

**TRI-STATE CARPENTERS AND JOINERS
PENSION PLAN**

**AS AMENDED AND RESTATED
EFFECTIVE JANUARY 1, 2009**

TABLE OF CONTENTS

		<u>Page</u>
<u>ARTICLE I- PURPOSE</u>		1
<u>ARTICLE II- DEFINITIONS</u>		
SECTION 1	Accrued Benefit	2
SECTION 2	Active Employee	2
SECTION 3	Actuarial Present Value.....	2
SECTION 4	Agreement and Declaration of Trust.....	3
SECTION 5	Annuity Starting Date.....	3
SECTION 6	Association	4
SECTION 7	Auxiliary Disability Benefit.....	4
SECTION 8	Code	4
SECTION 9	Collective Bargaining Agreement	4
SECTION 10	Compensation	4
SECTION 11	Continuous Employment	4
SECTION 12	Contribution Date	5
SECTION 13	Contribution Period.....	5
SECTION 14	Covered Employment.....	5
SECTION 15	Disability Pension.....	5
SECTION 16	District Council	5
SECTION 17	Early Retirement Date.....	5
SECTION 18	Effective Date	6
SECTION 19	Employee	6
SECTION 20	Employer	6
SECTION 21	ERISA	6
SECTION 22	Fiduciary.....	6
SECTION 23	Highly Compensated Employee.....	7
SECTION 24	Hour of Service	7
SECTION 25	International Union.....	7
SECTION 26	Late Retirement Pension	7
SECTION 27	Non-Bargained Employee.....	8
SECTION 28	Normal Retirement Age	8
SECTION 29	Normal Retirement Date.....	8
SECTION 30	Participant	8
SECTION 31	PBGC	8
SECTION 32	Pension Credit.....	8
SECTION 33	Pension Credit Year.....	9
SECTION 34	Pension Fund.....	9
SECTION 35	Pensioner.....	9
SECTION 36	Plan... ..	9
SECTION 37	Spouse	9
SECTION 38	Trust Fund.....	9
SECTION 39	Trustees.....	9
SECTION 40	Union... ..	10
SECTION 41	Vested Deferred Retirement Pension.....	10

SECTION 42	Year of Service.....	10
------------	----------------------	----

ARTICLE III-BASIS OF PARTICIPATION IN FUNDE

SECTION 1	General	11
SECTION 2	Acceptance of a New Employer	11
SECTION 3	Standard Form of Participation Agreement.....	11
SECTION 4	Special Conditions	12
SECTION 5	Notice of Acceptance	12
SECTION 6	Termination of Participation of Employer.....	12
SECTION 7	Participation of Employee	12
SECTION 8	Termination of Participation of Employee.....	12
SECTION 9	Reinstatement of Participation of Employee.....	12

ARTICLE IV- ELIGIBILITY FOR BENEFITS AND AMOUNTS

SECTION 1	Generally	13
SECTION 2	Eligibility for a Normal Pension.....	13
SECTION 3	Amount of Normal Pension.....	13
SECTION 4	Pension Credits Earned at Different Rates.....	14
SECTION 5	Eligibility for Early Retirement Pension.....	14
SECTION 6	Amount of Early Retirement Pension.....	15
SECTION 7	Eligibility for Late Retirement Pension.....	15
SECTION 8	Amount of Late Retirement Pension.....	15
SECTION 9	Disability Pension	16
SECTION 10	Disability Pension Amount	16
SECTION 11	Disability Pension Payments.....	17
SECTION 12	Auxiliary Disability Benefits.....	17
SECTION 13	Definition of Total and Permanent Disability.....	19
SECTION 14	Proof of Total and Permanent Disability.....	19
SECTION 15	Earnings by a Disability Pensioner.....	19
SECTION 16	Cessation of Total and Permanent Disability.....	20
SECTION 17	Eligibility for a Vested Deferred Retirement Pension.....	20
SECTION 18	Amount of Vested Deferred Retirement Pension.....	20
SECTION 19	Guaranteed Pension Payments – 36 Certain Payments.....	20
SECTION 20	Death Benefits for Active Employees.....	21
SECTION 21	Rounding of Benefit Amounts.....	21
SECTION 22	Non-Duplication of Pension.....	21
SECTION 23	Determination of Benefit Eligibility and Amount.....	21
SECTION 24	Retirement	22
SECTION 25	Suspension of Benefits... ..	22
SECTION 26	Benefit Payments Following Suspension.....	25

ARTICLE V- PENSION CREDIT AND VESTING SERVICE

SECTION 1	Pension Credit	27
SECTION 2	Credit for Non-Working Periods.....	29
SECTION 3	Military Service.....	29

SECTION 4	Break in Service.....	30
SECTION 5	Years of Vesting Service.....	33
SECTION 6	Vesting.....	34
SECTION 7	Conflicts in Crediting of Service Before the Contribution Date	35

ARTICLE VI- JOINT AND SURVIVOR PENSIONS

SECTION 1	General.....	37
SECTION 2	Joint and Survivor Pension at Retirement.....	37
SECTION 3	Pre-Retirement Surviving Spouse Pension.....	40
SECTION 4	Inactive Vested Participants.....	41
SECTION 5	Relation to Qualified Domestic Relations Order.....	42
SECTION 6	Trustees' Reliance.....	42

ARTICLE VII- SINGLE LIFE PENSION 43

ARTICLE VIII- PARTIAL PENSION

SECTION 1	Purpose.....	44
SECTION 2	Related Plans.....	44
SECTION 3	Related Pension Credit.....	44
SECTION 4	Combined Pension Credit.....	44
SECTION 5	Eligibility for Benefits.....	44
SECTION 6	Breaks in Service.....	45
SECTION 7	Election of Pension	45
SECTION 8	Partial Pension Amount.....	45
SECTION 9	Payment of Partial Pensions.....	45
SECTION 10	Benefit Increases.....	45
SECTION 11	Effective Date.....	46
SECTION 12	Application Procedure.....	46
SECTION 13	Transfer of Contributions.....	46

ARTICLE IX- TRANSFER OF CONTRIBUTIONS

SECTION 1	Purpose.....	47
SECTION 2	Cooperating Pension Fund.....	47
SECTION 3	Home Pension Funds.....	47
SECTION 4	Employee Authorization.....	47
SECTION 5	Transfer of Contributions.....	48
SECTION 6	Breaks in Service.....	48
SECTION 7	Payment of Pension	49
SECTION 8	Collection of Contribution.....	49
SECTION 9	Change in Home Pension Fund.....	49
SECTION 10	Effective Date.....	49

ARTICLE X- APPLICATIONS, BENEFIT PAYMENTS AND CLAIMS PROCEDURE

SECTION 1	Benefit Payments Generally.....	50
-----------	---------------------------------	----

SECTION 2	Mandatory Commencement of Benefits.....	51
SECTION 3	Advance Written Application Required.....	52
SECTION 4	Information Required.....	52
SECTION 5	Action by Trustees.....	52
SECTION 6	Death and Incapacity of Participant.....	52
SECTION 7	Notification of Continued Existence.....	53
SECTION 8	Non-Assignment of Benefits.....	53
SECTION 9	Unclaimed Benefits.....	53
SECTION 10	No Right to Assets.....	54
SECTION 11	Appeals of Denied Claims for Benefits.....	54
SECTION 12	Vested Status or Nonforfeitability.....	55
SECTION 13	Terminated Employer.....	56
SECTION 14	Distribution of Benefits on or after January 1, 1993.....	56

ARTICLE XI – MAXIMUM RETIREMENT INCOME BENEFITS

SECTION 1	IRC 415 Compensation.....	59
SECTION 1	Plan Compensation	60
SECTION 1	Code Section 415 Limitations.....	61

ARTICLE XII- AMENDMENT AND TERMINATION OF THE PLAN

SECTION 1	Authority to Amend and Terminate the Plan.....	74
SECTION 2	Discretionary Authority of the Board of Trustees.....	74
SECTION 3	Actuarial Review.....	74

ARTICLE XIII- WITHDRAWAL LIABILITY

SECTION 1	In General.....	76
SECTION 2	Rules Adopted by Trustees	76
SECTION 3	Notice to Employers.....	76
SECTION 4	Collection of Delinquent Contributions.....	76

ARTICLE XIV- DISTRIBUTIONS

SECTION 1	Timing and Mode of Distributions.....	78
-----------	---------------------------------------	----

ARTICLE XV- SUPPLEMENTAL INDIVIDUAL ACCOUNTS

SECTION 1	General.....	89
SECTION 2	Definitions.....	89
SECTION 3	Establishment of Accounts.....	90
SECTION 4	USERRA.....	90
SECTION 5	Valuation of Individual Accounts.....	90

SECTION 6	Investment Return.....	90
SECTION 7	Vesting of Individual Account Benefit.....	91
SECTION 8	Limitations of Accounts.....	91
SECTION 9	Amount of Individual Account Benefit to be Paid.....	91
SECTION 10	Administrative Fee.....	91
SECTION 11	Payment of Individual Account.....	91
SECTION 12	Payment Forms.....	92
SECTION 13	Maximum Benefit.....	92
SECTION 14	Reciprocal Contributions in Excess of Rate Permitted.....	93
SECTION 15	Rollover Distribution.....	93

ARTICLE XVI- MISCELLANEOUS PROVISIONS

SECTION 1	Administration.....	94
SECTION 2	Constructions.....	94
SECTION 3	Applicable Law.....	94
SECTION 4	Mergers.....	94
SECTION 5	Limitation of Liability.....	94
SECTION 6	Compliance with ERISA.....	95
SECTION 7	Internal Revenue Service Appeal.....	95
SECTION 8	Uniform Application.....	95

ARTICLE XVII- PENSION PROTECTION ACT OF 2006, FINAL 411 REGULATIONS AND HEART ACT

SECTION 1	Suspending of Inconsistent Provisions.....	96
SECTION 2	Final Section 411 Regulations.....	96
SECTION 3	Participant Distribution Notification.....	96
SECTION 4	Qualified Domestic Relations Orders.....	97
SECTION 5	Relative Value and PPA Right to Delay Distribution.....	97
SECTION 6	HEART ACT Provisions	97

ARTICLE XVIII- ENDANGERED OR CRITICAL STATUS OF PLAN

SECTION 1	Effective Date and Purpose	99
SECTION 2	Override by Section 432 Requirements.....	99

SIGNATURE PAGE

APPENDIX A- PENSIONERS AND BENEFICIARIES

APPENDIX B- PENSION BENEFIT LEVELS

ARTICLE II
DEFINITIONS

Section 1. Accrued Benefit.

"Accrued Benefit" shall mean the annual normal retirement benefit which a Participant has earned up to any date, and which is payable at Normal Retirement Date in an amount computed as described in Section 3 of Article IV, based however, only upon years of Pension Credit rendered by such Participant up to the date to which the Accrued Benefit is computed.

Section 2. Active Employee.

Effective as of January 1, 1991, "Active Employee" shall mean an Employee who has not incurred a permanent break in service.

Section 3. Actuarial Present Value.

Unless otherwise specified in the Plan, the "Actuarial Present Value" of a benefit shall be determined as follows:

- (a) For the purpose of determining the single sum Actuarial Equivalent of a Participant's Accrued Benefit, using the Applicable Mortality Table and the Applicable Interest Rate. "Applicable Mortality Table" shall mean the table or tables prescribed in Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code. "Applicable Interest Rate" shall mean the segment rates prescribed in Section 417(e)(3)(A)(ii)(II) of the Code for the month of November of the Plan Year preceding the date of distribution;
- (b) "Actuarial equivalence" means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provision in which that phrase is used, or if not otherwise specified, based on the assumptions described in (c);
- (c) For purposes other than determining the single sum Actuarial Equivalent, unless otherwise specified in the Plan provision in which that phrase is used, the interest rate shall be 7.0% , and the mortality assumption shall be based on the 1971 Group Annuity Mortality Table, weighted as follows:
 - (A) For an Employee's benefit, 100% male and 0% female;
 - (B) For the benefit of an Employee's Spouse or former Spouse, 0% male and 100% female; and
 - (C) In any other case, 50% male and 50% female; or

Section 4. Agreement and Declaration of Trust.

“Agreement and Declaration of Trust” or “Trust Agreement” shall mean the Agreement and Declaration of Trust entered into as of November 1, 1970 establishing the Tri-State Carpenters and Joiners Pension Trust Fund as from time to time amended.

Section 5. Annuity Starting Date.

- (a) A Participant’s “Annuity Starting Date” shall be the first day of the first calendar month starting after such Participant has fulfilled all of the conditions for entitlement to benefits, and after the later of:
 - (1) two full months after such Participant’s submission of a signed application for benefits to the Fund Office; or
- (b) 30 days after the Plan advises such Participant of the available benefit payment options. Notwithstanding subsection (a) above, effective September 1, 2001, the Annuity Starting Date may occur earlier if the Participant and Spouse (if any) consent in writing to the commencement of payments prior to the end of such 30 day period. In this case, the Participant’s Annuity Starting Date shall be the first day of the first calendar month starting after such Participant has fulfilled all of the conditions for entitlement to benefits, and after the later of:
 - (1) Two full months after such Participant’s submission of a signed application for benefits to the Fund Office; or
 - (2) seven days after the Plan advises such Participant of the available benefit payment options.
- (c) The Annuity Starting Date shall not be later than a Participant’s Required Beginning Date, as defined in Section 2 of Article X herein.
- (d) The Annuity Starting Date for a Beneficiary or alternate payee (as determined pursuant to a Qualified Domestic Relations Order) shall be determined under subsections (a) and (b) herein.
- (e) A Participant who retires prior to his Normal Retirement Age and then earns additional Pension Credit under the Plan through reemployment shall have a separate Annuity Starting Date determined under subsection (a) herein, except that the referenced two-month waiting period shall not apply to subsequent Annuity Starting Dates with respect to such additional Pension Credit.
- (f) In the case of a Participant who retires at or after Normal Retirement Age who is reemployed and earns additional Pension Credit, the original Annuity Starting Date and the benefit payment elections made at the time shall apply when benefit payments begin at a later date with respect to such additional Pension Credit.
- (g) A Participant who retires on a Disability Pension shall have his “Disability Annuity Starting Date” determined pursuant to Section 13 of Article IV herein.

Section 6. Association.

“Association” means the Chattanooga Chapter of the Associated General Contractors, or any similar or succeeding organization that represents one or more Employers.

Section 7. Auxillary Disability Benefit.

“Auxiliary Disability Benefit” shall mean the monthly benefit a Participant is entitled to receive if he meets the requirements of Section 12 of Article IV. There is no Auxiliary Disability Benefit for any Participant whose application is received after December 31, 2009.

Section 8. Code.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time. Reference to a specific provision of the Code shall include such provision, any valid regulation promulgated thereunder and any comparable provision of future legislation that amends, supplements or supersedes such provision.

Section 9. Collective Bargaining Agreement.

“Collective Bargaining Agreement” shall mean any written labor contract by and between a contributing Employer and the Union which provides the contributions to this Pension Fund with any and all extensions or renewals thereof and succession agreements.

Section 10. Compensation.

Except as provided in Article XI, “Compensation” shall mean any and all earnings reported on W-2 forms with respect to the Plan Year specified. For Plan Years after January 1, 1989, the Compensation of each employee taken into account under the Plan for any year shall not exceed \$200,000, as indexed under IRC Section 415(d). Any increase in the annual Compensation limit is effective as of January 1 of a calendar year and applies to any Plan Year beginning in that calendar year. Beginning after December 31, 1993, only the first \$150,000 of Compensation shall be taken into account (or, beginning January 1, 1995, such other amount as may be determined under IRC Section 401(a)(17)(B)). Notwithstanding the foregoing, for Plan Years beginning after December 31, 1997, an Employee’s Compensation shall include any elective deferral (as defined under Code Section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which, by reason of Code Sections 125, 402, 403(b), 414(h)(2) or 457, and, for Plan Years beginning after December 31, 2000, Section 132(f)(4), is not includible in the gross income of the Employee.

Section 11. Continuous Employment.

Two periods of employment are continuous if there is no quit, discharge, or other termination of employment between the periods, and if such employment is with the same Employer.

Section 12. Contribution Date.

“Contribution Date” shall mean for any Employee that date on which the Employers in the jurisdiction of his participating Union first became obligated to make contributions to the Fund.

Section 13. Contribution Period.

“Contribution Period” shall mean with respect to a unit or classification of employment, the period during which an Employer makes contributions to the Pension Fund with respect to such unit or classification of employment.

Section 14. Covered Employment.

“Covered Employment” shall mean employment for which an Employer is obligated to contribute to the Pension Fund on and after the Contribution Date. For periods prior to the Contribution Date, “Covered Employment” means work at jobs covered by the terms of the Collective Bargaining Agreement of the Union or International Union, which if performed subsequent to the Contribution Date, would have resulted in a contribution to the Fund. With respect to the Employees of the Union, the District Council, the Welfare Trust or Pension Fund, “Covered Employment” means all periods of time such Employees were employed by the Union, the District Council, the Welfare or Pension Trust, provided that the Union, the District Council, and those Funds make required contributions to the Pension Fund.

Section 15. Disability Pension.

“Disability Pension” shall mean the monthly benefit a Participant is entitled to receive if he meets the requirements of Section 9 of Article IV.

Section 16. District Council.

“District Council” means the Mid South Carpenters Regional Council. At the original effective date of the Plan, “District Council” meant the Tri-State Carpenters and Joiners District Council of Chattanooga, Tennessee and Vicinity as it existed prior to the order of the General President of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, dated February 7, 1990.

Section 17. Early Retirement Date.

“Early Retirement Date” shall mean the first day of any month following a Participant’s attainment of age 60 and completion of at least 10 Pension Credit years, including certain periods of Pension Credit after the Contribution Date, pursuant to Section 5 of Article IV herein.

Section 18. Effective Date.

“Effective Date,” for the purpose of the amendment and restatement of this Plan, shall mean January 1, 2009, but in no way shall this be construed as contravening the original effective date of the Tri-State Carpenters and Joiners District Council of Chattanooga, Tennessee and Vicinity Pension Trust Fund, which was November 1, 1970.

Section 19. Employee.

“Employee” shall mean an individual who is employed by an Employer in Covered Employment, as that term is defined herein. Additionally, the term “Employee” shall include a leased Employee of an Employer, within the meaning of Section 414(n) of the Code, who otherwise meets the conditions for participation, vesting and/or benefit accrual under the Plan.

“Employee” shall also mean an employee of the Union, the Tri-State Carpenters and Joiners Health and Welfare Fund, and the Pension Fund, provided that Non-Bargained Employees (as defined in Section 23 of this Article) of such Employers shall not be deemed Employees for purposes of this Plan unless such Employers agree to cover such Non-Bargained Employees and (i) to be bound by the Plan and all amendments, and (ii) to make contributions on behalf of all such Non-Bargained Employees in their employ at the same rate of contributions on behalf of all such Non-Bargained Employees in their employ at the same rate of contribution as for all such Employees.

Section 20. Employer.

“Employer” or “Contributing Employer” shall mean any Employer who is subject to the terms of a Collective Bargaining Agreement with the Union or the International Union requiring periodic contributions to the Pension Fund.

For purposes of identifying Highly Compensated Employees and applying the rules of participation, vesting and statutory limits on benefits under the Plan, but not for determining Covered Employment, the term “Employer” shall include all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the Code and all other business aggregated with the Employer under Section 414(o) of the Code.

The term “Employer” shall also include all corporations, trades or businesses under common control with the Employer within the meaning of Sections 414(b) and (c) of the Code.

The term “Employer” as used herein shall also mean the Union, the Tri-State Carpenters and Joiners Health and Welfare Fund and the Pension Fund.

Section 21. ERISA.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as from time to time amended.

Section 22. Fiduciary.

"Fiduciary" shall mean the Trustees and any person who exercises discretionary authority or control over the management of the Plan, assets held under the Plan, or disposition of Plan assets, any Investment Manager who renders investment advice for direct or indirect compensation as to assets held under the Plan, or has any authority or responsibility to do so, or who has any discretionary authority or responsibility in the administration of the Plan.

Section 23. Highly Compensated Employee.

"Highly Compensated Employee" shall mean a highly compensated Active Employee or highly compensated former Employee of an Employer. Whether an Employee is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that Employee's compensation from or status with respect to that Employer. A Highly Compensated Employee is an Employee who:

- (a) was a five percent owner of the Employer at any time during the Plan Year or the preceding Plan Year, or
- (b) For the preceding year:
 - (1) had compensation from the Employer in excess of \$85,000 (as adjusted annually for increases in the cost of living in accordance with regulations prescribed by the Secretary of the Treasury), and
 - (2) was in the top-paid group of Employees for such preceding Plan Year. An Employee is in the top-paid group of Employees for any Plan Year if such Employee is in the group consisting of the top 20 percent of the total Employees when ranked by compensation paid during such Plan Year.

Section 24. Hour of Service.

An "Hour of Service" is each hour for which an Employee is paid, or entitled to payment, by an Employer, directly or indirectly, for the performance of duties of on account of a period of time during which no duties are performed including, due to vacation, holiday, illness, incapacity (including disability) layoff, jury duty, military duty or leave of absence. In addition, an Hour of Service is each hour for which back pay, regardless of mitigation of damages, is either awarded or agreed to by the Employer.

Hours of Service, as described above, shall be credited to the computation period in which the duties are performed, or to the computation period in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates (in accordance with the Department of Labor Regulation Section 2530.200b-(c)).

Section 25. International Union.

"International Union" shall mean the United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

Section 26. Late Retirement Pension.

Section 33. Pension Credit Year.

"Pension Credit Year" or "Plan Year" shall mean the annual period from November 1, 1970 through December 31, 1971 for the first Plan Year, then from January 1 through December 31 thereafter. For purposes of ERISA regulations, the Pension Credit Year shall serve as the vesting computation period, benefit accrual computation period and, after the initial 12-month period of employment or of reemployment following a Break in Service, the computation period for eligibility to participate in the Plan.

Section 34. Pension Fund.

"Pension Fund" or "Fund" shall mean the Tri-State Carpenters and Joiners Pension Fund established under the Trust Agreement dated November 1, 1970, as amended, and means all monies or other things of value which comprise the corpus and additions to the Pension Fund.

Section 35. Pensioner.

"Pensioner" means a person receiving benefits under this Pension Plan and an individual who has attained his Annuity Starting Date.

Section 36. Plan.

"Plan" shall mean the Tri-State Carpenters and Joiners Pension Plan as stated herein and as amended from time to time.

Section 37. Spouse.

"Spouse" shall mean that person determined by the Trustees to be legally married to the Participant at the time of the Participant's death.

Section 38. Trust Fund.

"Trust Fund" shall mean the fund consisting of contributions paid over to the Trustees and investments thereof and all earnings, appreciation or additions thereon and thereto held by the Trustees under the Agreement and Declaration of Trust, dated November 1, 1970, as amended.

Section 39. Trustees.

"Trustees" shall mean the Trustees who are acting under the terms of the Agreement and Declaration and Trust.

Section 40. Union.

"Union" shall mean any local union affiliated with the International Union which has been accepted as a participating Local Union in this Plan.

Section 41. Vested Deferred Retirement Pension.

"Vested Deferred Retirement Pension" shall mean the monthly benefit a Participant shall be entitled to receive upon his attainment of Early Retirement Date or Normal Retirement Date, provided the Participant was vested at the time he separated from work in Covered Employment prior to his retirement.

Section 42. Year of Service.

"Year of Service" for the purpose of vesting and participation (after initial eligibility) shall mean any Plan Year in which an Employee accumulates at least 1,000 Hours of Service.

ARTICLE III

BASIS OF PARTICIPATION IN FUND

Section 1. General.

- (a) The Pension Plan was established to provide retirement benefits for employees who are represented for the purpose of collective bargaining by the Union. After a collective bargaining agreement is concluded with an Employer requiring contributions to the Pension Fund, the participation by the Employees of that Employer become effective when the group is accepted for participation by the Trustees.
- (b) In general, the employees of an employer will be accepted for participation by the Trustees if their joining the Fund is made in accordance with the procedures established by the Trustees and if acceptance of the group will not impair the actuarial soundness of the Fund.
- (c) In addition to employees represented for the purpose of collective bargaining by the Union, the Trustees may permit participation by other classes of employees who are employed by a Contributing Employer but who may not be represented for the purpose of collective bargaining by the Union. Such participation shall be on the terms and conditions determined by the Trustees, and at their discretion; provided, however, that such discretion shall be exercised in a non-discriminatory manner and the acceptance of the group will not impair the actuarial soundness of the Fund.
- (d) This Article contains definitions to meet certain requirements of ERISA. Once an Employee has become a Participant, the provisions of the Plan give him credit in accordance with the rules of the Plan for some or all of his service before he became a Participant.

Section 2. Acceptance of a New Employer.

Upon application by a Union, an Employer may be accepted by the Trustees as a "Contributing Employer" if such acceptance will not adversely affect the actuarial soundness of the Fund as determined by the Trustees after consultation with the actuary for the Fund. To enable the Trustees to make such determination, each Local seeking approval of a new Employer shall be required to furnish the name, date of birth and employment history of each employee then covered by the Collective Bargaining Agreement between the Union and the new Employer.

Section 3. Standard Form of a Participation Agreement.

Any new Employer accepted as a Contributing Employer in accordance with Section 2 of this Article may be required to execute, along with the Union, a standard form of participation

agreement, as approved by the Trustees, which sets forth the full details of the basis for contributions to the Fund and the basis for acceptance as a Contributing Employer.

Section 4. Special Conditions.

When a Contributing Employer is accepted for participation in accordance with Section 2 of this Article, the Trustees may, in writing, impose on such acceptance any terms and conditions they consider necessary to preserve the actuarial soundness of the Fund and to preserve an equitable relationship between the basis of contributions of all Contributing Employers and the benefits provided for all covered Employees. Such conditions may include, but shall not be limited to, the imposition of special waiting periods before the commencement of benefits for Pensioners, and/or the granting of a lower scale of benefits.

Section 5. Notice of Acceptance.

A written Notice of Acceptance shall be sent by the Trustees to any new Employer who is accepted for participation pursuant to Section 2 of this Article. Until such written Notice shall be sent by the Trustees, any new Employer shall not be deemed to have been accepted for participation in the Fund.

Section 6. Termination of Participation of Employer.

The termination of an Employer's status as a Contributing Employer, or a participating Local's status as a participating Local, or an Employee's status as a covered Employee shall be governed by the provisions of Section 13 of Article X.

Section 7. Participation of Employee.

An Employee shall initially become a Participant in this Plan as of the date he performs his first Hour of Service in Covered Employment or in Continuous Employment with an Employer.

Section 8. Termination of Participation of Employee.

An Employee who incurs a one year Break in Service as defined in Section 4 of Article V below, shall cease to be a Participant as of the last day of the Plan Year which constituted a permanent Break in Service, unless such Participant is a Pensioner or has acquired the right to a pension from this Plan, whether immediate or deferred.

Section 9. Reinstatement of Participation of Employee.

An Employee who has lost his status as a Participant in accordance with Section 8 of this Article shall again become a Participant by meeting the requirements of Section 7 of this Article.

ARTICLE IV

ELIGIBILITY FOR BENEFITS AND AMOUNTS

Section 1. Generally.

- (a) This Article sets for the eligibility conditions and benefit amounts for the pensions provided by this Plan. Retirement under this Plan shall be voluntary. The accumulation and retention of Pension Credits for determining the amount of benefits are subject to the provisions of Article V. The benefit amounts are subject to reduction on account of the Joint and Survivor Pensions (Article VI). Entitlement of an eligible Participant to receive pension benefits is subject to his retirement and application, as provided in Article X. Further, eligibility for benefits depends upon the accumulation and retention of Pension Credits, which are defined in Section 1 of Article V, and years of Vesting Service, which are defined in Section 5 of Article V.
- (b) (1) Should a Participant incur a Break in Service of one or more years beginning with the Plan Year January 1, 1993, his pension amount shall be frozen at the benefit level pursuant to the terms of the Plan in effect at the time of his separation from Covered Employment. A Participant shall be deemed to have separated from Covered Employment on the last day of work in Covered Employment which is followed by a one year Break in Service as defined in Article V.
- (2) A Participant who, after separation from Covered Employment as described above, returns to Covered Employment shall be entitled to a proportionate benefit based upon Pension Credit earned prior to and after the Break in Service. This proportionate benefit shall be determined by applying the benefit level in effect prior to the separation from Covered Employment to the Pension Credit earned prior to the separation only, and the benefit level in effect on the last day worked in Covered Employment to the Pension Credit earned after such Participant returns from separation only.

Section 2. Eligibility for a Normal Pension.

A Participant shall be entitled to retire on a Normal Pension if he attains Normal Retirement Age, as defined in Article II.

Section 3. Amount of Normal Pension.

A Participant's Normal Pension amount shall be determined by the sum of (1) and (2) below, where:

- (1) Represents the number of years of Pension Credits earned prior to the Contribution Date, multiplied by an amount set forth in Appendix "B" of this Plan herein; and

- (2) Represents the number of years of Pension Credits earned after the Contribution Date, multiplied by an amount set forth in Appendix "B" of this Plan herein.

Section 4. Pension Credits Earned at Different Rates Within a Pension Credit Year.

If contributions are made on behalf of an Employee during a single Pension Credit Year which would result in Normal Pension Benefits being calculated at different rates under the preceding Sections of this Article, the Normal Pension Benefit earned by the Employee for the Pension Credit Year shall be calculated as follows:

- (a) The rates of Normal Pension benefit for a full year's Pension Credit shall be arranged in a decreasing order, each accompanied by the number of hours of contribution made for the Employee during the Pension Credit Year producing that rate of Normal Pension Benefit.
- (b) There shall be calculated the average Normal Pension benefit for the Employee for the Pension Credit Year. For this purpose:
 - (1) If contributions were made on behalf of the Employee for a total of 1,000 hours or less, the average rate shall be obtained by multiplying the number of hours at each Normal Pension benefit by the amount of Normal Pension benefit, adding the products and dividing the total by the number of hours for which contributions were made; and
 - (2) If contributions were made on behalf of the Employee for a total of more than 1,000 hours, there shall be excluded from the computation the excess of 1,000 hours beginning with the lowest rate of Normal Pension benefit and continuing until sufficient hours have been excluded, thereby leaving 1,000 hours associated with the highest Normal Pension benefits, and the computation described in the preceding paragraph shall be made with respect to the remaining 1,000 hours.
- (c) The Average Normal Pension benefit obtained in subsection (b) of this Section shall be multiplied by the amount of Pension Credit earned by the Employee during the Pension Credit Year under the provisions of Article V, based on the total number of hours of contributions made on the Employee's behalf during the Pension Credit Year.

Section 5. Eligibility for Early Retirement Pension.

A Participant shall be entitled to retire on an Early Retirement Pension if, as of his annuity starting date, he meets the following requirements:

- (a) He has attained age 60; and
- (b) He has accumulated at least 10 years of Pension Credit, including Pension Credit earned after the Contribution Date, in accordance with the following table:

Age 60 – 5 years Pension Credit
Age 61 – 4 years Pension Credit
Age 62 – 3 years Pension Credit
Age 63 – 2 years Pension Credit
Age 64 – 1 year Pension Credit

Section 6. Amount of Early Retirement Pension.

The monthly amount of an Early Retirement Pension shall be an in an amount determined as follows:

- (a) There shall be first be determined the amount of the Normal Pension to which the Participant would be entitled if he were of Normal Retirement Age in accordance with Section 3 of this Article.
- (b) The amount so determined shall then be reduced by $\frac{1}{2}$ of 1% for each month by which the Participant is younger than age 65 as of his Annuity Starting Date.

Section 7. Eligibility for Late Retirement Pension.

A Participant shall be eligible to retire on a Late Retirement Pension if he retires after his attainment of Normal Retirement Age, whether or not he continues to work in Covered Employment after reaching Normal Retirement Age. However, in no event shall the payment of a Late Retirement Pension commence later than a Participant's Required Beginning Date, as defined in Article X.

Section 8. Amount of Late Retirement Pension.

- (a) The monthly amount of a Participant's Late Retirement Pension shall be the sum of the Accrued Benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date; plus an additional pension amount based on Pension Credit earned between Normal Retirement Age and the Annuity Starting Date.
- (b) If a Participant first becomes entitled to additional benefits earned after his Normal Retirement Age, whether through continued work in Covered Employment or because of a benefit increase, the actuarial increase in those benefits will commence as of the date they would first have been paid, rather than as of his Normal Retirement Age.
- (c) Such actuarial increase shall be 1% per month for the first 60 months after Normal Retirement Age, and 1.5% per month for each month thereafter.
- (d) The amount of the Late Retirement Pension shall be converted as of a Participant's Annuity Starting Date to the benefit payment form elected on the pension

application form, or the 50% Joint and Survivor Pension if no other payment form is elected.

Section 9. Disability Pension.

A Participant shall be entitled to retire on a Disability Pension if he meets all of the following requirements:

- (a) He becomes totally and permanently disabled, as defined in Section 13 of this Article IV;
- (b) He must have worked at least 100 hours in Covered Employment in either of the two calendar years preceding the date of his application for a Disability Pension; and
- (c) He has (i) at least 15 years of Pension Credit, at least three of which are Pension Credits earned after the Contribution Date, or (ii) at least seven years of Pension Credit earned after the Contribution Date.

If a Participant meets all of the requirements above, the amount of his Disability Pension shall be determined under paragraph (a) of Section 10 below.

If a vested Participant meets requirements (a) and (c) above, but does not meet (b) above, the amount of his Disability Pension shall be determined under paragraph (b) of Section 10 below, and the beginning date of his Disability Pension shall not be prior to December 1, 2008, and not prior to the date provided in paragraph (d) of Section 11 below.

Section 10. Disability Pension Amount.

- (a) A Participant's monthly Disability Pension shall be determined pursuant to Section 3 of this Article, and shall be equal to his Accrued Benefit determined to his date of disability.
- (b) If a vested Participant meets all of the requirements under Section 9 of this Article, except for requirement (b) of Section 9, his monthly Disability Pension shall be equal to:
 - (1) his Accrued Benefit, determined to his date of Disability,
 - (2) reduced by $\frac{1}{2}$ of 1% for each month that the commencement of his Disability Pension precedes his Normal Retirement Date, but not reduced by more than 60%.
- (c) A Participant eligible for a Disability Pension shall be offered all of the optional forms of payment. The Single Life Pension form shall be guaranteed for 36 months.
- (d) When a Participant who is approved for a Disability Pension is also eligible for an Early Retirement Pension, the Fund will calculate the monthly benefit payable in the benefit form elected as an Early Retirement Pension and as a Disability Pension, to the extent necessary to assure that the Participant may elect the highest

monthly benefit to which he or she is entitled. If a Participant who would otherwise be eligible for the Disability Pension elects the payment of an Early Retirement Pension, the Fund shall inform the Participant of his right to waive the Disability Pension, and of the consequences of returning to work in Covered Employment following a recovery. The Participant shall then elect, in writing, on a form provided by the Trustees, either the Early Retirement Pension or the Disability Pension.

Section 11. Disability Pension Payments.

Disability Pension payments shall commence as of a Participant's Disability Annuity Starting Date, which is the first day of the month following the month in which the latest of the following occurs:

- (a) After a 5 month waiting period during which the Participant is totally and permanently disabled, as defined in Section 13 of this Article IV;
- (b) After timely submission of application has been made to the Fund Office.
- (c) After evidence of the Participant's entitlement to a Social Security Disability Award has been submitted to the Fund Office.
- (d) In the case of a vested Participant who does not meet the requirement in paragraph (b) of Section 9 of this Article, his 55th birthday.

Payments shall continue during Total and Permanent Disability for life, subject to the application provisions of Article X. However, if a Participant works in Covered Employment during any month after he becomes disabled, but prior to his Disability Annuity Starting Date, his Disability Annuity Starting Date shall be delayed by one month for each month in which he worked in such Covered Employment.

Section 12. Auxiliary Disability Benefits.

- (a) **Eligibility:**
If a Participant
 - (1) meets the requirements of paragraphs (b) and (c) of Section 9 of this Article IV, and
 - (2) submits an application for Auxiliary Disability Benefits to the Board of Trustees on or before December 31, 2009, and
 - (2) has been determined to be disabled, by the Board of Trustees based on medical evidence submitted, thensuch Participant shall be entitled to receive an Auxiliary Disability Benefit for up to 24 months.
- (b) **Commencement of Benefit:**
If eligible, the Auxiliary Disability Benefit will commence on the first day of the month following the month in which the latest occurs:
 - (1) After a 5-month waiting period during which the Participant is disabled;
 - (2) After timely submission of application has been made to the Fund Office;

(3) After sufficient proof of medical evidence has been submitted to the Board of Trustees.

(c) Amount of Benefit:

If the Participant is eligible for a Normal or Early Retirement Pension, the amount of the Auxiliary Disability Benefit will be the amount of the Normal or Early Retirement Pension amount that the Participant could receive. If the Participant is not eligible for a Normal or Early Retirement Pension, the amount of the Auxiliary Disability Benefit will be 70% of the Participant's Accrued Benefit.

(d) Payment of Benefit:

The Auxiliary Disability Benefit will be paid in the form of a single life annuity only (with no 36 month guarantee period). The Benefit will cease at the earliest of:

- (i) 24 months after the Benefit begins; or
- (ii) the Participant ceases to be disabled, as determined by the Board of Trustees; or
- (iii) the Participant receives a Social Security Disability Award, and converts to a Disability Pension under subparagraph (1) below.

(1) If the disabled Participant subsequently becomes entitled to a Social Security Disability Award, and his entitlement date is within the 24-month period after Auxiliary Disability Benefit payments have begun, he will be entitled to convert his Auxiliary Disability Benefit to a Disability Pension. If he converts to a Disability Pension, he may elect any of the optional forms of payments offered under the Plan for a Disability Pension. The Participant will be required to apply for such Disability Pension in accordance with the provisions of this Plan. Any such Disability Pension will commence effective with the first of the month on or after the date of the Social Security Disability Award. If the date of the Social Security Disability Award is after the 24-month period, the Disability Pension will be effective with the first of the month after the 24-month period ended.

(2) If the disabled Participant does not subsequently become entitled to a Social Security Disability Award, all payment will cease as stated in this paragraph (d), and the Participant will not be eligible for any subsequent Auxiliary Disability Benefits for that same disablement. However, if the Participant dies before the Auxiliary Disability Benefits cease, the Participant's beneficiary may be eligible for:

(a) the Pre-Retirement Surviving Spouse Pension in Sections 3(a) through 3(f) of Article VI, except that if the Participant had applied for his Social Security Disability Award, the "50%" shall be replaced with "100%" throughout those sections; or

(b) the Lump-Sum Death Benefit in Section 20 of Article IV.

(3) If the disabled Participant does not subsequently become entitled to a Social Security Disability Award, then upon cessation of his Auxiliary Disability Benefit:

(a) If, at the time his Auxiliary Disability Benefit ceases, he is eligible for a Normal or Early Retirement Pension, he will be converted to a Normal or Early Retirement Pension. The amount of the Normal or Early Retirement Pension will be equal to the amount of his Auxiliary Disability Benefit. He may elect any of the optional forms of payment offered under the Plan for Normal

or Early Retirement Pensions.

- (b) If, at the time his Auxiliary Disability Benefit ceases, he is not eligible for a Normal or Early Retirement Pension, he may return to Covered Employment and resume the accrual of Pension Credits.

Section 13. Definition of Total and Permanent Disability.

- (a) In order to be eligible to receive a Disability Pension calculated in the manner set forth in Section 9 of this Article, a Participant shall be deemed Totally and Permanently Disabled only if the Social Security Administration determines that he is eligible for disability benefits under the Federal Social Security Act in effect at the date of disability.
- (b) In order to be eligible to receive any Auxiliary Disability Benefit for a period of 24-months as set forth in Section 12 of this Article, a Participant shall be deemed disabled, if, absent a determination by the Social Security Administration that he is eligible for disability under the Social Security Act, the Trustees find that such Participant has incurred a physical or mental condition for which medical evidence, satisfactory to the Trustees, has been furnished which totally and permanently prevents the Participant from engaging in any regular employment in the construction industry.

Section 14. Proof of Total and Permanent Disability.

The Trustees shall accept as evidence of Total and Permanent Disability, a determination by the Social Security Administration that the Participant is entitled to a Social Security Disability Benefit in connection with his Old Age and Survivors Insurance coverage.

Upon attainment of age 65, a Pensioner receiving a Disability Pension shall not be required to submit continuing proof of Total and Permanent Disability.

Section 15. Earnings by a Disability Pensioner.

A Pensioner receiving a Disability Pension or Auxiliary Disability Benefit shall report any and all earnings from any employment or gainful pursuit to the Trustees, in writing, within 15 days after the end of the month in which he has such earnings. Such Pensioner shall be disqualified from benefits in any month in which he has earnings or gainful pursuit in Disqualifying Employment of the type described in this Article. If such Pensioner fails to make timely reports as required in this Section, he shall be disqualified for Disability Pension benefits for the month or months in which the violation occurred. This penalty shall apply to each such violation unless the Trustees determine that there were extenuating circumstances which prevented the Pensioner from making a timely filing. As a condition of continued receipt of a Disability Pension on and after January 1, 1992, a Disability Pensioner shall be required to effect a sworn statement following the end of each Plan Year during which he received a Disability Pension from this Plan stating whether or not he has had earnings from disqualifying employment, as defined in this Article.

Section 16. 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 Normal or Early Retirement Pension, provided he has fulfilled the age and service requirements for such retirement benefits. Such Pension shall become payable for the month immediately following the month in which the Disability Pension terminates, and the amount shall be based on the attained age of the Pensioner as of the date he retires on such Normal or Early Retirement Pension; or
- (b) Return to Covered Employment and resume the accrual of Pension Credit.

Section 17. Eligibility for a Vested Deferred Retirement Pension.

- (a) A Participant shall be entitled to a Vested Deferred Pension if he has fulfilled the requirements of Section 6 of Article V.
- (b) A Vested Deferred Pension shall be payable to an eligible retired Participant:
 - (1) After the Participant has attained Normal Retirement Age; or
 - (2) After the Participant has completed the requirements as set forth in Section 5 of this Article.

Section 18. Amount of Vested Deferred Retirement Pension.

The monthly benefit amount payable to a Participant shall be determined by the amount he would be entitled to at the time he separated from work in Covered Employment. In addition, the monthly benefit shall be determined as follows:

- (a) After Normal Retirement Age. If a Participant's Annuity Starting Date for the payment of a Vested Deferred Retirement Pension is at or after the Participant's Normal Retirement Age, the monthly amount of his pension shall be determined in accordance with Section 3 of this Article.
- (b) Before Normal Retirement Age. If a Participant's Annuity Starting Date for the payment of a Vested Deferred Retirement Pension is prior to the Participant's Normal Retirement Age, the monthly amount otherwise payable at Normal Retirement Age shall be reduced by $\frac{1}{2}$ of 1% for each complete month by which his Annuity Starting Date precedes such Participant's Normal Retirement Age.

Section 19. Guaranteed Pension Payments – 36 Certain Payments.

If a Participant becomes a Pensioner and dies before he has received 36 monthly pension payments, his monthly benefit shall be continued to his Beneficiary, if living, until 36 such payments have been made, including the payments to the Pensioner and his Beneficiary. In the event of the death of the Pensioner and his Beneficiary during the period certain, payment shall continue to the designated secondary Beneficiary. If there is no named secondary Beneficiary, payments for the remainder of the period certain shall be paid to the estate of the Beneficiary.

In the event of the death of a Participant while working in Covered Employment and subsequent to the date the Participant has qualified for a Normal or Early Retirement Pension, this guaranteed benefit payment shall also become payable as specified even though at the time of his death, he was not a Pensioner.

Benefits provided by this Section shall not be payable if the Spouse is eligible for the benefits provided by Article VI.

Section 20. Death Benefits for Active Employees.

Should an Active Employee (a) who is not otherwise eligible for a pension, (b) who is eligible for a Disability Pension but whose application has not yet been approved by the Board of Trustees or (c) whose application for a Disability Pension has been approved but benefit payments have not yet commenced, die after earning five years of Pension Credit after the Contribution Date, a Death Benefit shall be payable to the Beneficiary, if living, in an amount equal to 100% of the Employer Contributions which the Fund has received on behalf of such Employee.

In no event shall Death Benefits be provided by this Section payable if a Pre-Retirement Surviving Spouse Pension is payable except as provided below:

If the Beneficiary is the eligible Spouse of the Active Employee and if such Spouse is eligible for the Pre-Retirement Surviving Spouse Pension described in Article VI, such Spouse shall be permitted to choose either the Death Benefit provided by this Section, or the Pre-Retirement Surviving Spouse Pension, subject to the provisions of Section 3(f) of Article VI, with respect to residual annuity payments. Should such Spouse die prior to receiving the payment of the Death Benefit, payment shall be made to the estate of such Spouse.

Section 21. Rounding of Benefit Amounts.

If the calculation of any benefit amount due under this Plan results in an amount not an exact multiple of 50 cents (50¢), then the amount so calculated shall be rounded by raising it to the next higher multiple of fifty cents (50¢) and the rounded amounts shall be payable. In the case of a Beneficiary receiving benefits under the Plan, if the calculation of any benefit results in an amount not an exact multiple of twenty-five cents, the amount calculated shall be rounded to the next higher multiple of twenty-five cents.

Section 22. Non-Duplication of Pension.

Nothing contained in this Plan shall be construed as permitting any person to be entitled to more than one type of Pension under this Plan, except as otherwise permitted in Section 18 of this Article. A Pensioner may not change the type of pension elected once he has begun to receive benefit payments.

Section 23. Determination of Benefit Eligibility and Amount.

A Participant's or former Participant's eligibility for and the amount of benefits, if any, payable to or on behalf of said Participant shall be determined in accordance with the

provisions of the Plan in effect as of the date his Covered Employment terminated, except to the extent otherwise specifically provided under subsequent Plan amendments or in this Amended and Restated Plan.

Section 24. Retirement.

- (a) **General Rule.** To be considered, a Participant must have separated from Covered Employment.
- (b) **Exceptions prior to December 1, 2008.** A Participant who has separated from his previous employment, as defined in subsection (a) of this Section, shall be considered retired notwithstanding subsequent employment or reemployment with a Contributing Employer for less than 40 hours in any month, effective February 1, 1994.
- (c) **Exceptions on and after December 1, 2008.** A Participant who has separated from his previous employment, as defined in subsection (a) of this Section, shall be considered retired notwithstanding subsequent employment or reemployment with a Contributing Employer for less than (a) 500 hours in any calendar year for any retiree who is age 65 or more, or (b) 40 hours in any calendar month for any retiree who is under age 65.

Section 25. Suspension of Benefits.

- (a) (1) A Pensioner's monthly pension shall be suspended for any month in which he worked or was paid for work in Disqualifying Employment for more hours than permitted under Section 24 of this Article. Disqualifying Employment means employment or self employment:
 - (A) in the same industry covered by the Plan when the Participant's pension payments began;
 - (B) in the same trade or craft (including supervisory work) covered by the Plan when the Participant's pension payments began; and
 - (C) in the same geographic area covered by the Plan as when such pension payments began.
- (2) The term "industry covered by the Plan" means the carpentry industry and any other industry in which Employees covered by the Plan were employed when the Participant's began or, but for suspension under this Section, would have begun.
- (3) The geographic area covered by the Plan includes the State of Tennessee and the remainder of any Standard Metropolitan Statistical Area (SMSA) which falls in part within such state and any other area covered by the Plan when the Participant's pension began or, but for suspension under this Article, would have begun.
- (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 area covered by the Plan "when the Participant's pension began" shall be the industry and area covered by the

- Plan when his pension was resumed.
- (5) Paid non-work time shall be counted toward the measure of hours worked if paid for vacations, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence.
- (b) Definition of Suspension. "Suspension of Benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments, pursuant to subsection (f) of this Section.
- (c) No Suspension after Required Beginning Date. No benefits shall be suspended under this Section for months starting on and after a Participant's Required Beginning Date.
- (d) Notices.
- (1) Prior to a Participant's attainment of Normal Retirement Age, the Trustees shall notify such Participant who is working in Covered Employment of the Plan's rules governing suspension of benefits for work in Covered Employment beyond Normal Retirement Age.
 - (2) 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 Pensioner, if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.
 - (3) 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 the hours permitted under Section 24 of this Article). 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 more than the number of hours permitted under Section 24 of this Article before the Pensioner gives notice that he has ceased Disqualifying Employment. The Pensioner 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 benefits. If the Pensioner has worked in Disqualifying Employment or Totally 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 Pensioner shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that this work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.
 - (4) A Pensioner whose pension has been suspended shall notify the Plan when Disqualifying Employment has ended. The Trustees shall have the right to

- hold back benefit payments until such notice is filed with the Plan.
- (5) A Pensioner may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Pensioner with its determination.
 - (6) The Plan shall inform a Pensioner 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. Such notice shall include a description of the specific reasons for the suspension of the Plan, reference to the applicable regulations of the U.S. Department of Labor, and a statement of the procedures for securing a review of suspension. In addition, the notice shall describe the procedure for the Pensioner to notify the Plan when his Disqualifying Employment ends. If the Plan intends to recover prior overpayments by offset under subsection (f)(2), the suspension notice shall explain the offset procedure and identify the amount expected to be recovered and the periods of employment to which they relate.
- (e) Review. A Pensioner shall be entitled to a review of a determination suspending his pension by written request filed with the Trustees within 60 days of the date 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) Resumption of Benefit Payments.
- (1) Benefits shall be resumed for the month after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Pensioner's benefit was suspended, provided the Pensioner has complied with the notification requirements of paragraph (d).
 - (2) Overpayments attributable to payments for any month or months for which the Pensioner 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 Pensioner attained Normal Retirement Age should not exceed 25 percent of the pension amount (before deduction), except that the Plan may withhold up to 100 percent of the first pension payment made 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 25 percent limitation on the rate of deduction.
- (g) In each calendar year in which the Trustees so elect, prior to the first day of such year, and as recorded in the Minutes of the Board meeting, retired Participants shall be allowed to work additional hours in accordance with the provision set forth below:
- If no active Participants are available to perform certain types of work in the industry and retired Participants return to work because they possess the skills needed for a particular job, then those retired Participants shall be allowed to work in Covered Employment up to an additional 200 hours during the Calendar Year. These hours must be worked in two 60-consecutive day periods within the calendar

year. Whether such conditions apply shall be determined by the Trustees, who decision shall be final. Such periods shall be determined by the Trustees.

Section 26. Benefit Payments Following Suspension.

- (a) The monthly amount of pension when resumed after suspension shall be determined under subparagraph (1) and adjusted for any additional accruals and optional forms of payment in accordance with subsections (b) and (c) herein.
 - (1) **Resumed Amount.** If the pension was first payable after Normal Retirement Age, resumption shall be at the same monthly amount. Otherwise the amount shall be determined as if it were then being determined for the first time, but on the basis of an adjusted age. The adjusted age shall be the age of the Pensioner at the beginning of the first month for which payment is resumed, reduced by the months for which he has received benefits to which he was entitled and (B) the months for which his benefits were suspended because of Disqualifying Employment, as defined in Section 27(a) of this Article. This amount shall be determined before adjustment, if any, for pension accrual based on reemployment, for any optional form of payment for changes in the Plan adopted after the Pensioner first retired, and for any offset because of prior overpayments.
 - (2) A Joint and Survivor Pension in effect immediately prior to suspension of benefits and any other benefit following the death of the Pensioner shall remain in effect if the Pensioner dies while his benefits are suspended, with respect to his benefit earned prior to his retirement.
- (b) **Additional Benefits Accrued Before Normal Retirement Age**
 - (1) A Pensioner who returns to Covered Employment before his Normal Retirement Age shall, upon his subsequent retirement, be entitled to an additional benefit which shall be determined based on additional Pension Credit earned, and if applicable, any benefit increases adopted during the suspension period.
 - (2) Any additional benefits earned by a Participant in Covered Employment shall be determined at the end of each Plan Year and will be payable as of February 1 following the end of the Plan Year in which it was accrued, provided payment of benefits at that time is not suspended due to the Participant's continued employment. If the Participant is not in pay status on February 1 due to his continued employment, his additional accruals for work in prior Plan Years shall commence when his benefit payments resume.
 - (3) A new Annuity Starting Date shall be established for the payment of an additional Accrued Benefit when the Participant again retires. The benefits earned during the period of reemployment shall be paid as a 50% Joint and Survivor Pension, unless this form is properly rejected and another form of payment under the Plan is elected.
- (c) **Additional Benefits Accrued After Normal Retirement Age.**
 - (1) A Pensioner who returns to Covered Employment after his Normal Retirement Age shall, upon his subsequent retirement, be entitled to an

additional benefit which shall be determined based on additional Pension Credit earned and, if applicable, any benefit increases adopted during the suspension period.

- (2) Any additional benefits earned by a Participant in Covered Employment shall be determined at the end of the Plan Year in which it was accrued, provided payment of benefits at the time is not suspended due to the Participant's continued employment. If the Participant is not in pay status on February 1 due to his continued employment, his additional accruals for work in prior Plan Years shall commence when his benefit payments resume.
- (3) Additional benefits shall be paid in the payment form in effect for the Participant as of the Annuity Starting Date most recently preceding the date the additional benefit became payable.

ARTICLE V
PENSION CREDIT AND VESTING SERVICE

In general, there are two types of service which are credited to a Participant under this Plan. The first is Pension Credit, which is used in determining the amount of benefits to which a Participant is entitled. The second is Vesting Service, which is used solely for the purpose of determining whether Pension Credit is lost.

Section 1. Pension Credit.

(a) **Before the Contribution Date**

- (1) For an Employee to be entitled to Pension Credit before the Contribution Date, he must have been an active member of the collective bargaining unit on the date the Union which acts as his collective bargaining agent became a Participant in the Pension Plan, and further, he must have been actively employed in Covered Employment for a sufficient length of time to accumulate at least one year of Pension Credit as a result of work in Covered Employment.
- (2) Obviously, it would be difficult for anyone to prove at the present time exactly where he worked as a carpenter for the many years prior to the time the Union which acts as his collective bargaining agent became a Participant in the Pension Plan. A conclusive presumption, therefore, is established that a person who qualified under the conditions set forth in this Section was engaged in Covered Employment throughout the period of his continuous membership in the Union. An Employee shall be granted one year of Pension Credit for each full calendar year prior to the Contribution Date during which he was continuously a member of one of the Unions participating in the Pension Plan. For each calendar year in which the Employee was not a member for the full year, he shall receive one quarter year of Pension Credit for each full three calendar months.
- (3) For any period not covered in the preceding paragraph, an Employee shall be entitled to Pension Credit for the period prior to the Contribution Date on the basis of work in Covered Employment. An Employee shall be entitled to one year of Pension Credit for each calendar year in which he worked at least 1,000 hours in employment subject to the terms and conditions of a collective bargaining agreement of a Union participating in the Pension Plan. The Trustees shall determine the amount of Pension Credit on the basis of the best available evidence which may be obtained from the Employer records, Social Security records, Welfare Fund records or other evidence found acceptable by the Board of Trustees. It shall be the responsibility of the Employee to submit such evidence to the Board of Trustees.
- (4) Anything herein to the contrary notwithstanding, Pension Credit before the Contribution Date shall be limited to a maximum of 20 years.
- (5) For the purpose of determining Pension Credit before the Contribution Date, the period of November 1, 1970 through December 31, 1971 shall be

considered as though it were a calendar year.

(b) After the Contribution Date but before January 1, 1999

For periods after the Contribution Date but before January 1, 1999, a Participant shall be credited with Pension Credit on the basis of his hours of work in Covered Employment for which contributions to the Pension Fund were obligated to be made in accordance with the following schedule:

<u>Hours Worked in Covered Employment During Pension Credit Year</u>	<u>Years of Pension Credit</u>
1,000 or more	1
900 to 999	9/10
800 to 899	8/10
700 to 799	7/10
600 to 699	6/10
500 to 599	5/10
400 to 499	4/10
300 to 399	3/10
200 to 299	2/10
100 to 199	1/10
Less than 100	0

- (c) For Plan Years beginning on and after January 1, 1999, and ending on or before December 31, 2005, if a Participant works more than 1,400 hours in a Plan Year, he will receive one-tenth (1/10th) of a year of additional Pension Credit for each additional 100 Hours of Service (over 1,400) worked in Covered Employment during the Plan Year.
- (d) For the Plan Year beginning on January 1, 2006, and ending on December 31, 2006, if a Participant works more than 1,400 hours in a Plan Year, he will receive one-tenth (1/10th) of a year of additional Pension Credit for each additional 100 Hours of Service (over 1,400) worked in Covered Employment during that Plan Year, but no more than 3.0 total Pension Credits under this paragraph (d) and paragraph (b) of this section. However, in no event will the Participant receive less Pension Credit for the 2006 Plan Year than what he had earned under paragraphs (b) and (c) of this section based on his Hours of Service worked in Covered Employment for the period January 1, 2006 through June 30, 2006.
- (e) For Plan Years beginning on and after January 1, 2007, and ending on or before December 31, 2008, if a Participant works more than 1,400 hours in a Plan Year, he will receive one-tenth (1/10th) of a year of additional Pension Credit for each additional 100 Hours of Service (over 1,400) worked in Covered Employment during that Plan Year, but no more than 1.6 total Pension Credits under this paragraph (e) and paragraph (b) of this section.
- (f) For the Plan Year beginning on January 1, 2009 and ending on December 31, 2009, if a Participant works more than 1,400 hours in a Plan Year, he will receive no additional Pension Credit. However, in no event will the Participant receive less Pension Credit for the 2009 Plan Year than what he had earned under paragraphs (b) and (e) of this section based on his Hours of Service worked in Covered Employment for the period January 1, 2009 through May 31, 2009.

- (g) For Plan Years beginning on and after January 1, 2010, if a Participant works more than 1,400 hours in a Plan Year, he will receive no additional Pension Credit.
- (h) The additional Pension Credit under paragraphs (c), (d), (e) and (f) above are granted for the purpose of increasing the amount of a Participant's monthly pension benefit; such additional Pension Credit will not be taken into account in determining a Participant's eligibility for a pension (that is, the age and service requirements for a pension).

Section 2. Credit for Non-Working Periods.

A Participant who has prior Pension Credits shall receive credit for vesting purposes only for periods of absence from Covered Employment during periods of disability arising in Covered Employment for which Worker's Compensation benefits or disability benefits from the Social Security Administration were received by the Employee. A maximum of two years of Vesting Service shall be granted to any Employee for non-working periods due to disability for the full period of active participation in the Plan.

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

Section 3. Military Service.

- (a) **Military Service on or after December 12, 1994.**
 - (1) Except as provided in Article XVII, and notwithstanding any provision to the contrary, contributions, Vesting Service, benefits and Pension Credit with respect to military service will be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, (USERRA) and Section 414(u) of the Internal Revenue Code for Participants who return to Covered Employment from military service on or after December 12, 1994. Military service will be counted for purposes of earning Pension Credit, years of Vesting Service, and avoiding a Break in Service provided the following conditions are satisfied.
 - (A) A Participant must have reemployment rights under USERRA in order for the period of military service to be recognized.
 - (B) A Participant must not have incurred a one year Break in Service at the time he entered military service.
 - (C) An Employee must have become a Participant in the Plan before entering military service.
 - (D) The contributions required to pay for the hours credited for periods of military service will be allocated from general assets of the Fund, and no individual Employer will be liable to make contributions for such hours.
 - (2) **Pension Credit for Military Service.** A Participant shall be credited with 84 hours of Pension Credit for each calendar month of qualified military service, as described in subsection (1) herein, up to a maximum of 1,000 hours in a

Plan Year.

- (3) Vesting Service Credit for Military Service. A Participant shall be credited with 84 hours of Vesting Service for each calendar month of qualified military service, as described in subsection (1) herein.
- (b) After December 31, 1975 and Before December 12, 1994
- (1) Service in the Armed Forces of the United States shall be credited to the extent required by law. To protect his full rights, an Employee who left covered employment to enter such military service should apply for reemployment with his Employer within the time prescribed by law. Furthermore, he must call his claim for credit for military service to the attention of the Trustees and be prepared to supply the evidence that the Trustees will need in order to determine his rights.
 - (2) Whether or not he is so entitled under the law, if an Employee leaves Covered Employment to enter active service in the Armed Forces of the United States, the period of such military service, for up to five years, shall not be counted toward a Break in Service. Moreover, if he returns to Covered Employment (or makes himself available for Covered Employment) within 90 days after his separation from military service, the period of such military service shall, for up to five years, be credited toward Years of Vesting Service.
- (c) Before January 1, 1976
- A Participant who has prior Pension Credits shall receive a maximum of up to two years of Pension Credit for periods of absence for any one continuous period of military service in the Armed Forces of the United States in time of war, national emergency or pursuant to the draft. Periods of voluntary reenlistment not effected during national emergency or time of war are excluded.

Section 4. Break in Service.

- (a) Purpose. This Plan intends to provide benefits to Employees in Covered Employment more or less continuously over a period of years and up to the time they retire on a pension. Consequently, if an Employee leaves Covered Employment for a period of time, the Plan provides for a cancellation of such Employee's previous Vesting Service. This section defines what is meant by a Break in Service and provides that if a Break in Service occurs, previous Vesting Service may be cancelled for that Employee.
- (b) Break in Service before January 1, 1976.
It shall be considered a Break in Service and a Participant's previously accumulated Pension Credits shall be cancelled if he fails to earn any Pension Credit during any three consecutive Pension Credit years, provided the time of employment with a Contributing Employer in non-covered employment if creditable under Section 5(b) of this Article shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
- (c) Break in Service on or after January 1, 1976.
 - (1) One Year Break in Service

- (A) A Participant shall incur a one year Break in Service in any Pension Credit Year beginning January 1, 1976 and after in which he fails to complete 100 or more Hours of Service.
 - (B) Time of employment with a Contributing Employer in non-covered employment, is creditable under Section 5(b) of this Article, shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
- (2) Cancellation of One-Year Break in Service. The effects of a one year Break in Service shall be eliminated if, before incurring a permanent Break in Service, a Participant subsequently earns a year of Vesting Service in accordance with Section 5 of this Article, and provided the Participant has not incurred a permanent Break in Service, his previously earned years of Vesting Service and Pension Credit shall be restored. However, nothing in this paragraph shall change the effects of a permanent Break in Service after January 1, 1976 as stipulated in subsection (c)(3) of this Section or a permanent Break in Service before January 1, 1976 as set forth in subsection (b) of this Section.
- (3) Permanent Break in Service. A Participant who has not become vested as provided in Section 6 of this Article shall incur a permanent Break in Service if he incurs consecutive one year Breaks in Service, at least one of which is incurred after January 1, 1976, which equal or exceed the number of years of Vesting Service which he has accumulated. In such event, said Participant's previous Pension Credit shall be cancelled and his participation in the Plan shall be cancelled, with new participation being subject to the provisions of Section 7 of Article III. In any event, however, a Participant shall not incur a permanent Break in Service after December 31, 1986 until his consecutive one year Breaks in Service equal at least five.
- (4) A Participant who separates from service and who meets the eligibility requirements of a Vested Deferred Pension as set forth in Article IV shall again be accruing benefits as of his date of reemployment.
- (d) Break in Service on or after January 1, 1991
- (1) One Year Break in Service
 - (A) An Employee shall incur a one year Break in Service in any Pension Credit Year beginning January 1, 1976 and after in which he fails to complete 100 or more Hours of Service.
 - (B) Time of employment with a Contributing Employer in non-covered employment, if creditable under Section 5(b) of this Article shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
 - (2) Permanent Break in Service. A Participant who has not become vested as provided in Section 6 of this Article shall incur a permanent Break in Service if he incurs consecutive one year Breaks in Service, at least one of which is incurred after January 1, 1976, which equal or exceed the number of years of Vesting Service which he has accumulated. In such event, said Employee's previous Pension Credit shall be cancelled and his participation in the Plan shall be cancelled, with new participation being subject to the provisions of

Section 7 of Article III. In any event, however, an Employee shall not incur a permanent Break in Service after December 31, 1986, until his consecutive one year Breaks in Service equal at least five.

- (3) An Employee who separates from service and meets the eligibility requirement of a Vested Deferred Pension as set forth in Article IV shall again begin accruing benefits as of his date of reemployment.
- (e) Grace Period. Solely for the purpose of determining whether a one year Break in Service has occurred, an Employee shall be granted a grace period as stated herein.
- (1) Exception due to Disability.
 - (A) An Employee shall be granted a grace period if his failure to earn Pension Credit was due to total disability not covered by Section 3 of this Article. This grace period shall consist of up to two consecutive calendar years for which the Employee failed to earn Pension Credit because of such disability, but in no event shall the grace period be less than the period for which the Employee is receiving a Disability Pension.
 - (B) Total Disability, for the purpose of this Section, shall be determined to the sole satisfaction of the Trustees. In order to secure the benefit of a grace period, an Employee must provide written notice to the Trustees, and no grace period shall be granted for any time prior to one year before the receipt of such written notice unless the Trustees find there were extenuating circumstances which prevented a timely filing.
 - (2) Exception on Account of Work in Other Than Covered Employment

Any period when an Employee who is primarily engaged in Covered Employment as a carpenter fails to earn a Pension Credit because he worked for a period of time employed as a carpenter in other than Covered Employment, except employment as credited in Section 5(b) , shall be deemed a grace period and shall, therefore, not be counted as part of the period comprising a Break in Service, provided that:

 - (A) His work as a carpenter in other than Covered Employment was performed under the terms of contracts with the International Union or any of its Locals or District Councils, or was performed in the jurisdiction of a participating Local Union for municipal, county, state or governmental agencies, and
 - (B) If such employment at other employment extends over one year, the Employee must return to work within one year of the termination of such other employment.
 - (3) An Employee shall not be deemed to have had a Break in Service if such Employee's absence from service is by reason of (i) pregnancy, (ii) birth of a child of the Employee, (iii) placement of a child with the Employee in connection with his or her adoption of the child, or (iv) care for such child for a period beginning immediately after such birth or placement shall be credited for Hours of Service to the extent that Hours of Service would have been credited but for such absence (or, where that cannot be determined, eight Hours of Service per day of absence) to a maximum of 501 hours for

each such pregnancy, childbirth, or placement. The hours so credit 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 subparagraph shall apply to absences that begin after December 31, 1986.

- (4) If, on or after February 5, 1994, an Employee is absent from work due to a qualified family or medical approved by his Employer, his absence shall not count toward a Break in Service. Moreover, such Employee shall receive Vesting Service for the period of time he is on such qualified family or medical leave. The Trustees may require, as a condition for granting such credit, that the Employee establish in a timely fashion and to the satisfaction of the Trustees that the Employee is entitled to such credit.
 - (5) Periods of absence for military service as provided for in Section 3 of this Article shall not count toward a Break in Service.
 - (6) Periods of work in Continuous Employment as defined in Section 11 of Article II shall not count toward a Break in Service.
 - (7) An Employee's absence from Covered Employment on account of his employment as a full-time elected or appointed official or employee of the Union shall not count toward a Break in Service.
 - (8) An Employee's absence from Covered Employment on account of his employment with an apprenticeship trust established by agreement with any Union participating under this Plan shall not count toward a Break in Service.
- (f) Breaks in Service for Vested and Non-Vested Participants. For purposes of determining the benefit level payable in accordance with Article IV, both vested and non-vested Participants will be subject to the Break in Service rules as stated herein.

Section 5. Years of Vesting Service.

(a) General Rule.

A Participant shall be credited with one Year of Vesting for each Plan Year during the Contribution Period in which he completed 1,000 Hours of Service in Covered Employment; however, if a Participant is credited with less than 1,000 Hours of Service during a Plan Year, he shall receive credit for a partial Year of Vesting Service in accordance with the following schedule:

<u>Hours Worked in Covered Employment</u>	<u>Years of Vesting Service</u>
1,000 or more	1
900 to 999	9/10
800 to 899	8/10
700 to 799	7/10
600 to 699	6/10

500 to 599	6/10
400 to 499	5/10
300 to 399	4/10
200 to 299	3/10
100 to 199	2/10
Less than 100	1/10
	0

- (b) Continuous Employment. If a Participant works for a Contributing Employer in a job not covered by this Plan and such employment is continuous with that Employer in Covered Employment, his Hours of Service in such non-covered job after November 1, 1970 shall be counted toward a Year of Service, provided he was a Participant in the Plan after January 1, 1976.

Section 6. Vesting.

An Employee who:

- (a) discontinues work in Covered Employment on or after January 1, 1999 after accumulating five or more years of Vesting Service, at least one of which was accumulated after the Contribution Date (this shall apply to an Employee who works at least one Hour of Service on or after January 1, 1999; if an Employee has incurred a Break in Service as of December 31, 1998, he shall be subject to the vesting rule in effect at the time he left work in Covered Employment, unless he returns to work for at least one Hour of Service prior to incurring a permanent Break in Service),
- (b) discontinues work in Covered Employment on or after January 1, 1988 after accumulating five or more years of Vesting Service, at least one of which was accumulated after the Contribution Date, and whose employment is not subject to the terms of a Collective Bargaining Agreement (this shall apply to an Employee who works at least one Hour of Service on or after January 1, 1988; if an Employee has incurred a Break in Service as of December 31, 1987, he shall be subject to the vesting rule in effect at the time he left work in Covered Employment, unless he returns to work for at least one Hour of Service prior to incurring a permanent Break in Service),
- (c) discontinues work in Covered Employment on or after January 1, 1982 after accumulating nine or more years of Vesting Service, at least five of which were accumulated after the Contribution Date, or
- (d) discontinues work in Covered Employment on or after January 1, 1976 after accumulating ten or more years of Vesting Service, at least five of which were accumulated after the Contribution Date, or
- (e) discontinues work in Covered Employment on or before December 31, 1975, after attaining age 45 and accumulating 15 or more years of Pension Credit, including five or more years of Pension Credit after the Contribution Date,

shall be 100% vested and the Break in Service rule as set forth in Section 4 of this Article shall not operate to deprive him of his accumulated Pension Credit or Years of Vesting Service. Notwithstanding the above, a Participant shall be 100% vested and have earned a

nonforfeitable right to a pension upon his attainment of Normal Retirement Age.

Section 7. Conflicts in Crediting of Service Before the Contribution Date.

- (a) It is recognized that the application of the rules of the Pension Fund with regard to computation of Pension Credits before the Contribution Date in certain instances may create conflict since more than one method of calculating such Pension Credits may appear to apply to an Employee. Therefore, this Section shall resolve such conflicts.
- (b) "Participating Group" shall mean: (1) a local union or district council, the majority of whose members are accepted for participation in the Pension Fund, or (2) those TVA employees in categories of employment for which contributions are generally made to the Pension Fund.
- (c) The "Cut-Off Date" of a Participating Group shall mean the first date for which contributions are made to the Pension Fund for members of such Participating Group, except that the Cut-Off Date of TVA shall be January 1, 1972.
- (d) An Employee shall be deemed an "Original Member" of a Participating Group if: (1) he is a member of such Participating Group on its Cut-Off Date, or (2) in the case of an employee of TVA, if contributions have been made to the Pension Fund on his behalf by TVA prior to January 1, 1972. If an Employee would qualify as an Original Member of more than one Participating Group, he shall be deemed to be an Original Member of that Participating Group with the earliest Cut-Off Date.
- (e) If an Employee is not an Original Member of a Participating Group, but contributions are made to the Pension Fund on his behalf, he shall be deemed to be a "Successor Member" of that Participating Group under whose Collective Bargaining Agreement contributions are made for the first date to the Pension Fund on behalf of such Employee.
- (f) "Non-Participating Watershed Local" shall mean a local union of the International Brotherhood of Carpenters and Joiners, AFL-CIO which is acknowledged by the Board of Trustees to have its office within the watershed area which falls within the jurisdiction of TVA, but which at the time of reference is neither a Participating Group nor a member of a district council which is a Participating Group.
- (g) The amount of the Pension Credit to be granted shall be determined by reference to the number of years prior to the applicable Cut-Off Date of an Employee's membership and/or employment within the Participating Group, if any, of which such Employee is an Original Member, or a Successor Member, whichever applies, and the rate of benefits applied to such Pension Credit shall be that level of benefits generally provided by the Pension Fund for years of Pension Credit before the Contribution Date within such Participating Group; except that,
 - (1) If an Employee is (i) an Original Member of TVA or (ii) a Successor Member of TVA and on (iii) January 1, 1972 if an Original Member of (iv) the date he becomes a Successor Member, if a Successor Member, he is a member in good standing of a Non-Participating Watershed Local, he shall be entitled to Pension Credit, before the Contribution Date based on: (A) the number of years and completed months, if any, immediately prior to January 1, 1972,

during which he had continuously been a member in good standing of such Non-Participating Watershed Local, of (B) the length of his total service with TVA, if any, as certified by TVA, on January 1972, whichever is greater, and the rate of benefits applied to such Pension Credit shall be that rate of benefits generally being provided by the Pension Fund for years of Pension Credit with TVA before the Contribution Date; and

- (2) If, prior to the Cut-Off Date established for an Employee, such Employee shall have become entitled to any amount of Future Service Credits by virtue of contributions having been made to the Pension Fund on his behalf, whether such an Employee was a member of a Participating Group or was working as a permit man or otherwise without limitation, such amount of Pension Credit after the Contribution Date shall be deducted from the amount of Pension Credit before the Contribution Date otherwise determined under this subsection (g) and the resulting net amount shall be rounded to the nearest quarter year and shall thereafter be used as such Employee's Pension Credit before the Contribution Date for purposes of all determinations under the rules of the Pension Fund.
- (h) (1) The above rules are to be considered operational rules for determining the applicable credits and benefits of covered Employees in the situations specified. They shall not operate as a waiver of any of the usual rules of the Pension Fund with respect to Breaks in Service, continuity of contributions, requirements for receipt of benefits or any other subject.
- (2) The "level of Benefits generally provided by the Pension Fund" shall be interpreted to include any special benefit provisions which would be applicable to the specific covered Employee by reason of age or any other factor provided for in the rules of the Pension Fund and applicable to the group with reference to which credits or benefits are being determined.

ARTICLE VI
JOINT AND SURVIVOR PENSIONS

Section 1. General.

This Article applies to Participants who have at least one Hour of Service (including paid leave) for an Employer after August 22, 1984, except as provided in Section 4 of this Article or in Article XVII. The following general provisions are subject to all of the conditions and limitations in this Article.

- (a) If a married Participant makes a benefit election after December 31, 1986, the benefit shall be paid as a 50% Joint and Survivor Pension unless:
 - (1) the Participant and Spouse elect otherwise in accordance with Section 2;, or
 - (2) the Spouse is not a Qualified Spouse as defined below.
- (b) If a married Participant with a vested right to a pension under the Plan dies after August 22, 1984 but before his Annuity Starting Date, a Pre-Retirement Surviving Spouse Pension shall be payable as described in this Article.
- (c) For purposes of this Plan, a Spouse is a person to whom an Employee 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 Code), a Participant's former Spouse.
- (d) To be eligible to receive the survivor's pension in accordance with a 50% Joint and Survivor Pension or a Pre-retirement Surviving Spouse Pension, the Spouse must be a "Qualified Spouse". A Spouse is a Qualified Spouse if the Participant and Spouse were married on the date of the Participant's death and had been married throughout the year ending with the Participant's Annuity Starting Date or, if earlier, his date of death. A Spouse is also a Qualified Spouse if the Participant and Spouse became married within the year immediately preceding the Participant's Annuity Starting Date and they were married for at least one year before his death.
- (e) Notwithstanding any provision to the contrary in subsections (c) or (d) above, for purposes of this Article a person to whom a Participant was married on his Annuity Starting Date and for at least one year immediately before that, but who is divorced from the Participant after that date, shall be considered his Qualified Spouse on the date of his death (if she is living at that time) unless a Qualified Domestic Relations Order provides otherwise.
- (f) Special provisions for certain Participants with no Hours of Service after August 22, 1984 are set forth in Section 4 of this Article.
- (g) Upon the death of both the Participant and Spouse, no further payments shall be made by the Plan, unless otherwise specifically provided for pursuant to Section 21 of Article IV.

Section 2. Joint and Survivor Pension at Retirement.

- (a) The pension of a Participant who is married to a Qualified Spouse on his Annuity

Starting Date shall be paid in the form of a 50% Joint and Survivor Pension, unless a valid waiver of that form of payment has been filed with the Plan.

- (b) A 50% Joint and Survivor Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the latter will receive a monthly benefit for her lifetime of 50% of the Participant's adjusted monthly amount. The Participant's monthly amount shall be a percentage of the full monthly amount otherwise payable as a Single Life Pension (after adjustment, if any, for early retirement) as follows:
 - (1) If the Participant's pension is a Non-Disability Pension – the percentage shall be 89% plus 0.4% for each full year that the Spouse is older than the Participant or 89% minus 0.4% for each full year that the Spouse is younger than the Participant;
 - (2) If the Participant's pension is a Disability Pension – the percentage shall be 79.0% plus 0.4% for each full year that the Spouse is older than the Participant or 79.0% minus 0.4% for each full year that the Spouse is younger than the Participant;
 - (3) In no event shall the percentage be greater than 99%.
- (c) A Joint and Survivor Pension, once payments have begun, may not be revoked nor the Pensioner's benefits increased by reason of subsequent divorce or death of the Spouse before that of the Participant, except where specifically provided below:
 - (1) If the Participant's Spouse dies within the first 24 months following his Annuity Starting Date, the Joint and Survivor Pension shall become null and void. The Participant shall receive a Single Life Pension beginning with the month following the Spouse's death. For the purpose of determining the 36-month guaranteed period, the Participant's Annuity Starting Date shall be deemed the commencement of the guaranteed period. The Participant shall be required to notify the Trustees of such Spouse's death within six months of the date of death in order to receive a recalculated benefit pursuant to this subsection.
 - (2) Effective for retirements on and after May 19, 1993, a Participant who retires and begins to receive his pension may subsequently withdraw the Joint and Survivor Pension in favor of another form of payment under Plan if (A) the change is within 24 months of his Annuity Starting Date, and (B) his eligible Spouse provides written notarized consent to such change and consents to the form of payment elected.
- (d) Not less than 30 days nor more than 90 days prior to a Participant's Annuity Starting Date, he shall be advised by the Trustees of the effect of payment on the basis of the 50% Joint and Survivor Pension, including a comparison of the full Single Life Pension amount and of the adjusted amount and an explanation of his right to reject the Joint and Survivor Pension and the rights of his Spouse, and the Participant's right to revoke any election not to receive benefits in such form within the 90-day election period ending on his Annuity Starting Date. Effective September 1, 2001, the 30-day period may be reduced to a seven-day period, provided the Participant and Spouse (if any) consent in writing to an earlier Annuity Starting Date.

- (e) The 50% Joint and Survivor 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 Spouse acknowledges the effect of the waiver and consents to it in writing, witnessed by a notary public.
 - (2) The Participant establishes to the satisfaction of the Trustees that:
 - (A) he or she is not married;
 - (B) the Participant and Spouse are legally separated;
 - (C) the Spouse whose consent would be required cannot be located;
 - (D) consent of the Spouse cannot be obtained because of extenuating circumstances, as provided in Internal Revenue Service regulations.
 - (3) To be timely, the request for a waiver and any required consent must be filed with the Trustees before the Participant's Annuity Starting Date, except that it may be filed later if within 90 days of the date the Participant was notified by the Trustees of the effect of the Joint and Survivor Pension. The Participant may file a new waiver or revoke a previous waiver at any time during that 90 day period.
 - (4) A Spouse's consent to a waiver of the Joint and Survivor Pension shall be effective only with respect to that Spouse, and shall be irrevocable unless the Participant revokes the waiver to which it relates. If a Beneficiary other than the Spouse is named, then such other Beneficiary must be named or described in the Spouse's consent document. The Spouse's consent shall only be valid for the so named Beneficiary.
- (f) If the 50% Joint and Survivor Pension would be payable except for the fact that the Spouse is not a Qualified Spouse on the Participant's Annuity Starting Date because the Participant and Spouse have not been married for at least one year at that time, pension payments to the Participant shall be made in the amount adjusted for the 50% Joint and Survivor Pension; if the Participant and Spouse have not been married to each other for at least one year before the death of the Participant, the difference between the amount that had been paid and the amounts that would have been paid if the Participant had elected the Single Life Pension Form shall be paid to the Spouse, if then alive, and otherwise to the Participant's beneficiary.
- (g) A Participant who is eligible to receive the 50% Joint and Survivor Pension may elect, in lieu of such benefit, either a 75% Joint and Survivor Pension or a 100% Joint and Survivor Pension. Such Participant shall receive a reduced monthly benefit for the remainder of this lifetime and upon his death, his Spouse shall receive monthly benefits for the remainder of her lifetime in an amount equal to 75% or 100% (whichever the Participant has elected at retirement) of the amount the Participant was receiving at the time of his death. The Participant's monthly benefits shall be a percentage of the monthly benefit otherwise payable as a Single Life Pension (after adjustment for Early Retirement) as follows:
- (1) 75% Joint and Survivor Pension
 - (A) Non-disability Retirement
84.5% plus .5% for each full year that the Spouse's age is greater than

the Participant's age or 84.5% minus .5% for each full year that the Spouse's age is less than the Participant's age; with a maximum factor of 99%.

(B) Disability Retirement

72.0% plus .5% for each full year that the Spouse's age is greater than the Participant's age or 72.0% minus .5% for each full year that the Spouse's age is less than the Participant's age; with a maximum factor of 99%.

(2) 100% Joint and Survivor Pension

(A) Non-disability Retirement

80% plus .6% for each full year that the Spouse's age is greater than the Participant's age or 80% minus .6% for each full year that the Spouse's age is less than the Participant's age; with a maximum factor of 99%.

(B) Disability Retirement

65.0% plus .6% for each full year that the Spouse's age is greater than the Participant's age or 65.0% minus .6% for each full year that the Spouse's age is less than the Participant's age; with a maximum factor of 99%.

Section 3. Pre-Retirement Surviving Spouse Pension.

- (a) If a Participant who has a Qualified Spouse dies before his Annuity Starting Date but at a time when he had earned a vested right to a pension, a Pre-retirement Surviving Spouse Pension shall be paid to his surviving Spouse.
- (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 year immediately before his death, or if the couple were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or Surviving Spouse under a Qualified Domestic Relations Order.
- (c) If the Participant described in (a) above dies on or after age 60, the surviving Qualified Spouse shall be entitled to a lifetime Surviving Spouse Pension determined in accordance with the provisions of Section 2 of this Article as if the Participant had retired the day before he died.
- (d) If the Participant described in (a) above dies before age 60, the surviving Qualified Spouse shall be entitled to a Pre-retirement Surviving Spouse Pension determined as if the Participant had separated from service under the Plan on the earlier of the date he last worked in Covered Employment or the date of his death, had survived to age 60, retired at that age with an immediate 50% Joint and Survivor Pension, and died the next day. The Pre-retirement Surviving Spouse Pension begins when the Participant would have attained at the earliest retirement age for which he would have qualified and the amount is 50% of what the Participant's pension amount would have been, after adjustment, if any, for the early retirement and for

- the 50% Joint and Survivor Pension. The amount shall be determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified. If a deceased Participant's widow dies before the Annuity Starting Date of his or her Pre-retirement Surviving Spouse Pension, no benefits shall be payable under this pension to any party.
- (e) The Spouse may elect in writing, filed with the Trustees, and on whatever form they may prescribe, to defer commencement of the Pre-retirement Surviving Spouse Pension until a specified date that is not later than December 1 of the calendar year in which the Participant would have reached age 70 ½. The amount payable at that time shall be determined as described in subsections (c) and (d) of this Section, except that the benefit shall be paid in accordance with the terms of the Plan in effect when the Participant last worked in Covered Employment (unless otherwise specified) as if the Participant had retired with a 50% Joint and Survivor Pension on the day before the Surviving Spouse's payments are scheduled to start, and died the next day. Notwithstanding any provisions of the Plan, if the Annuity Starting Date for the Pre-retirement 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 Joint and Survivor Pension the day before, taking into account any actuarial adjustments to such Participant's Accrued Benefit that would have applied as of that date.
 - (f) A surviving Spouse who is the Participant's Beneficiary under Section 20 of Article IV may elect to receive the Death Benefit as provided in that Section. In that case, the Actuarial Present Value of the Pre-retirement Surviving Spouse Pension, shall be reduced (but not below zero) by the amount of the Death Benefit, and any remaining value of the Pre-retirement Surviving Spouse Pension shall be paid to her in monthly installments, in accordance with this Section.
 - (g) A Participant who becomes eligible for an Early Retirement Pension in accordance with Section 5 of Article IV of this Plan but who continues to work in Covered Employment, may elect a Pre-retirement Surviving Spouse Pension equal to the 100% Joint and Survivor Pension, after adjustment, if any, for the early retirement and for the 100% Joint and Survivor Pension. The amount shall be determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified. The Participant's election must be made in writing on a form provided by the Trustees.

Section 4. Inactive Vested Participants.

- (a) A Participant who (1) had at least one Hour of Service under the Plan after September 1, 1974, (2) is vested, (3) had not retired under the Plan before August 23, 1984, (4) is not otherwise entitled to, or eligible to elect, protection for a surviving Spouse through a "qualified joint and survivor annuity" within the meaning of Section 205 of ERISA, either before or after enactment of the Retirement Equity Act, shall be entitled to receive his benefit as a Joint and Survivor

Pension in accordance with the provisions of this Plan in effect before the effective date of this Article, by written request filed with the Trustees before his Annuity Starting Date.

- (b) If a Participant who (1) had at least one Hour of Service for an Employer in the first Plan Year after 1975, (2) has a vested right to a pension and credit for at least 10 years of Vesting Service, (3) was not receiving pension payments under the Plan as of August 23, 1984, (4) is not otherwise entitled to, or eligible to elect, protection for a surviving Spouse through a "qualified joint and survivor annuity" under this Article as amended on account of the Retirement Equity Act of 1984, and (5) dies before his pension payments start, a Pre-retirement Surviving Spouse Pension shall be paid to his surviving Spouse, in accordance with Section 3 of this Article.

Section 5. Relation to Qualified Domestic Relations Order.

Any rights of a former Spouse or other alternate payee under a Qualified Domestic Relations Order, with respect to a Participant's pension, shall take precedence over those of any later Spouse of the Participant under this Article, as provided in such Qualified Domestic Relations Order. The Trustees may adopt procedures relating to Qualified Domestic Relations Orders.

Section 6. 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 Participant's Annuity Starting Date or, if earlier, the date of the Participant's death.

ARTICLE VII
SINGLE LIFE PENSION

If a Participant is not married, or if the Participant and Spouse have jointly rejected, in writing, the Joint and Survivor Pension, monthly benefits shall be paid to the Participant for his lifetime; such payments shall cease upon the death of the Participant. However, in the event the Participant dies before receiving 36 monthly payments, his Beneficiary shall receive monthly benefits equal to the amount the Participant was receiving, until a total of 36 monthly payments have been made to the Participant and Beneficiary. Upon the death of the Beneficiary before the end of the period certain, payments shall continue to a designated secondary Beneficiary. If there is no named secondary Beneficiary, payments for the remainder of the period certain shall be commuted to the Actuarial Present Value and shall be payable in a lump sum to the Beneficiary's estate.

ARTICLE VIII
PARTIAL PENSION

Section 1. Purpose.

Partial Pensions are provided under this Plan for Participant's who otherwise lack sufficient credit to be eligible for any pension because their years of employment were divided between different participating pension plans, or, if eligible, whose pensions would be less than the full amount because of such division of employment.

Section 2. Related Plans.

By resolution duly adopted, the Trustees of this Pension Fund may recognize one or more other pension plans, which have executed a Pro-Rata Agreement to which this Plan is party, as a Related Plan.

Section 3. Related Pension Credit.

The term "Pension Credits" shall mean those periods of service during which credit is granted for benefit accrual purposes. Pension Credit shall not necessarily cover periods for which a Plan grants credit for vesting purposes under ERISA. Pension Credits accumulated and maintained by a Participant under a Related Plan shall be recognized by this Plan as Related Pension Credits. Pension Credits under each Plan shall be based on the rules in effect in that Plan at the time the employment occurred.

Section 4. Combined Pension Credit.

The Pension Credit granted under this Plan and each of the Related Plans together comprise the Participant's Combined Pension Credit. In no case shall more than one year of Pension Credit 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 Pension Credit which together add up to more than one year of credit for that calendar year, then the Pension Credit recognized shall be limited to one year. Pension Credit shall first be counted under the Plan which provides the highest benefit accrual rate. The other Plan(s) shall count as Pension Credit the necessary fractional year(s), in a declining benefit accrual rate order, which shall bring the total to exactly one year of Pension Credit for the Participant.

Section 5. Eligibility for Benefits.

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

- (a) he would be eligible for any type of pension under this Plan if his combined Pension Credit were treated as credit under this Plan;
- (b) he has, under more than one signatory plan, at least one year of Pension Credit since January 1, 1955 under each of the plans;
- (c) in the case of a Participant based on disability, he is able to meet the definition of disability in each of the signatory Plans, or in the case of a Participant applying for a pension based on age, he meets the minimum age requirement in each of the signatory plans which will be paying Partial Pensions; and
- (d) at least two Plans will actually be paying a Partial Pension under the terms of the Pro-Rata Agreement.

Section 6. Breaks in Service.

In applying the rules of this Plan with respect to cancellation of Pension Credit, any Pension Credit earned during a period in which the Participant worked in the jurisdiction of the signatory Plan shall be considered when determining whether a permanent break in service has occurred. However, once a Participant has left the coverage of this Plan and all related Plans, the determination of a permanent break in service under this Plan shall be based solely on the Vesting Service earned under this Plan, not upon the Total Pension Credit.

Section 7. Election of Pension.

If a Participant is eligible for more than one type of pension or optional form of benefit under the signatory Plans, he shall be entitled to elect the type and form of pension he is to receive.

Section 8. Partial Pension Amount.

The amount of the Partial 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 Credit under that Plan.

Section 9. Payment of Partial Pensions.

The payment of a Partial Pension shall be subject to all of the conditions contained in this Plan applicable to other types of pensions, including, but not limited to, retirement as herein defined and timely application. Partial Pension payments subject to this Article shall be limited to monthly pension payments to a Pensioner and to his surviving Spouse upon his death.

If a Partial Pension is suspended by one Plan, it may be suspended by other Plan(s). Any Plan suspending a Pensioner's benefit shall notify all other affected Plans.

Section 10. Benefit Increases.

Benefits from this Plan shall be computed at the benefit level in effect at the time the Participant last earned Pension Credit under this Plan.

Section 11. Effective Date.

This Article and the payment of the Partial Pension hereunder shall be effective as of January 1, 1980.

Section 12. Application Procedure.

The Plan under which the Participant first makes the application for benefits shall initiate the processing of a Partial Pension with each signatory Plan based upon the information given by the Participant.

Section 13. Transfer of Contributions.

Notwithstanding the provisions of this Article, by resolution duly adopted, the Trustees of this Pension Fund recognize one or more other pension plans which have adopted both the Pro-Rata and Transfer of Contribution Agreements, in which case, the provisions of Article IX shall supersede the provisions under this Article and further provided, if the Participant works under the jurisdiction of and has contributions made to one or more pension plans who are signatory to a Pro-Rata Agreement only, such contributions for that Participant shall be transferred to the Home Pension Fund (as described under the provisions of Article IX) if:

- (a) the Participant does not earn some Pension Credit under a pension plan which is signatory only under a Pro-Rata Agreement, and
- (b) the Participant does not earn at least one year of Pension Credit at the end of a three consecutive calendar year period under a pension plan which is signatory only under a Pro-Rata Agreement.

ARTICLE IX
TRANSFER OF CONTRIBUTIONS

Section 1. Purpose.

A Pension is provided under this Plan for a Participant who would otherwise lack sufficient service credit to be eligible for any pension because his years of employment were divided between different pension plans, or, if eligible, whose pension would be less than the full amount because of such division of employment. The provisions of this Article shall apply only if both the Pro-Rata and Transfer of Contribution Agreements have been adopted by the signatory Plan in whose jurisdiction the Participant works.

Section 2. Cooperating Pension Fund.

By resolution duly adopted, the Board of Trustees may recognize or more other pension plans which have adopted both the Pro-Rata and Transfer of Contributions Agreements.

Section 3. Home Pension Fund.

Each Participant who has employer contributions made on his behalf to one or more of the Cooperating Pension Funds shall have a "Home Pension Fund". The following rules shall be used in determining a Participant's "Home Pension Fund".

- (a) If the Participant is a member of a local union, his Home Pension Fund shall be that Cooperating Pension Fund in which such local union participates by virtue of a Collective Bargaining Agreement requiring contributions thereto.
- (b) If the Participant is not a member of a local union, his Home Pension Fund shall be that Cooperating Pension Fund to which the bulk of contributions have been made on his behalf in the last three years.
- (c) A Cooperating Pension Fund other than one determined under subsection (a) or (b) shall be a Participant's Home Pension Fund if the Participant can establish such Home Fund status to the satisfaction of the Trustees of the two Cooperating Pension Funds.

Section 4. Employee Authorization.

If contributions are or will be made on a Participant's behalf to a Cooperating Fund signatory to both a Pro-Rata and Transfer of Contribution Agreement he may, provided his Home Fund is also signatory to both a Pro-Rata and Transfer of Contributions Agreement, file a request with the Cooperating Fund that such contributions be transferred to his Home Fund on his behalf. Such request shall be made in writing on a form approved by the respective Funds which is signed and dated by the Participant. Said request form shall release the Boards of Trustees of the respective Funds from any liability or claim by a Participant, or anyone claiming through him, that the transfer of contributions may not work to his best interest. Said

completed request form shall be filed by the Participant with the Cooperating Fund within 60 days following the beginning of his employment within the Cooperating Fund's jurisdiction; provided, however that the Board of Trustees of the Cooperating Fund may, at its discretion, grant an extension of that 60 day period for special circumstances.

If the Participant does not file a timely request form with the Cooperating Fund, he will be treated as electing not to authorize a transfer of contributions and the Pro-Rata Pension provisions of the Cooperating Fund's Plan shall apply to the Participant. By filing a request for transfer of contributions, the Participant agrees that his eligibility for benefits and all other Participant rights are governed by the Home Fund's Pension Plan and not by the terms of the Cooperating Fund's Pension Plan.

Section 5. Transfer of Contributions.

Upon receipt of a timely properly completed request for a transfer of contributions to the Participant's Home Fund, the Cooperating Fund shall collect and transfer to the Participant's Home Fund the contributions required to be made to the Cooperating Fund within 90 calendar days following the end of the calendar month in which the contributions were received. Any undue delay in transferring contributions shall be considered a violation of the United Brotherhood's Reciprocal Pension Agreement and subject to its provisions for arbitration. The contributions so transferred shall be accompanied by such records or reports which are necessary or appropriate. The Cooperating Fund shall transfer the actual dollar amount of contributions received regardless of any difference in the contribution rates between the Funds.

For purposes of this Section, in the event the local union in which a Participant holds or has applied for membership or which first represented such Participant participates in both a Local or District Council Pension Plan and the Carpenters Labor-Management Pension Plan, both Plans shall be considered to be Home Pension Plans if they have adopted both the Pro-Rata and Transfer of Contribution Agreements and contributions shall be transferred to such Plans under a proportionate allocation determined according to the contribution rates then in effect under such Plans. However, in a situation in which only one of such Home Plans has signed both a Pro-Rata and Transfer of Contribution Agreement, the amount forwarded to the local Home Plan with a Transfer of Contribution Agreement in effect shall be the proportionate share allocated to such Fund taking into consideration the total of the contributions to that Fund and the Fund with only a Pro-Rata Agreement in effect. The balance of the contributions not forwarded shall be covered by the provisions of a Pro-Rata Agreement.

Section 6. Breaks in Service.

For the purpose of any break in service rule, any hours working in the jurisdiction of a Cooperating Pension Fund shall be counted as if they were worked in the jurisdiction of the Home Pension Fund.

Section 7. Payment of Pension.

The payment of the pension shall be subject to the provisions of the Home Pension Fund's Plan.

Section 8. Collection of Contribution.

The Home Fund shall have no responsibility to take any action to enforce the terms of any Collective Bargaining Agreement, or of any other agreement, requiring contributions to any Cooperating Fund other than the Home Fund. Each Cooperating Fund shall be solely responsible for enforcing the terms of Collective Bargaining Agreements and of other agreements requiring contributions thereto.

Section 9. Change in Home Pension Fund.

It is recognized that situations will arise that a Participant will change his Home Pension Fund because of a change in residence, availability of work, or for other reasons. In order to protect such a Participant to the fullest extent possible, while still providing safeguards against possible abuse, the following rules shall apply when a Participant wishes to change his Home Pension Fund:

- (a) A Participant must submit a request for a permanent change of Home Pension Fund to both his former Home Pension Fund and to the Pension Fund which he claims to be his new Home Pension Fund.
- (b) Such request must be on a form approved by the Trustees of the respective Pension Funds and signed by the Participant.
- (c) Such request must state the facts which the Participant claims support his request to change his Home Pension Fund.
- (d) No change in Home Pension Fund shall occur unless both Funds agree to the change.

If the Participant's request for a change in Home Fund is granted by both Funds, the change shall be effected on the first day of the month following the agreement by both Pension Funds. No assets shall be transferred from the old Home Fund to the new Home Fund. Rather, the Pro-Rata Agreement provisions of this Plan shall govern the Participant's rights under the prior Home Fund.

Section 10. Effective Date.

The provisions of this Article, and the payment of pensions hereunder, shall be effective as of January 1, 1987.

ARTICLE X
APPLICATIONS, BENEFITS PAYMENTS,
AND CLAIM PROCEDURE

Section 1. Benefit Payments Generally.

- (a) A Participant who is eligible to receive benefits under this Plan and makes applications in accordance with the rules of this 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. Benefits shall be payable as of a Participant's Annuity Starting Date, and shall end with the payment for the month in which his death occurs, except that the pension shall be guaranteed for 36 months unless the Spouse is eligible for benefits as provided in Article VI or a Beneficiary is eligible for benefits as provided in Article VII.

However, in no event, unless the Participant elects otherwise, shall the payment of benefits begin later than the 60th day after the later of the close of the Plan Year in which :

- (1) the Participant obtains Normal Retirement Age; or
- (2) the Participant terminates Covered Employment.

A Participant may elect, in writing filed with the Trustees, to receive benefits first payable for a later month, provided that no such election filed on or after January 1, 1987 may postpone the commencement of benefits to a date later than April 1 following the calendar year in which the Participant will reach age 70 ½, or if later retires. The phrase "or, if later, retires" shall not apply to a Participant who is a 5% owner of an Employer, as defined in Section 416 of the Code, during the period prior to reaching age 70 ½ specified in Section 401(a)(9)(C) of the Internal Revenue Code.

- (b) A Participant may elect, in writing and filed with the Trustees, to have benefits first payable in a later month, provided that no such election may postpone the commencement of benefits to a date later than the Participant's Required Beginning Date, as defined in Section 2 of this Article.
- (c) (1) If a Participant has begun to receive his Accrued Benefit under the Plan, and dies before his entire Accrued Benefit has been distributed to him, then the remaining portion of each Accrued Benefit shall be distributed at least as rapidly as under the method of distribution being utilized under the Plan as of the date of his death.
- (2) If a Participant dies before he has begun to receive a distribution of his Accrued Benefit, his entire Accrued Benefit shall be distributed within five years following the date of his death; provided, however, that this provision shall not be applicable if:
- (A) the Participant's Accrued Benefit is payable to or for the benefit of a designated beneficiary;

- (B) the Participant's Accrued Benefit will be distributed (pursuant to regulations prescribed by the Secretary of the Treasury) during the life of such designated beneficiary;
- (C) such distribution commences not later than one year after the date of the Participant's death (or such later date as prescribed in regulations promulgated by the Secretary of the Treasury); and
- (D) further provided, however, that if the designated beneficiary referred to in subsection (i) is the Employee's surviving Spouse, the distribution under subsection (iii) need commence no earlier than December 1 of the calendar year in which the Employee would have attained age 70 ½. If the Participant's surviving Spouse dies before the distribution of benefits to such Spouse has begun, the preceding provisions of this subparagraph (2) shall apply to such Spouse in the same manner as if such Spouse were the Participant.

Section 2. Mandatory Commencement of Benefits.

- (a) Except as provided in Article XIV, and notwithstanding any other provision of the Plan to the contrary, effective January 1, 1990, the Fund shall begin benefit payments to all Participants by their Required Beginning Dates, whether or not they apply for benefits.
- (b) A Participant's Required Beginning Date is April 1 of the calendar year following the year the Participant reaches 70 ½. For a Participant who reaches age 70 ½ before January 1, 1990, his Required Beginning Date shall be April 1, 1990, or if earlier, April 1 following the calendar year in which he retired, but no earlier than December 31, 1987.
- (c) If a Participant who is definitely located fails to file a completed application for benefits on a timely basis, the Fund shall establish the Participant's Required Beginning Date as the Annuity Starting Date and begin benefit payments as follows:
 - (1) in the form of a 50% Joint and Survivor Pension calculated on the assumption that the Participant is and has been married for at least one year by the date the payments commence and that the husband is three years older than the wife.
 - (2) the benefit payment form specified here shall be irrevocable once it begins, with the sole exception that it may be changed to a Single Life Pension 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 shall be adjusted based upon the actual age difference between the Participant and Spouse is proven to be different from the foregoing assumptions.
 - (3) Federal, state and local tax, and other applicable taxes, shall 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 Participants.
- (d) Benefits payable under the 36-month guarantee form of payment shall be guaranteed from the Participant's Required Beginning Date.

- (e) If a Participant is working in Covered Employment beyond his Required Beginning Date, subsequent benefit accruals shall be determined at the end of each Plan Year and shall be payable commencing February 1 following the Plan Year in which the additional Pension Credit is earned.

Section 3. Advance Written Application Required.

An application for a Pension shall be made in writing on a form and in a manner prescribed by the Board of Trustees and shall be filed with the Board of Trustees at least two full months in advance of the Participant's Annuity Starting Date. No pension benefits shall be payable for a period preceding the date that the Participant makes written application for such benefit to the Trustees in the form and manner prescribed by the Trustees, except in the case of a Disability Pension, as described in Section 11 of Article IV.

Section 4. Information Required.

Each and every Employee, Participant, Beneficiary or Pensioner shall furnish, at the request of the Trustees, any information of 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 not vested under this Plan may be denied, suspended, or discontinued. The Trustees shall have the right to recover any benefit payments made in reliance or on willfully false or fraudulent statement, information, or proof submitted by a Participant, Beneficiary or Pensioner.

Section 5. Action by Trustees.

The Trustees shall be the sole judges of:

- (a) The standard of proof required in any case;
- (b) The application and interpretation of this Pension Plan;
- (c) Entitlement to or amount of benefit;
- (d) Crediting of Past or Future Credits,

and decisions of the Trustees shall be final and binding on all parties. Wherever in the Plan the Trustees are given discretionary powers, the Trustees shall exercise such powers in a uniform and non-discriminatory manner.

Section 6. Death and Incapacity of Participant.

In the event of the death of the retired Participant or in the event the Trustees shall find that a Pensioner or Beneficiary is unable to care for his affairs because of illness or accident, any retirement benefits due may, unless claim shall have been made therefore by a duly appointed guardian or personal representative to be paid to the Spouse, a child, a parent, or other blood relative, or to any person deemed by the Trustees to have incurred expense for

such retired Participant or Beneficiary and such payment so made shall be a complete discharge of the liabilities of the Plan therefor. Anything herein to the contrary notwithstanding, benefits payable under Article VI shall be payable to the eligible Spouse only.

Section 7. Notification of Continued Existence.

Each Pensioner receiving monthly pension benefits hereunder shall submit from time to time on request of the Trustees, a sworn statement of his continued existence.

If such statement is not submitted within 60 days after a request is mailed to the last address of the Pensioner appearing on the records of the Trustees, all future pension benefits will be terminated until such time statement is submitted and approved by the Trustees. Each Pensioner receiving a Disability Pension shall submit, from time to time, on request of the Trustees, satisfactory evidence of his continued total and permanent disability.

Section 8. Non-Assignment of Benefits.

- (a) It is the intention of the Trustees to make it possible for Employees or Pensioners covered by this Pension Plan to unwisely imperil the provisions made for their retirement by their assigning, pledging or other disposing of their retirement payments hereunder. It is hereby expressly provided that no Employee or Pensioner hereunder shall have the right to assign, alienate, transfer, sell, hypothecate, mortgage, encumbrance, pledge or anticipate any retirement payments or portions thereof and any such assignment alienation, transfer, sell, hypothecation, mortgage, encumbrance, pledge or anticipation shall be void and not in any way be subject to any legal, execution attachment or garnishment or be used for the payment of any claim against, any Employee or Pensioner, or be subject to the jurisdiction of any bankruptcy court or insolvency proceedings by operation of law or otherwise.
- (b) Notwithstanding subsection (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 Orders, 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 benefit 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. The provisions of Section 2 of Article II shall apply to determine the Actuarial Present Value of a benefit in connection with a Qualified Domestic Relations Order, if necessary.

Section 9. Unclaimed Benefits.

Any benefit payable to, or on behalf of a Participant or former Participant, which is not claimed for a period of 12 months from the date of entitlement as determined by the Trustee

following a diligent effort to locate such terminated Participant, shall, with approval of the Trustees, be suspended until such time as such Participant or his beneficiary reapplies for such benefits.

In the event benefits become payable upon the death of a Participant and no beneficiary has been properly designated, such benefits shall become payable to the personal representative of such deceased Employee if such personal representative of such deceased Employee qualified within six months following the death of such Employee and furnishes satisfactory legal evidence within such six month period to the Trustees of such qualification. Otherwise, any benefits payable with respect to such deceased Employee shall be paid in order of the following succession:

- (a) Widow or widower, if not, then to
- (b) Minor child or children, equally, if none, then to
- (c) Adult child or children, equally, if none, then to
- (d) Parent or parents, equally, if none then to
- (e) The estate of the deceased Employee.

Section 10. 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 Trust and no person shall have any vested right to benefits except as provided by the Pension Plan.

Section 11. Appeals of Denied Claims for Benefits.

In the event any Employee, Participant or Beneficiary of a Participant as defined herein who applies for benefits under this Plan and is ruled ineligible or not qualified by the Trustees (or anyone acting for the Trustees) or who believes he did not receive the full amount of benefits to which he is entitled, or who is otherwise adversely affected by any action of the Trustees, must be given a written statement of the reasons for said decision in a manner calculated to be understood by the Employee, Participant or Beneficiary, and must include:

- (a) The specific reason or reasons for the denial;
- (b) Specific reference to pertinent Plan provisions on which the denial is based;
- (c) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (d) An explanation of the Plan's claim review procedure.

The Employee, Participant or beneficiary of a Participant or his representative shall have the right to request the Board of Trustees to review the matter, provided said request is made within 60 days after being apprised of, or learning of the Board's action. The Board shall then conduct a hearing, at which time the Participant or Beneficiary shall be entitled to present his position and any evidence in support thereof. Additionally, the Employee, Participant or

Beneficiary of a Participant may review pertinent documents, and submit issues and comments in writing.

The Participant or Beneficiary may be represented at any such hearing by any attorney or by any other representative of his choosing. Thereafter, but not later than 60 days therefrom, the Trustees shall issue a written decision affirming, modifying or setting aside their former action. If specific circumstances so dictate, the decision by the Board of Trustees may be made within 120 days after receipt of the request for review. The decision of the Board must be in writing, with specific reasons for the decision, and must be written in a manner calculated to be understood by the Employee, Participant or beneficiary of a Participant, and contains specific references to the Plan provisions on which the decision is based.

Section 12. Vested Status or Nonforfeitability.

- (a) ERISA requires that certain of the benefits under this Plan be vested (in the term used in ERISA, "nonforfeitable").
- (b) Vested status is earned as follows:
 - (1) A Participant's right to his Normal Retirement Pension is nonforfeitable upon his attainment of Normal Retirement Age, except to the extent that benefits are cancelled pursuant to Section 13 of this Article because the Employer has ceased to contribute to the Plan with respect to the employment unit in which the Participant was employed.
 - (2) A Participant acquired Vested Status after completion of 5 years of Eligibility Service (except for Years of Eligibility Service that are not taken into account as a result of a Break in Service).
- (c) ERISA 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 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 this 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 became 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 consists of 100 percent nonforfeitability for a Participant who has completed at least ten years of Vesting Service; or, where required by law, 100 percent nonforfeitability in the case of a Participant who has completed at least five years of Vesting Service.

Section 13. Terminated Employer.

If any Employer, ceases to comply with the definition of Employer, as set forth in Article II, or, if an Employer is declared by the Trustees to have ceased participation in the Pension Plan by virtue of his failure to make the required contributions, it shall be deemed a termination of participation by that Employer and the following shall apply:

- (a) Employment by that Employer after termination shall not be credited by as Covered Employment; and
- (b) Employment by that Employer prior to termination shall be credited under this Plan; and
- (c) There shall be no refund of contributions or reversion of assets to a terminated Employer, directly or indirectly, or to a Pension Fund or annuity contract of Pension Plan of a terminated Employer.
- (d) In the event of the complete termination of a participation of an Employer in the Plan or any other complete discontinuance of contributions by an Employer under the Plan, the right of each Employee of such Employer to retirement benefits accrued to date of such termination of discontinuance, as determined by the actuary based upon the latest valuation pursuant to Section 2 of Article XII which shall have been completed at such time, shall be nonforfeitable as provided by the Code and regulations applicable thereto.

Section 14. Distribution of Benefits on or after January 1, 1993.

- (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution that is equal to or greater than \$500 paid directly to an eligible retirement plan specified by the distributee in direct rollover.
- (b) **Definitions.**
 - (1) **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 distributees' 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 of net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in Section 408(a) or (b) of the Code; (2) for taxable years beginning after December 31, 2001 and before January 1, 2007; to a qualified trust which is part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or (3) for taxable years beginning after December 31, 2006, to a qualified trust or to an annuity contract described in Section 403(b), if such trust or contract provides for separate accounting for amounts so transferred (including interest thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) **Eligible retirement plan:** An eligible retirement plan is an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, an individual retirement account described in Section 408(a) of the Code, and individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), an annuity contract described in Section 403(b) of the Code, or a qualified defined contribution plan described in Section 401(a), that accepts the distributee's eligible rollover distribution.
 - (3) **Distributee:** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's Surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. In the case of a nonspouse Beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 408(a) or Section 408(b) ("IRA") that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11). Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.
 - (4) **Direct rollover:** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) **Direct Rollover of Non-Spousal Distribution**
- (1) **Non-spouse beneficiary rollover right.** For distributions after December 31, 2006, a non-spouse beneficiary who is a "Designated Beneficiary" under Code Section 401(a)(9)(E) and the regulations thereunder, may (by a direct

trustee-to-trustee transfer ("direct rollover"), roll over all or any portion of his or her distribution to an Individual Retirement Account (IRA) the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an "eligible rollover distribution" under Code Section 401(a)(31).

- (2) Certain requirements not applicable. Although a non-spouse beneficiary may roll over directly a distribution as provided in the previous paragraph, the distribution is not subject to the direct rollover requirements of Code Section 401(a)(31), (including Code Section 401(a)(31)(B)), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a 60-day (non-direct) rollover.
 - (3) Trust beneficiary. If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a Designated Beneficiary within the meaning of Code Section 401(a)(9)(E).
 - (4) Required minimum distributions not eligible for rollover. A non-spouse beneficiary may not roll over an amount that is a required minimum distribution, as determined under applicable Treasury regulations and other Internal Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury regulations Section 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.
- (d) Direct Rollover to Roth IRA
For distributions made after December 31, 2007, a Participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code Section 408A(b).

ARTICLE XI

MAXIMUM RETIREMENT INCOME BENEFITS

Section 1. IRC Section 415 Compensation.

- (a) Effective date. The provisions of this Section shall apply to "Limitation Years" beginning on and after July 1, 2007.
- (b) 415 Compensation paid after "Severance from Employment." 415 Compensation shall be adjusted, as set forth herein and as otherwise elected in Article II, for the following types of compensation paid after a Participant's "Severance from Employment" with an Employer maintaining the Plan (or any other entity that is treated as the Employer pursuant to Code Section 414(b),(c), (m) or (o)). However, amounts described in subsections (1), (2) and (3) below may only be included in 415 Compensation to the extent such amounts are paid by the later of 2 1/2 months after "severance from Employment" or by the end of the "Limitation Year" that includes the date of such "Severance from Employment." Any other payment of compensation paid after "Severance from Employment" that is not described in the following types of compensation is not considered 415 Compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.
- (1) Regular pay. 415 Compensation shall include regular pay after "Severance from Employment" if:
- (A) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (B) The payment would have been paid to the Participant prior to a "Severance from Employment" if the Participant had continued in employment with the Employer.
- (2) Leave cashouts. Leave cashouts shall be included in 415 Compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's "Severance from Employment," and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.
- (3) Deferred Compensation. 415 Compensation will include deferred compensation if the compensation would have been included in the definition of 415 Compensation if it had been paid prior to the Participant's "Severance from Employment," and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the

payment is includible in the Participant's gross income.

- (4) **Salary continuation payments for military service Participants.** 415 Compensation does not include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.
- (5) **Salary continuation payments for disabled Participants.** 415 Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)).
- (c) **Administrative delay ("the first few weeks") rule.** 415 Compensation for a "Limitation Year" shall not include amounts earned but not paid during the "Limitation Year" solely because of the timing of pay periods and pay dates. However, 415 Compensation for a "Limitation Year" shall include amounts earned but not paid during the "Limitation Year" solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next "Limitation Year," the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants, and no compensation is included in more than one "Limitation Year."
- (d) **Inclusion of certain nonqualified deferred compensation amounts.** If the Plan's definition of Compensation for purposes of Code Section 415 is the definition in Regulations Section 1.415(c)-2(b) (Regulations Section 1.415-2(d)(2) under the Regulations in effect for "Limitation Years" beginning prior to July 1, 2007) and the simplified compensation definition of Regulations Section 1.415(c)-2(d)(2) (Regulations Section 1.415-2(d)(10) under the Regulations in effect for "Limitation Years" prior to July 1, 2007) is not used, then 415 Compensation shall include amounts that are includible in the gross income of a Participant under the rules of Code Section 409A or Code Section 457(f)(1)(A) or because the amounts are constructively received by the Participant.
- (e) **Back Pay.** Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an Employer to compensate an Employee for lost wages are 415 Compensation for the "Limitation Year" to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in 415 Compensation under this Article.
- (f) **Change of "Limitation Year."** The "Limitation Year" may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's "Limitation Year," then the Plan is treated as if the Plan had been amended to change its "Limitation Year."

Section 2. Plan Compensation.

- (a) **Compensation paid after "Severance from Employment."** Compensation for purposes of benefits (hereinafter referred to as Plan Compensation) shall be

adjusted, in the same manner as 415 Compensation pursuant to Section 1 above if those amounts would have been included in Compensation if they were paid prior to the Participant's "Severance from Employment," except in applying Section 1 above the term "Limitation Year" shall be replaced with the term "Plan Year" and the term "415 Compensation" shall be replaced with the term "Plan Compensation."

- (b) Effective date of Plan Compensation provisions. The provisions of this Section 2 shall apply for Plan Years beginning on and after July 1, 2007.

Section 3. Code Section 415 Limitations

(a) **Annual Benefit.**

- (1) Effective date. The limitations of this Section 3 apply in "Limitation Years" beginning on or after July 1, 2007, except as otherwise provided herein.
- (2) "Annual Benefit." The "Annual Benefit" otherwise payable to a Participant under the Plan at any time shall not exceed the "Maximum Permissible Benefit." If the benefit the Participant would otherwise accrue in a "Limitation Year" would produce an "Annual Benefit" in excess of the "Maximum Permissible Benefit," then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the "Maximum Permissible Benefit."
- (3) Adjustment if in two defined benefit plans. If the Participant is, or has ever been, a Participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by an Employer or a "Predecessor Employer," the sum of the Participant's "Annual Benefits" from all such plans may not exceed the "Maximum Permissible Benefit." Where the Participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the "Maximum Permissible Benefit" applicable at that age, the Employer shall limit a Participant's benefit in accordance with the terms of the Plans.
- (4) Grandfather of limits prior to July 1, 2007. The application of the provisions of this Section shall not cause the "Maximum Permissible Benefit" for any Participant to be less than the Participant's Accrued Benefit under all the defined benefit plans of the Employer or a "Predecessor Employer" as of the end of the last "Limitation Year" beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, Regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last "Limitation Year" beginning before July 1, 2007, as described in Regulations Section 1.415(a)-1(g)(4).
- (5) Other rules applicable. The limitations of this Article shall be determined

and applied taking into account the rules in paragraph (c) below.

(b) Definitions. For purposes of this Section 3, the following definitions apply:

- (1) Annual Benefit. "Annual Benefit" means a benefit that is payable annually in the form of a "Straight Life Annuity." Except as provided below, where a benefit is payable in a form other than a "Straight Life Annuity," the benefit shall be adjusted to an actuarially equivalent "Straight Life Annuity" that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Article. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the "Annual Benefit" shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Section 13.05 as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Regulations Section 1.401(a)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a Surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or (c) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Section, and the Plan provides that the amount payable under the form of benefit in any "Limitation Year" shall not exceed the limits of this Section applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the "Annual Benefit" shall take into account Social Security supplements described in Code Section 411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to Employee contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a

"Straight Life Annuity" shall be made in accordance with (a) or (b) below.

(A) Benefit forms not subject to Code Section 417(e)(3). The "Straight Life Annuity" that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (a) if the form of the Participant's benefit is either (i) a nondecreasing annuity (other than a "Straight Life Annuity") payable for a period of not less than the life of the Participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (ii) an annuity that decreases during the life of the Participant merely because of (i) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).

(I) "Limitation Years" beginning before July 1, 2007. For "Limitation Years" beginning before July 1, 2007, the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (i) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (ii) 5% interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

(II) "Limitation Years" beginning on or after July 1, 2007. For "Limitation Years" beginning on or after July 1, 2007, the actuarially equivalent "Straight Life Annuity" is equal to the greater of (i) the annual amount of the "Straight Life Annuity" (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (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% interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code Section 417(e)(3). The "Straight Life Annuity" that is actuarially equivalent to the Participant's form of benefit shall be determined under this paragraph if the form of the Participant's benefit is other than a benefit form described in Section 6(B)(i)(a) above. In this case, the actuarially equivalent "Straight Life

Annuity" shall be determined as follows:

(I) Annuity Starting Date in Plan Years Beginning After 2005. If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent "Straight Life Annuity" is equal to the greatest of (i) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (ii) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in the Plan; and (iii) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and applicable mortality table defined in the Plan, divided by 1.05.

(II) 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, except as provided in the transition rule of (C) below the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount: (i) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (ii) a 5.5% interest rate assumption and the applicable mortality table defined in the Plan.

(III) Transition rule. If the Annuity Starting Date of the Participant's benefit is on or after the first day of the first Plan Year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the Participant's form of benefit to be less than the benefit calculated under the Plan, taking into account the limitations of this Article, except that 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 greatest annual amount: (i) the

interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (ii) the applicable interest rate and applicable mortality table defined in the Plan; and (iii) the applicable interest rate defined in the Plan (as in effect on the last day of the last Plan Year beginning before January 1, 2004, under provisions of the Plan then adopted and in effect) and the applicable mortality table defined in the Plan.

- (2) **Defined Benefit Compensation Limitation.** "Defined Benefit Compensation Limitation" means 100% of a Participant's "High Three-Year Average Compensation," payable in the form of a "Straight Life Annuity." In the case of a Participant who has had a "Severance from Employment" with the Employer, the "Defined Benefit Compensation Limitation" applicable to the Participant in any "Limitation Year" beginning after the date of severance shall be automatically adjusted by multiplying the limitation applicable to the Participant in the prior "Limitation Year" by the annual adjustment factor under Code Section 415(d) that is published in the Internal Revenue Bulletin. The adjusted compensation limit shall apply to "Limitation Years" ending with or within the calendar year of the date of the adjustment, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

In the case of a Participant who is rehired after a "Severance from Employment," the "Defined Benefit Compensation Limitation" is the greater of 100% of the Participant's "High Three-Year Average Compensation," as determined prior to the "Severance from Employment," as adjusted pursuant to the preceding paragraph, if applicable; or 100% of the Participant's "High Three-Year Average Compensation," as determined after the "Severance from Employment."

- (3) **Defined Benefit Dollar Limitation.** "Defined Benefit Dollar Limitation" means, effective for "Limitation Years" ending after December 31, 2001, \$160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a "Straight Life Annuity." The new limitation shall apply to "Limitation Years" ending with or within the calendar year of the date of the adjustment, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment of the "Defined Benefit Dollar Limitation" under Code 415(d) shall apply to Participants who have had a separation from employment.
- (4) **Employer.** "Employer" means, for purposes of this Section, any Employer that has contributed to the Plan, and all members of a controlled group of corporations, as defined in Code Section 414(b), as modified by Code Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c), as modified, except in the case of a brother-sister

- group of trades or businesses under common control, by Code Section 415(h)), or affiliated service groups (as defined in Code Section 414(m)) of which the Employer is a part, and any other entity required to be aggregated with the Employer pursuant to Code Section 414(o).
- (5) Formerly Affiliated Plan of the Employer. "Formerly Affiliated Plan of the Employer" means a plan that, immediately prior to the cessation of affiliation, was actually maintained by an Employer and, immediately after the cessation of affiliation, is not actually maintained by an Employer. For this purpose, "cessation of affiliation" means the event that (i) causes an entity to no longer be considered the Employer, such as the sale of a member of a controlled group of corporations, as defined in Code Section 414(b), as modified by Code Section 415(h), to an unrelated corporation, or (ii) causes a plan to not actually be maintained by the Employer, such as transfer of plan sponsorship outside a controlled group.
- (6) High Three-Year Average Compensation. "High Three-Year Average Compensation" means the average 415 Compensation for the three consecutive Years of Service (or, if the Participant has less than three consecutive Years of Service, the Participant's longest consecutive period of service, including fractions of years, but not less than one year) with an Employer that produces the highest average. A Participant's 415 Compensation for a Year of Service shall not include 415 Compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such Year of Service begins. For purposes of this definition, a Year of Service with the Employer is the 12-consecutive month period defined in the Plan which is used to determine 415 Compensation under the Plan.

In the case of a Participant who is rehired by an Employer after a "Severance from Employment," the Participant's "High Three-Year Average Compensation" shall be calculated by excluding all years for which the Participant performs no services for and receives no 415 Compensation from the Employer (the break period) and by treating the years immediately preceding and following the break period as consecutive.

- (7) Limitation Year. "Limitation Year" means the period specified in the Plan that is used to apply the Code Section 415 limitations.
- (8) Maximum Permissible Benefit. "Maximum Permissible Benefit" means the lesser of the "Defined Benefit Dollar Limitation" or the "Defined Benefit Compensation Limitation" (both adjusted where required, as provided below).
- (A) Adjustment for Less Than 10 Years of Participation or Service: If the Participant has less than 10 years of participation in the Plan, the "Defined Benefit Dollar Limitation" shall be multiplied by a fraction -- (i) the numerator of which is the number of "Years of Participation" in the Plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10). In the case of a Participant who

has less than ten Years of Service with the Employer, the "Defined Benefit Compensation Limitation" shall be multiplied by a fraction -- (i) the numerator of which is the number of "Years of Service" with the Employer (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

- (B) Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement Before Age 62 or after Age 65: Effective for benefits commencing in "Limitation Years" ending after December 31, 2001, the "Defined Benefit Dollar Limitation" shall be adjusted if the Annuity Starting Date of the Participant's benefit is before age 62 or after age 65. If the Annuity Starting Date is before age 62, the "Defined Benefit Dollar Limitation" shall be adjusted under Section 6(8)(b)(A). If the Annuity Starting Date is after age 65, the "Defined Benefit Dollar Limitation" shall be adjusted under Section 6(8)(b)(B).

(I) Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement Before Age 62:

(1) "Limitation Years" Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a "Limitation Year" beginning before July 1, 2007, the "Defined Benefit Dollar Limitation" for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (i) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (ii) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(2) "Limitation Years" Beginning on or After July 1, 2007.

(i) Plan Does Not Have Immediately Commencing "Straight Life Annuity" Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 62 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation"

(adjusted for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in the Plan (and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date).

(ii) Plan Has Immediately Commencing "Straight Life Annuity" Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan has an immediately commencing "Straight Life Annuity" payable at both age 62 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" for the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 6(8)(b)(A)(2)(i) and the "Defined Benefit Dollar Limitation" (adjusted under for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing "Straight Life Annuity" under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing "Straight Life Annuity" under the Plan at age 62, both determined without applying the limitations of this Section.

(II) Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement After Age 65:

(1) "Limitation Years" Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the "Defined Benefit Dollar Limitation" for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (i) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (ii) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(2) "Limitation Years" Beginning Before July 1, 2007.

(i) Plan Does Not Have Immediately Commencing "Straight Life Annuity" Payable at both Age 65 and the Age of Benefit

Commencement. If the annuity starting date for the Participant's benefit is after age 65 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 65 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in the Plan (and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date).

(ii) Plan Has Immediately Commencing "Straight Life Annuity" Payable at both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age 65 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the plan has an immediately commencing "Straight Life Annuity" payable at both age 65 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" at the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 6(8)(b)(B)(2)(i) and the "Defined Benefit Dollar Limitation" (adjusted for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing "Straight Life Annuity" under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing "Straight Life Annuity" under the Plan at age 65, both determined without applying the limitations of this Section. For this purpose, the adjusted immediately commencing "Straight Life Annuity" under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing "Straight Life Annuity" under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age 65 and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this Section, no adjustment shall be made to the "Defined Benefit Dollar Limitation" to reflect the probability of a Participant's death between the Annuity Starting Date and age 62, or between age 65 and the

Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Participant's death.

(C) Minimum benefit permitted: Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the "Maximum Permissible Benefit" if:

(i) the retirement benefits payable for a "Limitation Year" under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by an Employer do not exceed \$10,000 multiplied by a fraction – (i) the numerator of which is the Participant's number of Years (or part thereof, but not less than one year) of Service (not to exceed ten (10)) with the Employer, and (ii) the denominator of which is ten (10); and

(ii) an Employer (or a "Predecessor Employer") has not at any time maintained a defined contribution plan in which the Participant participated (for this purpose, mandatory Employee contributions under a defined benefit plan, individual medical accounts under Code Section 401(h), and accounts for post-retirement medical benefits established under Code Section 419A(d)(1) are not considered a separate defined contribution plan).

(9) Predecessor Employer. "Predecessor Employer" means, with respect to a Participant, a former employer of such Participant if the Employer maintains a Plan that provides a benefit which the Participant accrued while performing services for the former employer. A former entity that antedates the Employer is also a "Predecessor Employer" with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity. For this purpose, the formerly affiliated plan rules in Regulations Section 1.415(f)-1(b)(2) apply as if the Employer and "Predecessor Employer" constituted a single employer under the rules described in Regulations Section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Regulations Section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the "Predecessor Employer" relationship, such as a transfer of benefits or plan sponsorship.

- (10) Severance from Employment. "Severance from Employment" means, with respect to any individual, cessation from being an Employee of any Employer maintaining the Plan. An Employee does not have a "Severance from Employment" if, in connection with a change of employment, the Employee's new employer maintains the Plan with respect to the Employee.
- (11) Straight Life Annuity. "Straight Life Annuity" means an annuity payable in equal installments for the life of a Participant that terminates upon the Participant's death.
- (12) Year of Participation. "Year of Participation" means, with respect to a Participant, each accrual computation period (computed to fractional parts of a year) for which the following conditions are met: (a) the Participant is credited with at least the number of Hours of Service (or Period of Service if the Elapsed Time Method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (b) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a "Year of Participation" credited to the Participant shall equal the amount of benefit accrual service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive a "Year of Participation" with respect to that period.

In addition, for a Participant to receive a "Year of Participation" (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event shall more than one "Year of Participation" be credited for any 12-month period.

- (13) Year of Service. "Year of Service" means, for purposes of this Section, each accrual computation period (computed to fractional parts of a year) for which a Participant is credited with at least the number of Hours of Service (or Period of Service if the Elapsed Time Method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, taking into account only service with the Employer or a "Predecessor Employer."

(c) Other rules.

- (1) Benefits under terminated plans. If a defined benefit plan maintained by an Employer has terminated with sufficient assets for the payment of benefit liabilities of all plan participants and a Participant in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the Participant's benefits under the terminated plan at each possible Annuity Starting Date shall be

- taken into account in applying the limitations of this Article. If there are not sufficient assets for the payment of all Participants' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the Participant under the terminated plan.
- (2) **Benefits transferred from the Plan.** If a Participant's benefits under a defined benefit plan maintained by an Employer are transferred to another defined benefit plan maintained by an Employer and the transfer is not a transfer of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a Participant's benefits under a defined benefit plan maintained by an Employer are transferred to another defined benefit plan that is not maintained by an Employer and the transfer is not a transfer of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are treated by the Employer's Plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the Employer that terminated immediately prior to the transfer with sufficient assets to pay all Participants' benefit liabilities under the plan. If a Participant's benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), the amount transferred is treated as a benefit paid from the transferor plan.
- (3) **Formerly affiliated plans of the Employer.** A "Formerly Affiliated Plan of an Employer" shall be treated as a plan maintained by the Employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay Participants' benefit liabilities under the Plan and had purchased annuities to provide benefits.
- (4) **Plans of a "Predecessor Employer."** If the Employer maintains a defined benefit plan that provides benefits accrued by a Participant while performing services for a "Predecessor Employer," then the Participant's benefits under a plan maintained by the "Predecessor Employer" shall be treated as provided under a plan maintained by the Employer. However, for this purpose, the plan of the "Predecessor Employer" shall be treated as if it had terminated immediately prior to the event giving rise to the "Predecessor Employer" relationship with sufficient assets to pay Participants' benefit liabilities under the plan, and had purchased annuities to provide benefits; the Employer and the "Predecessor Employer" shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the "Predecessor Employer."

- (5) Special rules. The limitations of this Article shall be determined and applied taking into account the rules in Regulations Section 1.415(f)-1(d), (e) and (h).
- (6) Aggregation with Multiemployer Plans.
 - (A) If an Employer maintains a multiemployer plan, as defined in Code Section 414(f), only the benefits under the multiemployer plan that are provided by the Employer shall be treated as benefits provided under a plan maintained by the Employer for purposes of this Article.
 - (B) Effective for "Limitation Years" ending after December 31, 2001, a multiemployer plan shall be disregarded for purposes of applying the compensation limitation above to a plan which is not a multiemployer plan.

ARTICLE XII

AMENDMENT AND TERMINATION OF THE PLAN

Section 1. Authority to Amend and Terminate the Plan.

It is the intention of the Trustees to continue operation of the Plan. The Trustees reserve the right to modify or terminate the Plan at any time. This includes the right to modify the level of benefits or to change the amounts to be contributed toward the cost of providing benefits by the Sponsors or by the Participants, provided that benefits vested in accordance with the provisions of this Plan may not be decreased. The Plan may be modified or terminated by the Board of Trustees in accordance with the provisions of the Trust Agreement. In the event of any modification of the Plan, the Board of Trustees will communicate such modifications or amendments to the Plan Participants. Amendment or termination of the Plan may terminate a beneficiary's or Participant's right to receive benefits, may limit the Participant's benefits or may increase the amount that beneficiaries or Participants must contribute toward the cost of providing benefits. No action of the Trustees shall decrease or eliminate any benefit vested by the terms of the Plan.

Section 2. Discretionary Authority of the Board of Trustees.

The Trustees of the Plan shall have the right to make any and all determinations relating to the Plan. This includes, but is not limited to, the discretionary authority to determine eligibility for benefits; discretionary authority to determine the amount of benefits payable; discretionary authority to determine the meaning and applicability of the Plan provisions or to construe Plan terms; and the discretionary authority to promulgate rules for processing and reviewing claims. Any and all determinations of the Trustees shall be conclusive and binding upon all parties having dealings with the Plan. It is the intent of the Trustees to maintain sole and complete authority to interpret Plan terms. In the event that a Participant or beneficiary is dissatisfied with the decision of the Board of Trustees, they may appeal the decision as outlined in the claim appeals section. A beneficiary or Participant must utilize the appeal procedure before filing a lawsuit against the Fund. The decisions of the Board of Trustees relating to interpretation of this Plan are entitled to judicial deference.

Section 3. Actuarial Review.

This Pension Plan has been adopted by Trustees on the basis of an actuarial estimate that has established (to the fullest extent possible) that the income and accruals of the Fund will be fully sufficient to support this Pension Plan on a permanent basis. However, it is recognized as possible that, in the future, the income and/or the liabilities of the Fund may be substantially different from those previously anticipated. It is understood that this Pension Plan can be fulfilled only to the extent that the Fund has assets available from which to make the payments provided for. Consequently, the Trustees shall have prepared, periodically, an actuarial evaluation of the Fund. Upon the basis of all the circumstances, the Board of Trustees

may, from time to time amend this Pension Plan including any change in benefit amount, types of benefits, and conditions of eligibility and payment, except that no amendments shall in any way reduce any pension benefits which have been approved for payment prior to amendment, so long as funds are available for payment of such benefits.

ARTICLE XIII
WITHDRAWAL LIABILITY

Section 1. In General.

- (a) An Employer that withdraws from the Plan after April 28, 1980, in either a complete or partial withdrawal shall owe and pay withdrawal liability to the Plan, as determined under ERISA, as amended by the Multiemployer Pension Plan Amendments Act of 1980.
- (b) All corporations, trades or businesses that are under common control, as defined in regulations of the PBGC are considered a single Employer, and the entity resulting from a change in business form described in Section 4218(1) of ERISA is considered to be the original Employer.

Section 2. Rules Adopted by Trustees.

The Board of Trustees may adopt rules and regulations implementing the assessment and collection of withdrawal liability.

Section 3. Notice To Employers.

- (a) Any notice that must be given to an Employer under this Article or under Subtitle E or Title IV of ERISA shall be effective if given to the specific member of an commonly controlled group that has or has had the obligation to contribute under the Plan.
- (b) Notice shall also be given to any other member of the controlled group that the Employer identifies and designates to receive notices hereunder, in accordance with a procedure adopted by the Trustees.

Section 4. Collection of Delinquent Contributions.

- (a) In the case of an Employer that fails to make the contributions to the Plan for which it is obligated, in accordance with the terms and conditions of its obligation, the Trustees may bring an action on behalf of the Plan pursuant to Sections 502(g)(2) and 515 of ERISA to enforce the Employer's obligation.
- (b) In any action under subsection (a) in which judgement is awarded in favor of the Plan, the Employer shall pay to the Plan, in accordance with the Court's award —
 - (1) the unpaid contributions,
 - (2) interest on the unpaid contributions, determined at prime rate.
 - (3) liquidated damages equal to the greater of:

- (A) the amount of interest charged on the unpaid contributions,
 - (B) 20% of the unpaid contributions.
- (4) reasonable attorneys' fees and costs of the action, and
- (5) such other legal or equitable relief as the court deems appropriate.
- (c) Nothing in this Section shall be construed as a waiver or limitation to the Plan's or the Trustee's right to enforce the Employer's contribution obligation in any other type of proceeding.

ARTICLE XIV
DISTRIBUTIONS

Section 1. Timing and Mode of Distributions.

A. General Rules

- (1) **Precedence and Effective Date:** Subject to Article VI, Joint and Survivor Pensions, the requirements of this Section 1 shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this section apply to calendar years beginning after December 31, 2002.
- (2) **Requirements of Regulations Incorporated.** All distributions required under this section shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirement in Section 401(a)(9)(G), and the Income Tax Regulations thereunder.
- (3) **Limits on Distribution Periods.** As of the first distribution calendar year, distributions to a Participant, if not made in a single sum, may only be made over one of the following periods:
 - (a) the life of the Participant
 - (b) the joint lives of the Participant and a designated Beneficiary,
 - (c) a period certain not extending beyond the life expectancy of the Participant, or
 - (d) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.

B. Time and Manner of Distribution

- (1) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, no later than the Participant's required beginning date.
- (2) **Death of Participant Before Distributions Begin.** If the Participant dies before distribution begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary, then, except as provided in the Plan, distributions to the Surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.
- (b) If the Participant's Surviving Spouse is not the Participant's sole designated Beneficiary, then, except as provided in the Plan, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (c) 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.
- (d) 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 are required to begin, this Section 1 subpart B(2), other than Section 1(B)(2)(a), will apply as if the Surviving Spouse were the participant.

For purposes of this Section 1 subpart B(2) and Section 1 subpart E, unless Section 1 subpart B(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 1 subpart B(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 1 subpart B(2)(a). If distributions under an annuity meeting the requirements of this section 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 Section 1 subpart B(2)(a)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparts A, B and C of this Section 1. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Section 1.401(a)(9) of the regulations. Any part of the Participant's interest which is in the form

of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and Section 1.401(a)(9) of the regulations that apply to individual accounts.

C. Determination of Amount to be Distributed Each Year

- (1) **General Annuity Requirements.** If the Participant's interest is to be paid in the form of annuity distributions under the plan, payments under the annuity shall satisfy the following requirements:
- (a) the annuity distributions will be paid in periodic payments made at uniform intervals not longer than one year;
 - (b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in subpart D or E of this Section 1;
 - (c) once payments have begun over a period, the period will be changed only in accordance with subpart F of this Section 1;
 - (d) payments will either be non-increasing or increase only as follows:
 - (1) by an annual percentage increase that does not exceed the percentage increase in an eligible cost-of-living index for a 12-month period ending in the year during which the increase occurs or a prior year;
 - (2) by a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the annuity starting date, or if later, the date of the most recent percentage increase;
 - (3) by a constant percentage of less than 5 percent per year, applied not less frequently than annually;
 - (4) as a result of dividend or other payments that result from actuarial gains, provided:
 - (i) actuarial gain is measured not less frequently than annually,
 - (ii) the resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the

annuity (beginning no later than the year following the year for which the actuarial experience is measured),

(iii) the actuarial gain taken into account is limited to actuarial gain from investment experience,

(iv) the assumed interest rate used to calculate such actuarial gains is not less than 3 percent, and

(v) the annuity payments are not increased by a constant percentage as described in (3) of this subpart C(1)(d);

(5) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit, but only if there is no longer a survivor benefit because the Beneficiary whose life was being used to determine the distribution period described in subpart D dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(6) to provide a final payment upon the Participant's death not greater than the excess of the actuarial present value of the participant's accrued benefit (within the meaning of Section 411(a)(7) of the Code) calculated as of the annuity starting date using the applicable interest rate defined in Article I, Section 2 of the Plan and the applicable mortality table defined in Article I, Section 2 of the Plan (or, if greater, the total amount of Employee Contributions) over the total of payments before the Participant's death;

(7) to allow a Beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the participant's death; or

(8) to pay increased benefits that result from a plan amendment

(2) Amount Required to be Distributed by Required Beginning Date and Later Payment Intervals. 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 subpart B(2)(a) or (b)) 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 the next calendar year. 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.

- (3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such benefit accrues.

D. Requirements for Annuity Distributions That Commence During Participant's Lifetime

- (1) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant, using the table set forth in section 1.401(a)(9)-6, Q&A 2(c)(2), in the manner described in Q&A 2(c)(1), of the regulations, to determine the applicable percentage. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- (2) Period Certain Annuities. Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9, Q&A-2, of the 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, Q&A-2, of the 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 subpart D(2), 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, Q&A-3, of the 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.

E. Requirements For Minimum Distributions After the Participant's Death

- (1) Death After Distributions Begin. If the Participant dies after the distribution of his or her interest begins in the form of an annuity meeting the requirements of this article, the remaining portion of the participant's interest will continue to be distributed over the remaining period over which distributions commenced.
- (2) Death Before Distribution Begin.
 - (a) Participant Survived by Designated Beneficiary. Except as provided in the adoption agreement, 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 subpart B(2)(a) or (b), 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) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
 - (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the participant dies before the date distribution of his or her interest begins, the participant's surviving spouse is the participant's

sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subpart E 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 subpart B(2).

F. Changes to Annuity Payment Period

- (1) Permitted Changes. An annuity payment period may be changed only in association with an annuity payment increase described in subpart C(1)(d) of this section or in accordance with subpart F(2).
- (2) Reannuitization. An annuity payment period may be changed and the annuity payments modified in accordance with that change if the conditions in subpart 3 below are satisfied and;
 - (a) the modification occurs when the Participant retires or in connection with a plan termination;
 - (b) the payment period prior to modification is a period certain without life contingencies; or
 - (c) the annuity payments after modification are paid under a qualified joint and survivor annuity over the joint lives of the participant and a designated beneficiary, the participant's spouse is the sole designated beneficiary, and the modification occurs in connection with the participant's becoming married to such spouse.
- (3) Conditions. The conditions in this subpart F(3) are satisfied if;
 - (a) The future payments after the modification satisfy the requirements of Section 401(a)(9), Section 1.401(a)(9) of the regulations, and this article (determined by treating the date of change as a new annuity starting date and the actuarial present value of the remaining payments prior to modification as the entire interest of the participant);
 - (b) For purposes of Section 415 and Section 417 of the Code, the modification is treated as a new annuity starting date;
 - (c) After taking into account the modification, the annuity (including all past and future payments) satisfies the requirements of Section 415 of the Code (determined at the original annuity starting date, using the interest rates and mortality tables applicable to such date); and

(d) The end point of the period certain, if any, for any modified payment period is not later than the end point available to the employee at the original annuity starting date under Section 401(a)(9) of the Code and this Section.

G. Payments to a Surviving Child

- (1) Special rule. For purposes of this section, payments made to a Participant's surviving child until the child reaches the age of majority (or dies, if earlier) shall be treated as if such payments were made to the surviving spouse to the extent the payments become payable to the Surviving Spouse upon cessation of the payments to the child.
- (2) Age of majority. For purposes of this section, a child shall be treated as having not reached the age of majority if the child has not completed a specified course of education and is under the age of 26. In addition, a child who is disabled within the meaning of Section 72(m)(7) when the child reaches the age of majority shall be treated as having not reached the age of majority so long as the child continues to be disabled.

H. Definitions

- (1) Actuarial gain. The difference between an amount determined using the actuarial assumptions (i.e., investment return, mortality, expense, and other similar assumptions) used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the actuarial gain is determined.
- (2) Designated beneficiary. The individual who is designated by Participant (or the Participant's Surviving Spouse) as the Beneficiary of the Participant's interest under the Plan and who is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the regulations.
- (3) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar

year in which distributions are required to begin pursuant to subpart B(2).

- (4) Eligible cost-of-living index. An index described in paragraphs (b)(2), (b)(3) or (b)(4) of Section 1.401(a)(9)-6, Q&A-14, of the regulations.
- (5) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the regulations.
- (6) Required beginning date.
 - (a) The required beginning date of a participant is April 1 of the calendar year following the later of the calendar year in which the participant attains age 70 ½ or the calendar year in which the participant retires.
 - (b) Any Participant attaining age 70 ½ in years prior to 1997 may elect to stop distributions and recommence by April 1 of the calendar year following the year in which the Participant retires.

To satisfy the Joint and Survivor Annuity Requirements described in Article V, the requirements in Notice 97-75, Q&A-8, must be satisfied for any participant who elects to stop distributions, including the requirement that such distributions stop before the end of the plan's remedial amendment period under Section 401(b) for changes in plan qualification requirements made by the Small Business Job Protection Act of 1996. There is a new annuity starting date upon commencement.

- (c) A Participant's accrued benefit will be actuarially increased to take into account the period after age 70 ½ in which the Participant does not receive any benefits under the Plan. The actuarial increase will begin on April 1 following the calendar year in which the employee attains age 70 ½ (January 1, 1997 in the case of an employee who attains age 70 ½ prior to 1996), and will end on the date on which benefits commence after retirement in an amount sufficient to satisfy Section 401(a)(9). The amount of actuarial increase payable as of the end of the period for actuarial increases will be no less than the actuarial equivalent of the participant's retirement benefits that would have been payable as of the date the actuarial increase must commence plus the actuarial equivalent of any distributions made after the date. The Actuarial increase under this section is not in addition to the actuarial increase required for that same period under Section 411 to reflect the delay in payments after normal retirement, except that the actuarial increase required under this section will be provided even during the period during which an employee is in

Section 203(a)(B) service. For purposes of Section 411(b)(1)(H), the actuarial increase will be treated as an adjustment attributable to the delay in distribution of benefits after the attainment of normal retirement age. Accordingly, to the extent permitted under Section 411(b)(1)(H), the actuarial increase required under this article will reduce the benefit accrual otherwise required under Section 411(b)(1)(H)(i), except that the rules on the suspension of benefits are not applicable.

I. TEFRA Section 242(b)(2) Elections

- (1) Notwithstanding the other requirements of this article and subject to the requirements of Article V, Joint and Survivor Annuity Requirements, distribution on behalf of any employee who has made a designation under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (a "section 242(b)(2) election") may be made in accordance with all of the following requirements (regardless of when such distribution commences);
 - (a) The distribution by the plan is one which would not have disqualified such plan under section 401(a)(9) of the Internal Revenue Code as in effect prior to amendment by the Deficit Reduction Act of 1984.
 - (b) The distribution is in accordance with a method of distribution designated by the employee whose interest in the plan is being distributed or, if the employee is deceased, by a beneficiary of such employee.
 - (c) Such designation was in writing, was signed by the employee or the beneficiary, and was made before January 1, 1984.
 - (d) The employee had accrued a benefit under the plan as of December 31, 1983.
 - (e) The method of distribution designated by the employee or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the employee's death, the beneficiaries of the employee listed in order of priority.
- (2) A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the employee.

- (3) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the employee, or the beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in subpart I(a) and (c).
- (4) If a designation is revoked any subsequent distribution must satisfy the requirements of section 401(a)(9) of the Code and the regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy section 401(a)(9) of the Code and the regulations thereunder, but for the section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).
- (5) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in section 1.401(a)(9)-8, Q&A-14 and Q&A-15 of the regulations shall apply.

ARTICLE XV
SUPPLEMENTAL INDIVIDUAL ACCOUNTS

Section 1. General.

Subject to terms and conditions described in the Collective Bargaining Agreement and in a manner described in this Article, the Trustees may establish Individual Accounts and allocate specified amounts to said Individual Accounts on behalf of eligible Participants. No Trustee decision to establish Individual Accounts nor to make allocations to Individual Accounts shall constitute a commitment, implied or otherwise, to establish future Individual Accounts or to make future allocations.

Section 2. Definitions.

“Cooperating Fund” shall mean any qualified multiemployer retirement plan which enters into a reciprocal agreement with the Trustees covering one or more Participants.

“Effective Date” shall mean January 1, 2005, the date on which this Article shall become effective, and shall become operative for any Cooperating Fund.

“Employer Contribution” shall mean the payment which an Employer is required by the terms of a collective bargaining agreement or other agreements to make to the Fund for the purposes of providing a plan of benefit for Participants.

“Home Local” shall mean the Employee’s home local as that term is defined in the reciprocal agreement entered into between the Plan and the Cooperating Fund.

“Individual Account” shall mean the account established for each Participant under Section 3 of this Article.

“Rollover Distribution” shall mean the eligible rollover distributions which are described in Section 15 of this Article.

“Section 414(k) Fund” shall mean the fund of money actually designated for the Individual Accounts.

“Valuation Date” shall mean December 31 of each calendar year and any other date chosen by the Trustees.

“Valuation Year” shall mean the twelve month period ending on a Valuation Date.

Section 3. Establishment of Accounts.

Effective January 1, 2005, an Individual Account shall be established on the administrative records for each Participant to which all Employer Contributions, Rollover Distributions and earnings on such contributions and distributions shall be credited.

Section 4. USERRA.

Employer Contributions shall also be credited to a Participant's Individual Account to the extent that such credit is required pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 or its predecessor or successor statutes.

Section 5. Valuation of Individual Accounts.

As soon as practicable following each Valuation Date, the Trustees shall determine and fix the amount in each Participant's Individual Account as of such date. The amount in each Individual Account shall be determined using the following steps:

- (a) The amount in the Individual Account as of the most recently past Valuation Date, minus
- (b) Any distributions made during the Valuation Year, plus
- (c) Employer Contributions and Rollover Distributions collected on behalf of the Participant during the six-month period ending June 30 of the Valuation Year, plus
- (d) The Net Investment Return, to be determined in accordance with Section 6 of this Article, plus
- (e) Employer Contributions and Rollover Distributions collected on behalf of the Participant during the six-month period ending December 31 of the Valuation Year.

Section 6. Investment Return.

As used herein, the term "Investment Return" shall mean, as of any Valuation Date, the income earned and any gains or losses realized from investments and the increase or decrease in the market value of the corpus of the Section 414(k) Fund assets since the previous Valuation Date, after deducting therefrom any fees, commissions or other compensation payable to any investment advisor(s) or manager(s) engaged by the Trustees to invest Section 414(k) Fund assets and to custodian(s) employed by the Trustees for safekeeping of any securities or other assets of the Section 414(k) Fund. The Investment Return shall be divided by the aggregated amount of all Individual Accounts in existence on such Valuation Date. The fraction so obtained shall be multiplied by the amount in each Individual Account as of the immediately preceding June 30 and the result shall represent the "Gross Investment Return" to be added to each such Individual Account as of the current Valuation Date. From the "Gross Investment Return", the Trustees shall deduct such expenses for the Administration of the Fund as the Trustees in their sole discretion, deem proper. The expenses so deducted from the "Gross Investment Return" shall be on a per Individual Account basis and be applied uniformly regardless of the amount in each Individual Account. The "Gross

Investment Return" less the administration expenses or other amounts so deducted by the Trustees shall represent the "Net Investment Return" to be added to each Individual Account as of the immediately preceding Valuation Date. If the "Gross Investment Return" attributable to any Individual Account is less than the charge from expense and other deductions against the Individual Account, the excess expenses and charges shall be deducted from the principal of the Individual Account.

Section 7. Vesting of Individual Account Benefit.

Each Participant shall acquire a 100% non-forfeitable right to the amount in his Individual Account, subject to any additions or deductions in accordance with Sections 5, 6, and 8 of this Article, immediately upon the establishment of such Individual Account.

Section 8. Limitations of Accounts.

- (a) In no event and at no time shall the total amounts allocated to all Individual Accounts at any Valuation Date, less all expenses actually paid from such accounts as of such Valuation Date, plus amounts previously established for expenses at that time, exceed the total net assets of the Section 414(k) Fund. Should such an event occur, then all existing Individual Accounts shall automatically be proportionately reduced so that the total of all Individual Accounts plus amount established for expenses is not more than the Section 414(k) Fund's total net assets.
- (b) The fact that Individual Accounts are established and valued as of each Valuation Date shall not give any person any right, title or interest in the Fund, or its assets, or in the Individual Account except upon the terms and conditions herein provided.

Section 9. Amount of Individual Account Benefit to be Paid.

Upon the occurrence of any event requiring payment of a Participant's Individual Account under Section 11 of this Article, the amount to be paid, subject to the specific provisions of this Article, shall be the balance in the Participant's Individual Account as of the Valuation Date coinciding with or next following the occurrence of such event.

Section 10. Administrative Fee.

Reasonable administrative expenses for maintaining the account balance shall be required. The Trustees shall allocate and deduct such administrative expenses as deemed necessary from each Participant's Individual Account on a per capita basis.

Section 11. Payment of Individual Account.

The amount in a Participant's Individual Account shall be payable, if application is filed in a manner set forth in Article X, under any of the following circumstances:

- (a) Upon retirement as established by the Participant's receipt of a Normal, Early, Disability, Late or Vested Deferred Pension; or

Section 14. Reciprocal Contributions in Excess of Rate Permitted Under Collective Bargaining Agreement.

To the extent that contributions received by the Fund from Cooperating Funds are in excess of the contribution rate set forth under the Collective Bargaining Agreement then in effect for an employee, the excess of such contributions shall be allocated to the Individual Account established for such employee under this Article.

Section 15. Rollover Distribution.

An amount derived from a Participant's prior participation in another qualified retirement plan with a Cooperating Fund may be "rolled-over" into this Plan provided that the Participant submits in writing that such distribution qualifies as a Rollover Distribution. For purposes of this section, in order for a distribution to qualify as a Rollover Distribution, it must:

- (a) represent a distribution to such Participant from a plan qualified under section 401(a) of the Code, sponsored by an Employer or Employers and a Union or Unions which are in the Building and Construction Trades Industry, and it must not have been paid to such Participant as either:
 - (1) a required minimum distribution under section 401(a)(9) of the Code, or
 - (2) as one of a series of substantially equal periodic payments made over the life expectancy of the Participant (or joint life expectancy of the Participant and designated beneficiary) or over a specified period of 10 years or more.
- (b) represent the balance to the Participant's credit of a conduit Individual Retirement Account, unless such balance is derived in any part from amounts that are not a part of a Rollover Contribution to the Individual Retirement Account from a qualified plan; and
- (c) be contributed directly from another qualified retirement plan.

A Rollover Distribution shall be considered as a part of the Individual Account of the Participant in this Plan and shall be fully vested and nonforfeitable.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Section 1. Administration.

The Trustees shall be responsible for the general administration of the Plan. The Trustees shall have all such powers as may be necessary to carry out the provisions thereunder made from time to time, establish rules for the administration of the Plan and the transaction of the Plan's business. In making any such determination or rule, the Trustees shall pursue a uniform policy and shall not discriminate in favor of or against any Employee or group of Employees.

Section 2. Construction.

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, and the singular may include the plural, unless the context clearly indicates to the contrary.

Section 3. Applicable Law.

This Plan is intended to comply with the Employee Retirement Income Security Act of 1974 and with the requirements for tax qualification under the Code and all regulations thereunder, and is not to be interpreted and applied consistent with that intent. This Plan is created and accepted in the State of Tennessee. All questions pertaining to its validity or construction shall be determined in accordance with ERISA and, to the extent not preempted by ERISA, under the laws of the State of Tennessee.

Section 4. Mergers.

In the case of any merger or 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 been terminated). This section shall apply only to the extent determined by the PBGC.

Section 5. Limitation of Liability.

Except to the extent that it may be deemed otherwise by the PBGC, neither the Trustees, the Union nor any Employer shall be liable in any manner if the Trust Fund is insufficient to provide for the payment of benefits from Trust Fund and only to the extent that the Fund shall suffice therefore.

Section 6. Compliance with ERISA.

Anything herein to the contrary notwithstanding, nothing provided herein shall relieve a Fiduciary or other person of any responsibility, or liability for any responsibility, obligation or duty imposed upon him pursuant to Title 1, Part 4 of ERISA. Furthermore, anything in this Plan to the contrary notwithstanding, if any provisions of this Plan is voided by Section 410 or 411 of ERISA, such provision shall be of no force and effect only to the extent that it is voided by such section.

Section 7. Internal Revenue Service Approval.

The establishment and continuance of the Plan as herein set forth, and as it may be amended (including retroactive remedial amendments permitted by the Act), modified or suspended, and contributions under the Plan, are conditioned upon and subject to obtaining and retaining approval of the Internal Revenue Service to qualify the Plan and to establish the deductibility of the Employers' contribution for federal tax purposes under the Code and now in effect or hereafter amended or adopted, and the regulations issued thereunder.

Section 8. Uniform Application.

Any actions to be taken under the Plan by the Trustees shall be uniform and non-discriminatory in nature and applicable to all Employees, Participants, Beneficiaries and Pensioners similarly situated.

ARTICLE XVII

PENSION PROTECTION ACT OF 2006, FINAL 411 REGULATIONS AND HEART ACT

Section 1. Suspending of Inconsistent Provisions.

This Article supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

Section 2. Final Section 411 Regulations.

No amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. For purposes of this paragraph, a plan amendment that has the effect of (1) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (2) eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. Notwithstanding the preceding sentences, a Participant's Accrued Benefit, early retirement benefit, retirement-type subsidy, or optional form of benefit may be reduced to the extent permitted under Code Section 412(c)(8) (for Plan Years beginning on or before December 31, 2007) or Code Section 412(d)(2) (for Plan Years beginning after December 31, 2007), or to the extent permitted under Regulations Sections 1.411(d)-3 and 1.411(d)-4. For purposes of this paragraph, a retirement-type subsidy is the excess, if any, of the actuarial present value of a retirement-type benefit over the actuarial present value of the Accrued Benefit commencing at Normal Retirement Age or at actual commencement date, if later, with both such actuarial present values determined as of the date the retirement-type benefit commences.

Section 3. Participant Distribution Notification.

- (a) 180-day notification period. For any distribution notice issued in Plan Years beginning after December 31, 2006, any Plan provision requiring that the notice requirements of Code Sections 402(f) (the rollover notice), 411(a)(11) (Participant's consent to distribution), and 417 (notice under the joint and survivor annuity rules) be implemented no more than 90 days prior to the annuity starting date may be implemented no more than 180 days prior to the annuity starting date.
- (b) Notice of right to defer distribution. For any distribution notice issued in Plan Years beginning after December 31, 2006, the description of a Participant's right, if any, to defer receipt of a distribution also will describe the consequences of failing to defer receipt of the distribution. For notices issued before the 90th day after the issuance of Treasury regulations (unless future Internal Revenue Service guidance otherwise requires), the notice will include: (i) a description of how much larger

benefits will be if the commencement of distributions is deferred; and (ii) the portion of the summary plan description that contains any special rules that might affect materially a Participant's decision to defer. For purposes of clause (i), a Plan administrator can use a description that includes the financial effect of deferring distributions, as described in Section 1.417(a)(3)-1(d)(2)(i) of the Treasury Regulations, based solely on the normal form of benefit.

Section 4. Qualified Domestic Relations Orders.

- (a) Permissible QDROs. Effective April 6, 2007, a domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order (QDRO) will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.
- (b) Other QDRO requirements apply. A domestic relations order described in the previous paragraph is subject to the same requirements and protections that apply to QDROs.

Section 5. Relative Value and PPA Right to Delay Distribution.

- (a) Explanation of relative value. Effective as of the applicable effective date set forth in Treasury regulations, notices to Participants shall include the relative values of the various optional forms of benefit, if any, under the Plan as provided in Treasury Regulations Section 1.417(a)-3.
- (b) Effect of delay of distribution. Notices given to Participants pursuant to Code Section 411(a)(11) in Plan Years beginning after December 31, 2006, shall include a description of how much larger benefits will be if the commencement of distributions is deferred.

Section 6. HEART ACT Provisions.

- (a) Death benefits. In the case of a death or disability occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated Covered Employment on account of death.
- (b) Benefit accrual. For benefit accrual purposes, the Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to an Employer as if the individual had resumed Covered Employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated Covered Employment on the actual date of death or disability.

- (c) Differential wage payments. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the Employer making the payment, (ii) the differential wage payment shall be treated as Compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.
- (d) Severance from employment. Notwithstanding the previous paragraph, for purposes of Code Section 401(k)(2)(B)(i)(I), an individual shall be treated as having been severed from Covered Employment during any period the individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A).
- (1) Suspension of deferrals. If an individual elects to receive a distribution by reason of severance from employment, death or disability, the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.
- (2) Nondiscrimination requirement. Section 14(C)(iii) shall apply only if all employees of the Employer performing service in the uniformed services described in Code Section 3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code Section 3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code Sections 410(b)(3), (4), and (5)).

ARTICLE XVIII

ENDANGERED OR CRITICAL STATUS OF PLAN

Section 1. Effective Date and Purpose.

The provisions of this Article shall apply to Plan Years beginning on or after January 1, 2008. The Trustees shall incorporate and implement the requirements of section 432 of the Code and the regulations promulgated thereunder.

Section 2. Override by Section 432 Requirements.

Any benefit changes required by a Funding Improvement Plan or Funding Rehabilitation Plan adopted under section 432 of the Code and the regulations promulgated thereunder, shall be implemented regardless of any other provision of this Plan to the contrary, such as, but not limited to, provisions related to the reduction of benefits.

IN WITNESS WHEREOF, the Trustees have adopted the foregoing Amendment and Restatement of the Pension Plan to be effective as of January 1, 2009, this 21st day of January, 2010.

UNION TRUSTEES

Tina A. Brown

Victor D. White

Ron D. Anderson

EMPLOYER TRUSTEES

M. J. P. Pini

[Signature]

Ma. M. Bradd

Cory Higgins

APPENDIX A

PENSIONERS AND BENEFICIARIES

Effective January 1, 1985: Benefits being paid to Pensioners and Beneficiaries on January 1, 1985 shall be increased by fourteen percent (14%).

Effective January 1, 1986: Benefits being paid to Pensioners and Beneficiaries on January 1, 1986 shall be increased by nine percent (9%).

Effective January 1, 1987: Benefits being paid to Pensioners and Beneficiaries on January 1, 1987 shall be increased by five percent (5%).

Effective January 1, 1988: Benefits being paid to Pensioners and Beneficiaries on January 1, 1988 shall be increased by ten and two-tenths percent (10.2%).

Effective January 1, 1990: Benefits being paid to Pensioners and Beneficiaries on December 31, 1989 shall be increased by five percent (5%).

Effective January 1, 1991: Benefits being paid to Pensioners and Beneficiaries on December 31, 1990 shall be increased by two and five-tenths percent (2.5%).

Effective January 1, 1992: Benefits being paid to Pensioners and Beneficiaries on December 31, 1991 shall be increased by two and five-tenths percent (2.5%).

Effective January 1, 1996: Benefits being paid to Pensioners and Beneficiaries on December 31, 1995 shall be increased by three and three-tenths percent (3.3%).

Effective January 1, 1997: Benefits being paid to Pensioners and Beneficiaries on December 31, 1996 shall be increased by three percent (3%).

APPENDIX B
PENSION BENEFIT LEVELS

Future Service Pension Credit

- (1) If a Participant worked in the Sheffield Local, and last earned credit in Plan Year 1988, the Future Service Pension Credit is equal to \$17.49 per each Pension Credit Year (or fraction of a Pension Credit Year).
- (2) If a Participant worked and earned credit in the Sheffield Local in 1989, but incurred a Break in Service as of December 31, 1992, the Future Service Pension Credit is equal to \$40.00 per Pension Credit Year.
- (3) If a Participant worked in the Sheffield Local, and earned Pension Credit in 1992 but incurred a Break in Service as of December 31, 1989, the Future Service Pension Credit is equal to \$21.86 per Pension Credit Year.
- (4) If Participant within the jurisdiction of the Tri-State Local, incurred a Break in Service as of December 31, 1986, the Future Service Pension Credit is equal to \$38.03 per Pension Credit Year. If Participant incurred a Break in Service as of December 31, 1992, the Future Service Pension Credit is equal to \$40.00 per Pension Credit Year.
- (5) If Participant worked in the Tri-State Local and incurred a Break in Service as of December 31, 1986, but returned to work and earned credit in Plan year 1992 (up to June 1, 1993), the Future Service Pension Credits earned up to December 31, 1996 are equal to \$47.54 per Pension Credit Year. All Future Service Pension Credits earned after 1992 are equal to \$50.00.
- (6) If Participant worked in the Tri-State Local and earned sufficient Pension Credit in 1986 but incurred a Break in Service as of December 31, 1992, the Future Service Pension Credits earned up to December 31, 1992 are equal to \$40.00 per Pension Credit Year.
- (7) If Participant worked in the Tri-State Local and earned sufficient Pension Credit in 1986 and earned sufficient credit in 1992, all of the Future Service Pension Credits are equal to \$50.00.
- (8) Regardless of which of the above group the Participant may be considered with, all Future Service Pension Credits earned after the 1992 Plan Year are equal to \$50.00 per Pension Credit.
- (9) If Participant worked at least 100 hours in Covered Employment in 1994, that Participant will be entitled to a one-time 6.9% increase in the benefit level for all Future Service Pension Credit accrued prior to January, 1995. Future Service Pension Credit earned after January 1, 1995 will be at the rate otherwise in effect in 1994 that is applicable to the Participant.
- (10) Effective January 1, 1996, if a Participant worked at least 100 hours in Covered Employment on or after January 1, 1995, his Future Service Pension Credit amount will be equal to \$55.25 per Pension Credit. If a Participant incurred a Break-In-Service as of December 31, 1995, his Future Service Pension Credit will be frozen at the rate in effect that he last worked.

- (11) Effective January 1, 1997, if a Participant worked at least 100 hours in Covered Employment on or after January 1, 1996, his Future Service Pension Credit amount will be equal to \$59.00 per Pension Credit. If a Participant incurred a Break-In-Service as of December 31, 1996, his Future Service Pension Credit will be frozen at the rate in effect that he last worked.
- (12) Effective January 1, 1998, if a Participant worked at least 100 hours in Covered Employment on or after January 1, 1997, his Future Service Pension Credit amount will be equal to \$73.50 per Pension Credit. If a Participant incurred a Break-In-Service as of December 31, 1997, his Future Service Pension Credit will be frozen at the rate in effect that he last worked.
- (13) Effective January 1, 1999, if a Participant worked at least 100 hours in Covered Employment on or after January 1, 1998, his Future Service Pension Credit amount will be equal to \$80.50 per Pension Credit. If a Participant incurred a Break-In-Service as of December 31, 1998, his Future Service Pension Credit will be frozen at the rate in effect that he last worked.
- (14) Effective January 1, 2001, if a Participant worked at least 100 hours in Covered Employment on or after January 1, 2000, his Future Service Pension Credit amount will be equal to \$83.00 per Pension Credit. If a Participant incurred a Break-In-Service as of December 31, 2000, his Future Service Pension Credit will be frozen at the rate in effect that he last worked.

Past Service Pension Credit

- (1) Past Service Pension Credit is equal to \$3.11 if Participant failed to earn credit in 1986.
- (2) Past Service Pension Credit is equal to \$3.26 if Participant earned credit in 1986.
- (3) Effective January 1, 1996, Past Service Pension Credit is equal to \$3.37 if Participant earned credit on or after January 1, 1995.

**AMENDMENT NO. 1 TO THE
TRI-STATE CARPENTERS AND JOINERS
PENSION PLAN
(As Amended and Restated
Effective January 1, 2009)**

Whereas, the Tri-State Carpenters and Joiners Pension Plan (the "Plan") was originally effective as of November 1, 1970, and was most recently amended and restated in its entirety on January 21, 2010, effective January 1, 2009; and

Whereas, Section 1 of Article XII of the Plan provides that the Plan can be amended from time to time by the Trustees; and

Whereas, the Trustees desire to amend the plan, to make changes requested by the Internal Revenue Service so that the Plan can receive a favorable determination letter;

Therefore, the Tri-State Carpenters and Joiners Pension Plan is hereby amended, effective January 1, 2009, as follows:

First, Section 3 of Article II is hereby amended by amending and restating paragraph (a) in its entirety to read as follows:

- "(a) For the purpose of determining the single sum Actuarial Equivalent of a Participant's Accrued Benefit, by using the Applicable Mortality Table and the Applicable Interest Rate.

"Applicable Mortality Table" shall mean the table or tables prescribed in Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code. The Applicable Mortality Table for 2008 is set forth in Revenue Ruling 2007-67, 2007-2 C.B. 1047. The Applicable Mortality Table for 2009 through 2013 is set forth in Notice 2008-85, 2008-2 C.B. 905.

"Applicable Interest Rate" shall mean the segment rates prescribed in Section 417(e)(3)(A)(ii)(II) of the Internal Revenue Code for the month of November of the Plan Year preceding the date of distribution. Specifically the Applicable Interest Rate shall be the adjusted first, second, and third segment rates applied under the rules similar to the rules of Code Section 430(h)(2)(C) for the November (lookback month) before the first day of the calendar year (stability period) in which the annuity start date occurs. For this purpose, the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code Section 430(h)(2)(C) if:

- (i) Code Section 430(h)(2)(D) were applied by substituting the average yields for the month described in the preceding paragraph for the average yields for the 24-month period described in such section, and
- (ii) Code Section 430(h)(2)(G)(i)(II) 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 Code Section 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011. "

Second, Section 5 of Article II is hereby amended by amending paragraphs (a) and (b) in their entirety to read as follows:

- "(a) A Participant's "Annuity Starting Date" shall be the first day of the first calendar month starting after such Participant has fulfilled all of the conditions for entitlement to benefits, and after the later of:
 - (1) two full months after such Participant's submission of a signed application for benefits to the Fund Office; or
 - (2) 30 days after the Plan advises such Participant of the available benefit payment options.
- (b) Notwithstanding subsection (a) above, effective September 1, 2001, the Annuity Starting Date may occur earlier if the Participant and Spouse (if any) consent in writing to the commencement of payments prior to the end of such 30 day period. In this case, the Participant's Annuity Starting Date shall be the first day of the first calendar month starting after such Participant has fulfilled all of the conditions for entitlement to benefits, and after the later of:
 - (1) Two full months after such Participant's submission of a signed application for benefits to the Fund Office; or
 - (2) seven days after the Plan advises such Participant of the available benefit payment options."

Third, Section 19 of Article II is hereby amended by adding a paragraph to the end thereof to read as follows:

"For purposes of this Section, "leased employee" means any person (other than an Employee of the recipient Employer) who pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to

services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a leased employee shall only include Compensation from the leasing organization that is attributable to services performed for the recipient Employer. A leased employee shall not be considered an Employee of the recipient Employer:

- (a) if such employee is covered by a money purchase pension plan providing:
 - (1) a nonintegrated employer contribution rate of at least 10% of compensation, as defined in Code Section 415(c)(3);
 - (2) immediate participation;
 - (3) full and immediate vesting; and
- (b) if leased employees do not constitute more than 20% of the recipient Employer's nonhighly compensated work force."

Fourth, Section 24 of Article II is hereby amended by replacing the reference, in the last sentence thereof, to "Department of Labor Regulation Section 2530-200b-(c)" with "Department of Labor Regulation Sections 2530.200b-2 and 2530.200b-3".

Fifth, Section 1 of Article XI is hereby amended by adding a sentence to the end of paragraph(d) to read as follows:

"Notwithstanding the foregoing, an Employee's Section 415 Compensation shall include any amount which is contributed or deferred by the Employer at the election of the Employee and which, by reason of Code Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) is not includible in the gross income of the Employee."

Sixth, Section 1 of Article XII is hereby amended by adding a paragraph to the end thereof to read as follows:

"In the event the Plan shall be partially or completely terminated the rights of all Employees to benefits accrued to the date of termination or partial termination (to the extent then funded) shall be non-forfeitable."

Amendment No. 1 to the
Tri-State Carpenters and Joiners Pension Plan – p 4

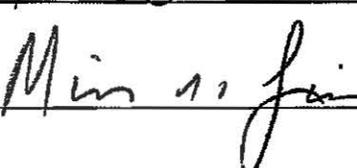
The provisions of this Amendment shall apply only to those individuals whose benefits commence on or after January 1, 2009. The benefits, if any, due other persons will be based on the Plan in effect when such person was last a Participant.

In Witness Whereof, the Trustees have adopted this Amendment No. 1 to the Tri-State Carpenters and Joiners Pension Plan on this 10th day of May, 2012.

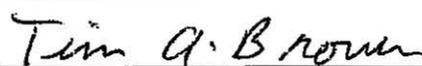
Employer Trustees

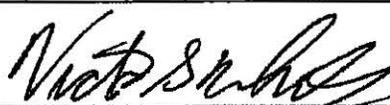


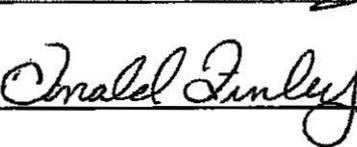




Union Trustees







Osborn, Carreiro & Associates, Inc.

ACTUARIES • CONSULTANTS • ANALYSTS

One Union National Plaza, Suite 1690
124 West Capitol Avenue
Little Rock, Arkansas 72201
(501)376-8043

April 25, 2012

Board of Trustees
Tri-State Carpenters & Joiners Pension Fund
6260 Dayton
Hixson, TN 37343

RE: Approval of Plan Document by the IRS

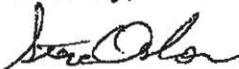
Gentlemen:

Attached is a copy of the April 18, 2012 "favorable determination" letter from the Internal Revenue Service.

The plan document was submitted to the IRS in January 2010 and they have approved it. The bottom of their first page indicates that their approval is subject to your adoption of Amendment No. 1, which we can review at your May 10th meeting.

Please contact me if you have any questions or comments.

Sincerely,



Steve Osborn, F.S.A., M.A.A.A.
Actuary

Attachment

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: APR 18 2012

Employer Identification Number:
62-0976048

DLN:

17007036154010

BOARD OF TRUSTEES FOR TRI-STATE
CARPENTERS & JOINERS PENSION TRUST
C/O OSBORN CARREIRO & ASSOCIATES INC
PAUL STEPHEN OSBORN
124 W CAPITOL AVE STE 1690
LITTLE ROCK, AR 72201

Person to Contact:

NAN CHYO

ID# 95033

Contact Telephone Number:

(626) 312-3628

Plan Name:

TRI-STATE CARPENTERS AND JOINERS
PENSION TRUST FUND

Plan Number: 001

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provides examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This determination letter gives no reliance for any qualification change that becomes effective, any guidance published, or any statutes enacted, after the issuance of the Cumulative List (unless the item has been identified in the Cumulative List) for the cycle under which this application was submitted.

This letter may not be relied on after the end of the plan's first five-year remedial amendment cycle that ends more than 12 months after the application was received. This letter expires on January 31, 2015. This letter considered the 2008 Cumulative List of Changes in Plan Qualification Requirements.

This determination is subject to your adoption of the proposed amendments

Letter 2002 (DO/CG)

BOARD OF TRUSTEES FOR TRI-STATE

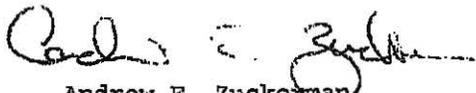
submitted in your letter dated 4-9-12. The proposed amendments should be adopted on or before the date prescribed by the regulations under Code section 401(b).

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the Form 2848 Power of Attorney or appointee as indicated by the Form 8821 Tax Information Authorization.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely,



Andrew E. Zuckerman
Director, EP Rulings & Agreements

Enclosures:
Publication 794
Addendum

BOARD OF TRUSTEES FOR TRI-STATE

This determination letter is applicable for the amendments adopted on 11-26-02, 11-23-04, 11-22-05, 5-3-06, 4-30-08, 11-20-08, 4-8-09 and 1-21-10.

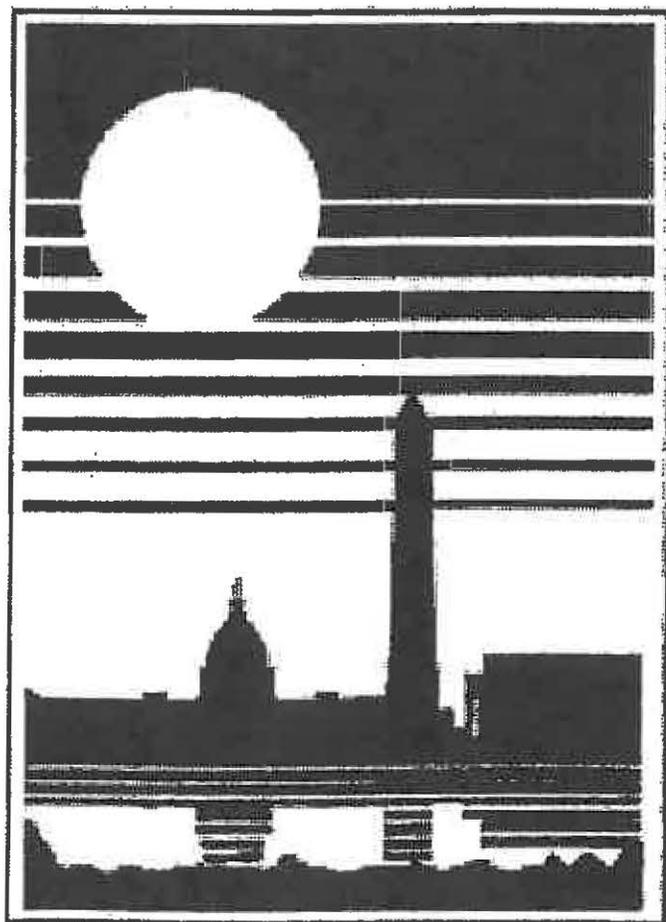
This determination letter does not provide reliance for any portion(s) of the document that incorporates the terms of an auxiliary agreement (collective bargaining, reciprocity and/or participation agreement), unless the exact language of the section(s) that is being incorporated by reference to the auxiliary agreement has been appended to the document.



Department
of the
Treasury
Internal
Revenue
Service

Publication 794
(Rev. October 2010)
Catalog Number 20630M

Favorable Determination Letter



Introduction

This publication explains the significance of your favorable determination letter, points out some features that may affect the qualified status of your employee retirement plan and nullify your determination letter without specific notice from us, and provides general information on the reporting requirements for your plan.

Significance of a Favorable Determination Letter

An employee retirement plan qualified under Internal Revenue Code (IRC) section 401(a) (qualified plan) is entitled to favorable tax treatment. For example, contributions made in accordance with the plan document are generally currently deductible. However, participants will not include these contributions in income until the time they receive a distribution from the plan, at which time special income averaging rates for lump sum distributions may serve to reduce the tax liability. In some cases, taxation may be further deferred by rollover to another qualified plan or individual retirement arrangement. (See Publication 575, Pension and Annuity Income, for further details.) Finally, plan earnings may accumulate tax free. Employee retirement plans that fail to satisfy the requirements under IRC section 401(a) are not entitled to favorable tax treatment. Therefore, many employers desire advance assurance that the terms of their plans satisfy the qualification requirements.

The Internal Revenue Service provides such advance assurance through the determination letter program. A favorable determination letter indicates that, in the opinion of the IRS, the terms of the plan conform to the requirements of IRC section 401(a). A favorable determination letter expresses the IRS's opinion regarding the form of the plan document. However, to be a qualified plan under IRC section 401(a) entitled to favorable tax treatment, a plan must satisfy, in both form and operation, the requirements of IRC section 401(a), including nondiscrimination and coverage requirements. A favorable determination letter may also provide assurance, on the basis of information and demonstrations provided in your application, that the plan satisfies certain of these nondiscrimination and coverage requirements in form or operation. See the following topic, Limitations and Scope of a Favorable Determination Letter, for more details.

Limitations and Scope of a Favorable Determination Letter

A favorable determination letter is limited in scope. A determination letter generally applies to qualification requirements regarding the form of the plan. A determination letter may also apply to certain operational (non-form) requirements.

Generally, a favorable determination letter does not consider, and may not be relied on with regard to:

- certain requirements under IRC section 401(a)(4), including the requirement that the plan be nondiscriminatory in the amounts of contributions or benefits for highly compensated and nonhighly compensated employees;
- the coverage requirements under IRC sections 410(b) and 401(a)(26); and
- the definition of compensation under IRC section 414(s).

In addition, a favorable determination letter may not be relied on for any qualification changes that becomes effective, any guidance published, or any statutes enacted, after the issuance of the applicable Cumulative List of Changes in Plan Qualification Requirements (Cumulative List) unless the item has been identified in that Cumulative List for the cycle under which the application was submitted. See section 4 of Revenue Procedure (Rev. Proc.) 2007-44, 2007-28 I.R.B. 54.

However, if you requested one or more of the optional nondiscrimination and coverage determinations offered on the determination letter application forms (Form 5300, Form 5307, Schedule Q), your favorable determination letter considers, and may be relied on, with regard to the specific determination(s) you requested, provided you satisfy the following requirement: you must retain copies of the application forms, any required demonstrations, and all correspondence with the IRS Revenue Service related to the application for a favorable determination letter. **A favorable determination letter cannot be relied on with regard to any optional determination request unless all of the required information is retained.**

In addition, the following apply generally to all determination letters:

- If you maintain two or more retirement plans, some of which were either not submitted to the IRS for determination or not disclosed on each application, certain limitations and requirements will not have been considered on an aggregate basis. Therefore, you may not rely on the determination letter regarding the plans when considered as a total package.

- A determination letter for a defined benefit plan may be relied on regarding the requirements of IRC section 401(a)(26) if the application requested a determination regarding section 410(b).

- A determination letter does not consider the special requirements relating to: (a) affiliated service groups, (b) leased employees, or (c) plan assets or liabilities involved in a merger, consolidation, spin-off or transfer of assets with another plan unless the letter includes a statement that the requirements of IRC section 414(m) (affiliated service groups), or 414(n) (leased employees) has been considered.

- No determination letter may be relied on with respect to the effective availability of benefits, rights, or features under the plan. (See section 1.401(a)(4)-4(c) of the Income Tax Regulations.) Reliance on whether benefits, rights, or features are currently available to a non-discriminatory group of employees is provided to the extent requested in the application.

- A determination letter does not consider whether actuarial assumptions are reasonable for funding or deduction purposes or whether a specific contribution is deductible.

- A determination letter does not consider, and may not be relied on with respect to, certain other matters described in section 5 of Rev. Proc. 2009-6, 2009-1 I.R.B. 189 (i.e., whether a plan amendment is part of a pattern of amendments that significantly discriminates in favor of highly compensated employees; the use of the substantiation guidelines contained in Rev. Proc. 93-42, 1993-31 I.R.B. 32; and certain qualified separate lines of

business requirements of IRC section 414(r)).

- The determination letter applies only to the employer and its participants on whose behalf the determination letter was issued.

- A determination letter does not express an opinion whether disability benefits or medical care benefits are acceptable as accident or health plan benefits deductible under IRC section 105 or 106.

- A determination letter does not express an opinion on whether the plan is a governmental plan defined in IRC section 414(d).

- A determination letter does not express an opinion on whether contributions made to a plan treated as a governmental plan defined in IRC section 414(d) constitute employer contributions under IRC section 414(h)(2), nor on whether a governmental excess benefit arrangement satisfies the requirements of IRC section 415(m).

You should become familiar with the terms of the determination letter. Please call the contact person listed on the determination letter if you do not understand any terms in your determination letter.

Retention of information. Whether a plan meets the qualification requirements is determined from the information in the written plan document, the application form and the supporting information submitted by the employer. **Therefore, you must retain copies of any demonstrations or other information submitted with your application. Such demonstrations determine the extent of reliance provided by your determination letter. Failure to retain such information may limit the scope of reliance on issues for which demonstrations were provided.**

Other conditions for reliance. We have not verified the information submitted with your application. The determination letter will not provide reliance if:

- (1) there has been a misstatement or omission of material facts, (for example, the application indicated that the plan was a governmental plan and it was not a governmental plan);
- (2) the facts subsequently developed are materially different than the facts on

which the determination was made; or

(3) there is a change in applicable law.

Law changes affecting the plan. A determination issued to an adopting employer of an individually designed plan will be based on the most recent Cumulative List published prior to the one year period starting February 1st and ending January 31st in which the determination letter application was filed. The Cumulative List is a list published annually by the IRS that identifies on a year-by-year basis all changes in the qualification requirements resulting from statute changes, regulations, or other guidance published in the Internal Revenue Bulletin that are required to be taken into account in the written plan document. See sections 4, 13, and 14 of Rev. Proc. 2007-44 for further details. Generally, a determination letter issued to an adopting employer of a pre-approved plan (i.e., Master & Prototype (M&P) plan or volume submitter (VS) plan) will be based on the Cumulative List used by the IRS in reviewing the pre-approved plan. However, see section 19 of Rev. Proc. 2007-44 for exceptions to this rule. For terminating plans, a determination letter is based on the law in effect at the time of the plan's proposed date termination. See Section B of Rev. Proc. 2007-44.

Amendments to the plan. A favorable determination letter issued to an individually designed plan will provide reliance up to and including the expiration date identified on the determination letter. This reliance is conditioned upon the timely adoption of any necessary interim amendments as required by section 5.04 of Rev. Proc. 2007-44. A favorable determination letter issued to an adopting employer of a preapproved plan will provide reliance up to and including the last day of the six-year cycle following the six-year remedial amendment cycle in which the determination letter application was filed. The reliance is conditioned upon the timely adoption of any necessary interim amendments as required by section 5.04 of Rev. Proc. 2007-44. Also see Rev. Proc. 2005-16, 2005-10 I.R.B. 674 sections 5.01 and 15.05 and Announcement 2005-37, 2005-21 I.R.B. 1096.

Plan Must Qualify in Operation

Generally, a plan qualifies in operation if it continues to satisfy the coverage and nondiscrimination requirements and is maintained according to the terms on which the favorable determination letter was issued. Changes in facts and other basis on which the determination letter was issued may mean that the determination letter may no longer be relied upon.

Some examples of the effect of a plan's operation on a favorable determination are:

Not meeting nondiscrimination in amount requirement. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement of section 1.401(a)(4)-1(b)(2) of the regulations on the basis of a design-based safe harbor, the plan will generally continue to satisfy this requirement in operation if the plan is maintained according to its terms. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement on the basis of a nondesign-based safe harbor or a general test, and the plan subsequently fails to meet this requirement in operation, the favorable determination letter may no longer be relied upon with respect to this requirement.

Not meeting minimum coverage requirements. If the determination letter application includes a request for a determination regarding the ratio percentage test of IRC section 410(b) and the plan subsequently fails to satisfy the ratio percentage test in operation, the letter may no longer be relied upon with respect to the coverage requirements. Likewise, if the determination letter application requests a determination regarding the average benefit test, the letter may no longer be relied on with respect to the coverage requirements once the plan fails to satisfy the average benefit test in operation.

Changes in testing methods. If the determination letter is based in part on a demonstration that a coverage or nondiscrimination requirement is satisfied, and, in the operation of the

plan, the method used to test that this requirement continues to be satisfied is changed (or is required to be changed because the facts have changed) from the method employed in the demonstration, the letter may no longer be relied upon with respect to this requirement.

Contributions or benefits in excess of the limitations under IRC section 415. A retirement plan may not provide retirement benefits or, in the case of a defined contribution plan, contributions and other additions, that exceed the limitations specified in IRC section 415. Your plan contains provisions designed to provide benefits within these limitations. Please become familiar with these limitations, for your plan will be disqualified if these limitations are exceeded.

Top-heavy minimums. If this plan primarily benefits employees who are key employees, it may be a top-heavy plan and must provide certain minimum benefits and vesting for non-key employees. If your plan provides the accelerated benefits and vesting only for years during which the plan is top-heavy, failure to identify such years and to provide the accelerated vesting and benefits will disqualify the plan.

Actual deferral percentage or contribution percentage tests. If this plan provides for cash or deferred arrangements, employer matching contributions, or employee contributions, the determination letter does not consider whether special discrimination tests described in IRC section 401(k)(3) or 401(m)(2) have been satisfied in operation. However, the letter considers whether the terms of the plan satisfy the section 401(k)(3) or 401(m)(2) requirements specified in IRC section 401(k)(3) or 401(m)(2).

Reporting Requirements

Most plan administrators or employers who maintain an employee benefit plan must file an annual return/report. The following is a general discussion of the forms to be used for this purpose. See the instructions to each form for specific information:

Form 5500-EZ Annual Return of One-Participant (Owners and their Spouses) Pension Benefit Plans - generally for a "one-participant" plan, which is a plan that covers only:

- (1) an individual, or an individual and his or her spouse who wholly own a business, whether incorporated or not; or
- (2) partner(s) in a partnership or the partner(s) and the partner's spouse.

If Form 5500-EZ cannot be used, the one-participant plan should use Form 5500, Annual Return/Report of Employee Benefit Plan.

See instructions to Form 5500-EZ for specific rules.

Note: A "one-participant" plan that has no more than \$250,000 in assets at the end of the plan year is not required to file a return. However, Form 5500-EZ must be filed for any subsequent year in which plan assets exceed \$250,000. If two or more one-participant plans have more than \$250,000 in assets, a separate Form 5500-EZ must be filed for each plan.

Instead of filing the paper Form 5500-EZ, plan administrators or employers may choose to file electronically using Form 5500-SF. Detailed information for electronic filing is available in the 2009 Instructions for Form 5500-EZ or at www.efast.dol.gov.

A "Final" Form 5500-EZ must be filed if the plan is terminated.

Form 5500, Annual Return/Report of Employee Benefit Plan - for a pension benefit plan that is not eligible to file Form 5500-EZ.

Note. Keogh (H.R. 10) plans having over \$250,000 in assets are required to file an annual return even if the only participants are owner-employees. The term "owner-employee" includes a partner who owns more than 10% interest in either the capital or profits of the partnership. This applies to both defined contribution and defined benefit plans.

Form 5330 for prohibited transactions. Transactions between a plan and someone having a relationship to the plan (disqualified person) are prohibited, unless specifically exempted from this requirement. A few examples are loans, sales and exchanges of property, leasing of property, furnishing goods or services, and use of plan assets by the disqualified person. Disqualified persons who engage in a prohibited transaction for which there is no exception must file Form 5330 by the last day of the seventh month after the end of the tax year of the disqualified person.

Form 5330 for tax on nondeductible employer contributions to qualified plans - If contributions are made to this plan in excess of the amount deductible, a tax may be imposed upon the excess contribution. Form 5330 must be filed by the last day of the seventh month after the end of the employer's tax year.

Form 5330 for tax on excess contributions to cash or deferred arrangements or excess employee contributions or employer matching contributions - If a plan includes a cash or deferred arrangement (IRC section 401(k)) or provides for employee contributions or employer matching contributions (IRC section 401(m)), then excess contributions that would cause the plan to fail the actual deferral percentage or the actual contribution percentage test are subject to a tax unless the excess is eliminated within 2½ months after the end of the plan year. Form 5330 must be filed by the due date of the employer's tax return for the plan year in which the tax was incurred.

Form 5330 for tax on reversions of plan assets - Under IRC section 4980, a tax is payable on the amount of almost any employer reversion of plan assets. Form 5330 must be filed by the last day of the month following the month in which the reversion occurred.

Form 5310-A for certain transactions - Under IRC section 6058(b), an actuarial statement is required at least 30 days before a merger, consolidation, or transfer (including spin-off) of assets to another plan. This statement is required for all plans. However, penalties for non-filing will not apply to defined contribution plans for which:

- (1) The sum of the account balances in each plan equals the fair market value of all plan assets,
- (2) The assets of each plan are combined to form the assets of the plan as merged,
- (3) Immediately after a merger, the account balance of each participant is equal to the sum of the account balances of the participant immediately before the merger, and
- (4) The plans must not have an unamortized waiver or unallocated suspense account.

Penalties will also not apply if the assets transferred are less than three percent of the assets of the plan involved in the transfer (spinoff), and the transaction is not one of a series of two or more transfers (spinoff transactions) that are, in substance, one transaction.

The purpose of the above discussions is to illustrate some of the principal filing requirements that apply to pension plans. This is not an exclusive listing of all returns and schedules that must be filed.