qualified military service, then the Participant may repay the distributed amounts upon reemployment. The repayment amount shall include any interest that would have accrued had the distribution not been made. The repayment may be made during the period beginning on the date of reemployment and continuing for up to three times the Participant's length of military service, but not to exceed the earlier of five (5) years or termination of Covered Employment.

## **Section 7.6 Retirement**

To be considered retired, a Participant must have separated from Covered Employment and not be engaged in Disqualifying Employment.

## **Section 7.7 Suspension of Benefits**

### **(a) Before Normal Retirement Age**

The monthly benefit shall be suspended for any month which the Participant is employed in disqualifying employment before he has attained Normal Retirement Age. "Disqualifying Employment," for the period before Normal Retirement Age, is as follows:

- (1) Employment in Work regularly performed by Laborers or any other Building Trades Craftsman, including Work supervising construction workers.

- (2) Self-employment in the same or related business as any Contributing Employer,
- (3) Employment or self-employment in any Work that is or may be under the jurisdiction of the Union.

There shall be no limit to the geographic area for Work that would be Disqualifying Employment as described above if such employment is performed before the Participant's Normal Retirement Age.

(b) **After Normal Retirement Age**

- (1) If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any month in which he Worked or was paid for at least 40 hours in Disqualifying Employment. This means employment or self-employment (including paid non-work time such as vacation or holidays) "Disqualifying Employment" for the period after Normal Retirement Age is as follows:
  - (i) In an industry covered by the Plan when the Participant's pension payments began,
  - (ii) In the geographic area covered by the Plan when the Participant's pension began, and
  - (iii) In any occupation in which the Participant Worked under the Plan at any time that is performed by Laborers.

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

This will apply until a Participant attains age 70. After age 70 a Participant will be able to Work more than 40 hours and be entitled to receive full pension benefits.

- (2) The term, "industry covered by the Plan," means the construction industry and any other industry in which Employees covered by the Plan were employed when the Participant's pension began or, but for suspension under this Article, would have begun.

- (3) The geographic area covered by the Plan is the State of Illinois and all of any Standard Metropolitan Statistical Area which falls in part within Illinois and any other area covered by the Plan when the Participant's pension began or, but for suspension under this Article, would have begun.

The geographic area covered by the Plan shall also include any area covered by the Central Laborers' and Fox Valley Laborers' Pension Plans if, under reciprocal agreements in effect when the Participant's pension payments began, these plans had forwarded contributions to this Plan, on the basis of which this Plan accrued benefits for the Participant.

- (4) If a retired Participant reenters Covered Employment to an extent sufficient to cause a suspension of benefits, and his pension payments are subsequently resumed, the industry and geographic area covered by the Plan "when the Participant's pension began" shall be the industry and geographic area covered by the Plan when his pension was resumed.

- (5) Paid non work time shall be counted toward the measure of 40 hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a Workers' Compensation or temporary disability law shall not be counted.

- (c) "Suspension of benefits" for a month means non entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments, pursuant to Subsection 7.7(f).

- (d) (1) Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and area covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.

- (2) A Pensioner shall notify the Plan in writing within 15 days after starting any Work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such Work (that is, whether or not less than 40 hours in a month). If a Pensioner has Worked in Disqualifying Employment in any month and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he

Worked for at least 40 hours in such month and any subsequent month before the Participant gives notice that he has ceased Disqualifying Employment. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that his Work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

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

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

- (3) A Pensioner whose pension has been suspended shall notify the Plan when Disqualifying Employment has ended. The Trustees shall have the right to withhold benefit payments until such notice is filed with the Plan.
  - (4) A Participant may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination.
  - (5) The Plan shall inform a Participant of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld.
- (e) A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 60 days of the notice of suspension. The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be disqualifying.
- (f) (1) Benefits shall be resumed for the months after the last month for which benefits were suspended, with payments for those Participants who have attained Normal Retirement Age beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of Subsection 7.7(d)(3).



- (2) Overpayments attributable to payments made for any month or months for which the Participant had Disqualifying Employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed twenty-five percent (25%) of the pension amount (before deduction), except that the Plan may withhold up to 100% of the first pension payment upon resumption after a suspension. If a Pensioner dies before recoupment of overpayments has been completed, deductions shall be made from the benefits payable to his beneficiary or Spouse receiving a pension subject to the twenty-five percent (25%) limitation on the rate of deduction. In any event, the Fund shall have the right to recover all amounts due because of overpayments.

## **Section 7.8      Benefit Payments Following Suspension**

- (a) Effective on and after June 1, 2006, a Pensioner (except a Disability Pensioner) whose benefits are suspended shall be entitled to have his pension recalculated as of his re-retirement and a Pensioner (except a Disability Pensioner) who returns to Covered Employment shall be entitled to have his pension recalculated as of the following June 1. The monthly pension amount payable on his re-retirement (or following June 1) will be equal to the following:
  - (1) The total of the Pensioner's prior Regular Pension shall be added to the additional pension amount that he accrued. This amount will be reduced, if applicable, for early commencement as of the date of re-retirement. This total is then actuarially offset by any pension payments made to him on or after June 1, 2001. However, if the pension was originally reduced for early commencement, then the total is actuarially offset by all prior pension payments made before Normal Retirement Age. If the recalculated Single Life Annuity is less than the prior amount of his Single Life Annuity, he shall receive his prior Single Life Annuity amount adjusted for the form of payment he was receiving prior to his suspension.
  - (2) If the recalculated Single Life Annuity is more than the prior amount of his Single Life Annuity, he shall receive the recalculated Single Life Annuity amount adjusted for the form of payment he was receiving prior to his suspension unless the Pensioner is allowed to elect a different form of payment on his additional accrual.
  - (3) For the purpose of this Subsection, the actuarial offset is determined by dividing the amount of a Pensioner's previous pension payments received after June 1, 2001 by the

factor appropriate to his age upon his resumption of his pension. However, if the pension was originally reduced for early commencement, then all prior pension payments made before Normal Retirement Age are used.

- (b) Effective between June 1, 2001 and June 1, 2006, a Pensioner (except a Disability Pensioner) who returns to Covered Employment and earns additional Pension Credit shall be entitled to have his pension recalculated as of the June 1 following his re-retirement. The monthly pension amount payable on his re-retirement will be equal to the following:
  - (1) The Pensioner's prior Regular Pension, reduced, if applicable, for early commencement as of the date of his re-retirement and the optional form of payment he originally choose based upon his and his Spouse's age as of re-retirement, plus
  - (2) The additional pension earned after his original retirement offset by the Actuarial Present Value of any pension payments made to him on or after June 1, 2001. The additional pension determined in this Subsection cannot be less than zero and must also be reduced, if applicable, for early commencement as of the date of his re-retirement and the optional form of payment he chooses with respect to this additional pension, with his Spouse's consent, based upon his and his Spouse's age as of his re-retirement.
  - (3) For the purpose of this Subsection, the actuarial offset is determined by dividing the amount of a Pensioner's previous pension payments received after June 1, 2001 by the factor appropriate to his age upon his resumption of his pension.
  - (4) If the monthly benefit resulting from the deduction of the actuarial offset of payments received after June 1, 2001 is less than the previous pension amount payable to the Pensioner, the amount payable upon resumption of his pension will be set equal to the previous pension amount.
- (c) Effective between June 1, 1989 and June 1, 2001, a Pensioner (except a Disability Pensioner) who returns to Covered Employment and earns additional Pension Credit shall be entitled to have his pension recalculated as of the following June 1, upon resumption of his pension. The monthly pension amount shall be adjusted as of the following June 1 as described below. Prior to June 1, 1989, a Pensioner was required to earn at least one year of Vesting Service in order for his benefit to be recalculated under this Section.

- (1) The amount determined by multiplying the number of Pension Credits by the benefit accrual rate applicable for those Pension Credits as of the Annuity Starting Date of his retirement, plus
  - (2) The amount determined by multiplying the number of additional Pension Credits earned after he withdrew from retirement and returned to Covered Employment by the benefit accrual rate for those Pension Credits in effect upon resumption of his pension, adjusted for his attained age on the date pension payments are resumed and form of payment. If a Pension Credit maximum applies in accordance with Section 3.1, the most recent years of Pension Credit shall be used.
- (d)
- (1) For re-retirements before June 1, 2006, if a Pensioner who retired prior to his Normal Retirement Age returns to Work in Disqualifying Employment and his benefit was reduced for age (except a Disability Pension which shall be adjusted in accordance with Section 3.11), he shall, upon resumption of his pension, have his pension amount, as determined in accordance with Subsection 7.8(b) reduced by the actuarial equivalent of the previous pension payments made to the Pensioner during his Retirement.
  - (2) For the purpose of this Subsection, the actuarial equivalent is determined by dividing the amount of a Pensioner's previous pension payments received before Normal Retirement Age by the factor appropriate to his age upon his resumption of his pension.
  - (3) If the monthly benefit resulting from the deduction of the actuarial offset of payments received prior to Normal Retirement Age is less than the previous pension amount payable to the Pensioner before Normal Retirement Age, the amount payable upon resumption of his pension will be set equal to the previous pension amount payable before Normal Retirement Age.
- (e) The amount determined under Subsections 7.8(a), (b), (c) or (d) shall be adjusted for the 100% Joint and Survivor Annuity Pension or any other optional form of benefit in accordance with which benefits are payable.
- (f) Any survivor benefit elected immediately prior to the suspension of benefits and any other benefit payable upon the death of the Pensioner shall remain effective if the Pensioner's death occurs while his benefits are in suspension.
- (g) Prior to Normal Retirement Age, a Pensioner who returns to Covered Employment and earns additional Pension Credit shall be entitled to a new election as to form of benefit payment for

such additional Pension Credit or fraction thereof; provided, however, that the first election on or after Normal Retirement Age shall apply to any subsequent Pension Credit earned.

- (h) In no event, however, shall any adjustment of benefit amount under this Article result in forfeiture of a Participant's Normal Retirement Benefit or of its Actuarial Equivalent in violation of Section 203(a)(3)(B) of ERISA.

## **Section 7.9      Vested Status or Nonforfeitability**

- (a) The Employee Retirement Income Security Act requires that certain of the benefits under this Plan be vested (in the term used in the Act, "nonforfeitable").

- (b) Vested Status is earned as follows:

- (1) A Participant's right to his normal retirement benefit shall be nonforfeitable upon the attainment of Normal Retirement Age.
- (2) A collectively bargained Participant who Works one or more hours in Covered Employment on or after June 1, 1998 acquires Vested Status after completion of five Years of Vesting Service (except, of course, for Years of Vesting Service that are not taken into account because of a Permanent Break in Service). A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the "Working one or more hours in Covered Employment on or after June 1, 1998" requirement for purposes of obtaining vested status only.

However, if an individual has incurred a temporary Break in Service of one year or more prior to June 1, 1998, he must return to Covered Employment and reestablish his Participation in the Plan after June 1, 1998, by Working at least 870 hours during a Plan Year, in order to attain Vested Status. A Participant Working in Contiguous Employment on or after June 1, 1998 shall satisfy the "Working at least 870 hours in Covered Employment during a Plan Year" requirement for purposes of obtaining vested status only.

A collectively bargained Participant who does not meet the requirements in the preceding paragraph acquires Vested Status after completion of the eligibility requirements in Section 3.6.

A Participant who performs Work in Non-Bargained Employment acquires Vested Status in accordance with Section 10.4.

- (c) ERISA also provides certain limitations on any plan amendment that may change the Plan's vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant's Vested Status if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires Vested Status, unless each Participant who has credit for at least three Years of Vesting Service at the time the amendment is adopted or effective (whichever is later) is given the option of achieving Vested Status on the basis of the pre-amendment schedule. That option may be exercised within 60 days after the latest of the following dates:
- (1) When the amendment was adopted,
  - (2) When the amendment becomes effective, or
  - (3) When the Participant was given written notice of the amendment.
- (d) For purposes of applying the provisions of this Section and of determining when a Participant has acquired nonforfeitable rights, as defined under the law, the vesting schedule of this Plan is 100% Nonforfeitable for a Participant who has completed the required number of Years of Vesting Service described in (b) above. While this Plan provides Regular, Early, Normal Retirement Age, Deferred, and Disability Pensions on the basis of requirements that may be met by some Participants who have not completed the required number of Years of Vesting Service, such eligibility rules represent provisions of the Plan above and beyond its vesting schedule.

### **Section 7.10 Optional Forms of Benefit**

Unless otherwise specified, any optional form of benefit under this Plan is intended to be at least the Actuarial Equivalent of the Participant's nonforfeitable accrued benefit payable at Normal Retirement Age or, if later, the Annuity Starting Date of the Participant's pension.

### **Section 7.11 Small Benefit Cashouts**

Notwithstanding any other provision of this Plan, if the Actuarial Present Value of a benefit payable under the Plan is \$3,500 or less through May 31, 2001, \$5,000 or less through March 27, 2005, or \$1,000 or less on or after March 28, 2005, as of the Annuity Starting Date, the Trustees shall pay the benefit in a single sum equal to that value. This Section shall not apply after payment of the Participant's pension payments have commenced unless the Participant, Spouse, or Beneficiary, as the case may be, consents in writing to the lump-sum distribution. Effective on and after March 28, 2005, the Trustees may pay any benefit payable under the Plan in a single sum if the Actuarial Present Value of such benefit is \$5,000 or

less provided that the Participant or Beneficiary, as the case may be, consents to the distribution in that form.

#### **Section 7.12      Incompetence or Incapacity of a Pensioner or Beneficiary**

In any case benefit payments hereunder become payable to a Participant under legal disability, or to a Participant not adjudicated incompetent but, by reason of mental or physical disability, in the opinion of the Trustees, is unable to administer properly such payments, then such payments may be paid out by the Trustees for the benefit of such Participant in such of the following ways as it deems best, and the Trustees shall have no duty or obligation to see that the payments are used or applied for the purpose or purposes for which paid:

- (a)      Directly to any such Participant;
- (b)      To the legally appointed guardian, power of attorney, or conservator of such Participant;
- (c)      To any Spouse, children, parent, brother or sister of such person for his welfare, support and maintenance;
- (d)      By the Trustees using such payments directly for the support, maintenance and welfare of any such Participant.

#### **Section 7.13      Non Assignment of Benefits**

- (a)      It is the intention of the Trustees to make it impossible for Participants or Pensioners covered by this Pension Plan to unwisely imperil the provisions made for their retirement by their assigning, pledging or otherwise disposing of their retirement payments hereunder. It is hereby expressly provided that no Employee, Participant, Beneficiary or Pensioner hereunder shall have the right to assign, alienate, transfer, sell, hypothecate, mortgage, encumber, pledge or anticipate any retirement payments or portions thereof (and any such assignment, alienation, transfer, sale, hypothecation, mortgage, encumbrance, pledge or anticipation shall be void and of no effect whatsoever) . So that such retirement payments or portions thereof shall not in any way be subject to any legal process, execution, attachment or garnishment or be used for the payment of any claim against any Participant or Pensioner, or be subject to the jurisdiction of any bankruptcy court or insolvency proceedings by operation of law or otherwise, the Trustees shall have the right to terminate or postpone any pension payments to a Pensioner.

- (b) Notwithstanding Subsection 7.13(a) or any other provision of the Plan, benefits shall be paid in accordance with a qualified domestic relations order as defined in Section 206(d)(3) of ERISA, and with written procedures adopted by the Trustees in connection with such Qualified Domestic Relations Orders, which shall be binding on all Participants, Beneficiaries and other parties. In no event shall the existence or enforcement of a Qualified Domestic Relations Order cause the Fund to pay benefits with respect to a Participant in excess of the Actuarial Present Value of the Participant's benefits without regard to the Order, and benefits otherwise payable under the Plan shall be reduced by the Actuarial Present Value of any payment ordered to be made under a Qualified Domestic Relations Order.

#### **Section 7.14 No Right to Assets**

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

#### **Section 7.15 Maximum Limitation**

- (a) Except as provided in Subsection (c) notwithstanding any other provision of this Plan, the annual pension benefit relating to employment with a Contributing Employer that is payable with respect to any Participant shall not exceed:
- (1) \$90,000 or, if lower,
  - (2) 100 percent of the Participant's average compensation from the Employer in the period of three consecutive calendar years, or a 36-month period, in which his compensation was the highest. For this purpose, compensation shall be determined based on wage rates established in Collective Bargaining Agreements and Service as reported to the Pension Fund, to the extent available, or on other records deemed by the Trustees to be reliable. Information on Participants' compensation furnished to the Trustees by a Contributing Employer shall be deemed reliable. In addition, the Trustees may rely on information on compensation furnished by a Participant or Beneficiary unless the Trustees determine that it is not reliable.
- (b) Effective January 1, 2002, the 100% compensation limitation in Subsection 7.15(a)(2) above shall no longer apply. In addition, the annual pension benefit limit under Subsection 7.15(a)(1) shall not exceed \$160,000 at age 62 reduced for commencement prior to age 62 as set forth in this Section 7.15.

- (c) This limit shall not apply to any benefits payable in a year and attributable to an Employer that does not exceed \$1,000 a year for each Calendar Year in which the Participant earns a Year of Vesting Service with that Employer, up to a maximum of \$10,000. If the Participant earns a fraction of a Year of Vesting Service, the \$1,000 amount for that Calendar Year is reduced by multiplication by that fraction.

This Subsection shall not apply if the Participant has also been covered by an individual account plan to which the Employer contributed on his behalf, and such plan was maintained as a result of collective bargaining involving the same employee representative as this Plan.

- (d)
  - (1) The \$90,000 (or \$160,000) limit in Subsection 7.15(a)(1) and a Participant's average compensation in Subsection 7.15(a)(2) are deemed to be increased in each calendar year following his termination of service with the Employer for increases in the cost of living, based on the procedures used to adjust benefit amount under 215(i)(2)(A) of the Social Security Act.
  - (2) Benefit payments that are limited by this Section shall be increased annually to the level permitted by the limitations of this Section 7.15 as adjusted for later years in accordance with this Subsection.
- (e) The pension benefit under this Plan considered as payable with respect to a Participant and an Employer shall equal the excess of the pension benefit over the benefit computed as if the Participant had no Pension or Bonus Credits with the Employer, which shall be determined by multiplying the Participant's total pension benefit by the ratio of Pension and Bonus Credits with the Employer to total Pension and Bonus Credits.
- (f) The limitations applied in this Section will be applied by considering all of the Participant's pension benefits, Pension and Bonus Credits, Plan Participation and compensation as if attributable to a single Employer, to the extent that the resulting Pension Benefits payable to the Participant are no less than what would otherwise be payable.
- (g) Prior to January 1, 2002, if a Participant's benefit payments begin before the Participant's Social Security Retirement Age, but on or after age 62, the dollar limit under Subsection 7.15(a)(1) is reduced as follows:
  - (1) If the Participant's Social Security retirement age is 65, the dollar limit is reduced by 5/9 of one percent for each month by which benefits begin before the month in which the Participant reaches 65.



- (2) If the Participant's Social Security retirement age is later than 65, the dollar limit is reduced by 5/9 of one percent for each of the first 36 months and 5/12 of one percent for each additional month (up to 24) by which benefits begin before the month in which the Participant reaches his Social Security retirement age.
- (h) If a Participant's benefit payments begin prior to age 62, the dollar limit is reduced to the Actuarial Equivalent of the benefit payable at age 62.
- (i) If a Participant's benefit payments begin after his Social Security retirement age, the limit is increased to the Actuarial Equivalent of the dollar limit otherwise payable at the Social Security retirement age.
- (j) For purposes of this Section 7.15, Social Security Retirement Age is:
  - (1) Age 65, for a Participant born before January 1, 1938;
  - (2) Age 66, for a Participant born after December 31, 1937 and before January 1, 1955, and
  - (3) Age 67, for a Participant born after December 31, 1954,
- (k) In the case of a Participant employed by a tax-exempt Employer:
  - (1) If the Participant's benefit payments begin before age 65, but on or after age 62, the dollar limit is not reduced.
  - (2) If the Participant's benefit payments begin before age 62, but on after age 55, the dollar limit is reduced to the Actuarial Equivalent of the benefit payable at age 62, but not below \$75,000.
  - (3) If the Participant's benefit payments begin before age 55, the dollar limit is reduced to the Actuarial Equivalent of a \$75,000 benefit at age 55.
  - (4) If the Participant's benefit payments begin after age 65, the dollar limit is increased to the Actuarial Equivalent of the benefit payable at age 65.
- (l) For purposes of this Section, the Actuarial Equivalent is based on a 5% interest assumption and the 1983 Group Annuity Mortality Table blended 50% Male and 50% Female. Effective January 1, 2003, the mortality table shall be the mortality table prescribed in Revenue Ruling 2001-62.

- (m) If the Participant's pension benefit is to be paid in any form other than a Single Life Annuity or a Joint and Survivor Annuity Pension, the limitations in Subsection 7.15(a) are applied to the annual pension benefit in the form of a Single Life Annuity before it is converted to the alternative payment form commencing at the same age that is actuarially equivalent to the pension benefit. If the pension benefit is not subject to Internal Revenue Code Section 417(e)(3), the equivalent to the pension benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using a 5% interest rate and the 1983 Group Annuity Mortality Table blended 50% male and 50% female. Effective January 1, 2003, the mortality table shall be the mortality table prescribed in Rev. Rul. 2001-62. If the pension benefit is subject to Internal Revenue Code Section 417(e)(3), the equivalent annual benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using the annual interest rate on 30-year Treasury securities as specified by the commissioner of Internal Revenue in the month of November immediately preceding the year that contains the Annuity Starting Date and the mortality table prescribed for use in that year in Regulations under Internal Revenue Code Section 417(e).
- (n) The limit in Subsection 7.15(a)(2) shall be phased in, with respect to each Participant, at the rate of ten percent for each Calendar Year in which the Participant earns a Pension Credit with the Employer, up to 100%. If the Participant earns a fraction of a Pension Credit, the ten- percent rate for the year is reduced by multiplication by that fraction.
- (o) In applying this rule to benefits under other plans with which pension benefits under this Plan are aggregated under Subsection 7.15(a), the phase-in for those other plans' benefits shall be based on years of service as defined in those other plans.
- (p) For Limitation Years beginning before 2000, if a Participant is covered under one or more defined contribution plans sponsored by the Employer or any other member of the same controlled group, his combined benefits and annual additions under all such defined benefit and defined contribution plans shall not exceed the applicable Plan limits under Internal Revenue Code Section 415(e) and the rules and regulations thereunder. If necessary to observe these limits, benefits under any other defined benefit plans will be reduced before benefits under this Plan, but pension benefits under this Plan will be reduced to the extent necessary if benefits under the other plans cannot be reduced.

- (q) If a Participant has fewer than ten Years of Vesting Service in this Plan, the dollar limitation in Subsection 7.15(a)(1) shall be multiplied by a fraction, the numerator of which is the Participant's total and fractional Years of Vesting Service in this Plan and the denominator of which is ten. The limitation thus obtained shall not be less than ten percent of the dollar limitation.
- (r) The annual limits of this Section 7.15 shall be applied on a Calendar Year basis.
- (s) For any year before 1983, the limitations prescribed by Section 415 of the Internal Revenue Code as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall apply, and no pension benefit earned under this Plan shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior law.
- (t) For any year before 1992 the limitations prescribed by Section 415 of the Internal Revenue Code as in effect before enactment of the Tax Reform Act of 1986 shall apply, and no pension benefit earned under this Plan as of the close of the last Limitation Year beginning before January 1, 1987 shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior year.
- (u) In the event pension benefits from this Plan are aggregated with benefits from another qualified plan or plans and such aggregated benefits exceed the limits outlined in this Section 7.15, the benefits payable from this Plan will be reduced before the benefits from the other plan or plans are reduced.

## **Section 7.16 Mergers**

In the case of any merger of consolidation with, or transfer of assets or liabilities to, any other plan, each Participant shall (if the plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if this Plan had then terminated). This Section shall apply only to the extent determined by the Pension Benefit Guaranty Corporation.

## **Section 7.17 Certain Payments**

In the event a replacement pension payment check is issued after a Pensioner or Beneficiary has died, a corrected pension payment is issued after a Pensioner or Beneficiary has died, or in the event of any other pension payment after a Pensioner's or Beneficiary's death which is payable on account of a period prior to the Pensioner's or Beneficiary's death, payment shall be made to the following, in the following order:

- (a) the named beneficiary on a beneficiary designation form approved by the Fund Office and filed with the Fund Office by the Pensioner, if any; or if none,
- (b) to the surviving Spouse of the Pensioner; or if none.
- (c) to the individual who files a claim with the Fund Office demonstrating to the satisfaction of the Trustees that the individual has paid funeral expenses on behalf of the Pensioner, to the extent of those funeral expenses, with the balance, if any, to be paid
- (d) to the individual, if any, who is named as a beneficiary of the Pensioner under the Laborers' Welfare Fund, or if there is no such individual then
- (e) to the estate of the Pensioner, if any, and
- (f) if no amount is payable under Subsections 7.17(a) through (e) above then to the individual or individuals determined by the Trustees to be entitled to the deceased Pensioner's personal property under a will filed with the courts or pursuant to an Illinois Small Estate Affidavit or similar procedure under applicable state law.

If the individual to whom the pension shall be paid cannot be identified or located after a reasonable search, as set forth in a policy established by the Trustees, the Trustees may pay the benefits to the next class of individuals in accordance with the above order.

### **Section 7.18 Special Payments**

Effective July 7, 2008, a special one-time payment of \$1,450 shall be paid to former living non-vested Participants who had at least 15 Pension Credits but are ineligible for a pension because they incurred a Permanent Break in Service that cancelled all of their previous Pension Credits.

### **Section 7.19 Section 415 Limitations Under Final Regulations**

#### **(a) Limitations on Benefits Under Section 415**

In addition to any other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, effective for Limitation Years beginning on and after July 1, 2007, benefits under the Plan shall be limited in accordance with Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder, in accordance with this Section. This Section 7.19 is intended to incorporate the requirements of Section 415 of the Internal Revenue Code by reference including the final Regulations effective January 1, 2008, the Pension Funding Equity Act of

2004 effective January 1, 2004 and the Pension Protection Act of 2006 effective January 1, 2006, except as otherwise specified herein.

(b) **Definitions**

- (1) “Limitation Year” means the Calendar Year.
- (2) “Plan Benefit” means as of any date, the amount of a Participant’s Benefit as determined under the applicable provisions of the Plan before application of the limits in this Section.
- (3) “Compensation” for purposes of this Section is as defined in Subsection 9.1(c) of the Plan. Any payments otherwise meeting the definition of “Compensation” in this Plan shall not fail to be considered “Compensation” merely because it is paid after the Participant’s Severance From Employment, provided the payments are made by the later of 2-1/2 months after the Participant’s Severance From Employment or the end of the Limitation Year that includes the date of the Participant’s Severance From Employment.
- (4) “Severance From Employment” has occurred when a Participant is no longer an employee of an Employer maintaining the Plan.

(c) **Limit on Accrued Benefits**

For Limitation Years beginning on or after July 1, 2007, in no event shall a Participant’s benefit accrued under the Plan for a Limitation Year exceed the Annual Dollar Limit determined in accordance with Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder (the “Annual Dollar Limit”) for that Limitation Year. If a Participant’s Plan Benefit for a Limitation Year beginning on or after July 1, 2007 would exceed the Annual Dollar Limit for that Limitation Year, the accrued benefit, but not the Plan Benefit, shall be frozen or reduced so that the accrued benefit does not exceed the Annual Dollar Limit for that Limitation Year.

(d) **Limits on Benefits Distributed or Paid**

For Limitation Years beginning on or after July 1, 2007, in no event shall the annual amount of benefit distributed or otherwise payable to or with respect to a Participant under the Plan in a Limitation Year exceed the Annual Dollar Limit for that Limitation Year. If the benefit distributable or otherwise payable in a Limitation Year would exceed the Annual Dollar Limit for that Limitation Year, the benefit shall be reduced so that the benefit distributed or otherwise payable does not exceed the Annual Dollar Limit for that Limitation Year.

(e) **Multiple Plans**

In the event that the aggregate benefit accrued in any Plan Year by a Participant exceeds the limits under Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder as a result of the mandatory aggregation of the benefits under this Plan with the benefits under another plan maintained by the Employer, the benefits under this Plan shall be reduced only after all reductions have been made under such other plan.

(f) **Adjustment of Benefit**

Notwithstanding anything in this Section to the contrary, for purposes of applying the limits of Section 415 of the Internal Revenue Code, a retirement benefit under the Plan that is payable in any form other than a straight life annuity and that is not subject to Section 417(e)(3) of the Internal Revenue Code 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 value as the Participant's form of benefit computed using an interest rate of 5 percent and the applicable mortality table under 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: (i) the interest rate and mortality table or other tabular factor specified in the Plan for adjusting benefits in the same form; and (ii) a 5 percent interest rate assumption and the applicable mortality table as set forth in Revenue Ruling 2001-62.
- (3) 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 specified in Section 1.1(b) of the Plan and the mortality table (or other tabular factor) specified in Section 1.1(b) of the Plan for adjusting benefits in the same form;
  - (ii) The annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in Section 1.1(b) of the Plan; and
  - (iii) The annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate defined in Section 1.1(b) of the Plan and the applicable mortality table defined in Section 1.1(b) of the Plan, divided by 1.05.
- (4) Annuity Starting Date in Plan Years Beginning in 2004 or 2005

If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount:

- (i) The interest rate specified in Section 1.1(b) of the Plan and the mortality table (or other tabular factor) specified in Section 1.1(b) of the Plan for adjusting benefits in the same form; and
- (ii) A 5.5 percent interest rate assumption and the applicable mortality table defined in Section 1.1(b) of the Plan.

(g) **Adjustment to Annual Dollar Limit**

- (1) Distributions commencing prior to age 62. For a distribution with an Annuity Starting Date that occurs before the Participant attains the age of 62, the age-adjusted Annual Dollar Limit will be determined as follows:

- (i) if the Annuity Starting Date is in a Limitation Year beginning before July 1, 2007, 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 dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 514(d)), with actuarial equivalence computed using whichever of the following that produces the smaller annual amount: (A) the interest rate and mortality table or other tabular factor specified in the Plan for determining actuarial equivalence for early retirement purposes; or ((B) a 5 percent interest rate assumption and the applicable mortality table set forth in Revenue Ruling 2001-62.
  - (ii) if the Annuity Starting Date is in a Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the 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 at the Participant's Annuity Starting Date that is the actuarial equivalent of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the Applicable Mortality Table and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.
  - (iii) if the Annuity Starting Date is in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the lesser of (A) the adjusted dollar limitation determined in accordance with (ii) above; and (B) the product of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age 62 both determined without applying the limitations of Section 415.
- (2) Distributions commencing after age 65. For a distribution with an Annuity Starting Date that occurs after the Participant attains the age of 65, the age-adjusted Annual Dollar Limit will be determined as follows:



- (i) if the Annuity Starting Date is in a Limitation Year beginning before July 1, 2007, 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 dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 514(d)), with actuarial equivalence computed using whichever of the following that produces the smaller annual amount: (A) the interest rate and mortality table or other tabular factor specified in the Plan for determining actuarial equivalence for delayed retirement purposes; or (B) a 5 percent interest rate assumption and the applicable mortality table set forth in Revenue Ruling 2001-62.
- (ii) if the Annuity Starting Date is in a Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the 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 dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the Applicable Mortality Table and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.
- (iii) if the Annuity Starting Date is in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the lesser of (A) the adjusted dollar limitation determined in accordance with (ii) above; and (B) the product of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)) 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 65 both determined without applying the limitations of Section 415.

(h) **General**

- (1) To the extent that a Participant's benefit is subject to provisions of Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder that have not been set

forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

- (2) This Section is intended to satisfy the requirements imposed by Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder and shall be construed in a manner that will effectuate this intent. This Section shall not be construed in a manner that would impose limitations that are more stringent than those required by Section 415 of the Internal Revenue Code and the Treasury Regulations thereunder.
- (3) If and to the extent that the rules set forth in this Section are no longer required for qualification of the Plan under Section 401(a) and related provisions of the Internal Revenue Code and the Treasury Regulations thereunder, they shall cease to apply without the necessity of an amendment to the Plan.

## **Section 7.20      Notification**

The Plan 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 requirement of IRC 417(a)(3) and Treas. Reg. 1.417(a)(3)-1.

## **ARTICLE 8      MISCELLANEOUS**

### **Section 8.1      Non Reversion**

It is expressly understood that in no event shall any of the corpus or assets of the Pension Fund revert to the Employers or be subject to any claims of any kind or nature by the Employers, except for the return of an erroneous contribution within the time limits prescribed by law.

### **Section 8.2      Limitation of Liability**

This Pension Plan has been established on the basis of actuarial calculations which have established, to the extent possible, that the contributions will, if continued, be sufficient to maintain the Plan on a permanent basis, fulfilling the funding requirements of ERISA. Except for liabilities which may result from provisions of ERISA, nothing in this Plan shall be construed to impose any obligation to contribute beyond the obligation of the Employer to make contributions as stipulated in its collective bargaining with the Union.

There shall be no liability upon the Trustees individually, or collectively, or upon the Union to provide the benefits established by this Pension Plan, if the Pension Fund does not have assets to make such payments.

### **Section 8.3      New Employers**

- (a) If an Employer is sold, merged or otherwise undergoes a change of company identity, the successor company shall participate as to the Employees theretofore covered in the Pension Plan just as if it were the original company, provided it remains a Contributing Employer as defined in Section 1.9.
- (b) No new employer may be admitted to participation in the Pension Fund and this Pension Plan except upon approval by the Trustees. The participation of any such new Employer shall be subject to such terms and conditions as the Trustees may lawfully prescribe including, but not limited to, the imposition of waiting periods in connection with the commencement of benefits, a requirement for retroactive contributions, or the application of modified benefit conditions and amounts. In adopting applicable terms or conditions, the Trustees shall take into account such requirements as they, in their sole discretion, may deem necessary to preserve the actuarial soundness of the Pension Fund and to preserve an equitable relationship with the contributions required from their participating Employers and the benefits provided to their Employees.

## **Section 8.4 Termination of Employer**

If an employer fails to make contributions due for 120 days after their due date, the Trustees may, by resolution, terminate the employer as a Contributing Employer.

## **Section 8.5 Termination**

- (a) The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. The rights of all affected Participants to benefits accrued to the date of termination, partial termination, or discontinuance to the extent funded as of such date shall be nonforfeitable.
- (b) In the event of termination, the assets then remaining in the Plan, after providing for any administrative expenses, shall be allocated among the Pensioners, Beneficiaries, and Participants in the following order:
  - (1) First, in the case of benefits payable as a pension:
    - (i) In the case of the pension of a Participant or Beneficiary which was in pay status as of the beginning of the three-year period ending on the termination date of the Plan, to each such pension, based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which such pension would be the least. The lowest pension in pay status during the three-year period shall be considered the Pension in pay status for such period.
    - (ii) In the case of a pension of a Participant or Beneficiary which would have been in pay status as of the beginning of such three-year period if the Participant had retired prior to the beginning of the three-year period and if his pension had commenced (in the standard form) as of the beginning of such period, to each such pension based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which the pension would be the least.
  - (2) Second, to all other benefits (if any) of the individuals under the Plan guaranteed under Title IV or ERISA.
  - (3) Third, to all other vested benefits under this Plan.
  - (4) Fourth, to all other benefits under this Plan.

- (c) For purposes of Subsection 8.5(b) hereof:
- (1) The amount allocated under any paragraph of Subsection 8.5(b) with respect to any benefit shall be properly adjusted for any allocation of assets with respect to that benefit under a prior paragraph of that Section.
  - (2) If the assets available for allocation under any paragraph of Paragraph 8.5(b) (other than Paragraphs (3) and (4)) are insufficient to satisfy in full the benefits of all individuals which are described in that paragraph, the assets shall be allocated pro rata among such individuals on the basis of the present value (as of the termination date) of their respective benefits described in that paragraph.
  - (3) This paragraph applies if the assets available for allocation under Paragraph 8.5(b)(3) are not sufficient to satisfy in full the benefits of individuals described in that paragraph.
    - (i) If this paragraph applies, except as provided in Subparagraph (B) below, the assets shall be allocated to the benefits of individuals described in Paragraph 8.5(b)(3) on the basis of the benefits of individuals which would have been described in such Paragraph 8.5(b)(3) under the Plan as in effect at the beginning of the 5 year period ending on the date of Plan termination.
    - (ii) If the assets available for allocation under Subparagraph 8.5(c)(3)(i) above is sufficient to satisfy in full the benefits described in such paragraph (without regard to this subparagraph), then for purposes of Subparagraph (a), benefits of individuals described in such paragraph shall be determined on the basis of the Plan as amended by the most recent Plan amendment effective during such five year period under which the assets available for allocation are sufficient to satisfy in full the benefits of individuals described in Subparagraph 8.5(c)(3)(i) on the basis of the Plan as amended by the next succeeding Plan amendment effective during such period.

## **ARTICLE 9 TOP-HEAVY PROVISIONS**

### **Section 9.1 Definitions**

For purposes of this Article, the following words and phrases shall have the meaning stated below unless a different meaning is clearly required by the context.

- (a) “Key Employee,” effective for Plan Years beginning after December 31, 2001, means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the determination date was an officer of the Employer having annual compensation greater than \$130,000 (as adjusted under Internal Revenue Code Section 416(i)(1) for Plan Years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the Employer having annual compensation of more than \$150,000. The determination of who is a key employee will be made in accordance with Internal Revenue Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.
- (b) “Non-Key Employee” means any Employee who is not a Key Employee.
- (c) “Annual Compensation” means compensation as defined in Section 415(c)(3) of the Internal Revenue Code and Section 1.415-2(d) of the Treasury Regulations, but in no event more than \$150,000 (\$200,000, as indexed, prior to August 10, 1993) per calendar year. Annual Compensation also includes amounts contributed by the Employer pursuant to a salary reduction agreement which are excludable from an Employee’s gross income under Sections 125, 401(a)(8), 402(k), 402(e), 402(h)(1)(b), 403(b), 457, and effective June 1, 2001, 132(f) of the Internal Revenue Code.
- (d) “Determination Date” means, with respect to any Plan Year, the last day of the preceding Plan Year, or in the case of the first Plan Year of any Plan, the last day of such Plan Year.

### **Section 9.2 Top Heavy Plan Requirements**

This Article is included in order to guarantee compliance with Section 416 of the Internal Revenue Code. It is not expected to have any practical effect on the benefits otherwise payable under the Plan.

For any Top Heavy Plan Year, the Plan shall provide the following:

- (a) Special vesting requirements of Internal Revenue Code Section 416(b) pursuant to Section 9.4;

- (b) Special minimum benefit requirements of Internal Revenue Code Section 416(c) pursuant to Section 9.5;
- (c) Special compensation requirements of Internal Revenue Code Section 416(d) pursuant to Subsection 9.5(d).

### **Section 9.3      Determination of Top Heavy Status**

- (a) This Plan shall be a Top Heavy Plan for any Plan Year commencing after December 31, 1983 in which, as of the Determination Date,
  - (1) The Actuarial Present Value of Accrued Benefits of Key Employees, and
  - (2) The sum of the Aggregate Accounts of Key Employees under this Plan and all plans of an Aggregation Group exceeds sixty percent (60%) of the Present Value of Accrued Benefits and the Aggregate Accounts of all Key and Non Key Employees under this Plan and all plans of an Aggregate Group.

“Key Employee” means those Employees defined in Internal Revenue Code Section 416(i) and the Treasury regulations hereunder.

If any Participant is a Non Key Employee for any Plan Year, but such Participant was a Key Employee for any prior Plan Year, such Participant’s Present Value of Accrued Benefit and/or Aggregate Account balance shall not be taken into account for purposes of determining whether this Plan is a Top Heavy or Super Top Heavy Plan (or whether any Aggregation Group which includes this Plan is a Top Heavy Group). In addition, for Plan Years beginning after December 31, 1984, if a Participant or former Participant has not received any Compensation from any Employer maintaining the Plan (other than benefits under the Plan) at any time during the five year period ending on the Determination Date, the Aggregate Account and/or Present Value of Accrued Benefit for such Participant or former Participant shall not be taken into account for the purposes of determining whether this Plan is a Top Heavy or Super Top Heavy Plan.

- (b) This Plan shall be a Super Top Heavy Plan for any Plan Year commencing after December 31, 1983 in which, as of the Determination Date,
  - (1) The Actuarial Present Value of Accrued Benefits of Key Employees, and

- (2) The sum of the Aggregate Accounts of Key Employees under this Plan and all plans of an Aggregate Group exceeds ninety percent (90%) of the Present Value of Accrued Benefits and the Aggregate Accounts of all Key and Non Key Employees under this Plan and all plans of an Aggregation Group.

(c) **Aggregate Account**

A Participant's Aggregate Account as of the Determination Date shall be determined under applicable provisions of the defined contribution plan used in determining Top Heavy Plan status.

- (d) **"Aggregation Group"** means either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined.

(1) **Required Aggregation Group**

In determining a Required Aggregation Group hereunder, each plan of an employer in which a Key Employee is a Participant, and each other plan of an employer which enables any plan in which a Key Employee participates to meet the requirements of Internal Revenue Code Sections 401(a)(4) or 410, will be required to be aggregated. Such group shall be known as a Required Aggregation Group. In the case of a Required Aggregation Group, each plan in the group will be considered a Top Heavy Plan if the Required Aggregation Group is a Top Heavy Group. No plan in the Required Aggregation Group will be considered a Top Heavy Plan if the Required Aggregation Group is not a Top Heavy Group.

(2) **Permissive Aggregation Group**

An employer may also include any other plan not required to be included in the Required Aggregation Group, provided the resulting group, taken as a whole, would continue to satisfy the provisions of Internal Revenue Code Sections 401(a)(4) and 410. Such group shall be known as a Permissive Aggregation Group.

In the case of a Permissive Aggregation Group, only a plan that is part of the Required Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is a Top Heavy Group. No plan in the Permissive Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is not a Top Heavy Group.



- (3) Only those plans of an employer in which the Determination Dates fall within the same calendar year shall be aggregated in order to determine whether such plans are Top Heavy Plans.

(e) “Determination Date” means:

- (1) The last day of the preceding Plan Year, or
- (2) In the case of the first Plan Year, the last day of such Plan Year.

(f) **Present Value of Accrued Benefit**

In the case of a defined benefit plan, a Participant’s Actuarial Present Value of Accrued Benefit shall be determined:

- (1) As of the most recent “actuarial valuation date,” which is the most recent valuation date within a twelve (12) month period ending on the Determination Date;
- (2) For the first Plan Year, as if:
  - (i) The Participant terminated service as of the Determination Date, or
  - (ii) The Participant terminated service as of the actuarial valuation date, but taking into account the estimated Present Value of Accrued Benefits as of the Determination Date;
- (3) For any other Plan Year, as if the Participant terminated service as of the actuarial valuation date; and
- (4) The actuarial valuation date must be the same date used for computing the defined benefit plan minimum funding costs, regardless of whether a valuation is performed that Plan Year.

(g) The calculation of a Participant’s Actuarial Present Value of Accrued Benefit as of a Determination Date shall be the sum of:

- (1) The Actuarial Present Value of Accrued Benefit using the actuarial assumptions stated in the most recent actuarial valuation, and
- (2) Any Plan distributions made within the Plan Year that includes the Determination Date or within the four (4) preceding Plan Years. However, in the case of distributions made after

the valuation date and prior to the Determination Date, such distributions are not included as distributions for top heavy purposes to the extent that such distributions are already included in the Participant's Actuarial Present Value of Accrued Benefit as of the valuation date. Notwithstanding anything herein to the contrary, all distributions, including distributions made prior to January 1, 1984, and distributions under a terminated plan which if it had not been terminated would have been required to be included in an Aggregation Group, will be counted;

- (3) Any Employer contributions, whether voluntary or mandatory. However, amounts attributable to tax deductible Qualified Voluntary Employee Contributions shall not be considered to be a part of the Participant's Present Value of Accrued Benefit.
- (4) With respect to unrelated rollovers and plan to plan transfers (ones which are both initiated by the Employee and made from a plan maintained by one employer to a plan maintained by another employer), if this Plan provides for rollovers or plan to plan transfers, it shall not consider such rollovers or plan to plan transfers accepted after December 31, 1983 as part of the Participant's Actuarial Present Value of Accrued Benefit. However, rollovers or plan to plan transfers accepted prior to January 1, 1984, shall be considered as part of the Participant's Actuarial Present Value of Accrued Benefit.
- (5) With respect to related rollovers and plan to plan transfers (ones either not initiated by the Employee or made to a plan maintained by the same Employer), if this plan provides the rollover or plan to plan transfer, it shall not be counted as a distribution for purposes of this Section. If this Plan is the plan accepting such rollover or plan to plan transfer, it shall consider such rollover or plan to plan transfer as part of the Participant's Actuarial Present Value of Accrued Benefit, irrespective of the date of which such rollover or plan to plan transfer is accepted.
- (6) Effective for Plan Years beginning after December 31, 2001, the present values of accrued benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under Internal Revenue Code Section 416(g)(2) during the one-year period ending on the determination date. The preceding sentence also shall apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Internal Revenue Code Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than

severance from employment, death, or disability, this provision shall be applied by substituting “five-year period” for “one-year period.”

- (7) The accrued benefits and accounts of any individual who has not performed services for the Employer during the one-year period ending on the determination date shall not be taken into account effective for Plan Years beginning after December 31, 2001.
- (h) “Top Heavy Group” means an Aggregation Group in which, as of the Determination Date, the sum of:
  - (1) The Actuarial Present Value of Accrued Benefits of Key Employees under all defined benefit plans included in the group, and
  - (2) The Aggregate Accounts of Key Employees under all defined contribution plans included in the group exceeds sixty (60) percent of a similar sum determined for all Participants.
- (i) Notwithstanding anything herein to the contrary, the effective date otherwise provided for herein for the application of Internal Revenue Code Section 416 to this Plan (Plan Years beginning after December 31, 1983) shall be extended in accordance with any Act of Congress or regulatory authority.

#### **Section 9.4 Top Heavy Vesting**

- (a) Notwithstanding the Determination of Vested Status in accordance with Section 7.9 for any Top Heavy Plan Year, the vested portion of any Participant’s pension shall be determined on the basis of the Participant’s number of Years of Vesting Service according to the following schedule:

Vesting Schedule	
2	20%
3	40%
4	60%
5	100%

- (b) If in any subsequent Plan Year, the Plan ceases to be a Top Heavy Plan, the Trustees may, in their sole discretion, elect to:
  - (1) continue to apply this vesting schedule in determining the vested portion of any Participant’s Accrued Benefit, or

- (2) revert to the vesting schedule in effect before this Plan became a Top Heavy Plan. Any such reversion shall be treated as a Plan amendment.

## **Section 9.5 Top Heavy Benefit Requirements**

- (a) The minimum Accrued Benefit derived from employer contributions to be provided under this Section for each Non Key Employee who is a Participant shall equal the product:
  - (1) One twelfth (1/12th) of "Compensation" as defined in Subsection 9.1(c) averaged over the five consecutive "Limitation Years, if less, which produce the highest average of
  - (2) The lesser of (A) two percent (2%) multiplied by Pension Credits or (B) twenty percent (20%).
- (b) For purposes of providing the minimum benefit under Internal Revenue Code Section 416, a Non Key Employee who is not a Participant solely because:
  - (1) His Compensation is below a stated amount, or
  - (2) He declined to make mandatory contributions to the Plan will be considered to be a Participant.
- (c) For purposes of this Section, Years of Vesting Service for any Plan Year ending prior to January 1, 1984, or for any Plan Year during which the Plan was not a Top Heavy Plan shall be disregarded.
- (d) For purposes of this Section, Compensation as defined in Subsection 9.1(c) for any Limitation Year ending prior to January 1, 1984, or subsequent to the last Limitation Year during which the Plan is a Top Heavy Plan shall be disregarded. The term Limitation Year shall mean the calendar year.
- (e) For the purposes of this Section, Compensation shall be the same as the term compensation as defined in Subsection 9.1(c), and shall be limited to \$150,000 (\$200,000 as indexed, prior to August 10, 1993) in Top Heavy Plan Years.
- (f) If the Plan provides for the normal retirement benefit to be paid in a form other than a Single Life Annuity, the Accrued Benefit under this Section shall be the Actuarial Equivalent of the minimum Accrued Benefit under (a) above.

- (g) If payment of the minimum Accrued Benefit commences at a date other than Normal Retirement Age, the minimum Accrued Benefit shall be adjusted in accordance with Section 3.5.
- (h) If a Non Key Employee participates in this Plan and a defined contribution plan included in a Required Aggregation Group which is top heavy, the minimum benefits shall be provided under this Plan.
- (i) To the extent required to be nonforfeitable under Section 9.5, the minimum Accrued Benefit under this Section may not be forfeited under Internal Revenue Code Section 411(a)(3)(B) or Internal Revenue Code Section 411(a)(3)(D).
- (j) For purposes of satisfying the minimum benefit requirements of Internal Revenue Code Section 416(c)(1) and in determining years of service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Internal Revenue Code Section 410(b)) no key employee or former key employee.

## **Section 9.6 Compensation Limits**

- (a) In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1994 the Annual Compensation for each Employee taken into account under the Plan shall not exceed the OBRA '93 Annual Compensation limit. The OBRA '93 Annual Compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 Annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.
- (b) For Plan Years beginning on or after January 1, 1994, any reference in this Plan to the limitation under Section 401(a)(17) of the Internal Revenue Code shall mean OBRA '93 Annual Compensation limit set forth in this provision.
- (c) If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the OBRA '93 Annual Compensation limit in effect for that

prior beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the OBRA '93 Annual Compensation limit is \$150,000.

- (d) "Annual Compensation" means compensation as defined in Section 415(c)(3) of the Internal Revenue Code and Section 1.415-2(d) of the Treasury Regulations, but in no event more than \$150,000 (\$200,000, as indexed, prior to August 10, 1993) per calendar year. Annual Compensation also includes amounts contributed by the Employer pursuant to a salary reduction agreement which are excludable from an Employee's gross income under Sections 125, 401(a)(8), 402(k), 402(e), 402(h)(1)(b), 403(b), 457, and effective June 1, 2001, 132(f) of the Internal Revenue Code.
- (e) The annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. For this purpose, annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is determined under the Plan (the "determination period").
- (f) The \$200,000 limit on annual compensation in Subsection (e) above shall be adjusted for cost-of-living increases in accordance with Internal Revenue Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.
- (g) In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual compensation limit in Subsection (e) above, for determination periods beginning before January 1, 2002, shall be \$200,000.

## **ARTICLE 10 NON-BARGAINED EMPLOYEES**

### **Section 10.1 Employer**

- (a) For purposes of identifying Highly Compensated Employees and applying the rules on Participation, vesting and statutory limits on benefits under the Fund for such employees, but not for determining covered service, the term “Employer” includes all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the Internal Revenue Code and all other businesses aggregated with the Employer under Section 414(o) of the Internal Revenue Code.
- (b) For this purpose, an “Employer” also includes all corporations, trades or businesses under common control with the Employer within the meaning of Sections 414(b) and (c) of the Internal Revenue Code.
- (c) For all other purposes, the term “Employer” shall have the meaning stated at Section 1.9.

### **Section 10.2 Non-Bargained Employee**

A “Non-Bargained Employee” means a person who is employed by an Employer and who is not covered by a Collective Bargaining Agreement, but is covered by another written Participation Agreement requiring Employer contributions on his or her behalf. A Non-Bargained Employee also includes an Employee who is a “professional” as defined in Section 1.410(b)-9(g) of the proposed Treasury regulations.

### **Section 10.3 Highly Compensated Employee**

- (a) The term “Highly Compensated Employee” includes highly compensated active employees and highly compensated former employees of an Employer. Whether an individual is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that individual’s compensation from or status with respect to that Employer.
- (b) On or after June 1, 1997, a Highly Compensated Employee is an Employee who:
  - (1) Was a 5% owner of the Employer at any time during the look-back year or the determination year; or

- (2) For the look-back year had compensation from the Employer in excess of \$80,000 (as adjusted annually for increases in the cost-of-living in accordance with regulations prescribed by the Secretary of the Treasury).
- (c) A Highly Compensated Former Employee is an Employee who separated from service, or was deemed to have separated, before the determination year, performs no service for the Employer during the determination year, and was a Highly Compensated Employee either for the separation year or for any determination year ending on or after the individual reaches age 55.
- (d) The “determination year” is the Plan Year for which the test is being applied, and the look-back year is the 12-month period immediately preceding that Plan Year.
- (e) An Employer may elect to make the look-back year calculation for a determination year on the basis of the calendar year ending with or within the applicable determination year, in accordance with Treasury regulation 1.414(q)-1T.
- (f) The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of Employees in the top-paid, the top 100 Employees, the number of Employees treated as officers and the compensation that is considered, will be made in accordance with Section 414(q) of the Internal Revenue Code and the regulations thereunder.

## **Section 10.4 Vesting for Non-Bargained Employees**

### **(a) Non-Bargained Vesting Status**

A Non-Bargained Employee who has at least one hour of Work after January 1, 1989, will attain Vested Status after accumulating five Years of Vesting Service or ten Pension Credits.

### **(b) Transfer Between Bargained and Non-Bargained Vesting Status**

If a Participant has Worked at different times in employment covered by a Collective Bargaining Agreement (“Bargained Work”) and in employment not covered by a Collective Bargaining Agreement (“Non-Bargained Work”) the following rules shall apply:

- (1) The maximum credit a Participant may receive for any Plan Year is one Year of Vesting Service.



- (2) If a Participant Works part of the Plan Year in Non-Bargained Work and part of a Plan Year in Bargained Work, the Participant shall receive credit for that Plan Year as a bargained year if the majority of hours of Service is in Bargained Work.
- (3) If a Participant Works part of the Plan Year in Non-Bargained Work and part of a Plan Year in Bargained Work, the Participant shall receive credit for that Plan Year as a non-bargained year if the majority of hours of Work is in Non-Bargained Work.
- (4) Notwithstanding Paragraphs 10.4(b)(1) and (2) above, if a Participant has 1,000 hours of Work in Non-Bargained Work in a Plan Year, the Participant shall receive credit for that Plan Year as a Year of Vesting Service in Non-Bargained Work.
- (5) A Participant to whom this Subsection 10.4(b) applies will acquire Vested Status the earlier of when the Participant's:
  - (i) Combined Years of Vesting Service attributable to Bargained Work and Non-Bargained Work equal ten, or
  - (ii) Years of Vesting Service attributable to Non-Bargained Work equal five.

(c) **Break in Service**

Years of Vesting Service that are not taken into account because of a Permanent Break in Service do not count in determining a Participant's Vested Status for Bargained Work or Non-Bargained Work.

**Section 10.5 Nondiscrimination, Coverage, and Participation**

- (a) Effective June 1, 1989, participation in the Plan by Non-Bargained Employees shall be in compliance with Sections 401(a)(4) (nondiscrimination rules), 410(b) (coverage rules), and 401(a)(26) (minimum participation rules) of the Internal Revenue Code.
- (b) A Non-Bargained, Highly Compensated Employee shall not receive any Pension Credit (although vesting credit may be earned) for any Plan Year in which the Employer fails to meet the requirements of Sections 410(b) and 401(a)(26) of the Internal Revenue Code with respect to coverage and participation of Non-Bargained Employees. Section 401(a)(26) applies during any Plan Year in which there are less than 50 Participants, including Participants covered by a Collective Bargaining Agreement.

## ARTICLE 11 ROLLOVERS

### Section 11.1 Rollovers

This Article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, 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.

### Section 11.2 Definitions

(a) **Eligible Rollover Distribution**

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

(b) **Eligible Retirement Plan**

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Effective for distributions made after December 31, 2001, an "eligible retirement plan" also shall include an annuity contract described in Internal Revenue Code Section 403(b) and an eligible plan under Internal Revenue 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 also shall apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order as defined in Internal Revenue Code Section 414(p).

Effective January 1, 2008, a Roth individual retirement account described in Section 408A of the Internal Revenue Code shall also be an eligible retirement plan.

(c) **Distributee**

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's former Spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the Spouse or former Spouse.

(d) **Direct Rollover**

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

(e) **Non-Spousal Rollover**

Effective June 1, 2010, a non-spousal Beneficiary may elect a direct rollover into an inherited IRA.

## **ARTICLE 12   AMENDMENTS**

### **Section 12.1   Amendment**

This Plan may be amended at any time by the Trustees, consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant, except:

- (a) As necessary to establish or maintain the qualification of the Plan or the Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA, or
- (b) If the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(c)(8) of the Internal Revenue Code, and the Secretary of Labor has been notified of such amendment and has either approved of it or, within 90 days after the date of which such notice was filed, failed to disapprove.

## **ARTICLE 13    MINIMUM DISTRIBUTION REQUIREMENTS**

### **Section 13.1    General Rules**

- (a) The provisions of this article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (b) **Precedence**
  - (1) The requirements of this Article will take precedence over any inconsistent provisions of the Plan.
  - (2) Except to the extent inconsistent with this Article, all distribution options provided under the Plan are preserved.
  - (3) This article does not authorize any distribution options not otherwise provided under the Plan.
- (c) All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- (d) Notwithstanding the other provisions of this Article, other than Subsection 13.1(c), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

### **Section 13.2    Time and Manner of Distribution.**

- (a) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (b) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by

December 31 of the calendar year in which the Participant would have attained age 70-½, if later.

- (2) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (4) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Subsection 13.2(b), other than Subsection 13.2(b)(1), will apply as if the surviving Spouse were the Participant.

For purposes of this Subsection 13.2(b) and Section 13.5, distributions are considered to begin on the Participant's Required Beginning Date (or, if Subsection 13.2(b)(4) applies, the date distributions are required to begin to the surviving Spouse under Subsection 13.2(b)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Subsection 13.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (c) Unless the Participant's interest is distributed in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 13.3, 13.4 and 13.5.

### **Section 13.3      Determination of Amount to be Distributed Each Year.**

- (a) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
  - (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
  - (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 13.4 or Section 13.5;

- (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) Payments will either be non-increasing or increase only as follows:
  - (i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
  - (ii) To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 13.4 dies or is no longer the Participant's Beneficiary pursuant to a Qualified Domestic Relations Order within the meaning of Section 414(p) Internal Revenue Code;
  - (iii) To provide cash refunds of employee contributions upon the Participant's death; or
  - (iv) To pay increased benefits that result from a Plan amendment amount accrues.
- (b) The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Subsection 13.2(b)(i) or (ii)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.
- (c) Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

**Section 13.4 Requirements for Annuity Distribution that Commence During Participant's Lifetime.**

- (a) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary, annuity payments to be made on or

after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations as adjusted in the manner set forth in Q&A-2(c) of that regulation. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

- (b) Unless the Participant's Spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Subsection 13.4(b), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

### **Section 13.5      Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

- (a) If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Subsection 13.2(b)(1) or (2), over the life of the Designated Beneficiary or over a period certain not exceeding:
  - (1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the Designated Beneficiary determined using the Beneficiary's age as of



the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

- (2) If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.
- (b) If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (c) If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 13.5 will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Subsection 13.2(b)(1).

#### **Section 13.6 Definitions.**

- (a) Designated Beneficiary is the individual who is designated as the Beneficiary under Section 3.16 of the Plan and is the Designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (b) Distribution calendar year is a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Subsection 13.2(b).
- (c) Life expectancy is the life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) Required Beginning Date is the date specified in Section 1.18 of the Plan.

## SIGNATURES

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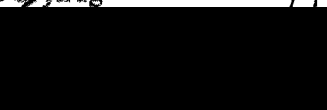
IN WITNESS WHEREOF, the Board of Trustees hereby adopt the Amended and Restated Rules and Regulations of the Laborers' Pension Fund as set forth herein by affixing their signatures hereto as of this 12th day of January 2015.

### EMPLOYER TRUSTEES

  
Cliff M. Horn

  
Karen Elin Johnson

  
Robert G. Krug


  
David H. Lorig

  
Gary Lundsberg

  
Lewis D. Shapiro


### UNION TRUSTEES

  
Joseph Coconato

  
James P. Connolly

  
Paul P. Connolly

  
Charles V. LoVerde, III

  
Anthony Cantone

  
Shawn Fitzgerald

## TABLE 1      REGULAR PENSION—ELIGIBILITY

- (a) For retirements on or after June 1, 1998 and before June 1, 1999, or for Participants who do not meet the work requirements for a Regular Pension at age 55, the minimum age at which a Participant was eligible to receive a Regular Pension was age 56.
- (b) For retirements after June 1, 1997 and before June 1, 1998, the minimum age at which a Participant was eligible to receive a Regular Pension was age 58.
- (c) For retirements after June 1, 1996 and before June 1, 1997, the minimum age at which a Participant was eligible to receive a Regular Pension was age 59.
- (d) For retirements after June 1, 1995 and before June 1, 1996, the minimum age at which a Participant was eligible to receive a Regular Pension was age 60.
- (e) For retirements after June 1, 1994 and before June 1, 1995, the minimum age at which a Participant was eligible to receive a Regular Pension was age 62 with a 3% annual reduction for Participants between the ages of 61 and 62.
- (f) For retirements prior to June 1, 1994 the minimum age at which a Participant was eligible to receive a Regular Pension was age 62.

## TABLE 2      REGULAR PENSION—AMOUNT

- (a) The applicable accrual rate is \$22.00 for Pension Credits earned prior to September 1, 1983.
- (b) The applicable accrual rate is \$27.00 for Pension Credits earned on or after September 1, 1983. For Participants whose Effective Date is on or after September 1, 1983, the applicable accrual rate is \$27.00 for Past Pension Credits earned prior to September 1, 1983 provided the Participant earned at least two quarters (2/4) of a Pension Credit during the period June 1, 1982 through September 1, 1983 or two (2) Pension Credits since June 1, 1978 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (c) The applicable accrual rate is \$30.00 for Pension Credits earned on or after January 1, 1985. For Participants whose Effective Date is on or after January 1, 1985, the applicable accrual rate is \$30.00 for Past Pension Credits earned prior to January 1, 1985 provided the Participant earned at least two quarters (2/4) of a Pension Credit during the period June 1, 1982 through September 1, 1983 or two (2) Pension Credits since June 1, 1978 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (d) The applicable accrual rate is \$33.80 for Pension Credits earned on or after April 1, 1986. For Participants whose Effective Date is on or after April 1, 1986, the applicable accrual rate is \$33.80 for Past Pension Credits earned prior to April 1, 1986 provided the Participant earned at least two quarters (2/4) of a Pension Credit during the period June 1, 1982 through September 1, 1986 or two (2) Pension Credits since June 1, 1978 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (e) The applicable accrual rate is \$38.80 for Pension Credits earned on or after April 1, 1987. For Participants whose Effective Date is on or after April 1, 1987, the applicable accrual rate is \$38.80 for Past Pension Credits earned prior to April 1, 1987 provided the Participant earned at least two quarters (2/4) of a Pension Credit during the period June 1, 1986 through May 31, 1987 or two (2) Pension Credits since June 1, 1982 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.

- (f) The applicable accrual rate is \$44.00 for Pension Credits earned on or after June 1, 1988. For Participants whose Effective Date is on or after June 1, 1988, the applicable accrual rate is \$44.00 for Past Pension Credits earned prior to June 1, 1988 provided the Participant earned at least two quarters (2/4) of a Pension Credit during the period June 1, 1987 through May 31, 1988 or two (2) Pension Credits since June 1, 1983 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (g) The applicable accrual rate is \$51.00 for Pension Credits earned on or after June 1, 1990. For Participants whose Effective Date is on or after June 1, 1990, the applicable accrual rate is \$51.00 for Past Pension Credits earned prior to June 1, 1990 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1989 through May 31, 1990 or two (2) Pension Credits since June 1, 1985 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (h) The applicable accrual rate is \$55.00 for Pension Credits earned on or after June 1, 1991. For Participants whose Effective Date is on or after June 1, 1991, the applicable accrual rate is \$55.00 for Past Pension Credits earned prior to June 1, 1991 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1990 through May 31, 1991 or two (2) Pension Credits since June 1, 1986 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (i) The applicable accrual rate is \$57.25 for Pension Credits earned on or after June 1, 1992. For Participants whose Effective Date is on or after June 1, 1992, the applicable accrual rate is \$57.25 for Past Pension Credits earned prior to June 1, 1992 provided the Participant earned at least earned two-quarters (2/4) Pension Credit during the period June 1, 1991 through May 31, 1992 or two (2) Pension Credits since June 1, 1987 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (j) The applicable accrual rate is \$59.25 for Pension Credits earned on or after June 1, 1993. For Participants whose Effective Date is on or after June 1, 1993, the applicable accrual rate is \$59.25 for Past Pension Credits earned prior to June 1, 1993 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1992 through May 31, 1993 or two (2) Pension Credits since June 1, 1988 for which contributions were paid or were required to be paid

to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.

- (k) The applicable accrual rate is \$62.25 for Pension Credits earned on or after June 1, 1994. For Participants whose Effective Date is on or after June 1, 1994, the applicable accrual rate is \$62.25 for Past Pension Credits earned prior to June 1, 1994 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1993 through May 31, 1994 or two (2) Pension Credits since June 1, 1989 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (l) The applicable accrual rate is \$64.50 for Pension Credits earned on or after June 1, 1995. For Participants whose Effective Date is on or after June 1, 1995, the applicable accrual rate is \$64.50 for Past Pension Credits earned prior to June 1, 1995 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1994 through May 31, 1995 for two (2) Pension Credits since June 1, 1990 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (m) The applicable accrual rate is \$66.50 for Pension Credits, including Bonus Credits, earned on or after June 1, 1996. For Participants whose Effective Date is on or after June 1, 1996, the applicable accrual rate is \$66.50 for Past Pension and Bonus Credits earned prior to June 1, 1996 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1995 through May 31, 1996 or two (2) Pension Credits since June 1, 1991 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (n) The applicable accrual rate is \$68.50 for Pension Credits, including Bonus Credits, earned on or after June 1, 1997. For Participants whose Effective Date is on or after June 1, 1997, the applicable accrual rate is \$68.50 for Past Pension and Bonus Credits earned prior to June 1, 1997 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1996 through May 31, 1997 or two (2) Pension Credits since June 1, 1992 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.
- (o) The applicable accrual rate is \$69.50 for Pension Credits, including Bonus Credits, earned on or after June 1, 1998. For Participants whose Effective Date is on or after June 1, 1998, the

applicable accrual rate is \$69.50 for Past Pension and Bonus Credits earned prior to June 1, 1998 provided the Participant earned at least two-quarters (2/4) Pension Credit during the period June 1, 1997 through May 31, 1998 or two (2) Pension Credits since June 1, 1993 for which contributions were paid or were required to be paid to the Fund. There shall be no retroactive effect for Participants whose Effective Date is prior to qualifying under this Subsection.

(p) **Work Requirement for \$74.50 Benefit Accrual Rate**

- (1) General Rule: \$74.50 For Pension and Bonus Credits Earned After June 1, 1999. The applicable accrual rate is \$74.50 for Pension Credits, including Bonus Credits, earned on or after June 1, 1999.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at \$74.50 Rate. Past Pension and Bonus Credits earned before June 1, 1999 may be payable at the \$74.50 rate if a Participant earns at least one-half Pension Credit between June 1, 1997 and May 31, 1999 (the “work requirement”).
- (3) Rules Applicable where Work Requirement Not Met Between June 1, 1997 and May 31, 1999. A Participant who does not meet the work requirement in this Subsection (p) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 1997-1999 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (p) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 1999 and May 31, 2004.

(q) **Work Requirement for \$80.00 Benefit Accrual Rate**

- (1) General Rule: \$80.00 For Pension and Bonus Credits Earned After June 1, 2000. The applicable accrual rate is \$80.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2000.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at \$80.00 Rate. Past Pension and Bonus Credits earned before June 1, 2000 may be payable at the \$80.00 rate if a Participant earns at least one-half Pension Credit between June 1, 1998 and May 31, 2000 (the “work requirement”).

- (3) Rules Applicable where Work Requirement Not Met Between June 1, 1998 and May 31, 2000. A Participant who does not meet the work requirement in this Subsection (q) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 1998-2000 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (q) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 2000 and May 31, 2005.

(r) **Work Requirement for \$88.00 Benefit Accrual Rate**

- (1) General Rule: \$88.00 For Pension and Bonus Credits Earned After June 1, 2001. The applicable accrual rate is \$88.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2001.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at \$88.00 Rate. Past Pension and Bonus Credits earned before June 1, 2001 may be payable at the \$88.00 rate if a Participant earns at least one-half Pension Credit between June 1, 1999 and May 31, 2001 (the “work requirement”).
- (3) Rules Applicable where Work Requirement Not Met Between June 1, 1999 and May 31, 2001. A Participant who does not meet the work requirement in this Subsection (r) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 1999-2001 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (r) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 2001 and May 31, 2006.

(s) **Work Requirement for \$93.00 Benefit Accrual Rate**

- (1) General Rule: \$93.00 For Pension and Bonus Credits Earned After June 1, 2002. The applicable accrual rate is \$93.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2002.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$93.00 Rate. Past Pension and Bonus Credits earned before June 1, 2002 may be payable



at the \$93.00 rate if a Participant earns at least one-half Pension Credit between June 1, 2000 and May 31, 2002 (the “work requirement”).

- (3) Rules Applicable where Work Requirement is Not Met Between June 1, 2000 and May 31, 2002. A Participant who does not meet the work requirement in this Subsection (s) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 2000-2002 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (s) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 2002 and May 31, 2007.

(t) **Work Requirement for \$97.00 Benefit Accrual Rate**

- (1) General Rule: \$97.00 For Pension and Bonus Credits Earned After June 1, 2003. The applicable accrual rate is \$97.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2003.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$97.00 Rate. Past Pension and Bonus Credits earned before June 1, 2003 may be payable at the \$97.00 rate if a Participant earns at least one-half Pension Credit between June 1, 2001 and May 31, 2003 (the “work requirement”).
- (3) Rules Applicable where Work Requirement is Not Met Between June 1, 2001 and May 31, 2003. A Participant who does not meet the work requirement in this Subsection (t) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 2001-2003 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (t) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in two consecutive Plan Years between June 1, 2003 and May 31, 2008.

(u) **Work Requirement for \$98.00 Benefit Accrual Rate**

- (1) General Rule: \$98.00 For Pension and Bonus Credits Earned On or After June 1, 2005. The applicable accrual rate is \$98.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2005.

- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$98.00 Rate. Past Pension and Bonus Credits earned before June 1, 2005 may be payable at the \$98.00 rate if a Participant earns at least one-half Pension Credit between June 1, 2003 and May 31, 2005 (the “work requirement”).
- (3) Rules Applicable where Work Requirement is Not Met Between June 1, 2003 and May 31, 2005. A Participant who does not meet the work requirement in this Subsection (u) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 2003-2005 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (u) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in each of two consecutive Plan Years between June 1, 2005 and May 31, 2010.

(v) **Work Requirement for \$100.00 Benefit Accrual Rate**

- (1) General Rule: \$100.00 For Pension and Bonus Credits Earned On or After June 1, 2006. The applicable accrual rate is \$100.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2006.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$100.00 Rate. Past Pension and Bonus Credits earned before June 1, 2006 may be payable at the \$100.00 rate if a Participant earns at least one-half Pension Credit between June 1, 2004 and May 31, 2006 (the “work requirement”).
- (3) Rules Applicable where Work Requirement is Not Met Between June 1, 2004 and May 31, 2006. A Participant who does not meet the work requirement in this Subsection (v) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 2004-2006 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (v) has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in each of two consecutive Plan Years between June 1, 2006 and May 31, 2011.

(w) **Work Requirement for \$105.00 Benefit Accrual Rate**

- (1) General Rule: \$105.00 For Pension and Bonus Credits Earned On or After June 1, 2007. The applicable accrual rate is \$105.00 for Pension Credits, including Bonus Credits, earned on or after June 1, 2007.
- (2) Work Requirement Rule for Having Past Pension and Bonus Credits payable at the \$105.00 Rate. Past Pension and Bonus Credits earned before June 1, 2007 may be payable at the \$105.00 rate if a Participant earns at least one-half Pension Credit between June 1, 2005 and May 31, 2007 (the “work requirement”).
- (3) Rules Applicable where Work Requirement is Not Met Between June 1, 2005 and May 31, 2007. A Participant who does not meet the work requirement in this Subsection (w) (a “shortage of hours”) shall be entitled to retire at the rates set forth in this Table 2 of the Plan as applicable.
- (4) Curing a 2005-2007 Shortage of Hours. A Participant who does not meet the work requirements in this Subsection (w) above has a “shortage of hours” which can be cured by Working at least 1,000 hours in Covered Employment in each of two consecutive Plan Years between June 1, 2007 and May 31, 2012.

### **TABLE 3      EARLY PENSION—ELIGIBILITY**

- (a) For retirements prior to June 1, 1999, a Participant shall be eligible to retire on an Early Pension as follows.
- (b) For a Participant whose Effective Date of retirement is between June 1, 1998 and May 31, 1999, he has attained age 51 but not age 56.
- (c) For a Participant whose Effective Date of retirement is between June 1, 1997 and May 31, 1998, he has attained age 53 but not age 58. For a Participant whose Effective Date of retirement is between June 1, 1996 and May 31, 1997, he has attained age 54 but not age 59.
- (d) For a Participant whose Effective Date of retirement is prior to June 1, 1996, he has attained age 55 but not the earliest age at which he qualifies for a Regular Pension.

**TABLE 4      EARLY PENSION—AMOUNT**

- (a) For retirements between June 1, 1998 and May 31, 1999, or for Participants who do not meet the work requirements for a Regular Pension at age 55, the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 56 by one-half of one percent for each full month that the Participant is less than age 56 on his Effective Date. There shall be no reduction between ages 56 and 65.
- (b) For retirements between June 1, 1997 and May 31, 1998, the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 58 by one-half of one percent for each full month that the Participant is less than age 58 on his Effective Date. There shall be no reduction between ages 58 and 65.
- (c) For Participants whose Effective Date is between June 1, 1996 and May 31, 1997, the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 59 by one-half of one percent for each full month that the Participant is less than age 59 on his Effective Date. There shall be no reduction between ages 59 and 65.
- (d) For Participants whose Effective Date is after June 1, 1995 and before June 1, 1996, the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 60 by one-half of one percent for each full month that the Participant is less than age 60 on his Effective Date. There shall be no reduction between ages 60 and 65.
- (e) For Participants whose Effective Date is after June 1, 1994 and before June 1, 1995, the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 62 by one-fourth ( $\frac{1}{4}$ ) of one percent for each full month that the Participant is between ages 62 and 61 and by the one-half ( $\frac{1}{2}$ ) of one percent for each full month that the Participant is less than age 61 on his Effective Date. There shall be no reduction between ages 62 and 65.
- (f) For Participants whose Effective Date is prior to June 1, 1994 the monthly amount of the Early Pension is determined by reducing the amount of the Regular Pension which would be payable if the Participant were age 62 by one half ( $\frac{1}{2}$ ) of one percent for each full month that the Participant is less than age 62 on his Effective Date. There shall be no reduction between ages 62 and 65.

TABLE 5	JOINT AND SURVIVOR ANNUITY PENSION ADJUSTMENT FACTORS
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(a) **50% Joint and Survivor Annuity Pension**

- (1) For Participants whose Annuity Starting Date is between June 1, 1997 and the June 1, 1998, the reduction percentage shall be as follows: 4.125% plus 0.15% for each year that the Qualified Spouse is younger than the Participant or minus 0.15% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.
- (2) For Participants whose Annuity Starting Date is between June 1, 1996 and May 31, 1997 the reduction percentage shall be as follows: 8.25% plus 0.3% for each year that the Qualified Spouse is younger than the Participant or minus 0.3% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.
- (3) For Participants whose Annuity Starting Date is before June 1, 1996: 11% plus 0.4% for each year that the Qualified Spouse is younger than the Participant or minus 0.4% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.

(b) **100% Joint and Survivor Annuity Pension**

- (1) For Participants whose Annuity Starting Date is between June 1, 1997 and June 1, 1998, the percentage shall be 7.5%, plus 0.225% for each year that the Qualified Spouse is younger than the Participant or minus 0.225% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.
- (2) For Participants whose Annuity Starting Date is between June 1, 1996 and May 31, 1997, the percentage shall be 15.0%, plus 0.45% for each year that the Qualified Spouse is younger than the Participant or minus 0.45% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.

- (3) For Participants whose Annuity Starting Date is before June 1, 1996, 20.0% plus 0.6% for each year that the Qualified Spouse is younger than the Participant or minus 0.6% for each year that the Qualified Spouse is older than the Participant; provided, however, that the resulting percentage shall not be greater than 100%.

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