

**IRON WORKERS OF WESTERN PENNSYLVANIA  
PENSION PLAN**

(Amended and Restated as of January 1, 2002)

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**IRON WORKERS OF WESTERN PENNSYLVANIA  
PENSION PLAN**

(Amended and Restated as of January 1, 2002)

**PREAMBLE**

**WHEREAS**, effective January 2, 1959, the Ironworker Employers Association of Western Pennsylvania (the "Association") and Local Union No. 3 and Local Union No. 772 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (the "Union") entered into an agreement and declaration of trust (the "Trust Agreement") to establish a pension fund to provide retirement, disability and death benefits to members of the Union and other plan participants employed by members of the Association and other employers in the construction industry within the geographic jurisdiction of the Union in accordance with the provisions of collective bargaining agreements between the Association and the Union; and

**WHEREAS**, such Trust Agreement created a jointly trusteeed pension fund to be administered in accordance with the provisions of Section 302(c) of the Labor-Management Relations Act of 1947 (the "Taft-Hartley Act"); and

**WHEREAS**, in accordance with the terms of the Trust Agreement, the trustees of the pension fund adopted the Iron Workers Pension Plan of Western Pennsylvania (the "Plan") as the rules and regulations for the administrative operation of the pension fund and the Plan in order to effectuate the purposes of the pension fund and the Plan, and

**WHEREAS**, the Trustees of the pension fund, in accordance with the right reserved to them under the provisions of the Plan, last amended and restated the Pension Plan on December 2, 1994, effective January 1, 1989, and thereafter adopted various amendments thereto; and

**WHEREAS**, the Trustees wish to amend and restate the Plan to comply with the current qualification requirements of the Code, including the Retirement Protection Act of 1994, the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, the Internal Revenue Restructuring and Reform Act of 1998, and the Community Renewal Tax Relief Act of 2000.

**NOW, THEREFORE**, the Trustees hereby amend the Plan in its entirety as follows, effective January 1, 2002, except as otherwise provided herein:

**ARTICLE I**

**DEFINITIONS**

**Section 1.01. Accrued Benefit.**

The term "Accrued Benefit" shall mean the amount that could be payable at the Participant's Normal Retirement Date determined in accordance with the provisions of Section 4.01 on the basis of the Participant's aggregate credited Pension Credits.

## **Section 1.02. Actuarial Present Value/Actuarial Equivalent/Equivalence.**

The terms "Actuarial Present Value" and "Actuarial Equivalent/Equivalence" shall have the following meanings:

- (a) "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 so specified, based on the actuarial factors and assumptions described in this Section.
- (b) For purposes of converting the normal form of benefit (Single Life Annuity) to all optional forms of benefit other than lump sum payments, the "Actuarial Present Value" of a benefit shall be determined using an interest rate of 7.5%, unless otherwise specified in the Plan. The provisions of this paragraph shall not apply to any conversions which may be required to be made in order to comply with the provisions of a Qualified Domestic Relations Order.
- (c) Except as stated in paragraph (e) below or unless otherwise specified in the Plan, for purposes of converting the normal form of benefit (Single Life Annuity) to all optional forms of benefit other than the lump sum payment, the mortality assumption shall be based on the 1971 Group Mortality Table weighted as follows:
  - (1) For a Participant's benefit, 100% male and 0% female;
  - (2) For the benefit of a Participant's Qualified Spouse, or Beneficiary, 0% male and 100% female; and
  - (3) In any other case, 50% male and 50% female.
- (d) For purposes of determining all lump sum payments paid under the Plan (or when otherwise determining present value for purposes of Code Section 417(e)(3)), the "Actuarial Present Value" of a benefit shall be determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue for the determination of present value under Code Section 417(e)(3)(A)(ii)(I) with interest equal to the annual interest rate on 30-year Treasury securities specified by the Commissioner of Internal Revenue for the determination of present value under Code Section 417(e)(3)(A)(ii)(II) for the September preceding the Plan Year of payment (or determination).
- (e) Notwithstanding any other provision of this Section to the contrary, payments to an alternate payee pursuant to a Qualified Domestic Relations Order which commence upon commencement of a disability benefit to the Participant shall be determined using a mortality assumption based on the 1971 Group Mortality Table - Female for the alternate payee, and the 1965 Railroad Retirement Board - Disabled Life Table for the Participant.
- (f) For payments to be made pursuant to a Qualified Domestic Relations Order, the "Actuarial Present Value" of a benefit shall be determined using the immediate interest rate prescribed by the PBGC for valuing annuities under single-employer plans that

terminate without a Notice of Sufficiency on the first day of the calendar year in which the date as of which the benefit is valued occurs.

**Section 1.03. Annuity Starting Date.**

As determined in accordance with Article V, the term "Annuity Starting Date" shall mean the first day of the first period for which an amount is payable monthly under the Plan as an annuity or otherwise, or in the case of a benefit not payable monthly, the first day on which all events have occurred which entitle the Participant to such benefit under the Plan.

**Section 1.04. Association.**

The term "Association" shall mean the Ironworker Employers Association of Western Pennsylvania.

**Section 1.05. Beneficiary.**

The term "Beneficiary" shall mean the person or persons determined in accordance with the provisions of Section 5.18 to receive payment of the death benefit described in Sections 5.16 and 5.17.

**Section 1.06. Code.**

The term "Code" shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

**Section 1.07. Collective Bargaining Agreement.**

The term "Collective Bargaining Agreement" shall mean a collective bargaining agreement in force between the Association and the Union that requires Employer Contributions to the Pension Fund.

**Section 1.08. Collectively Bargained Employee.**

The term "Collectively Bargained Employee" shall mean and include any Employee of an Employer on whose behalf Employer Contributions are required to be paid into the Pension Fund pursuant to a Collective Bargaining Agreement.

**Section 1.09. Contiguous Noncovered Employment.**

The term "Contiguous Noncovered Employment" shall mean employment with an Employer which is not Covered Employment and which precedes or follows Covered Employment under circumstances when no quit, discharge or retirement occurs between such Covered Employment and such noncovered employment. The term "Contiguous Noncovered Employment" shall be interpreted and applied consistent with the provisions of U.S. Department of Labor Regulations Section 2530.210.

### **Section 1.10. Covered Employment.**

The term "Covered Employment" shall mean employment with an Employer for which an Employee is paid or entitled to payment by the Employer and for which the Employer is obligated to make Employer Contributions to the Pension Fund.

### **Section 1.11. Earliest Retirement Age.**

The term "Earliest Retirement Age" shall mean the earliest date on which the Participant could elect, under the terms of the Plan, to receive retirement benefits.

### **Section 1.12. Employee.**

The term "Employee" shall mean an individual employed as a common law employee by an Employer or by any other employer required to be aggregated with an Employer under Code Section 414(b), (c), (m) or (o). The term "Employee" also includes, to the extent necessary and permitted, a "leased employee" of such employer, which for Plan Years beginning on and after January 1, 1997, as determined in accordance with Code Section 414(n), is any person who is not an employee of the employer and who, pursuant to an agreement between a leasing organization and the employer, performs services for the employer on a substantially full-time basis for a period of at least one year under the primary control and direction of the employer, but excluding any such person if (i) such person is covered under a money purchase pension plan maintained by the leasing organization that provides for a 10 percent nonintegrated employer contribution for each of its participants, full and immediate vesting, and immediate participation for each non-excluded employee of the leasing organization, and (ii) leased employees (determined without regard to this exclusion) do not constitute more than 20 percent of the employer's nonhighly compensated employee workforce

### **Section 1.13. Employer.**

The term "Employer" shall mean any person, firm, corporation, partnership, association, trust, contractor, city, county, state or other political subdivision or agency which is obligated to contribute to the Pension Fund on behalf of Employees pursuant to the terms of a Collective Bargaining Agreement, or pursuant to the terms of a participation agreement or other written instrument calling for Employer Contributions on behalf of Employees on the basis of 40 hours per week for 52 weeks per year. The Union, the Iron Workers Welfare and Profit Sharing Plans of Western Pennsylvania (including any predecessor plans), the Iron Workers Apprenticeship Training and Journeyman Retraining Fund (Local No. 3), the Ironworkers Apprenticeship Training and Journeyman Upgrading Fund (Local Union No. 772), the National Ironworkers and Employers Training Program, the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (including any affiliated District Councils) and this Pension Plan shall each also be considered an "Employer" provided that such Employer has a written agreement with the Trustees obligating it to make contributions to the Pension Fund on behalf of Employees on the basis of 40 hours per week for 52 weeks per year.

### **Section 1.14. Employer Contributions.**

The term "Employer Contribution(s)" shall mean a payment or payments made or required to be made by an Employer to the Pension Fund in the amount(s) specified in a Collective Bargaining



Agreement, participation agreement or other written instrument between an Employer and the Union or the Trustees.

**Section 1.15. Entry Date.**

The term "Entry Date" shall mean January 1 or July 1.

**Section 1.16. ERISA.**

The term "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

**Section 1.17. Hour of Service.**

The term "Hour of Service" shall mean:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the Plan Year in which the duties are performed; and
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability and Worker's Compensation), layoff, jury duty, military duty or leave of absence. No more than 501 Hours of Service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single Plan Year). For purposes of this Section, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly or indirectly through a trust, fund or insurer to which the Employer contributes or pays premiums. An hour for which an Employee is directly or indirectly paid or entitled to payment on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained by the Employer solely for the purpose of complying with applicable unemployment compensation or disability insurance laws. In addition, Hours of Service are not required to be credited hereunder for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Hours under this paragraph will be calculated and credited pursuant to U.S. Department of Labor Regulations Section 2530.200b-2 which is incorporated herein by this reference; and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under paragraph (a) or paragraph (b), as the case may be, and under this paragraph (c). These hours will be credited to the Employee for the Plan Year(s) to which the award or agreement pertains rather than the Plan Year in which the award, agreement or payment is made.
- (e) Hours of Service will also be credited for any individual considered an Employee of an Employer for purposes of this Plan under Code Section 414(n) or Code Section 414(o).

- (f) Notwithstanding anything herein contained to the contrary, no Employee or Participant shall be credited with Hours of Service for any service performed in or constructively credited to any period during which an Employer is not or was not obligated to make Employer Contributions to the Pension Fund on behalf of Employees.

**Section 1.18. Local Union No. 3 Retiree.**

The term "Local Union No. 3 Retiree" shall mean a Participant who Retires with all or a majority of his Pension Credits earned and credited for Covered Employment within the jurisdiction of Local Union No. 3.

**Section 1.19. Local Union No. 772 Retiree.**

The term "Local Union No. 772 Retiree" shall mean a Participant who Retires with all or a majority of his Pension Credits earned and credited for Covered Employment within the jurisdiction of Local Union No. 772.

**Section 1.20. Noncollectively Bargained Employee.**

The term "Noncollectively Bargained Employee" shall mean and include any Employee who is employed by an Employer and who is not covered by a Collective Bargaining Agreement, but is covered by a participation agreement or other written instrument requiring Employer Contributions on such Employee's behalf.

**Section 1.21. Normal Retirement Age.**

The term "Normal Retirement Age" shall mean age 65, or, if greater, the Participant's attained age on the fifth anniversary of the commencement of the Participant's participation in the Plan.

**Section 1.22. Normal Retirement Date.**

The term "Normal Retirement Date" shall mean the first day of the calendar month next following the date upon which the Participant attains Normal Retirement Age.

**Section 1.23. Participant.**

The term "Participant" shall mean an Employee who meets the requirements for participation set forth in Article II of the Plan. Where the context so requires, the term Participant shall also refer to a former Participant who continues to be employed by an Employer in Contiguous Noncovered Employment.

**Section 1.24. PBGC.**

The term "PBGC" shall mean the Pension Benefit Guaranty Corporation.

**Section 1.25. Pension Fund.**

The term "Pension Fund" shall mean the trust estate established under the Trust Agreement effective as of January 2, 1959, as amended from time to time.

**Section 1.26. Plan.**

The term "Plan" shall mean the rules and regulations set forth herein, and all amendments adopted from time to time. Wherever necessary or appropriate, the term "Plan" includes the Plan as previously constituted prior to this amendment and restatement. The name of the Plan shall be the "Iron Workers Pension Plan of Western Pennsylvania."

**Section 1.27. Plan Year.**

The term "Plan Year" shall mean the calendar year (January 1-December 31).

**Section 1.28. Qualified Joint and Survivor Annuity.**

The term "Qualified Joint and Survivor Annuity" shall mean an immediate annuity for the life of the Participant and Qualified Spouse under which the monthly amount of the survivor annuity for the life of the Qualified Spouse (if surviving) is fifty percent (50%) of the monthly amount of the annuity payable during the joint lives of such Participant and the Qualified Spouse, and which is the Actuarial Equivalent of a Single Life Annuity for the Participant (or, if greater, the Actuarial Equivalent of any optional form of benefit available to the Participant under the Plan).

**Section 1.29. Qualified Preretirement Survivor Annuity.**

- (a) The term "Qualified Preretirement Survivor Annuity" shall mean an immediate annuity for the life of the surviving Qualified Spouse of a Participant.
- (b) If the Participant dies after the Earliest Retirement Age, the benefit under the Qualified Preretirement Survivor Annuity shall not be less than the benefit that would have been calculated for the survivor under the Qualified Joint and Survivor Annuity payable under the Plan if the Participant had Retired with a Qualified Joint and Survivor Annuity on the day before the Participant's death. The Qualified Preretirement Survivor Annuity shall be calculated as of the date of the Participant's death.
- (c) If the Participant dies on or before the Earliest Retirement Age, the benefit calculated under the Qualified Preretirement Survivor Annuity shall not be less than the benefit that would have been calculated for the survivor under the Qualified Joint and Survivor Annuity payable under the Plan if the Participant had separated from service at the earlier of the actual time of separation or death, survived until the Earliest Retirement Age, Retired at that time with a Qualified Joint and Survivor Annuity, and died on the day thereafter. The Qualified Preretirement Survivor Annuity shall be calculated with reference to the Participant's Earliest Retirement Age.

**Section 1.30. Qualified Spouse.**

The term "Qualified Spouse" shall mean a Spouse or former Spouse of a Participant as identified and described in Sections 5.01 for purposes of Article V.

**Section 1.31. Retirement/Retire.**

The term "Retirement" or "Retire" shall mean withdrawal from any and all work in the Construction Industry.

**Section 1.32. Single Life Annuity.**

The term "Single Life Annuity" shall mean an immediate annuity payable in equal installments for the life of the Participant that terminates on the Participant's death.

**Section 1.33. Spouse.**

The term "Spouse" shall mean the individual to whom a Participant is legally married under applicable state law.

**Section 1.34. Total and Permanent Disability.**

- (a) For purposes of initial qualification for a Regular Disability Benefit (Lifetime Payment), an Occupational Disability Benefit (Lifetime Payment), or a Special Disability Benefit (Lifetime Payment) under Sections 5.08 - 5.10, the term "Total and Permanent Disability" shall mean a physical or mental condition which prevents (and which for all future time may reasonably be expected to prevent) the Participant from engaging in any gainful employment (whether or not such employment involves iron work or construction work), and for which the Participant is eligible for and receives a final award of a disability benefit under Title II of the Social Security Act.
- (b) For purposes of initial qualification for a Regular Disability Benefit (48-month Extended Disability Payment), an Occupational Disability Benefit (48-month Extended Disability Payment), or a Special Disability Benefit (48-month Extended Disability Payment) under Sections 5.08 - 5.10, the term "Total and Permanent Disability" shall mean a physical or mental condition which prevents (and which for all future time may reasonably be expected to prevent) the Participant from engaging in employment as a construction worker.

**Section 1.35. Trust Agreement.**

The term "Trust Agreement" shall mean the Agreement and Declaration of Trust effective January 2, 1959 between the Association and the Union, establishing the Iron Workers Pension Fund of Western Pennsylvania and the Plan, as amended from time to time.

**Section 1.36. Trustees.**

The term "Trustees" shall mean the Board of Trustees selected by the Association and the Union under the Plan and the Trust Agreement in accordance with Section 302(c) of the Labor-Management Relations Act of 1947, including any successor Trustees.

**Section 1.37. Union.**

The term "Union" shall mean Local Union No. 3 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO. As of July 1, 1983, the term "Union" shall include Local Union No. 772 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO. As of May 1, 1985, the term "Union" shall also include Local Union No. 818 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO. As of August 1, 1987, Local Union No. 818 was merged into Local Union

No. 3 and, as a result, is no longer in existence. The term "Union" shall also include any other local union which becomes a party to the this Plan and the Trust Agreement.

**Section 1.38. Vested Benefit.**

The term "Vested Benefit" shall mean all or such portion of a Participant's Accrued Benefit which becomes nonforfeitable by virtue of the Participant's credited Years of Service in accordance with the provisions of Section 3.02, or by virtue of the Participant's death or attainment of Normal Retirement Age as provided in Section 4.02.

**ARTICLE II**

**PARTICIPATION**

**Section 2.01. Commencement of Participation.**

- (a) An Employee shall become a Participant in the Plan as of the Entry Date next following the Employee's completion of a Year of Service, provided that the Employee is employed in Covered Employment on such Entry Date, and further provided that he is then otherwise eligible to participate in the Plan under the provisions of this Article.
- (b) For purposes of determining eligibility for participation in the Plan, a Year of Service is a twelve (12) consecutive month period (computation period) during which the Employee is credited with at least 800 Hours of Service in Covered Employment and/or Contiguous Noncovered Employment. The first computation period to be considered for this purpose shall be the computation period beginning on the Employee's employment commencement date. An Employee's employment commencement date is the first day for which the Employee is entitled to be credited with an Hour of Service in Covered Employment (or, if applicable, in Contiguous Noncovered Employment). In the event that the Employee fails to complete 800 or more Hours of Service during such initial computation period, the computation period shall coincide with the Plan Year, beginning with the Plan Year which includes the first anniversary of the Employee's employment commencement date.

**Section 2.02. Termination of Participation.**

A Participant's participation in the Plan shall terminate as of the date upon which the Participant's Covered Employment (or, if applicable, Contiguous Noncovered Employment) terminates as the result of Retirement, death, disability, or other termination of service. In the case of a Participant whose service terminates without credit for Vested Benefits under the Plan, such Participant's participation in the Plan shall terminate as of the last day of the Plan Year in which the Participant is charged with a One Year Break in Service under Section 3.03.

**Section 2.03. Participation Upon Reemployment.**

- (a) In the case of an Employee whose prior participation in the Plan terminated under the provisions of Section 2.02 with credit for Vested Benefits, or who returns to Covered Employment before incurring a One Year Break in Service, such Employee shall again become a Participant in the Plan as of the first date upon which such Employee

performs Covered Employment after his reemployment, provided that he is then otherwise eligible to participate in the Plan under the provisions of this Article. Such subsequent period of participation shall continue until the same is terminated under the provisions of Section 2.02.

- (b) An Employee whose prior participation in the Plan terminated under the provisions of Section 2.02 without credit for Vested Benefits, and who returns to Covered Employment after incurring a One Year Break in Service, shall be eligible to participate as follows:
- (1) Such Employee shall not be eligible to participate in the Plan until such Employee is credited with 200 or more Hours of Service in Covered Employment and/or Contiguous Noncovered Employment during a computation period beginning on or after his reemployment commencement date.
  - (2) The first computation period to be considered for purposes of this paragraph (b) shall be the computation period beginning on the Employee's reemployment commencement date. An Employee's reemployment commencement date is the first day for which the Employee is entitled to be credited with an Hour of Service in Covered Employment or Contiguous Noncovered Employment following the Plan Year in which the Employee was first charged with a One Year Break in Service. In the event that the Employee fails to complete 200 or more Hours of Service during such initial computation period, the computation period shall coincide with the Plan Year, beginning with the Plan Year which includes the first anniversary of the Employee's reemployment commencement date.
  - (3) Subject to the provisions of subparagraph (4), the Employee shall become a Participant in the Plan as of the Entry Date next following the Employee's completion of the period of service specified in this paragraph (b), provided that the Employee is employed in Covered Employment on such Entry Date, and further provided that he is then otherwise eligible to participate in the Plan under the provisions of this Article. Such subsequent period of participation shall continue until the same is terminated under the provisions of Section 2.02.
  - (4) In the case of an Employee whose number of consecutive One Year Breaks in Service does not equal or exceed the greater of five (5) or the aggregate number of Years of Service credited prior to the Employee's break in service, such Employee's re-eligibility for Plan participation shall be retroactive to his reemployment commencement date upon satisfaction of the service requirement specified in this paragraph (b), provided that the Employee is employed in Covered Employment on the date he completes the period of service specified in this paragraph (b), and further provided that he is then otherwise eligible to participate in the Plan under the provisions of this Article. Such subsequent period of participation shall continue until the same is terminated under the provisions of Section 2.02.

**Section 2.04. Special Limits on Participation.**

- (a) Notwithstanding any other provisions of the Plan to the contrary, no self-employed individual who is deemed to be an employee of an Employer under the provisions of Code Section 401(c) shall become a Participant or continue as a Participant in this Plan.
- (b) Notwithstanding the other provisions of this Article to the contrary, no Employee shall become a Participant, or continue as a Participant in this Plan for any Plan Year, if:
  - (1) such Employee was at any time a participant in any terminated plan which was not a multiemployer plan and which is required to be aggregated with this Plan for purposes of the limitations in Article VII; and
  - (2) the contributions and benefits which may be provided under such other plan(s) and this Plan will exceed the limitations imposed under Article VII.

**ARTICLE III**

**CREDITS FOR PARTICIPATION AND SERVICE; BREAKS IN SERVICE**

**Section 3.01. Pension Credits for Benefit Accruals.**

- (a) A Participant's Accrued Benefit under the Plan shall be determined with reference to his aggregate Pension Credits credited in accordance with the provisions of this Section 3.01 and Section 3.03 below.
- (b) Pre-1989 Plan Years: For Plan Years beginning on and after January 1, 1976 and before January 1, 1989, a Participant shall be credited with full and partial Pension Credits equivalent to his full and partial Pension Credits for benefit accrual purposes credited in accordance with the provisions of the Plan in effect during such Plan Years before January 1, 1989. For Plan Years beginning before January 1, 1976, a Participant shall be credited with full and partial Pension Credits equivalent to the full and partial Pension Credits for benefit accrual purposes credited in accordance with the provisions of the Plan in effect during such Plan Years before January 1, 1976.
- (c) Post-1988 Participation: For Plan Years beginning on and after January 1, 1989 and before January 1, 1993, a full "Pension Credit" shall be determined with reference to 800 Hours of Service in Covered Employment within the Plan Year. A Participant shall be credited with a full or partial Pension Credit in accordance with the following table:

Hours of Service in Covered Employment Credited*	Pension Credit
0 – 199	None**
200 – 399	.25
400 – 599	.50
600 - 799	.75
800 or more	1.00

\*A Participant with any prior credit for full or partial Pension Credits shall be credited with Hours of Service in Covered Employment for purposes of this Section 3.01 at the rate of 22.5 Hours of Service per week during a period of disability for which Weekly Accident and Sickness Benefits are paid from the Iron Workers Welfare Plan of Western Pennsylvania, or during a period for which worker's compensation benefits are paid to a maximum of fifty-two (52) weeks.

\*\*A Participant who is credited with a Year of Service under Section 3.02 but who is not credited with at least 200 Hours of Service in Covered Employment within the Plan Year shall nevertheless be credited with a pro rata portion of a Pension Credit in the ratio that the Participant's Hours of Service in Covered Employment bears to 800 Hours of Service.

(d) Post-1992 Participation:

- (1) For Plan Years beginning on and after January 1, 1993, a full "Pension Credit" shall be determined with reference to 800 Hours of Service in Covered Employment within the Plan Year. A Participant shall be credited with a full or partial Pension Credit in accordance with the following table:

Hours of Service in Covered Employment Credited*	Pension Credit
0 - 199	None**
200 - 399	.25
400 - 599	.50
600 - 799	.75
800 or more	1.00

\*A Participant with any prior credit for full or partial Pension Credits shall be credited with Hours of Service in Covered Employment for purposes of this Section 3.01 at the rate of 22.5 Hours of Service per week during a period of disability for which Weekly Accident and Sickness Benefits are paid from the Iron Workers Welfare Plan of Western Pennsylvania, or during a period for which worker's compensation benefits are paid to a maximum of fifty-two (52) weeks.

\*\*Except under the circumstances described in paragraph (d)(2)(D) below, a Participant who is credited with a Year of Service under Section 3.02 but who is not credited with at least 200 Hours of Service in Covered Employment within the Plan Year shall nevertheless be credited with a pro rata portion of a Pension Credit in the ratio that the Participant's Hours of Service in Covered Employment bears to 800 Hours of Service.

- (2) For Hours of Service in Covered Employment in Plan Years beginning on and after January 1, 1993, the Trustees shall separately identify and track a Participant's Hours of Service in Covered Employment credited within the jurisdictions of Local Union No. 3 and Local Union No. 772 as follows.

(A) In the case of a Participant who, in a given Plan Year, works exclusively in Covered Employment within the jurisdiction of Local Union No. 3, such Participant shall be credited with a full or partial Local Union No. 3 Pension Credit in accordance with the provisions of subparagraph (d)(1) above, based upon Hours of Service credited within the jurisdiction of Local Union No. 3.

(B) In the case of a Participant who, in a given Plan Year, works exclusively in Covered Employment within the jurisdiction of Local Union No. 772,



such Participant shall be credited with a full or partial Local Union No. 772 Pension Credit in accordance with the provisions of subparagraph (d)(1) above, based upon Hours of Service credited within the jurisdiction of Local Union No. 772.

(C) In the case of a Participant who, in a given Plan Year, works in Covered Employment within the jurisdiction of Local Union No. 3 and within the jurisdiction of Local Union No. 772, such Participant shall be credited first with a full or partial Local Union No. 772 Pension Credit determined by applying the provisions of subparagraph (d)(1) above to the Hours of Service credited within the jurisdiction of Local Union No. 772. If such Participant is not so credited with a full Local Union No. 772 Pension Credit for the Plan Year, the Participant shall also be credited with a partial Local Union No. 3 Pension Credit determined by applying the provisions of subparagraph (d)(1) above to the Hours of Service credited within the jurisdiction of Local Union No. 3.

(D) In the case of a Participant who, in a given Plan Year, works in Covered Employment within the jurisdiction of Local Union No. 3 and within the jurisdiction of Local Union No. 772, and who is credited with a Year of Service under Section 3.02, but who is not credited with an aggregate of at least 200 Hours of Service in Covered Employment within the Plan Year, such Participant shall nevertheless be credited with a one-quarter (.25) Local Union No. 3 Pension Credit or a one-quarter (.25) Local Union No. 772 Pension Credit, whichever carries the lower dollar value for the Plan Year.

(e) Under no circumstances shall the sum of a Participant's full and/or partial Pension Credits of any type or category credited for a given Plan Year exceed 1.0.

### **Section 3.02. Service Credits for Vesting.**

(a) A Participant's Vested Benefit under the Plan shall be determined with reference to his aggregate Years of Service credited in accordance with the provisions of this Section 3.02 and Section 3.03 below.

(b) An Employee or a Participant shall be credited with one (1) Year of Service for vesting purposes for each Plan Year (computation period) in which he is or was credited with at least 800 Hours of Service in Covered Employment and/or Contiguous Noncovered Employment (including computation periods before the Employee became a Participant in the Plan).

(c) An Employee or a Participant who is credited with at least 200 Hours of Service but less than 800 Hours of Service in Covered Employment and/or Contiguous Noncovered Employment in a Plan Year shall be credited with a partial Year of Service for vesting purposes in accordance with the following table:

Hours of Service in Covered Employment Credited*	Portion of Full Year of Service Credited
0 – 199	None
200 – 399	.25
400 – 599	.50
600 – 799	.75

\*A Participant credited with full or partial Pension Credits shall be credited with Hours of Service in Covered Employment for purposes of this Section 3.02 at the rate of 22.5 Hours of Service per week during a period of disability for which Weekly Accident and Sickness Benefits are paid from the Iron Workers Welfare Plan of Western Pennsylvania, or during a period for which worker's compensation benefits are paid to a maximum of fifty-two (52) weeks.

- (d) A Participant drawing 48-Month Extended Disability Payments under Sections 5.08(b) or 5.09(b) shall be credited with one (1) Year of Service for vesting purposes for each twelve (12) months that such extended disability payments are paid. Such Participant may receive credit for up to four (4) Years of Service for vesting purposes under the provision in the preceding sentence. A Participant who has received the maximum credit for Years of Service under the preceding sentence, and who remains totally and permanently disabled after 48-Month Extended Disability Payments cease, may be awarded credit for one (1) additional Year of Service for vesting purposes, upon submission to the Trustees of a written application for such credit supported by acceptable medical or other evidence of continuing Total and Permanent Disability.
- (e) For Plan Years beginning before January 1, 1989, an Employee or a Participant shall be credited with Years of Service for vesting purposes in accordance with the provisions of the Plan in effect during such Plan Years prior to January 1, 1989.
- (f) Under no circumstances shall an Employee or a Participant be credited with more than one Year of Service during a Plan Year.

**Section 3.03. Breaks in Service.**

- (a) An Employee or a Participant shall be charged with a One Year Break in Service in the Plan Year in which he is first credited with less than 200 Hours of Service in Covered Employment and/or Contiguous Noncovered Employment. He shall also be charged with a One Year Break in Service for each subsequent Plan Year in which he is credited with less than 200 Hours of Service in Covered Employment and/or Contiguous Noncovered Employment. Notwithstanding the foregoing, a Participant entitled to credit for Years of Service for vesting purposes under the provisions of Section 3.02(d) shall not be charged with a One Year Break in Service in any Plan Year for which such credit is granted.
- (b) Maternity/Paternity Leaves of Absence: In the case of an Employee or a Participant who terminates Covered Employment or Contiguous Noncovered Employment, or who is absent from Covered Employment or Contiguous Noncovered Employment, for maternity/paternity reasons, the provisions of Appendix "A" shall be applied to determine the occurrence of a One Year Break in Service.

- (c) Family and Medical Leave: A leave of absence from Covered Employment or Contiguous Noncovered Employment under the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq. ("FMLA") shall not constitute a Break in Service (and shall be considered as service under the Plan to the extent required by the FMLA), provided that the Employee or Participant complies with all of the requirements of federal law in order to be entitled to reemployment and benefit rights for employees taking leaves under the FMLA, and provided further that the Employee or Participant returns to Covered Employment or Contiguous Noncovered Employment upon expiration of the leave period required by the FMLA.
- (d) Related Service Credit: A Participant shall not be charged with a Break in Service in any Plan Year during which he has earned Related Service Credit in such Plan Year under the provisions of Section 5.07 relating to Partial Pensions.
- (e) An Employee or a Participant who is credited with an additional Year of Service after having been charged with one or more consecutive One Year Breaks in Service shall be credited with the Years of Service and Pension Credits accruing on and after the date upon which he is credited with such additional Year of Service. The Employee or Participant may also be credited with his Years of Service and Pension Credits accrued prior to his Break in Service in accordance with (and only in accordance with) the provisions of paragraphs (f) through (h) below.
- (f) If the Employee or Participant, at the time of his Break in Service, had qualified for a Vested Benefit from the Plan under the provisions of Article IV, the Employee's or Participant's pre-break Years of Service and Pension Credits shall be restored and aggregated with any post-break Years of Service and Pension Credits he may accrue for purposes of determining his rights and benefits under the Plan.
- (g) If the Employee or Participant, at the time of his Break in Service, had not yet qualified for a Vested Benefit from the Plan under the provisions of Article IV, his pre-break Years of Service and Pension Credits shall be restored and aggregated with any post-break Years of Service and Pension Credits he may accrue for purposes of determining his rights and benefits under the Plan if:
  - (1) The number of the Employee's or Participant's consecutive One Year Breaks in Service is less than 5; or
  - (2) The number of the Employee's or Participant's consecutive One Year Breaks in Service is less than the aggregate number of the Employee's or Participant's pre-break Years of Service (whether or not consecutive).
- (h) For purposes of applying the provisions of paragraphs (f) and (g) above, the Trustees shall not be required to recognize any Years of Service or Pension Credits not required to be restored or otherwise taken into account by reason of any prior Break in Service under the current provisions of the Plan or under the provisions of the Plan in effect for any prior Plan Year in which a Break in Service (including a One Year Break in Service or a Permanent Break in Service) occurred.

### **Section 3.04. Military Service.**

- (a) Absence from Covered Employment or Contiguous Noncovered Employment due to service in the Armed Forces of the United States shall not constitute a Break in Service and shall be considered as service under the Plan to the extent required by applicable federal law, provided that the Employee or Participant is entitled to reemployment rights with respect to the Plan.
- (b) For reemployments initiated before December 13, 1994, the provisions of this Section shall be interpreted and applied in accordance with the Veterans' Reemployment Rights law at 38 U.S.C. §§ 4301-4307.
- (c) For reemployments initiated on or after December 13, 1994, the provisions of this Section shall be interpreted and applied in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), and benefits and service credit shall be provided in accordance with Code Section 414(u) as follows:
  - (1) For the purpose of determining the Pension Credits for Benefit Accrual under Section 3.01 and Service Credits for Vesting under Section 3.02 for an Employee or Participant with reemployment rights under USERRA with respect to this Plan, the Employee or Participant shall be credited with Hours of Service in Covered Employment for the period of qualified military service at a rate determined by the higher of (i) the number of Hours of Service in Covered Employment credited during the 12 consecutive month period preceding the period of qualified military service or (ii) the annual average number of Hours of Service in Covered Employment credited during the 36 consecutive period preceding the period of qualified military service, whether or not the Employee or Participant was in Covered Employment continuously during such 12-month or 36-month period. However, if said Employee's or Participant's Covered Employment initially commenced within the 12 consecutive month period preceding the period of qualified military service, the number of Hours of Service in Covered Employment credited for the period of qualified military service shall be determined by an estimated annual rate of Hours of Service credit based upon the Hours of Service credited for the period beginning with such commencement of Covered Employment and ending on the date before the commencement of the period of qualified military service.
  - (2) No Employer shall be liable for making Employer Contributions to the Pension Fund for Hours of Service in Covered Employment credited to an Employee or Participant for a period of qualified military service protected by USERRA. Instead, the cost attributable to said Hours of Service credit shall be borne by the Pension Fund.

### **Section 3.05. Employment After Normal Retirement Date.**

Notwithstanding any other provisions of this Plan to the contrary, a Participant who continues in Covered Employment beyond his Normal Retirement Date may continue to earn Pension Credits under the provisions of this Article III during such period of Covered Employment.

**ARTICLE IV**

**BENEFIT ACCRUALS/VESTING**

**Section 4.01 Basic Benefit Formulas.**

- (a) Subject to the limitations contained in Article VII, effective October 1, 2000, as approved August 18, 2000, each Participant will accrue a retirement benefit based upon the Participant's credited full and partial Local Union No. 3 Pension Credits for Covered Employment under the jurisdiction of Local Union No. 3, multiplied by the following monthly benefit amount(s):

For Local Union No. 3 Pension Credits earned and credited:	The monthly benefit amount* per Local Union No. 3 Pension Credit is:
On and after January 1, 1998	\$101.00
January 1, 1995 to December 31, 1997	\$78.00
January 1, 1994 to December 31, 1994	\$58.00
January 1, 1993 to December 31, 1993	\$43.00
January 1, 1992 to December 31, 1992	\$38.00
January 1, 1959 to December 31, 1991	\$28.00
Before January 1, 1959	\$28.00 (If pre-1992 Pension Credits total 30 or less)
Before January 1, 1959	\$18.00 (If pre-1992 Pension Credits total more than 30)

\* For Participants who are credited with full or partial Pension Credits earned and credited from and after October 1, 2000 and subject to Section 4.03. For Participants with no such Pension Credits, accrued retirement benefits shall be based upon Pension Credits and monthly benefit amounts credited and established in accordance with the provisions of the Plan in effect at the applicable time.

From May 1, 2000 through September 30, 2000, as approved February 25, 2000, the interim monthly benefit amounts for participants with a full or partial Pension Credit earned and credited from and after May 1, 2000 was \$1.00 less for all Pension Credits.

From August 1, 1999 through April 30, 2000, as approved July 8, 1999, the interim monthly benefit amount for Pension Credits earned and credited from and after January 1, 1999 was \$93.00.

- (b) Subject to the limitations contained in Article VII, effective September 1, 2001, as approved August 2, 2001, each Participant will accrue a retirement benefit based upon the Participant's credited full and partial Local Union No. 3 Pension Credits for Covered Employment under the jurisdiction of Local Union No. 3, multiplied by the following monthly benefit amount(s):

For Local Union No. 3 Pension Credits earned and credited:	The monthly benefit amount* per Local Union No. 3 Pension Credit is:
On and after January 1, 2001	\$111.00
January 1, 1998 to December 31, 2000	\$106.00
January 1, 1995 to December 31, 1997	\$83.00
January 1, 1994 to December 31, 1994	\$63.00
January 1, 1993 to December 31, 1993	\$48.00
January 1, 1992 to December 31, 1992	\$43.00
January 1, 1991 to December 31, 1991	\$33.00
January 1, 1971 to December 31, 1990	\$32.00
January 1, 1959 to December 31, 1970	\$29.00
Before January 1, 1959	\$29.00 (If pre-1992 Pension Credits total 30 or less)
Before January 1, 1959	\$19.00 (If pre-1992 Pension Credits total more than 30)

\* For Participants who are credited with full or partial Pension Credits earned and credited from and after January 1, 2001 and subject to Section 4.03. For Participants with no such Pension Credits, accrued retirement benefits shall be based upon Pension Credits and monthly benefit amounts credited and established in accordance with the provisions of the Plan in effect at the applicable time

From June 1, 2001 through August 31, 2001, the interim monthly benefit amounts approved April 24, 2001 for participants with a full or partial Pension Credit earned and credited from and after January 1, 2001 was \$1.00 less for all Pension Credits.

From January 1, 2001 through May 31, 2001, the interim monthly benefit amounts approved March 16, 2001 for participants with a full or partial Pension Credit earned and credited from and after January 1, 2001 was an additional \$1.00 less for Pension Credits earned and credited from January 1, 1971 to December 31, 1990, an additional \$2.00 less for Pension Credits earned and credited from January 1, 1991 through December 31, 2000, and an additional \$7.00 less for Pension Credits earned and credited from January 1, 2001 through May 31, 2001.

- (c) Subject to the limitations contained in Article VII, effective May 1, 2000, as approved on February 25, 2000, each Participant will accrue a retirement benefit based upon the Participant's credited full and partial Local Union No. 772 Pension Credits for Covered Employment under the jurisdiction of Local Union No. 772, multiplied by the following monthly benefit amount(s):

For Local Union No. 772 Pension Credits earned and credited:	The monthly benefit amount* per Local Union No. 772 Pension Credit Is:
On and after January 1, 1998	\$105.00
January 1, 1995 to December 31, 1997	\$77.00
January 1, 1994 to December 31, 1994	\$72.00
January 1, 1993 to December 31, 1993	\$52.00
January 1, 1992 to December 31, 1992	\$37.00
January 1, 1959 to December 31, 1991	\$27.00
Before January 1, 1959	\$27.00 (If pre-1992 Pension Credits total 30 or less)
Before January 1, 1959	\$17.00 (If pre-1992 Pension Credits total more than 30)

\* For Participants who are credited with full or partial Pension Credits earned and credited from and after May 1, 2000 and subject to Section 4.03. For Participants with no such Pension Credits, accrued retirement benefits shall be based upon Pension Credits and monthly benefit amounts credited and established in accordance with the provisions of the Plan in effect at the applicable time.

From August 1, 1999 through April 30, 2000, as approved July 8, 1999, the interim monthly benefit amount for Pension Credits earned and credited from and after January 1, 1999 was \$98.00.

- (d) Subject to the limitations contained in Article VII, effective September 1, 2001, each Participant will accrue a retirement benefit based upon the Participant's credited full and partial Local Union No. 772 Pension Credits for Covered Employment under the jurisdiction of Local Union No. 772, multiplied by the following monthly benefit amount(s):

For Local Union No. 772 Pension Credits earned and credited:	The monthly benefit amount* per Local Union No. 772 Pension Credit Is:
On and after January 1, 2001	\$113.00
January 1, 1998 to December 31, 2000	\$108.00
January 1, 1995 to December 31, 1997	\$80.00
January 1, 1994 to December 31, 1994	\$75.00
January 1, 1993 to December 31, 1993	\$55.00
January 1, 1992 to December 31, 1992	\$40.00

January 1, 1971 to December 31, 1991	\$30.00
January 1, 1959 to December 31, 1970	\$28.00
Before January 1, 1959	\$28.00 (If pre-1992 Pension Credits total 30 or less)
Before January 1, 1959	\$18.00 (If pre-1992 Pension Credits total more than 30)

\* For Participants who are credited with full or partial Pension Credits earned and credited from and after January 1, 2001 and subject to Section 4.03. For Participants with no such Pension Credits, accrued retirement benefits shall be based upon Pension Credits and monthly benefit amounts credited and established in accordance with the provisions of the Plan in effect at the applicable time.

From June 1, 2001 through August 31, 2001, the interim monthly benefit amounts approved April 24, 2001 for participants with a full or partial Pension Credit earned and credited from and after January 1, 2001 was \$1.00 less for all Pension Credits.

From January 1, 2001 through May 31, 2001, the interim monthly benefit amount for participants with a full or partial Pension Credit earned and credited from and after January 1, 2001 was an additional \$5.00 less for Pension Credits earned and credited from January 1, 2001 through May 31, 2001.

- (e) The monthly amount(s) determined under the above paragraphs, as applicable, and payable as a Single Life Annuity for the life of the Participant commencing at the Participant's Normal Retirement Date shall be the Participant's total Accrued Benefit at Normal Retirement Age.

#### **Section 4.02. Vested Benefits.**

- (a) The Accrued Benefit of a Participant who is a Collectively Bargained Employee shall become nonforfeitable when such Participant is credited with ten (10) Years of Service in accordance with the provisions of Sections 3.02 and 3.03. Effective January 1, 1998, the Accrued Benefit of a Participant who is a Collectively Bargained Employee and who meets the requirements for participation under Article II of the Plan on or after January 1, 1998, shall become nonforfeitable when such Participant is credited with five (5) Years of Service in accordance with the provisions of Sections 3.02 and 3.03.
- (b) The Accrued Benefit of a Participant who is a Noncollectively Bargained Employee shall become nonforfeitable when such Participant is credited with five (5) Years of Service in accordance with the provisions of Sections 3.02 and 3.03.
- (c) Notwithstanding the provisions of paragraphs (a) and (b) above, a Participant's right to his Accrued Benefit and to a Regular Pension under Section 5.02 shall become nonforfeitable upon the Participant's attainment of Normal Retirement Age.
- (d) Notwithstanding the provisions of paragraphs (a) and (b) above, a Participant's right to his Accrued Benefit shall become nonforfeitable upon the Participant's death prior to attainment of Normal Retirement Age, provided that the Participant had been credited with at least five (5) Pension Credits at the time of his death, and had not been charged with three (3) consecutive One Year Breaks in Service immediately prior to his death. Solely for purposes of this paragraph, a Participant shall not be charged with a One



Year Break in Service if the Participant was working as an iron worker in another jurisdiction under another pension plan.

**Section 4.03. Application of Benefit Increases.**

- (a) The benefits to which a Participant is entitled shall be determined under the terms of the Plan in effect at the time the obligation of the Participant's Employer to make Employer Contributions to the Pension Fund on the Participant's behalf ceases.
- (b) If a Participant incurs a One Year Break in Service after Employer Contributions to the Pension Fund were last made on his behalf, the Participant will only be entitled to benefit plan improvements under any amendments to the Plan (including increases in benefit and accrual rates, reductions in the early retirement factors, and changes in the requirements for the payment of benefits) if the Participant earns post-break full Pension Credits equal to the number of years in which he was not a Participant in the Plan following a One Year Break in Service. In the event the Participant does not earn post-break full Pension Credits equal to the number of years in which he was not a Participant in the Plan (including the year in which he initially incurred a One Year Break in Service), the benefits to which the Participant shall be entitled shall be the sum of the proportional amount attributable to the Participant's Pension Credits earned in pre-break Covered Employment and the additional amount attributable the Pension Credits earned for post-break Covered Employment.

**Section 4.04. Benefit Increase.**

- (a) Effective August 1, 1999, a Participant (including a retired or former Participant) who was credited with a least one-quarter Pension Credit in 1999 shall have the monthly benefit amount for Pension Credits earned and credited from and after January 1, 1999 increased to \$93.00 if Local Union No. 3 Pension Credits and to \$98.00 if Local Union No. 772 Pension Credits, including for purposes of any survivor and death benefits. If such Participant retired, terminated or died in 1999 after being credited with a least one-quarter Pension Credit in 1999 and payment of the Participant's Pension or the survivor or death benefit commenced before August 1, 1999, said increase in the monthly benefit amount shall be retroactively effective to its Annuity Starting Date or payment date, respectively.
- (b) Effective May 1, 2000, a Participant (including a retired or former Participant) who was credited with a least one-quarter Pension Credit in 1998, 1999 or 2000 (and who is not credited with a full or partial Pension Credit from and after May 1, 2000 so as to be subject to the monthly benefit amounts effective as of that date) shall have (i) the monthly benefit amount for Pension Credits earned and credited from and after January 1, 1998 increased to \$100.00 if Local Union No. 3 Pension Credits and to \$105.00 if Local Union No. 772 Pension Credits, including for purposes of any survivor and death benefits, and (ii) the monthly benefit amounts for all Pension Credits earned and credited before January 1, 1998 each increased by one dollar (\$1.00), including for purposes of any survivor and death benefits. If such Participant retired, terminated or died in 1998, 1999, or 2000 after being credited with a least one-quarter Pension Credit in 1998, 1999 or 2000 and payment of the Participant's Pension or the survivor or death benefit commenced before May 1, 2000, said increases in the monthly benefit amounts shall be retroactively effective to its Annuity Starting Date or payment date, respectively.

- (c) Effective May 1, 2000, and provided that the retired, former or deceased Participant was not credited with at least one-quarter Pension Credit in 1998, 1999 or 2000 (so as not to be subject to the increases provided for in paragraph (b) above), the monthly benefit for (i) each (retired) Participant in receipt of any monthly pension benefit under the Plan on May 1, 2000, (ii) each (former) Participant eligible for (but not in receipt of) a monthly pension benefit under the Plan on May 1, 2000, (iii) each Non-Spouse Beneficiary of a deceased Participant in receipt of (or eligible to receive) a monthly pre-retirement or post-retirement death benefit under the Plan on May 1, 2000, and (iv) each Qualified Spouse of a deceased Participant in receipt of (or eligible to receive) a monthly pre-retirement or post-retirement death benefit under the Plan on May 1, 2000 shall be increased by one dollar (\$1.00) for each of the Participant's (full) Pension Credits earned and credited prior to January 1, 1998; provided, however, said increase for the fifty percent (50%) survivor annuity paid (or payable) to a Qualified Spouse after the end of any applicable sixty (60) or seventy-two (72) month guarantee period under the Qualified Joint and Survivor Annuity or Qualified Pre-Retirement Survivor Annuity (or optional death benefit thereto) shall be fifty cents (\$0.50) for each said Pension Credit.
- (d) Effective October 1, 2000, a Participant (including a retired or former Participant) who was credited with a least one-quarter Local No. 3 Pension Credit in 1999 or 2000 (and who is not credited with a full or partial Local No. 3 Pension Credit from and after October 1, 2000 so as to be subject to the monthly benefit amounts effective as of that date) shall have (i) the monthly benefit amount for Local No. 3 Pension Credits earned and credited from and after January 1, 2000 increased to \$101.00, including for purposes of any survivor and death benefits, and (ii) the monthly benefit amounts for Local No. 3 Pension Credits earned and credited between January 1, 1995 and December 31, 1997 and earned and credited before and through December 31, 1992 each increased by one dollar (\$1.00), including for purposes of any survivor and death benefits. If such Participant retired, terminated or died in 1999 or 2000 after being credited with a least one-quarter Local Union No. 3 Pension Credit in 1999 or 2000 and payment of the Participant's Pension or the survivor or death benefit commenced before October 1, 2000, said increases in the monthly benefit amounts shall be retroactively effective to its Annuity Starting Date or payment date, respectively.
- (e) Effective September 1, 2001, the monthly benefit for (i) each (retired) Participant in receipt of any monthly pension benefit under the Plan on September 1, 2001 who was not credited with at least one-quarter Pension Credit on or after January 1, 2001 (so as not to be subject to the monthly benefit amounts effective as of September 1, 2001), (ii) each Non-Spouse Beneficiary of a deceased Participant in receipt of (or eligible to receive) a monthly pre-retirement or post-retirement death benefit under the Plan on September 1, 2001, and (iii) each Qualified Spouse of a deceased Participant in receipt of (or eligible to receive) a monthly pre-retirement or post-retirement death benefit under the Plan on September 1, 2001, shall be increased by one dollar (\$1.00) for each of the Participant's (full) Pension Credits earned and credited prior to January 1, 2001; provided, however, said increase for the fifty percent (50%) survivor annuity paid (or payable) to a Qualified Spouse after the end of any applicable sixty (60) or seventy-two (72) month guarantee period under the Qualified Joint and Survivor Annuity or qualified Pre-Retirement Survivor Annuity (or optional death benefit thereto) shall be fifty cents (\$0.50) for each said Pension Credit.

## ARTICLE V

### BENEFITS AND DISTRIBUTIONS

#### **Section 5.01. Benefits in General.**

- (a) The benefits provided by this Plan shall be payable to the Participant, Spouse or Beneficiary(ies) in the event of the Participant's Retirement, death, disability or termination of Covered Employment or Contiguous Noncovered Employment as described in this Article.
- (b) A Participant or other claimant must file an application for benefits with the Trustees during the 90-day period before the Annuity Starting Date (or before any other date upon which benefit payments will commence) which shall constitute the Participant's or other claimant's consent for the payment of benefits. An application for benefits shall be submitted on a form and in the manner prescribed by the Trustees. An application may be withdrawn at any time before the Annuity Starting Date, or if later for a payment of benefits subject to Code Sections 401(a)(11) and 417, the end of the seven-day period following the date the Participant is provided with the required information on the payment of benefits under Section 5.14(f).
- (c) Subject the provisions of this Article, benefits shall commence as of the Annuity Starting Date, following approval by the Trustees of a proper application for benefits, as follows:
  - (1) As set forth in this Article, the Annuity Starting Date shall generally be the first day of the month following the date of the submission of a duly completed application for benefits.
  - (2) For purpose of subparagraph (1), an application need not be complete, provided that it gives the Trustees notice of the applicant's intention to Retire and/or to begin to receive pension or other benefits under the Plan. In the event that the Trustees request additional information or proof to support the application, and the applicant fails to respond within ninety (90) days of the last day of the month in which the additional information or proof is requested, the application shall be considered withdrawn and the applicant shall be so notified in writing. In such case, the applicant shall be required to file a new application to receive a pension or other benefit under the Plan, and shall have his Annuity Starting Date established by that application. If the applicant provides the information or proof originally requested within said ninety (90) day period, the application shall be considered to be duly completed.
  - (3) An Annuity Starting Date shall not be any earlier than 30 days after, nor later than 90 days after, the date on which the Participant is provided with the required information on the payment of benefits under Section 5.14(f); provided, however, a Participant's Annuity Starting Date may fall within the 30-day period following the date the Participant is provided with said information if the Participant then applies for benefits (and if applicable, elects a form of payment), except that if the payment of benefits is subject to Code Sections 401(a)(11) and 417, the actual payment of

benefits does not begin within the seven-day period following the date the Participant is provided with said information.

- (4) In no event shall the Annuity Starting Date be earlier than the date the Participant is provided with the required information on the payment of benefits under Section 5.14(f).
  - (5) Notwithstanding the foregoing provisions, if benefits are being paid due to a disability under the terms of the Plan, then the first day of the first period for which a benefit is to be received by reason of disability shall be treated as the "Annuity Starting Date," only if such benefit is not an auxiliary disability benefit.
  - (6) If annuity payments in any form are suspended after an Annuity Starting Date under the suspension of benefit provisions of Section 5.11 for an Employee/Participant whose employment with an Employer had previously terminated, the recommencement of benefit payments after the suspension shall not be treated as a new Annuity Starting Date, except to the extent provided by that Section.
- (d) Except as otherwise elected pursuant to Section 5.14(d), benefit payments (other than lump sum payments) shall be made in equal calendar monthly installments on the first day of the month. Any benefit payment amount which is not an even dollar or half-dollar (\$.50) amount shall be rounded to the next higher half-dollar (\$.50) or dollar amount. The initial payment of a benefit payable monthly shall normally be made on the Participant's Annuity Starting Date. A payment shall not be considered to occur after the Annuity Starting Date merely because actual payment is reasonably delayed for administrative reasons if all payments are actually made. The last payment of a benefit payable for life shall be made on the first day of the calendar month in which the Participant's death (or the surviving Qualified Spouse's death, in the case of benefits paid under a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity) occurs.
- (e) All benefits under the Plan shall be payable by the Trustees from the Pension Fund. With respect to any annuity form of benefit required by the provisions of this Section, the Trustees may provide for the same by purchase and distribution of a single premium, nontransferable annuity contract underwritten by a duly-licensed legal reserve life insurance company, which contract provides for payments in accordance with the form of payment selected or required under the terms of the Plan.
- (f) Marital status for purposes of the Plan shall be determined by and subject to the following:
- (1) For purposes of the Qualified Joint and Survivor Annuity provisions of the Plan, a Participant shall be considered to be married if such Participant and his Spouse are considered to be married to each other under applicable state law on the Participant's Annuity Starting Date; provided, however, if the Participant and Spouse have not been married throughout the one (1) year period ending on the Participant's Annuity Starting Date, the Qualified Joint and Survivor Annuity shall not be given effect until the Participant and the Spouse (to whom he was married on his Annuity Starting Date) have been married for one (1) year.

- (2) For purposes of the Qualified Preretirement Survivor Annuity provisions of the Plan, a Participant shall be considered to be married if such Participant and his Spouse are considered to be married to each other under applicable state law throughout the one (1) year period ending on the date of the Participant's death.
  - (3) A Participant who is unmarried as of any relevant date shall nevertheless be considered as married for purposes of the Plan if such Participant has a former Spouse who is an "alternate payee" under a "qualified domestic relations order", as defined in Code Section 414(p) and ERISA Section 206(d)(3), which qualified domestic relations order creates or recognizes the existence of the former Spouse's right to receive all or a portion (but only to the extent provided in such qualified domestic relations order) of the benefits payable to the Participant under the Plan and which designates such former Spouse as a "Spouse" with respect to such benefits. Under such circumstances, the term "Qualified Spouse" shall be read to include such former Spouse provided that the Participant and such former Spouse were married for at least one (1) year. To the extent provided under such qualified domestic relations order, a current Spouse shall not be treated as the Spouse or Qualified Spouse over such former Spouse who is the alternate payee under such a qualified domestic relations order.
  - (4) The Trustees shall be entitled to rely on the written representation last filed by the Participant prior to the Annuity Starting Date or date of death as to the Participant's marital status. Such reliance shall include the right to deny benefits to a person claiming to be the Spouse of a Participant in contradiction to the aforementioned representation of the Participant. Any payments made in good faith pursuant to the statements contained in an application for payments shall discharge all of the obligations of the Trustees to the extent of such payments.
- (g) A Participant may not qualify for more than one pension benefit under this Plan. Notwithstanding the foregoing, a Participant who has recovered from a Total and Permanent Disability so as to again be gainfully employed, or a Participant who has received 48-Month Extended Disability Payments under Sections 5.08 - 5.10, shall not, by virtue of such circumstances, be precluded from qualifying for a pension benefit under Sections 5.02 - 5.07, or from again qualifying for a disability benefit under Sections 5.08 - 5.10.

**Section 5.02. Regular Pension.**

- (a) A Participant shall be eligible for a Regular Pension described in the succeeding paragraphs of this Section if he terminates Covered Employment or Contiguous Noncovered Employment and Retires on or after his Normal Retirement Date.
- (b) Payment of the Participant's Regular Pension shall commence as of his Annuity Starting Date next following the date upon which the Participant Retires and makes due application for his Regular Pension, unless the Participant elects in writing to commence his Regular Pension at a later time.

- (c) The Participant's Regular Pension shall be equivalent to his Accrued Benefit, determined as of his Normal Retirement Age and expressed as a monthly benefit payable in the form of a Single Life Annuity commencing at his Normal Retirement Date. In the case of a Retired Participant whose Annuity Starting Date is later than his Normal Retirement Date, such Participant's Regular Pension shall be adjusted to the Actuarial Equivalent of a Regular Pension commencing as of the Participant's Normal Retirement Date. Notwithstanding the foregoing, no actuarial adjustment to a Participant's Regular Pension shall be made to account for a period of suspension of benefits under Section 5.11, nor shall an actuarial adjustment be made because a Participant continues to work in Covered Employment or Contiguous Noncovered Employment after Normal Retirement Age.
- (d) In the event that the Participant's Regular Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (e) A Participant's Regular Pension shall not be less than the largest periodic benefit that would have been payable under the Plan to the Participant upon termination of employment at or prior to Normal Retirement Age (ignoring any social security supplements, premiums on disability or term insurance, and the value of disability benefits not in excess of the Regular Pension). For purposes of comparing periodic benefits in the same form, commencing prior to and at Normal Retirement Age, the greater benefit is determined by converting the benefit payable prior to Normal Retirement Age into the same form of annuity benefit payable at Normal Retirement Age and comparing the amounts of such annuity payments.

**Section 5.03. Service Pension.**

- (a) A Participant shall be eligible for a Service Pension described in the succeeding paragraphs of this Section if he:
  - (1) Retires on or after his sixtieth (60<sup>th</sup>) birthday, and upon retirement, will be a Local Union No. 3 Retiree;
  - (2) Has been credited with at least thirty (30) Pension Credits;
  - (3) Has been credited with at least one-quarter (.25) Local Union No. 3 Pension Credit after January 1, 1997; and
  - (4) Has been credited with at least one (1) Local Union No. 3 Pension Credit after his fifty-third (53<sup>rd</sup>) birthday.
- (b) The Participant's Service Pension shall be equivalent to his Accrued Benefit, determined under the provisions of Section 4.01 and expressed as a Single Life Annuity payable monthly.
- (c) Payment of the Participant's Service Pension shall commence as of the Annuity Starting Date next following the date upon which the Participant meets the requirements for a Service Pension set forth in paragraph (a) above and makes due application for his

Service Pension, unless the Participant elects in writing to commence his Service Pension at a later time.

- (d) In the event that the Participant's Service Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (e) A Service Pension payable under this Section shall be in lieu of the Unreduced Early Retirement Pension Payable under Section 5.04 and the Reduced Early Retirement Pension payable under Section 5.05.

**Section 5.04. Unreduced Early Retirement Pension.**

- (a) A Participant (including a former Participant) shall be eligible for an Unreduced Early Retirement Pension described in the succeeding paragraphs of this Section if he:
  - (1) Retires on or after his sixty-second (62nd) birthday and before he attains Normal Retirement Age; and
  - (2) Has been credited with at least fifteen (15) Pension Credits.
- (b) Effective June 1, 1998, a Participant (but not a former Participant whose eligibility shall be determined under Section 4.03(b)) shall be eligible for an Unreduced Early Retirement Pension described in the succeeding paragraphs of this Section if he:
  - (1) Retires on or after his sixtieth (60<sup>th</sup>) birthday and before he attains Normal Retirement Age;
  - (2) Has been credited with at least fifteen (15) Pension Credits; and
  - (3) Works at least 200 hundred (200) Hours of Service and is credited with at least one-quarter (.25) Pension Credit in the Plan Year beginning on January 1, 1998 or any later Plan Year.
- (c) If a Participant who has satisfied the service/participation requirements for an Unreduced Early Retirement Pension under paragraph (a) or (b) above, as applicable, terminates Covered Employment or Contiguous Noncovered Employment before satisfying the age requirement for an Unreduced Early Retirement Pension, he will be entitled to an Unreduced Early Retirement Pension under the provisions of this Section upon satisfaction of such age requirement.
- (d) The Participant's Unreduced Early Retirement Pension shall be equivalent to his Accrued Benefit, determined under the provisions of Section 4.01 and expressed as a Single Life Annuity payable monthly.
- (e) Payment of the Participant's Unreduced Early Retirement Pension shall commence as of the Annuity Starting Date next following the date upon which the Participant meets the requirements for an Unreduced Early Retirement Pension set forth in paragraph (a) or (b) above, as applicable, and makes due application for his Unreduced Early

Retirement Pension, unless the Participant elects in writing to commence his Unreduced Early Retirement Pension at a later time.

- (f) In the event that the Participant's Unreduced Early Retirement Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.

**Section 5.05. Reduced Early Retirement Pension.**

- (a) A Participant (including a former Participant) shall be eligible for a Reduced Early Retirement Pension described in the succeeding paragraphs of this Section if he:
  - (1) Retires on or after his fifty-fifth (55<sup>th</sup>) birthday and before his sixty-second (62<sup>nd</sup>) birthday; and
  - (2) Has been credited with at least fifteen (15) Pension Credits.
- (b) Effective June 1, 1998, a Participant (but not a former Participant whose eligibility shall be determined under Section 4.03(b)) shall be eligible for a Reduced Early Retirement Pension described in the succeeding paragraphs of this Section if he:
  - (1) Retires on or after his fifty-fifth (55<sup>th</sup>) birthday and before his sixtieth (60<sup>th</sup>) birthday;
  - (2) Has been credited with at least fifteen (15) Pension Credits; and
  - (3) Works at least 200 hundred (200) Hours of Service and is credited with at least one-quarter (.25) Pension Credit in the Plan Year beginning on January 1, 1998 or any later Plan Year.
- (c) If a Participant who has satisfied the service/participation requirements for a Reduced Early Retirement Pension under paragraph (a) or (b) above, as applicable, terminates Covered Employment or Contiguous Noncovered Employment before satisfying the age requirement for a Reduced Early Retirement Pension, he will be entitled to a Reduced Early Retirement Pension under the provisions of this Section upon satisfaction of such age requirement.
- (d) The Participant's Reduced Early Retirement Pension under paragraph (a) above shall be equivalent to his Accrued Benefit, determined under the provisions of Section 4.01, reduced by one-quarter of one percent (.25%) for each month by which the Annuity Starting Date for the Reduced Early Retirement Pension precedes the first day of the calendar month next following the Participant's sixty-second (62<sup>nd</sup>) birthday, and expressed as a Single Life Annuity payable monthly.
- (e) The Participant's Reduced Early Retirement Pension under paragraph (b) above shall be equivalent to his Accrued Benefit, determined under the provisions of Section 4.01, reduced by one-twelfth of one percent for each month by which the Annuity Starting Date for the Reduced Early Retirement Pension precedes the first day of the calendar month next following the Participant's sixtieth (60<sup>th</sup>) birthday, and expressed as a Single



Life Annuity payable monthly (the resulting early retirement factor to be applied to the Accrued Benefit further set forth in Appendix "B").

- (f) Payment of the Participant's Reduced Early Retirement Pension shall commence as of the Annuity Starting Date next following the date upon which the Participant meets the requirements for a Reduced Early Retirement Pension set forth in paragraph (a) or (b) above, as applicable, and makes due application for his Reduced Early Retirement Pension, unless the Participant elects in writing to commence his Reduced Early Retirement Pension at a later time.
- (g) In the event that the Participant's Reduced Early Retirement Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.

**Section 5.06. Deferred Vested Pension.**

- (a) A Participant (including a former Participant) shall be eligible for a Deferred Vested Pension described in the succeeding paragraphs of this Section if:
  - (1) The Participant's Covered Employment or Contiguous Noncovered Employment terminates before Retirement under Sections 5.02 - 5.05, death, or Total and Permanent Disability as determined in accordance with the provisions of Sections 5.08 - 5.10; and
  - (2) The Participant does not qualify for any other pension provided for in any of the other sections of this Article V.
- (b) The Participant's Deferred Vested Pension shall be equivalent to the Participant's Vested Benefit, determined under the provisions of Section 4.02 and expressed as a Single Life Annuity payable monthly.
- (c) Payment of the Participant's Deferred Vested Pension shall commence as of the Annuity Starting Date for the Participant's Deferred Vested Pension. The Annuity Starting Date for the Participant's Deferred Vested Pension shall be the Participant's Normal Retirement Date. In the case of a Participant whose Annuity Starting Date for his Deferred Vested Pension is later than his Normal Retirement Date, such Participant's Deferred Vested Pension shall be adjusted to the Actuarial Equivalent of a Deferred Vested Pension commencing as of the Participant's Normal Retirement Date.
- (d) In the event that the Participant's Deferred Vested Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.

**Section 5.07. Partial Pension.**

- (a) A Participant (including a former Participant) shall be eligible for a Partial Pension described in the succeeding paragraphs of this Section if he satisfies all of the following requirements:

- (1) He is credited with at least two (2) full Pension Credits in accordance with the provisions of Section 3.01 based on Covered Employment since January 1, 1955, or he is credited with at least one (1) full Pension Credit in accordance with the provisions of Section 3.01 based on Covered Employment since January 1, 1983;
  - (2) He would meet all of the requirements for a pension or a lifetime benefit under Sections 5.02 - 5.10 of this Plan (other than a Partial Pension under this Section) if the Participant's "Combined Service Credits" [as defined in paragraph (f) below] were treated as Pension Credits under this Plan;
  - (3) He has qualified to receive a Partial Pension from a "Related Plan" [as defined in paragraph (f) below]; and
  - (4) He has qualified to receive a Partial Pension from his "Terminal Plan" [as defined in paragraph (f) below].
- (b) Notwithstanding the provisions of paragraph (a) to the contrary, a Participant shall not qualify for a Partial Pension under this Plan if he qualifies to receive any pension under a Related Plan other than a Partial Pension, unless he elects to waive such other pension under the Related Plan in favor of a Partial Pension under this Plan and the Related Plan.
- (c) The Participant's Partial Pension shall be:
- (1) A monthly benefit amount at Normal Retirement Age equivalent to the calculated lifetime monthly benefit to which the Participant would be entitled under Sections 5.02, 5.03, 5.04, 5.05, 5.06, 5.08, 5.09 or 5.10 if the Participant's Pension Credits for such calculation were deemed to be equivalent to his Combined Service Credits; multiplied by
  - (2) A fraction, the numerator of which is the aggregate number of Pension Credits actually earned and credited to the Participant under this Plan since January 1, 1955, and the denominator of which is the Participant's Combined Service Credits earned and credited since January 1, 1955.

The Participant's Partial Pension shall be actuarially adjusted to reflect early or late commencement of benefits as provided in Sections 5.02, 5.05 or 5.06.

- (d) Payment of the Participant's Partial Pension shall commence as of his Annuity Starting Date next following the date upon which the Participant Retires and makes due application for his Partial Pension, unless the Participant elects in writing to commence his Partial Pension at a later time.
- (e) In the event that the Participant's Partial Pension is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (f) For purposes of this Section, the term "Related Plan" shall mean a pension plan which has executed an International Association of Bridge, Structural and Ornamental Iron

Workers, AFL-CIO Pro-Rata Reciprocal Agreement with this Plan, and which the Trustees, by duly adopted resolution, have recognized as a "Related Plan". The term "Related Service Credits" shall mean a Participant's service credits earned and credited under a Related Plan and certified to this Plan by the Related Plan. The term "Combined Service Credits" shall mean the total of a Participant's Pension Credits under this Plan and his Related Service Credits under a Related Plan. [In determining Combined Service Credits, not more than one (1) year of Combined Service Credit shall be counted for any calendar year.] The term "Terminal Plan" shall mean the pension plan associated with the local union which represents the Participant at the time of, or immediately prior to, his retirement. [If at or immediately prior to retirement the Participant was not represented by any one such local union, the Terminal Plan shall be the plan to which the largest amount of contributions were paid on behalf of the Participant during the thirty-six (36) consecutive calendar month period immediately preceding the Participant's retirement.]

#### **Section 5.08. Regular Disability Benefits.**

- (a) A Participant (including a former Participant) shall be eligible for a Regular Disability Benefit (Lifetime Payment) described in the succeeding paragraphs of this Section if he:
- (1) Suffers a Total and Permanent Disability as defined in Section 1.34(a) prior to attaining Normal Retirement Age;
  - (2) Is credited with at least five (5) full Pension Credits; and
  - (3) Is credited with a total of 400 or more Hours of Service in Covered Employment during the two-year period which includes the Plan Year in which the Participant becomes so disabled and the immediately preceding Plan Year (in the case of a Participant who is prevented from meeting the service requirement of this subparagraph due to involuntary unemployment, the Participant shall retain eligibility for a Regular Disability Benefit if he suffers a Total and Permanent Disability during the three (3) Plan Years immediately following the Plan Year in which he was last credited with meeting the service requirement of this subparagraph); and
  - (4) Submits evidence of initial and continuing eligibility for a Regular Disability Benefit (Lifetime Payment), evidence of medical condition and prognosis, and evidence of a final award of disability benefits under the Social Security Act as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (b) A Participant (including a former Participant) shall be eligible for a Regular Disability Benefit (48-Month Extended Disability Payment) described in the succeeding paragraphs of this Section if he:
- (1) Suffers a Total and Permanent Disability as defined in Section 1.34(b) prior to attaining Normal Retirement Age;
  - (2) Satisfies the conditions set forth in paragraph (a)(2) and (a)(3) above; and

- (3) Submits evidence of initial and continuing eligibility for a Regular Disability Benefit (48-Month Extended Disability Payment) and evidence of medical condition and prognosis as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (c) For purposes of paragraphs (a) and (b) above, effective January 1, 1994, if a Participant who satisfies the service requirements of paragraph (a)(2) and (a)(3) above on the date he commences employment with the International Association of Bridge, Structural and Ornamental Workers, AFL-CIO, in employment that is not Covered Employment, he shall thereafter be treated as satisfying said service requirements for so long as he continues in said employment.
- (d) The Participant's Regular Disability Benefit (Lifetime Payment) or Regular Disability Benefit (48-Month Extended Disability Payment) shall be equivalent to the Participant's Accrued Benefit determined under the provisions of Section 4.01 as of the date the Participant suffers a Total and Permanent Disability, payable as a monthly amount. The minimum Regular Disability Benefit shall be \$200.00 per month.
- (e) Payment of the Participant's Regular Disability Benefit shall commence as of the date established in accordance with the provisions of Appendix "C" for the commencement of disability benefits. Subject to the provisions for suspension or termination of disability benefits contained in Appendix "C", a Regular Disability Benefit (Lifetime Payment) shall be payable for the life of the Participant (and Qualified Spouse, if any); a Regular Disability Benefit (48-Month Extended Disability Payment) shall be payable for a maximum of forty-eight (48) months.
- (f) In the event that the Participant's Regular Disability Benefit (Lifetime Payment) is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (g) A Regular Disability Benefit payable under paragraph (a) or (b) of this Section shall be in lieu of any other disability benefits payable under this Plan. Except for a Regular Disability Benefit (Lifetime Payment) described in paragraph (a) which is not terminated or suspended before the Participant attains Normal Retirement Age, a Regular Disability Benefit paid under the provisions of this Section shall not be in lieu of any pension payable under Sections 5.02 - 5.07 of the Plan.

### **Section 5.09. Occupational Disability Benefits.**

- (a) A Participant (including a former Participant) shall be eligible for an Occupational Disability Benefit (Lifetime Payment) described in the succeeding paragraphs of this Section if he:
- (1) Suffers a Total and Permanent Disability as defined in Section 1.34(a) as the result of an occupational accident prior to attaining Normal Retirement Age;
  - (2) Is credited with at least three (3) but not more than five (5) full Pension Credits based on actual Hours of Service worked in Covered Employment and for which Employer Contributions have been made;

- (3) Is credited with a total of 200 or more Hours of Service in Covered Employment based on actual Hours of Service worked after June 1, 1981;
  - (4) Is credited with a total of 400 or more Hours of Service in Covered Employment during the two-year period which includes the Plan Year in which the Participant becomes so disabled and the immediately preceding Plan Year (in the case of a Participant who is prevented from meeting the service requirement of this subparagraph due to involuntary unemployment, the Participant shall retain eligibility for an Occupational Disability Benefit if he suffers a Total and Permanent Disability during the three (3) Plan Years immediately following the Plan Year in which he was last credited with meeting the service requirement of this subparagraph); and
  - (5) Submits evidence of initial and continuing eligibility for an Occupational Disability Benefit (Lifetime Payment), evidence of medical condition and prognosis, and evidence of a final award of disability benefits under the Social Security Act as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (b) A Participant (including a former Participant) shall be eligible for an Occupational Disability Benefit (48-Month Extended Disability Payment) described in the succeeding paragraphs of this Section if he:
- (1) Suffers a Total and Permanent Disability as defined in Section 1.34(b) as the result of an occupational accident prior to attaining Normal Retirement Age;
  - (2) Satisfies the conditions set forth in paragraphs (a)(2) - (a)(4) above; and
  - (3) Submits evidence of initial and continuing eligibility for an Occupational Disability Benefit (48-Month Extended Disability Payment) and evidence of medical condition and prognosis as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (c) For purposes of paragraphs (a) and (b) above, if a Participant satisfies the service requirements of paragraph (a)(2), (a)(3) and (a)(4) above on the date he commences employment as an iron worker for a political subdivision in the geographic jurisdiction of the Union in employment that is not Covered Employment, he shall thereafter be treated as satisfying said service requirements for so long as he continues in said employment (as an iron worker).
- (d) The Participant's Occupational Disability Benefit (Lifetime Payment) or Occupational Disability Benefit (48-Month Extended Disability Payment) shall be \$100.00 per month.
- (e) Payment of the Participant's Occupational Disability Benefit shall commence as of the date established in accordance with the provisions of Appendix "C" for the commencement of disability benefits. Subject to the provisions for suspension or termination of disability benefits contained in Appendix "C", an Occupational Disability Benefit (Lifetime Payment) shall be payable for the life of the Participant (and Qualified

Spouse, if any); an Occupational Disability Benefit (48-Month Extended Disability Payment) shall be payable for a maximum of forty-eight (48) months.

- (f) In the event that the Participant's Occupational Disability Benefit (Lifetime Payment) is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (g) An Occupational Disability Benefit payable under paragraph (a) or (b) of this Section shall be in lieu of any other disability benefits payable under this Plan. Except for an Occupational Disability Benefit (Lifetime Payment) described in paragraph (a) which is not terminated or suspended before the Participant attains Normal Retirement Age, an Occupational Disability Benefit paid under the provisions of this Section shall not be in lieu of any pension payable under Sections 5.02 - 5.07 of the Plan.

**Section 5.10. Special Disability Benefits.**

- (a) A former Participant shall be eligible for a Special Disability Benefit (Lifetime Payment) described in the succeeding paragraphs of this Section if he:
  - (1) Suffers a Total and Permanent Disability as defined in Section 1.34(a) as the result of an occupational injury occurring while the former Participant is working in employment as an iron worker for a political subdivision in the geographic jurisdiction of the Union in employment that is not Covered Employment;
  - (2) Suffers such Total and Permanent Disability after attaining age 55 but prior to attaining Normal Retirement Age;
  - (3) Is credited with at least fifteen (15) Pension Credits;
  - (4) Is credited with a total of 400 or more Hours of Service in Covered Employment during the two-year period which includes the Plan Year in which the Participant becomes so disabled and the immediately preceding Plan Year (in the case of a Participant who is prevented from meeting the service requirement of this subparagraph due to involuntary unemployment, the Participant shall retain eligibility for a Special Disability Benefit if he suffers a Total and Permanent Disability during the three (3) Plan Years immediately following the Plan Year in which he was last credited with meeting the service requirement of this subparagraph); and
  - (5) Submits evidence of initial and continuing eligibility for a Special Disability Benefit (Lifetime Payment), evidence of medical condition and prognosis, and evidence of a final award of disability benefits under the Social Security Act as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (b) A Participant (including a former Participant) shall be eligible for a Special Disability Benefit (48-Month Extended Disability Payment) described in the succeeding paragraphs of this Section if he:

- (1) Suffers a Total and Permanent Disability as defined in Section 1.34(b) as the result of an occupational injury occurring while the former Participant is working in employment as an iron worker for a political subdivision in the geographic jurisdiction of the Union in employment that is not Covered Employment;
  - (2) Satisfies the conditions set forth in paragraphs (a)(2) - (a)(4) above; and
  - (3) Submits evidence of initial and continuing eligibility for a Special Disability Benefit (48-Month Extended Disability Payment) and evidence of medical condition and prognosis as described in the Administrative Procedures Applicable to Disability Benefits included as Appendix "C" and incorporated herein by this reference.
- (c) For purposes of paragraphs (a) and (b) above, effective January 1, 1980, if a Participant satisfies the service requirements of paragraph (a)(2) and (a)(3) above on the date he commences employment as an iron worker for a political subdivision in the geographic jurisdiction of the Union in employment that is not Covered Employment, he shall thereafter be treated as satisfying said service requirements for so long as he continues in said employment (as an iron worker).
- (d) The Participant's Special Disability Benefit (Lifetime Payment) or Special Disability Benefit (48-Month Extended Disability Payment) shall be equivalent to the Participant's Accrued Benefit expressed as a monthly amount, and determined under the provisions of Section 4.01 as of the date the Participant suffers a Total and Permanent Disability. [For disabilities occurring in Plan Years beginning before January 1, 1994, the Participant's Special Disability Benefit (Lifetime Payment) or Special Disability Benefit (48-Month Extended Disability Payment) shall be equivalent to the Participant's Accrued Benefit expressed as a monthly amount, determined under the provisions of Section 4.01 as of the date the Participant suffers a Total and Permanent Disability, and reduced by one-half of one percent (.50%) for each month by which the benefit commencement date for the Special Disability Benefit precedes the Participant's Normal Retirement Date.]
- (e) Payment of the Participant's Special Disability Benefit shall commence as of the date established in accordance with the provisions of Appendix "C" for the commencement of disability benefits. Subject to the provisions for suspension or termination of disability benefits contained in Appendix "C", a Special Disability Benefit (Lifetime Payment) shall be payable for the life of the Participant (and Qualified Spouse, if any); a Special Disability Benefit (48-Month Extended Disability Payment) shall be payable for a maximum of forty-eight (48) months.
- (f) In the event that the Participant's Special Disability Benefit (Lifetime Payment) is payable in a form other than a Single Life Annuity, such benefit shall be adjusted to the Actuarial Equivalent of a Single Life Annuity for the Participant.
- (g) A Special Disability Benefit payable under paragraph (a) or (b) of this Section shall be in lieu of any other disability benefits payable under this Plan. Except for a Special Disability Benefit (Lifetime Payment) described in paragraph (a) which is not terminated or suspended before the Participant attains Normal Retirement Age, a Special Disability Benefit paid under the provisions of this Section shall not be in lieu of any pension payable under Sections 5.02 - 5.07 of the Plan.

**Section 5.11. Suspension of Benefits.**

(a) Before Normal Retirement Age:

- (1) Monthly benefit payments to a Participant drawing benefits under this Article V shall be suspended and permanently withheld from the Participant for any month in which the Participant is employed in "Disqualifying Employment" [as defined in subparagraph (2) below] before attaining Normal Retirement Age.
- (2) For purposes of this paragraph (a), "Disqualifying Employment" shall mean employment as an employee, self-employed individual, partner or employer representative in the Construction Industry. Employment in the Construction Industry shall be deemed to include, but shall not be limited to employment:
  - (A) as an ironworker;
  - (B) as any other construction worker;
  - (C) as a non-construction worker in the building and/or construction industry, whether residential, commercial or industrial; or
  - (D) in other industries where employees are covered by the Plan.
- (3) A Participant shall be required to give the Plan Office written notice of any employment which is or may be Disqualifying Employment within fifteen (15) days of the Participant's commencement of such employment. Upon termination of a Participant's Disqualifying Employment, the Participant shall notify the Plan Office in writing of the termination of Disqualifying Employment. The Participant's benefit payments shall not resume until such written notice of termination of Disqualifying Employment is filed with the Plan Office.
- (4) If the Participant's Disqualifying Employment was not Covered Employment, the Participant's monthly benefits shall be suspended and permanently withheld for an additional period of six (6) consecutive months commencing with the month following the month in which termination of Disqualifying Employment occurs.
- (5) If a Participant failed to notify the Plan Office of the commencement of Disqualifying Employment as required by subparagraph (3) above, the Participant's monthly benefits shall be suspended and permanently withheld for a period of twelve (12) consecutive months in addition to any other period(s) of suspension imposed by the Plan.
- (6) The Trustees may, for good cause shown, waive the period(s) of suspension described in subparagraphs (4) and/or (5) above.
- (7) Notwithstanding any other provision of this paragraph (a) to the contrary, no period of suspension required by the provisions of this paragraph (a) shall extend beyond the date upon which the Participant attains Normal Retirement Age.



(b) After Normal Retirement Age:

- (1) Subject to the provisions contained in paragraph (b)(9), monthly benefit payments to a Participant drawing benefits under this Article V shall be suspended and permanently withheld for any month in which the Participant is employed for forty (40) or more hours in "Totally Disqualifying Employment" [as defined in subparagraph (2) below] after attaining Normal Retirement Age.
- (2) For purposes of this paragraph (b), "Totally Disqualifying Employment" shall mean Covered Employment, or employment or self-employment:
  - (A) in the Building and Construction Industry, Iron Work trades, and any other industry in which Employees covered by the Plan were employed when the Participant's pension or other benefit payments began (or would have begun but for a suspension required by the provisions of this Section);
  - (B) in the geographic jurisdiction of the Union, in the Commonwealth of Pennsylvania, in the remainder of any Standard Metropolitan Statistical Area which falls within the Commonwealth of Pennsylvania, or in any other geographic area covered by the Plan when the Participant's pension or other benefit payments began (or would have begun but for a suspension required by the provisions of this Section), including the geographic area covered by a pension plan which forwarded contributions to this Plan to fund Accrued Benefits for the Participant under a reciprocal agreement in effect when the Participant's pension or other benefit payments began (or would have begun but for a suspension required by the provisions of this Section); and
  - (C) in any occupation in which the Participant worked under the Plan at any time, or in any other occupation covered by the Plan when the Participant's pension or other benefit payments began (or would have begun but for a suspension required by the provisions of this Section).

For purposes of clause (C) above, if a Participant previously worked in Covered Employment only in a skilled trade or craft (that is, as an Iron Worker in the Construction Industry), post-Normal Retirement Age employment or self-employment shall be Totally Disqualifying Employment only if such employment or self-employment involves the skill or skills of that trade or craft directly or indirectly (as in the case of supervisory work).

- (3) If a Participant experiences a suspension of benefits as a result of Totally Disqualifying Employment involving Covered Employment, upon the subsequent resumption of benefits, the industry and geographic area covered by the Plan for purposes of applying subparagraphs (b)(2)(A) and (B) to the next subsequent suspension of benefits situation involving the Participant shall be the industry and geographic area covered by the Plan at the date of the most recent resumption of benefits following suspension.

- (4) For purposes of paragraph (b)(1), paid non-work time shall be considered as hours of employment counted toward the 40 hour threshold if the Participant is receiving weekly accident and sickness benefits under the Iron Workers Welfare Plan of Western Pennsylvania. Non-work time compensated under Worker's Compensation or other temporary disability benefits laws shall not be counted as hours of employment for such purposes.
- (5) A Participant shall be required to give the Plan Office written notice of any employment which is or may be Totally Disqualifying Employment within fifteen (15) days of the Participant's commencement of such employment, regardless of the number of hours worked in such employment per month. Upon termination of a Participant's Totally Disqualifying Employment, the Participant shall notify the Plan Office in writing of the termination of such Totally Disqualifying Employment. The Participant's benefit payments shall not resume until such written notice of termination of Totally Disqualifying Employment is filed with the Plan Office.
- (6) Upon request made from time to time, a Participant shall provide the Plan Office with access to reasonable information for the purpose of verifying the Participant's employment status in Totally Disqualifying Employment.
- (7) In the case of any Participant who is discovered to be employed in Totally Disqualifying Employment but who has not complied with the notice and verification provisions imposed by subparagraphs (5) and (6) above, the Trustees shall presume that the Participant was engaged in such Totally Disqualifying Employment during any relevant month for at least forty (40) hours in such month, unless the Participant demonstrates otherwise to the satisfaction of the Trustees. If such Participant is or was employed in Totally Disqualifying Employment for any number of hours with a contractor at a building or construction site, the Trustees shall presume that the Participant was engaged in Totally Disqualifying Employment during any relevant month for so long as the contractor has been and remains actively engaged at that building or construction site, unless the Participant demonstrates otherwise to the satisfaction of the Trustees. Such presumptions shall continue in effect for any subsequent month until written notice of termination of Totally Disqualifying Employment is filed with the Plan Office as described in subparagraph (5) above. The provisions of this subparagraph (7) shall only be applicable if the Trustees comply with the notice and annual disclosure requirements set forth in U.S. Department of Labor Regulations Section 2530.203-3(b)(7).
- (8) If benefit payments have been suspended under the provisions of paragraph (b)(1), benefits in the form paid prior to suspension shall resume no later than the first day of the third calendar month after the calendar month in which the Participant ceases to be employed in Totally Disqualifying Employment and reapplies for benefits. The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of Totally Disqualifying Employment and the resumption of payments. Resumed payments shall be net of any amounts permitted in accordance with paragraph (d) below

and applicable regulations to be offset against such payments for months during which benefits should have been, but were not, suspended.

- (9) No payment shall be withheld by the Plan pursuant to this paragraph (b) unless the Plan notifies the Participant by personal delivery or first class mail during the first calendar month in which the Plan withholds payments that his benefits are suspended. Such notification shall contain a description of the specific reasons why benefit payments are being suspended, a description of the Plan provision relating to the suspension of payments, a copy of such provisions, and a statement to the effect that applicable U.S. Department of Labor regulations may be found in Section 2530.203-3 of the Code of Federal Regulations. In addition, the notice shall inform the Participant of the Plan's procedures for affording a review of the suspension of benefits. Requests for such reviews may be considered in accordance with the claims procedure described in Section 8.03. A request for review must be filed within 180 days of the date of the notice of suspension given to the Participant by the Plan Office.
  - (10) The provisions of this paragraph (b) shall not be applied to suspend the benefits of a Participant whose employment continues or resumes after the date payment of his benefits are required to begin as provided in Section 5.19 (except paragraph (b) thereof).
- (c) A Participant may make a written request to the Trustees to determine whether specific contemplated employment will constitute Disqualifying Employment for purposes of suspension of benefits under paragraph (a), or Totally Disqualifying Employment for purposes of suspension of benefits under paragraph (b). Requests for such status determinations will be considered in accordance with the claims procedure described in Section 8.03.
  - (d) Benefit overpayments attributable to monthly benefit payments made for any month(s) in which such benefit payments are or were required to be suspended under the provisions of this Section shall be deducted or offset from the monthly benefit payments paid or payable following the period(s) of suspension. A deduction or offset from any resumed monthly benefit payment to recover an overpayment relating to a suspension and permanent withholding under the provisions of paragraph (b) shall not exceed in any one month 25% of that month's total benefit payment which would otherwise have been due but for such deduction or offset [excluding the initial monthly benefit payment made following the period(s) of suspension, which may be subject to deduction or offset without limitation]. If a Participant dies before full recoupment of overpayments has been achieved, deductions and offsets shall continue against any benefits payable to the Participant's Qualified Spouse or other Beneficiary(ies). Nothing in this paragraph (d) shall be interpreted as prohibiting the Trustees from exercising any other available legal or equitable remedies against a distributee of benefits to recover any overpayment.
  - (e) Following any period(s) of suspension of benefits under this Section, the monthly benefit payment which is required to be resumed to the Participant shall be determined and adjusted as follows:
    - (1) In the case of a Participant who returned to Covered Employment, but was not credited with sufficient Hours of Service to be credited with an additional Year of

Service, the Participant's resumed monthly benefit payment shall not be redetermined.

- (2) In the case of a Participant who returned to Covered Employment and was credited with sufficient Hours of Service to be credited with at least one (1) additional Year of Service, the Participant's resumed monthly benefit payment shall be redetermined (using the monthly benefit amounts under Section 4.01 that correspond to the period that Pension Credits were earned and credited) as if it were then being determined for the first time, based on an "adjusted age." For this purpose, the "adjusted age" shall be age 62, or if less, the Participant's attained age as of the first day of the calendar month for which monthly benefit payments resume, reduced by:
  - (A) The months for which the Participant had received benefits to which he was entitled, and
  - (B) The months for which the Participant's benefits were suspended (other than months of work in Covered Employment reported to the Trustees).  
The resumed monthly benefit payment so redetermined shall represent the payment before any adjustment made pursuant to the remaining provisions of this paragraph (e).
- (3) The resumed monthly benefit payment of a Participant described in subparagraph (2) above shall be adjusted to reflect any additional Pension Credits earned during the period(s) of the suspension of the Participant's benefits under this Section. Such resumed monthly benefit payment may also be adjusted to reflect any changes in the Plan adopted after the Participant first began drawing benefits, any payment of the Participant's benefits in a form other than the normal form of benefit payable under the Plan (including a Qualified Joint and Survivor Annuity for the Participant and Qualified Spouse), and/or any deductions or offsets because of prior overpayments. In no event, however, shall any adjustment result in forfeiture of a Participant's Accrued Benefit in violation of Section 203(a)(3)(B) of ERISA.
- (4) The suspension of a Participant's monthly benefit payment under the provisions of this Section shall not affect the payment of the survivorship benefit to the Participant's surviving Qualified Spouse or the payment of any other benefit payable upon death in the event of the death of the Participant during the period of any suspension of benefits required by this Section.
- (5) A Participant whose monthly benefit payment has been suspended under the provisions of this Section shall not be entitled to make a new election to receive resumed monthly benefit payments in the normal form or in any available optional form unless he has been credited with at least two (2) consecutive Years of Service in Covered Employment during the period of suspension of his benefits under this Section.
- (6) Notwithstanding subparagraph (e)(2) of this Section, no redetermination shall be made under said subparagraph (e)(2) for a Participant whose monthly benefit suspended under this Section is a Reduced Early Retirement Pension under

Section 5.05 if the resumed monthly benefit has an Actuarial Equivalent Value that is equal to or greater than the Actuarial Equivalent Value of the monthly benefit suspended when determined by disregarding all actuarial subsidies under the Plan, including early commencement of pension and optional forms of payment; provided, however, a redetermination shall be made to the extent necessary to ensure that there is no violation of Section 203(a)(3)(B) of ERISA.

- (f) Non-Duplication with Disability Welfare Benefits: No pension or disability benefits shall be payable under this Plan for any month for which the Participant receives wage indemnification for disability from the Iron Workers Welfare Plan of Western Pennsylvania or any other health and welfare program.
- (g) Nothing in this Section shall be interpreted to extend any benefit increase or adjustment effective after the Participant begins drawing benefits under this Article V to the monthly benefit payment resumed after any period of suspension of benefits under this Section, except to the extent expressly provided for in other provisions of the Plan.

#### **Section 5.12. Normal Form of Payment.**

- (a) Unless an optional form of payment is elected pursuant to Section 5.14, a Participant married on his Annuity Starting Date shall have his benefits (other than 48-Month Extended Disability Payments under Sections 5.08 - 5.10) paid in the form of a Qualified Joint and Survivor Annuity.
  - (1) In the event that benefit payments commence under a Qualified Joint and Survivor Annuity, and the Participant's Qualified Spouse predeceases the Participant, the amount of the monthly benefit subsequently payable to the Participant shall be increased to the monthly benefit that the Participant would have received if he had originally elected to receive benefits in the Single Life Annuity normal form of payment under paragraph (b) below for an unmarried Participant. The increase in payments shall commence with the first scheduled benefit payment following the Qualified Spouse's death.
  - (2) In the event that benefit payments commence under a Qualified Joint and Survivor Annuity, and the Participant and Qualified Spouse become divorced, the amount of the monthly benefit subsequently payable to the Participant shall be increased to the monthly benefit that the Participant would have received if he had originally elected to receive benefits in the Single Life Annuity normal form of payment under paragraph (b) below for an unmarried Participant. The increase in payments shall commence with the first scheduled benefit payment following the presentation to the Plan Office of a qualified domestic relations order or other written document in a form satisfactory to the Trustees executed by the former Spouse which forecloses any claim by the former Spouse to the Participant's benefit payments from the Pension Fund.
  - (3) The provisions of subparagraphs (1) and (2) above shall only be applied once to increase a Participant's benefit payments. After such application, Qualified Joint and Survivor Annuity benefits cannot be reestablished for a subsequent Spouse.

- (4) The adjustments described in paragraphs (1) and (2) above shall not be deemed to be a vested right of, or a part of the Accrued Benefit of, any Participant or retired Participant. The Trustees reserve the right to eliminated such adjustment(s) at any time.
  - (5) If a Participant dies after the Annuity Starting Date, the Qualified Spouse to whom the Participant was married on the Annuity Starting Date is entitled to the Qualified Joint and Survivor Annuity protections under the Plan, even if the Participant and Qualified Spouse are not married on the date of the Participant's death, except to the extent otherwise provided in a qualified domestic relations order or other written document in a form satisfactory to the Trustees executed by the Spouse which forecloses any claim by the Spouse to the Participant's benefit payments from the Pension Fund
- (b) Unless an optional form of payment is elected pursuant to Section 5.14, a Participant not married on his Annuity Starting Date, shall have his benefits (other than 48-Month Extended Disability Payments under Sections 5.08-5.10) paid in the form of a Single Life Annuity.

**Section 5.13. Optional Form of Payment.**

(a) Optional Forms of Payment:

- (1) The optional forms of payment for benefits (other than 48-Month Extended Disability Payments under Sections 5.08 - 5.10) for a Participant married on his Annuity Starting Date shall be:
  - (A) A Single Life Annuity.
  - (B) A Social Security (Level Income) Option (Reduced Early Retirement Pension only).
  - (C) A Lump Sum Payment Option.
- (2) The optional forms of payment for benefits (other than 48-Month Extended Disability Payments under Sections 5.08 - 5.10) for a Participant not married on his Annuity Starting Date shall be:
  - (A) A Social Security (Level Income) Option (Reduced Early Retirement Pension only).
  - (B) A Lump Sum Payment Option.

(b) Social Security (Level Income) Option:

- (1) The Social Security (Level Income) Option is an immediate annuity which will provide the Participant with increased monthly benefits from the Plan until the Participant reaches age 62, and decreased monthly benefits from the Plan after the Participant reaches age 62 and becomes entitled to Social Security retirement benefits, so that the Participant's monthly benefit payment before age

62 is as nearly equal as possible to the combined retirement income which the Participant will receive from the Plan and from Social Security after the Participant reaches age 62. The increased monthly benefit payment available to the Participant before age 62 shall be an amount actuarially determined to produce the level income effect described in the preceding sentence.

- (2) The immediate annuity provided under the Social Security (Level Income) Option may, at the election of the Participant, be a Single Life Annuity, or a joint and survivor annuity for the lives of the Participant and Qualified Spouse in which the monthly amount of the survivor annuity for the Qualified Spouse shall be the amount set forth in Section 1.28.
- (3) Before a Participant may elect the Social Security (Level Income) Option, the Participant must provide the Plan Office with information concerning the amount of the monthly Social Security benefit to which the Participant will become entitled at age 62.
- (4) An election to receive benefits under the Social Security (Level Income) Option may be revoked by the Participant at any time (and with the consent of the Participant's Qualified Spouse, if required by law).
- (5) Notwithstanding the foregoing provisions this Section, a Participant may not elect to receive benefits under the Social Security Level Income Option if such option would produce a monthly benefit payment to the Participant of less than \$50.00.

(c) Lump Sum Payment Option:

- (1) The Lump Sum Payment Option provides a Participant with:
  - (A) an immediate lump sum payment in an amount which the Participant elects, and which is the Actuarial Equivalent of a maximum ten (10%) percent reduction in the Participant's monthly benefit payment under the Single Life Annuity or Qualified Joint and Survivor Annuity (or other joint and survivor annuity) otherwise payable to the Participant; and
  - (B) a monthly benefit payment under the Single Life Annuity or the Qualified Joint and Survivor Annuity (or other joint and survivor annuity) form of benefit, as otherwise applicable under this Section or Section 5.12, adjusted for the lump sum reduction described in clause (A) above.
- (2) The immediate lump sum payment available under the Lump Sum Payment Option shall be calculated using the Participant's birth date nearest to his Annuity Starting Date.
- (3) The Lump Sum Payment Option is subject to the following conditions:
  - (A) The minimum immediate lump sum payment which a Participant may elect to receive under the Lump Sum Payment Option is \$1,000.00.

- (B) The monthly benefit under the Single Life Annuity or the Qualified Joint and Survivor Annuity form of benefit payable after adjustment for the lump sum reduction must be a whole dollar amount.
- (4) The Lump Sum Payment Option is not available to any Participant whose monthly pension or other lifetime benefit payments resume after any period(s) of suspension due to employment in Disqualifying Employment or Totally Disqualifying Employment. The Lump Sum Payment Option is not available to any Participant whose lifetime benefit payments resume after any period(s) of suspension provided for in the Administrative Procedures Applicable to Disability Benefits in Appendix "C".

**Section 5.14. Waiver of Normal Form and Election of Optional Form.**

- (a) During the 90-day period ending on his Annuity Starting Date, or if later for a payment of benefits subject to Code Sections 401(a)(11) and 417, on the date that is seven days after the date he is provided with the required information on the payment of his benefits under paragraph (f) below, a Participant may waive the normal form of payment described in Section 5.12 and elect an available optional form of payment described in Section 5.13 by filing a written waiver and election with the Trustees in the manner prescribed by the Trustees. Said waiver and election may be made and revoked in writing at any time and any number of times during said election period.
- (b) No waiver of the normal form of payment and election of an optional form of payment made under paragraph (a) above by a Participant who is married on his Annuity Starting Date and for whom the Qualified Joint and Survivor Annuity is the normal form of payment shall be effective unless:
  - (1) the Participant's Spouse consents in writing to said waiver and election during the period specified in paragraph (a) above for said waiver and election and the Spouse's consent acknowledges the effect of said waiver and election and is witnessed by a notary public; or
  - (2) it is established to the satisfaction of the Trustees that (i) there is no Spouse, (ii) the Spouse cannot be located, (iii) such other conditions exist as may be prescribed by regulations issued by the Secretary of the Treasury, or (iv) except as otherwise provided in a qualified domestic relations order, the Participant is legally separated, or has been abandoned (within the meaning of local law) and the Participant has a court order of abandonment.
- (c) Spousal consent under paragraph (b) above shall be effective only with respect to the Spouse granting said consent or with whom said spousal consent is otherwise established and shall be irrevocable by the Spouse with respect to said waiver and election.
- (d) As part of the election of a form of benefit for the initial payment of pension benefits, a Participant may elect to postpone or reduce the payment of part of his benefits as follows:



- (1) If the Participant elects the Lump Sum Payment Option, the Participant may postpone the payment of the lump sum payment to a date in the calendar year following the Annuity Starting Date for his monthly benefit payments.
- (2) If the Participant elects a form of benefit other than the Lump Sum Payment Option, the Participant may elect to uniformly reduce the amount of each of his first six (6) monthly benefit payments. The maximum monthly reduction a Participant may elect is fifty percent (50%) of the monthly benefit otherwise payable (calculated after any reductions for payment beginning before Normal Retirement Age and for payment in a form other than a Single Life Annuity). If a Participant elects said a reduction, beginning with his seventh (7th) monthly benefit payment and ending with his twelfth (12th) monthly benefit payment (from and after his Annuity Starting Date), each monthly benefit paid to the Participant shall be increased by the amount of the monthly reduction the Participant elected for each of his first six (6) monthly benefit payments.
- (3) If a Participant who elects to postpone the payment of his lump sum payment in accordance with subparagraph (d)(1) above dies before payment of the lump sum payment, the lump sum payment shall be paid in the month following the month of the Participant's death to the person entitled to receive continuing monthly benefit payments following the Participant's death. If there is no monthly benefit payment payable following the Participant's death, the lump sum payment shall be paid to the Participant's surviving Beneficiary.
- (4) If a Participant who elects a reduction in his first six (6) monthly benefit payments pursuant to subparagraph (d)(2) above dies before receiving six (6) monthly benefit payments (in the reduced amount), the reduction shall cease with the monthly benefit paid for the month of the Participant's death. In such case, beginning with the monthly benefit paid for the month following the Participant's death and continuing until the total of monthly benefit payments made following the Participant's death equal the number of reduced monthly benefit payments made to the Participant before his death, each monthly benefit paid to the person entitled to receive continuing monthly benefit payments following the Participant's death shall be increased by the amount of the monthly reduction elected by the Participant. If there are no monthly benefit payments due after the Participant's death or if the monthly benefit payments due after the Participant's death cease before the payment of the total amount of the reduction made to the Participant's monthly benefit payments before his death, the unpaid balance of said total reduction shall be paid in a lump sum payment in the following month to the Participant's surviving Beneficiary.
- (5) If a Participant who elects a reduction in his first six (6) monthly benefit payments pursuant to subparagraph (d)(2) above dies after receiving six (6) monthly benefit payments (in the reduced amount), but before receiving the next six (6) monthly benefit payments (in the increased amount), each monthly benefit paid to the person entitled to receive continuing monthly benefit payments following the Participant's death shall be increased by the amount of the monthly reduction elected by the Participant until a total of six (6) increased monthly benefit payments have been paid to the Participant and said person. If there are no monthly benefit payments due after the Participant's death or if the monthly

benefit payments due after the Participant's death cease before the payment of the total amount of the reduction made to the Participant's monthly benefit payments before his death, the unpaid balance of said total reduction shall be paid in a lump sum payment in the following month to the Participant's surviving Beneficiary.

- (e) A Participant's form of payment shall be irrevocable on his Annuity Starting Date, or if later for a payment of benefits subject to Code Sections 401(a)(11) and 417, the date that is seven days after the date he is provided with the required information on the payment of his benefits under paragraph (f) below, and may not be changed or revoked thereafter (whether as the result of a change in marital status or as the result of any other change in personal circumstances) unless otherwise expressly permitted by the terms of the Plan.
- (f) To the extent and in the manner required by the Code, no less than 30 days before and no more 90 days before a Participant's Annuity Starting Date, but subject to the Participant's waiver of the 30-day period in accordance with Section 5.01(c)(2), the Trustees shall provide the Participant with (i) a general description of the material features of the normal and optional forms of payment and the relative values of each, (ii) an explanation of the Participant's right to elect each form of payment and the spousal consent requirements for such election, (iii) a notice of the Participant's right to defer the payment of benefits, and (iv) the right to a period of at least 30 days to consider this information.

#### **Section 5.15. De Minimis Benefits.**

- (a) Notwithstanding any other provisions of this Article to the contrary, where the Actuarial Present Value of a Participant's Vested Benefit does not exceed \$5,000, the Trustees shall make immediate distribution of the Participant's Vested Benefit or of any death benefits based on the Participant's Vested Benefit in a single sum to the Participant or other distributee upon receipt of a written application for such benefits by the Participant or other distributee who is otherwise entitled to a distribution under the terms of the Plan at the time of such application.
- (b) If the Actuarial Present Value of unpaid future benefits under any pension already in pay status does not exceed \$5,000, the Trustees may offer to pay out a lump sum amount which is the Actuarial Equivalent of such unpaid future benefits, in final satisfaction of such pension. Any such immediate distribution of benefits already in pay status shall be made only with the consent of the Participant (and/or Spouse, if applicable).

#### **Section 5.16. Pre-Retirement Death Benefits.**

- (a) Qualified Preretirement Survivor Annuity:
  - (1) Upon the death of a married Participant before the Participant's Annuity Starting Date, such deceased Participant's surviving Qualified Spouse will become entitled to receive a death benefit in the form of a Qualified Preretirement Survivor Annuity based upon the Participant's Vested Benefit (if any), unless the surviving Qualified Spouse elects an alternative death benefit under the remaining provisions of this Section.

- (2) If the Participant dies after attaining the Earliest Retirement Age, the surviving Qualified Spouse may elect to have payments under any Qualified Preretirement Survivor Annuity to which she may be entitled commence within a reasonable time after the Participant's death. Payments which begin later than the date on which payments to the surviving Qualified Spouse would otherwise have commenced under the terms of this subparagraph shall be actuarially adjusted to reflect delayed commencement of payments in accordance with the provisions of Section 1.02.
- (3) If the Participant dies before attaining the Earliest Retirement Age, the surviving Qualified Spouse will begin to receive any Qualified Preretirement Survivor Annuity payments to which she may be entitled at the Participant's Earliest Retirement Age, subject to her application for the same. Benefit payments beginning after the Participant's Earliest Retirement Age will be actuarially adjusted to reflect delayed commencement of payments in accordance with the provisions of Section 1.02.
- (4) Notwithstanding anything in the Plan to the contrary, the Qualified Preretirement Survivor Annuity benefit provided by this paragraph (a) shall be forfeited if the Qualified Spouse dies before the Participant's Earliest Retirement Age. Similarly, if the Qualified Spouse survives past the Participant's Earliest Retirement Age, the Qualified Preretirement Survivor Annuity benefit shall be forfeited if the Qualified Spouse dies before payment commences.

(b) Optional Survivor Annuity Benefits for Surviving Qualified Spouses:

- (1) In lieu of the Qualified Preretirement Survivor Annuity payable upon the death of a married Participant under paragraph (a) above, the deceased Participant's surviving Qualified Spouse may elect to receive a death benefit in the form of a level annuity payable monthly for the life of the surviving Qualified Spouse, based upon the Participant's Vested Benefit (if any). The surviving Qualified Spouse may elect to have payments commence under such annuity within a reasonable time after the Participant's death.
- (2) In the case of a Participant who dies before the Earliest Retirement Age with a Vested Benefit based on at least fifteen (15) Pension Credits, the surviving Qualified Spouse's annuity benefit shall be equivalent to the benefit that would have been calculated for the surviving Qualified Spouse under a Qualified Joint and Survivor Annuity based on the greater of:
  - (A) the Actuarial Present Value of a Qualified Joint and Survivor Annuity to which the Participant and Qualified Spouse would have been entitled if the Participant had Retired at the Earliest Retirement Age and died on the next day; or
  - (B) the Actuarial Present Value of monthly benefit payments under a Qualified Joint and Survivor Annuity to which the Participant and Qualified Spouse would have been entitled if the Participant had Retired at Normal Retirement Age, continuing only for a period of sixty (60) months in the

case of a Participant who would be classified as a Local Union No. 3 Retiree, or for a period of seventy-two (72) months in the case of a Participant who would be classified as a Local Union No. 772 Retiree.

- (3) In the case of a Participant who dies before the Earliest Retirement Age with a Vested Benefit based on at least ten (10) but less than fifteen (15) Pension Credits, the surviving Qualified Spouse's annuity benefit shall be equivalent to the benefit that would have been calculated for the surviving Qualified Spouse under a Qualified Joint and Survivor Annuity based on the greater of:
- (A) the Actuarial Present Value of a Qualified Joint and Survivor Annuity to which the Participant and Qualified Spouse would have been entitled if the Participant had Retired at Normal Retirement Age and died on the next day; or
  - (B) the Actuarial Present Value of monthly benefit payments under a Qualified Joint and Survivor Annuity to which the Participant and Qualified Spouse would have been entitled if the Participant had Retired at Normal Retirement Age, continuing only for a period of sixty (60) months in the case of a Participant who would be classified as a Local Union No. 3 Retiree, or for a period of seventy-two (72) months in the case of a Participant who would be classified as a Local Union No. 772 Retiree.

(c) Supplemental Payment Guarantees for Surviving Qualified Spouses:

- (1) A Qualified Spouse receiving survivor annuity benefits under paragraphs (a) or (b) of this Section shall receive a supplemental monthly benefit payment in an amount which, together with the monthly benefit payment otherwise payable to the Qualified Spouse under paragraphs (a) or (b), equals the monthly benefit payment under a Qualified Joint and Survivor Annuity to which the Participant and Qualified Spouse would have been entitled if the Participant had Retired at Normal Retirement Age.
- (2) The supplemental monthly benefit payment for the surviving Qualified Spouse described in subparagraph (1) shall commence on the Annuity Starting Date for the surviving Qualified Spouse's annuity benefit, and shall continue for a period of sixty (60) months in the case of the surviving Qualified Spouse of a Participant who would be classified as a Local Union No. 3 Retiree, or seventy-two (72) months in the case of the surviving Qualified Spouse of a Participant who would be classified as a Local Union No. 772 Retiree.

(d) Optional Lump Sum/Installment Death Benefits for Surviving Qualified Spouses:

- (1) In lieu of the Qualified Preretirement Survivor Annuity payable upon the death of a married Participant under paragraph (a) above, the surviving Qualified Spouse of a deceased Participant who had been credited with at least five (5) but less than ten (10) Pension Credits at the time of his death, and who had not been charged with three (3) consecutive One Year Breaks in Service immediately prior to his death as described in Section 4.02(d) may elect to receive a death benefit

payable in one of the following forms of benefit, whichever has the greater Actuarial Present Value:

- (A) A lump sum amount equal to one-half of the Employer Contributions made to the Pension Fund on behalf of the Participant, up to \$12,000.00; or
- (B) Monthly benefit payments based on the Participant's Vested Benefit payable in the form of a Qualified Joint and Survivor Annuity for the Participant and Qualified Spouse commencing at the Participant's Normal Retirement Age, and continuing only for sixty (60) months in the case of a Participant who would be classified as a Local Union No. 3 Retiree, or seventy-two (72) months in the case of a Participant who would be classified as a Local Union No. 772 Retiree.

(e) Death Benefits for Non-Spouse Beneficiaries:

- (1) Upon the death of an unmarried Participant before the Participant's Annuity Starting Date, or upon the simultaneous deaths of a married Participant and his Qualified Spouse before the Participant's Annuity Starting Date, such deceased Participant's surviving Beneficiary shall be entitled to receive a death benefit in accordance with the remaining provisions of this paragraph (e).
- (2) In the case of a Participant who dies with a Vested Benefit based on at least ten (10) Pension Credits, the death benefit payable to the Participant's surviving Beneficiary shall be the monthly benefit payments under the Single Life Annuity to which the Participant would have been entitled if the Participant had Retired at the Participant's Normal Retirement Age, continuing only for a period of sixty (60) months in the case of a Participant who would be classified as a Local Union No. 3 Retiree, or for a period of seventy-two (72) months in the case of a Participant who would be classified as a Local Union No. 772 Retiree.
- (3) In the case of a deceased Participant who had been credited with at least five (5) but less than ten (10) Pension Credits at the time of his death, and who had not been charged with three (3) consecutive One Year Breaks in Service immediately prior to his death as described in Section 4.02(d), the death benefit for the surviving Beneficiary shall be the benefit payable under one of the following forms of benefit, whichever has the greater Actuarial Present Value:
  - (A) A lump sum amount equal to one-half of the Employer Contributions made to the Pension Fund on behalf of the Participant, up to \$12,000.00; or
  - (B) Monthly benefit payments based on the Participant's Vested Benefit payable in the form of a Single Life Annuity for the Participant commencing at the Participant's Normal Retirement Age, and continuing only for sixty (60) months in the case of a Participant who would be classified as a Local Union No. 3 Retiree, or seventy-two (72) months in the case of a Participant who would be classified as a Local Union No. 772 Retiree.

- (f) In the case of the death of a Participant who had previously received monthly disability benefit payments (Lifetime Payments) under Sections 5.08 - 5.10, the amount of such monthly disability benefit payments shall be deducted from any death benefits payable under paragraphs (b) - (e) of this Section.

**Section 5.17. Post-Retirement Death Benefits.**

- (a) If a married Participant who is receiving benefits in the form of a Qualified Joint and Survivor Annuity [or in the form of any joint and survivor annuity for the Participant and Qualified Spouse under the Social Security (Level Income) Option or the Lump Sum Payment Option] dies before he has been paid a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, the Participant's surviving Qualified Spouse shall receive monthly benefit payments each equal to fifty (50%) percent of the monthly benefit payment being made to the Participant at the time of his death. Such monthly benefit payments shall supplement the survivor annuity benefit to which the Qualified Spouse is otherwise entitled by virtue of the Participant's death. Supplemental monthly benefit payments to the deceased Participant's surviving Qualified Spouse shall continue until a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, have been made to the Participant and the surviving Qualified Spouse.
- (b) If a Qualified Surviving Spouse receiving the death benefit described in paragraph (a) above dies before a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, have been made to the Participant and the surviving Qualified Spouse, the Participant's surviving Beneficiary shall receive monthly benefit payments each equal to one hundred (100%) percent of the monthly benefit payment being made to the Participant at the time of his death until a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, have been made to the Participant, the Qualified Spouse and the Beneficiary.
- (c) If a married Participant who is receiving benefits in the form of a Single Life Annuity under the Social Security (Level Income) Option or the Lump Sum Payment Option dies before he has been paid a total of one hundred twenty (120) monthly benefit payments, the Participant's surviving Qualified Spouse shall receive the following monthly benefit payments:
  - (1) If the Participant dies before he has been paid a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, the Participant's surviving Qualified Spouse shall receive monthly benefit payments each equal to one hundred (100%) percent of the monthly benefit payment being made to the Participant at the time of his death until a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, have been made to the Participant and the surviving Qualified Spouse. Thereafter,

the Participant's surviving Qualified Spouse shall receive monthly benefit payments each equal to fifty (50%) percent of the monthly benefit payment being made to the Participant at the time of his death until a total of one hundred twenty (120) monthly benefit payments have been made to the Participant and the surviving Qualified Spouse.

- (2) If the Participant dies after he has been paid a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, the Participant's surviving Qualified Spouse shall receive monthly benefit payments each equal to fifty (50%) percent of the monthly benefit payment being made to the Participant at the time of his death until a total of one hundred twenty (120) monthly benefit payments have been made to the Participant and the surviving Qualified Spouse.
- (3) If the Participant was receiving benefits in the form of a Single Life Annuity under the Social Security (Level Income) Option at the time of his death, the aggregate benefit amounts paid to the Participant under the Social Security (Level Income) Option (the "SSLIO Amounts") shall be compared to the aggregate benefit amounts which would have been paid to the Participant if he had Retired under the provisions of Section 5.05 and elected to receive his benefit in the form of a Single Life Annuity (the "SLA Amounts"). If the SSLIO Amounts exceed the SLA Amounts, no death benefits under subparagraphs (1) or (2) above shall be payable to the Qualified Spouse. If the SLA Amounts exceed the SSLIO Amounts, the provisions of subparagraphs (1) or (2) above shall be applied to provide the surviving Qualified Spouse with monthly benefit payments until a total of one hundred twenty (120) monthly benefit payments have been made to the Participant and the surviving Qualified Spouse, or until monthly benefit payments to the Qualified Spouse equal the difference between the SLA Amounts and the SSLIO Amounts, whichever first occurs.

The provisions of this paragraph (c) shall apply only if the Participant's surviving Qualified Spouse is the Participant's sole primary Beneficiary at the time of the Participant's death. The provisions of this paragraph (c) shall not apply if the Participant is divorced from his Qualified Spouse at the time of his death.

- (d) If a Participant who is receiving benefits in the form of a Single Life Annuity [including a Single Life Annuity under the Social Security (Level Income) Option, a Single Life Annuity under the Lump Sum Payment Option, or a Single Life Annuity by virtue of the "pop-up" provisions of Section 5.12(a)(1)] dies before he has been paid a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, the Participant's surviving Beneficiary shall receive monthly benefit payments each equal to one hundred (100%) percent of the monthly benefit payment being made to the Participant at the time of his death until a total of sixty (60) monthly benefit payments in the case of a Local Union No. 3 Retiree, or seventy-two (72) monthly benefit payments in the case of a Local Union No. 772 Retiree, have been made to the Participant and the surviving Beneficiary.

- (e) In the case of the death of a Participant who was receiving or who had previously received monthly disability benefit payments (Lifetime Payments) under Sections 5.08 - 5.10, such monthly disability benefit payments shall be considered in calculating the number of monthly benefit payments payable to the deceased Participant's surviving Qualified Spouse or Beneficiary for the balance of any applicable sixty (60)/seventy-two (72)/one hundred twenty (120) month series of payments described in this Section. If the disabled Participant returned to Covered Employment after the Annuity Starting Date for his disability benefit (Lifetime Payments), each subsequent month in which the disabled or formerly disabled Participant worked in Covered Employment shall restore one monthly benefit payment to the number of monthly benefit payments otherwise payable to the Participant's surviving Qualified Spouse or Beneficiary for the balance of any applicable sixty (60)/seventy-two (72)/one hundred twenty (120) month series of payments described in this Section.
- (f) If a Participant who is receiving benefits in the form of a Qualified Joint and Survivor Annuity [or in the form of any joint and survivor annuity for the Participant and Spouse under the Social Security (Level Income) Option or the Lump Sum Payment Option] dies before he and his surviving Spouse have been married for at least one (1) year, the difference between the aggregate monthly benefit amounts paid under the Qualified Joint and Survivor Annuity and the aggregate monthly benefit amounts which would have been paid to the Participant under a Single Life Annuity form of payment shall be paid in a single sum to the deceased Participant's Spouse who survives the Participant, or to the Participant's surviving Beneficiary if the Spouse does not survive the Participant.

#### **Section 5.18 Beneficiary Designations.**

- (a) Each Employee, upon becoming a Participant may designate a Beneficiary or Beneficiaries of the Participant's own choosing, and may, in addition, name a contingent Beneficiary or Beneficiaries to receive any death benefit payable under Sections 5.16 or 5.17 as the result of the Participant's death (other than a death benefit payable to a surviving Qualified Spouse), or payable as the result of the death of the Qualified Spouse or any Beneficiary. Any Participant may prospectively, at any relevant time, revoke such designation of a Beneficiary or contingent Beneficiary or change a Beneficiary or contingent Beneficiary by filing written notice of such revocation or change with the Trustees. Any such designation, revocation or change shall be made in a form satisfactory to the Trustees.
- (b) Notwithstanding the provisions of paragraph (a), a married Participant's Beneficiary shall be his Qualified Spouse unless the Participant designates a Beneficiary other than his Qualified Spouse and either:
  - (1) the Participant's Qualified Spouse consents in writing to said designation and the Qualified Spouse's consent acknowledges the effect of said designation and is witnessed by a notary public; or
  - (2) it is established to the satisfaction of the Trustees that (i) there is no Qualified Spouse, (ii) the Qualified Spouse cannot be located, (iii) such other conditions exist as may be prescribed by regulations issued by the Secretary of the Treasury, or (iv) except as otherwise provided in a qualified domestic relations



order, the Participant is legally separated, or has been abandoned (within the meaning of local law) and the Participant has a court order of abandonment.

- (c) Spousal consent to the designation under paragraph (b) above shall be effective only with respect to such Qualified Spouse granting said consent or with whom said spousal consent is otherwise established and shall be irrevocable by the Qualified Spouse with respect to said designation.
- (d) A Participant who designates, with his Qualified Spouse's consent, a Beneficiary other than his Qualified Spouse cannot thereafter change said Beneficiary designation unless:
  - (1) the change is to designate the Qualified Spouse as the Beneficiary;
  - (2) the Qualified Spouse consents to such change in the manner prescribed by paragraph (b) above; or
  - (3) the Qualified Spouse previously executed in the manner prescribed by paragraph (b) above a general spousal consent that permits the Participant to make such change without further spousal consent and which acknowledges that the Qualified Spouse voluntarily relinquished the right to limit spousal consent to a specific Beneficiary.
- (e) If there is no Beneficiary, including a contingent Beneficiary, designated by the Participant or surviving at the Participant's death, the Participant shall be deemed to have designated as Beneficiary the first of the following who survive the Participant: (i) Spouse; (ii) children; (iii) parents; (iv) brothers and sisters. If more than one person qualifies as a member of a class of Beneficiaries specified in the preceding sentence, distributions shall be made in equal shares to all members of such class who survive the deceased Participant and who are known to the Trustees at the time of distribution. If benefits are payable to multiple Beneficiaries, the Trustees reserve the right to make payment of any benefits due in a lump sum.
- (f) In the case of benefits provided under an individual annuity purchased from an insurance company, the provisions for beneficiary designations shall conform to those contained in the annuity contract purchased to provide benefits to the Participant.
- (g) In the event that no Qualified Spouse or Beneficiary is alive at the time that death benefits attributable to a deceased Participant's Vested Benefit become payable, no benefits shall be paid.

#### **Section 5.19. Required Distributions.**

- (a) The requirements of this Section, other than paragraph (b) below, shall be interpreted in a manner consistent with Code Section 401(a)(9) (and the proposed regulations thereunder, including § 1.401(a)(9)-2, as the same may be finalized and amended from time to time) and shall supersede all inconsistent provisions in the Plan.
- (b) Distribution of Vested Benefits to a Participant entitled to the same shall, as required by Code Section 401(a)(14), be made or commence no later than the 60th day after the latest of the close of the Plan Year in which (i) the Participant attains Normal Retirement

Age, (ii) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan, or (iii) the Participant terminates Covered Employment and or Contiguous Noncovered Employment; provided, however, subject to paragraph (c) below, (i) such Participant may elect a later date of distribution, and (ii) such Participant's failure to file an application for benefits shall be deemed to be such an election of a later date of distribution.

- (c) Subject to paragraph (d) below, notwithstanding any failure to submit an application for benefits, (for a Participant who attains age 70-1/2 after December 31, 1989, or December 31, 1988 in the case of a Participant who is a Noncollectively Bargained Employee), the entire interest of a Participant in his Vested Benefit must be distributed or begin to be distributed no later the April 1 of the calendar year following the calendar year in which the Participant attains age 70-1/2.
- (d) Notwithstanding paragraph (c) above, if a Participant attained age 70-1/2 before January 1, 1990, or January 1, 1988 in the case of a Participant who is a Noncollectively Bargained Employee, then payment of his benefits shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he attains age 70-1/2 or (ii) the calendar year in which he retires; provided, however, if such Participant was a 5-percent owner within the meaning of Code Section 416(i) at any time during the Plan Year which begins after December 31, 1979 and which ends with or within the calendar year in which he attains age 66-1/2 or during any subsequent Plan Year, the payment of his benefits shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he attains 70-1/2 or (ii) the earlier of the calendar year in which he retires or the calendar year in which ends such Plan Year in which he becomes such a 5-percent owner. If a Participant who is a Noncollectively Bargained Employee attained age 70-1/2 in 1988 and had not retired as of January 1, 1989, payment of benefits shall commence no later than April 1, 1990.
- (e) The distributions required by paragraph (c) or (d) above shall be made in the form of Qualified Joint and Survivor Annuity, Single Life Annuity, Social Security (Level Income) Option, or Lump Sum Payment Option as provided in Sections 5.12 and 5.13.
- (f) If the Participant's interest is distributed in the form of an annuity contract purchased from an insurance company, distributions under such annuity contract shall be made in accordance with the requirements of Code Section 401(a)(9) and the proposed regulations thereunder.
- (g) Once a required annuity commences in accordance with this Section, any additional benefits accruing to the Participant thereafter shall be distributed as a separate and identifiable component of the annuity beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (h) If the Participant dies after distribution of his interest has begun, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.
- (i) If the Participant dies before distribution of his interest begins and distribution is due to a designated beneficiary who is the Participant's Spouse, distribution shall be made over a

period that does not exceed the Spouse's lifetime (or life expectancy) beginning no later than the later of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died and (2) December 31 of the calendar year in which the Participant would have attained age 70-1/2.

- (j) If the Participant dies before distribution of his interest begins, and distribution is due to a designated beneficiary who is not the Participant's Spouse, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death; provided, however, if distribution begins by December 31 of the calendar year immediately following the calendar year in which the Participant died, distribution can be made over a period that does not exceed the Beneficiary's lifetime (or life expectancy).
- (k) If the Participant dies before distribution of his interest begins and has no designated beneficiary, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (l) If the designated beneficiary is the Participant's Spouse, and if the Spouse dies after the Participant but before distribution to the Spouse is required to begin under this Section, this Section shall apply to Spouse as if the Spouse were a participant without a spouse.

#### **Section 5.20. Reinstatement of Benefits.**

Benefit payments that are not paid to or claimed by a Participant or by the Spouse or other Beneficiary properly entitled to the same shall be forfeited, subject to reinstatement if such Participant, Spouse or Beneficiary appears and demonstrates his entitlement to the benefits.

#### **Section 5.21. Incapacity.**

In the event that the Trustees determine that a Participant or other distributee of benefits is unable to care for his affairs because of mental or physical incapacity, any payment due may be applied, in the discretion of the Trustees, to the maintenance and support of such Participant or other distributee, or the same may be paid to such person(s) as the Trustees in their sole discretion find to be the object(s) of the natural bounty of the Participant or other distributee in the manner decided by the Trustees, unless prior to such payment, claim shall have been made for such payment by the guardian, committee or other legal representative of the Participant or other distributee legally appointed to receive such payment on behalf of the Participant or other distributee.

#### **Section 5.22. Direct Transfer of Eligible Rollover Distributions.**

- (a) A Distributee who receives a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.
- (b) Notwithstanding any contrary provisions of this Section (except as otherwise required by Code Section 401(a)(31), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least \$500, (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made

with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than \$200 (when aggregated with all other Eligible Rollover Distributions for the taxable year).

- (c) For purposes of this Section, the following terms shall have the meaning given to them in this paragraph.
- (1) "Direct Rollover" shall mean a payment by the Plan to the eligible retirement plan specified by the Distributee.
  - (2) "Distributee" shall mean (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a qualified domestic relations order, as defined in Code Section 414(p), with respect to the interest of the spouse or former spouse.
  - (3) "Eligible Rollover Plan" shall mean an individual retirement account described in Code Section 408(b), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a); provided, however, for an Eligible Rollover Distribution to a spouse, eligible retirement plan means an individual retirement account or individual retirement annuity.
  - (4) "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which 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 and the Distributee's designated beneficiary or for a specified period of ten years or more, (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9), and (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (d) Said election and Direct Rollover shall be made in accordance with procedures prescribed by the Trustees in conformance with Code Section 401(a)(31).

## **ARTICLE VI**

### **CONTRIBUTIONS**

#### **Section 6.01. Employer Contributions.**

Each Employer shall contribute to the Pension Fund the amounts specified in the Collective Bargaining Agreement or in other written agreements with the Trustees as they may be negotiated or renegotiated from time to time. Each Employer shall forward such Employer Contributions to the Trustees at such time or times as the Trustees may prescribe, together with such information as the Trustees may require.

**Section 6.02. Forfeitures.**

A Participant whose employment terminates prior to attaining Normal Retirement Age and prior to the completion of the number of Years of Service required to be credited for a Vested Benefit shall not be entitled to any benefits funded by Employer Contributions under this Plan (other than death benefits which may be payable under Sections 5.16 or 5.17). Further, such Participant shall be deemed to have received a constructive distribution of his vested Accrued Benefit, and to have forfeited his nonvested Accrued Benefit, subject to the Break in Service rules contained in Section 3.03. Forfeitures arising under the Plan because of termination of employment before a Participant becomes eligible for a Vested Benefit, or for any other reason, shall be applied to reduce the cost of the Plan, not to increase the benefits otherwise payable to Participants.

**Section 6.03. Benefit.**

Any and all contributions by an Employer to the Pension Fund shall be irrevocable, and neither such contributions nor any income therefrom shall be used for, nor diverted to, purposes other than for the exclusive benefit of Participants or their beneficiaries under the Plan and for the payment of reasonable expenses of administration of the Plan and the Pension Fund as provided herein.

**ARTICLE VII**

**LIMITATIONS ON CONTRIBUTIONS AND BENEFITS**

**Section 7.01. 415 Limitations Incorporated by Reference.**

- (a) The provisions and limitations on benefits and contributions under qualified plans as contained in Code Section 415 are specifically incorporated herein by reference and are intended to override any other provisions of the Plan which may be inconsistent with such provisions and limitations (except as may be expressly stated in this Plan to the contrary).
- (b) Notwithstanding anything in this Plan to the contrary, the annual benefit which will become payable under the Plan to a Participant at any time shall be limited and adjusted so as not to exceed the maximum annual benefit permissible under Code Section 415. If the benefit that the Participant would otherwise accrue in a Limitation Year would produce an annual benefit in excess of the maximum permissible amount, the rate of accrual will be reduced so that the annual benefit will equal the maximum permissible amount.
- (c) For purposes of applying the limitations of Code Section 415 with respect to a Participant employed by an Employer maintaining the Plan, only the benefits or contributions provided to such Participant by such Employer shall be taken into account.
- (d) The Code Section 415 limitations on annual benefits imposed by this Section shall be deemed satisfied if the annual benefit payable to a Participant is not more than \$1,000 multiplied by the Participant's Years of Service (not to exceed 10) with an Employer, and the Participant has not at any time participated in an Employer-funded defined

contribution plan, a welfare benefit plan under Code Section 419(e), or an individual medical account under Code Section 415(l)(2) maintained pursuant to the Collective Bargaining Agreement.

- (e) The annual benefit payable to a retired or terminated Participant, which is otherwise limited by the dollar limitation under Code Section 415, shall be increased in accordance with annual cost of living adjustments to such dollar limitations pursuant to Code Section 415(d).
- (f) For purposes of this Section, an annual benefit payable in a form other than a Single Life Annuity must be adjusted to an actuarially equivalent Single Life Annuity before applying the limitations of this Section. For this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence shall be determined by the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the greater of five (5%) percent or the interest rate used under the Plan to determine Actuarial Equivalent optional forms of benefits; provided, however, that the interest rate used to determine actuarial equivalence for a lump sum payment under the Plan [or a form of payment otherwise subject to Code Section 417(e)(3)] shall be the greater of the interest rate used under the Plan to determine Actuarial Equivalent optional forms of benefit or the rate equal to the annual interest rate on 30-year Treasury securities specified by the Commissioner of Internal Revenue for the determination of present value under Code Section 417(e)(3)(A)(ii)(II) for the September preceding the applicable Limitation Year, or for the 1998 Limitation Year only, determined for January 1998 if lower. No actuarial adjustment to the benefit is required for (1) the value of a Qualified Joint and Survivor Annuity, (2) the value of benefits that are not directly related to retirement benefits, and (3) the value of post-retirement cost-of-living increases made in accordance with Code Section 415(d) and Section 1.415-3(c)(2)(iii) of the regulations thereunder.
- (g) If a benefit under the Plan begins after the Participant's "social security retirement age" as determined under Code Section 415(b), the defined benefit dollar limitation shall be adjusted (increased) to the actuarial equivalent of an annual benefit of such dollar limitation beginning at the Participant's social security retirement age. For this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence shall be determined by (to the extent required) the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the lesser of five percent (5%) or the interest rate used under the Plan to determine Actuarial Equivalent optional forms of benefits.
- (h) If a benefit under the Plan begins before the Participant's "social security retirement age" as determined under Code Section 415(b), but on or after the Participant's attainment of age sixty-two (62), the defined benefit dollar limitation shall be reduced by 5/9ths of one percent for each of the first thirty-six (36) months and 5/12ths of one percent for each additional month by which the payment date for the benefit precedes the month in which the Participant will attain social security retirement age. If the benefit begins prior to the Participant's attainment of age sixty-two (62), the defined benefit dollar limitation shall be adjusted (reduced) to the actuarial equivalent of the dollar limitation specified in this paragraph for a benefit commencing at age sixty-two (62). For

this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence shall be determined by (to the extent required) the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the greater of five percent (5%) or the interest rate used under the Plan to determine Actuarial Equivalent optional forms of benefits.

- (i) The Section 415(b)(2)(E) changes (within the meaning of Rev. Rul. 98-1) as set forth in paragraphs (f), (g) and (h) shall not apply to benefits accrued prior to January 1, 1998 (referred to as "old-law benefit" for this purpose). A Participant's old-law benefit shall be determined on the basis of his accrued benefit under the terms of the Plan in effect on December 31, 1997 after applying the requirements of Code Section 415 as set forth in the Plan as in effect on December 7, but subject to increase to the extent permitted with respect to the repeal of Code Section 415(e) (as provided for by Q&A-12 of IRS Notice 99-44). To implement this, the Code Section 415(b) limitations shall apply to the Participant's total accrued benefit, but the Participant shall receive no less than his old-law benefit (which is method 2 of Q&A-14 of Rev. Rul. 98-1).
- (j) If a Participant is or has at any time been a participant in any other qualified defined benefit plan(s) (other than another multiemployer plan) maintained or contributed to by an Employer, and the aggregate benefits for such Participant under this and all such other plans would exceed the limitations of Code Section 415, benefits will be adjusted to prevent violation of the Code Section 415 limits under such other plans; provided, however, if such other plan is terminated, the adjustment shall be made under this Plan.
- (k) The Code Section 415 limitations applicable to a Participant who also participates a qualified defined contribution plan(s) (other than another multiemployer plan) maintained or contributed to by an Employer shall not apply to Limitation Years beginning on and after January 1, 2000.
- (l) For purposes of this Section, "compensation" shall mean all of an Employee's wages for the entire Limitation Year within the meaning of Code Section 3401(a) or any other payments of compensation for which the Employee is required to be furnished a written statement under Code Sections 6041(d) and 6051(a)(3), determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed, and including for Limitation Years beginning on and after January 1, 1998, (i) elective deferrals that are not includible in gross income under Code Sections 125, 402(e)(3), 402(h), 403(b) (and any predecessors and successors thereto), (ii) compensation deferred under Code Section 457(b) deferred compensation plan, and (iii) employee pick-up contributions under Code Section 414(h) Code, and including for Limitation Years beginning on and after January 1, 2001, elective amounts that not includible in gross income under Code Section 132(f)(4) (and any predecessors and successors thereto).
- (m) For purposes of applying the limitations of this Section, compensation for a Limitation Year is the compensation actually paid or includible in gross income during such Limitation Year. Notwithstanding the preceding sentence, compensation for a Participant in a defined contribution plan who is permanently and totally disabled (as defined in Code Section 22(e)(3)) shall be the compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of

compensation paid immediately before becoming permanently and totally disabled; provided, however, such imputed compensation for the disabled Participant may be taken into account only if contributions made on behalf of such Participant are nonforfeitable when made, and beginning January 1, 1997, if the Participant is a highly compensated employee within the meaning of Section 5.02(e), only if contributions are made on behalf of all such permanently and totally disabled participants.

- (n) For purposes of this Section, the term "Employer" shall mean the Employer of the Participant, and all members of a controlled group of corporations (as defined in Code Section 414(b) as modified by Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c) as modified by 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 regulations under Code Section 414(o).
- (o) For purposes of this Section, the term "Limitation Year" shall mean the calendar year.

**Section 7.02. Special Limitation for Noncollectively Bargained Employees.**

- (a) Notwithstanding any provisions of this Plan to the contrary, no Participant who is both a highly compensated employee within the meaning of (e) below and a Noncollectively Bargained Employee shall benefit under this Plan in any Plan Year, unless the Employer who contributes (or is obligated to contribute) on behalf of such Participant provides satisfactory demonstration and certification to the Plan that the portion of the Plan which covers the Noncollectively Bargained Employees (including the Participant) of such Employer(s) satisfies, in the manner prescribed by law, the minimum participation, minimum coverage and general nondiscrimination provisions of Code Sections 401(a)(26), 410(b) and 401(a)(4) with respect to such Plan Year.
- (b) Solely for purposes of this Section, a Noncollectively Bargained Employee benefiting under this Plan will be treated as Collectively Bargained Employees in accordance with the provisions of I.R.C. Reg. §1.410(b)-6(d)(2)(ii)(A) through (D).
- (c) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Code under this Section, an Employer who contributes to the Plan on behalf of Noncollectively Bargained Employees may elect to use any definition of compensation that complies with the provisions of I.T. Reg. §1.414(s)-1 (or its successor) to apply such nondiscrimination requirements to the portion of the Plan that is required to be tested as a separate plan of such Employer, provided that the definition of compensation so elected by an Employer is used consistently to the extent required by I.T. Reg. §1.414(s)-1 (or its successor).
- (d) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Code under this Section, the annual compensation of a Participant taken into account for any Plan Year beginning on or after January 1, 1994 shall not exceed \$150,000, with said dollar amount reduced proportionately for any Plan Year shorter than 12 months and adjusted at the time and in the manner as provided by Code Section 401(a)(17), and effective January 1, 1997, determined without regard to family aggregation. Said annual compensation limit shall be applied separately with respect to



the compensation of an Employee from each Employer maintaining the Plan, rather than the total compensation from all Employers maintaining the Plan.

- (e) For purposes of this Section, effective January 1, 1997, a Participant shall be considered a highly compensated employee for a Plan Year (the "current Plan Year") if, as determined in accordance with Code Section 414(q), the Participant performs service for an Employer during the current Plan Year and either:
- (1) is a 5-percent owner (within the meaning of Code Section 416(i)(1)(A)(iii)) at any time during the current Plan Year or preceding Plan Year; or
  - (2) had more than \$80,000 of compensation (within the meaning of Code Section 415(e)(3)) or such higher amount prescribed pursuant to Code Section 414(q)(1) from the Employer for the preceding Plan Year, and if elected by the Employer, was also within the top-paid group of the Employer (i.e., among the top 20 percent paid employees of the Employer when excluding employees under Code Section 414(q)(5)).

### **Section 7.03. Plan Termination Restrictions.**

In addition to the other limitations in this Article VII, the limitations in Appendix "E" will apply to distributions from the Plan in the event of plan termination.

## **ARTICLE VIII**

### **PLAN ADMINISTRATION**

#### **Section 8.01. Plan Administrator.**

The Plan shall be administered by the Trustees. The Trustees shall serve without compensation for such service, but the Pension Fund shall pay or reimburse them for all expenses reasonably incurred and shall indemnify them, to the fullest extent permitted by law, against all loss, liability and expense occasioned by any act or failure to act, except for any such act or failure to act which is due to willful misconduct, fraud, or lack of good faith. No Trustee shall be liable for any loss other than that specifically provided for under the standards applicable to fiduciaries as contained in ERISA. No Trustee shall be personally liable upon, or with respect to, any agreement, act, transaction or omission executed, committed or suffered to be committed by himself as a Trustee or by any other member, agent or representative of the Board of Trustees, except as specifically provided in Title I of ERISA. The Board of Trustees, and any member and agent thereof, shall be fully protected in relying upon the advice of any legal counsel, physician or other expert retained by the Board of Trustees. Other than the bonding requirement under Section 412 of ERISA, no bond or other security shall be required of any Trustee in any jurisdiction.

#### **Section 8.02. Rules and Regulations.**

- (a) The Trustees shall have all powers necessary to administer and carry out the provisions of the Plan. The Trustees shall have the obligation, exclusive right and absolute discretion to interpret and apply all terms of the Plan, and may correct any defect,

supply any omission or reconcile any inconsistency or ambiguity in such manner as they deem advisable. They shall have full authority and absolute discretion to make all factual and/or legal determinations concerning eligibility and status of Employees and Participants, the right of any person(s) to benefits and all other rights hereunder, and all other matters concerning plan administration, operation and interpretation. All determinations and actions of the Trustees with respect to any matter relating to the Plan shall be final, conclusive and binding upon all persons. It is intended that any and all factual and/or legal constructions, interpretations, conclusions and determinations adopted by the Trustees in good faith are to be accorded deference upon judicial or other review, and shall not be reversed unless the same are determined to be arbitrary and capricious. Any powers to be exercised by the Trustees shall be exercised in a nondiscriminatory manner, and they shall apply uniform administrative rules of general application in order to afford similar treatment to persons in similar circumstances.

- (b) By way of example and not by way of limitation, the Trustees shall have the following specific powers and duties:
- (1) To make rules and regulations for the administration and operation of the Plan which are not inconsistent with the terms and provisions of this document.
  - (2) To establish procedures for the processing of all claims for benefits, including the promulgation of appropriate forms necessary for the application for benefits.
  - (3) To determine all questions relating to the eligibility of Participants to receive benefits, and to determine the service upon which the benefits of each Participant shall be based.
  - (4) To make all determinations and computations concerning the benefits, credits and debits to which any Participant, Spouse or other Beneficiary may be entitled under the Plan.
  - (5) To determine whether a Participant is disabled or continues to be disabled for the purposes of Sections 5.08 - 5.10.
  - (6) From time to time to select, employ and compensate such pension consultants, accountants, attorneys, actuaries and other agents and employees as they may deem necessary or advisable for the proper and efficient administration of the Plan and the Pension Fund.

### **Section 8.03. Claims, Appeals and Review Procedure.**

- (a) The claims, appeal and review procedures set forth in this Section shall apply to claims filed on or after January 1, 2002. Claims filed before January 1, 2002 shall be considered under the procedures then in effect.
- (b) Claims for benefits under the Plan shall be filed in accordance with the procedures established by the Trustees and on forms available from the Trustees upon request. A claim for benefits shall be decided within a reasonable period of time following the Plan's receipt of the claim, but not later than 90 days after receipt, and 45 days after receipt if a claim for a Disability Benefit.

- (c) If special circumstances require, the initial 90-day period to consider a claim other than a Disability Benefit claim may be extended for up to an additional 90 days. For a Disability Benefit claim, the initial 45-day period to consider such claim may be initially extended for up to an additional 30 days and then for up to an additional 30 days after the initial extension if, in each case, the extension is necessary due to matters outside the control for the Plan. Written (or electronic) notice of an extension shall be provided to the claimant before the end of the applicable prior period. Such notice shall indicate the circumstances requiring the extension and the date by which the Plan expects to decide the claim. If the extension is for a Disability Benefit claim, the notice of the extension shall also explain (i) the standards on which entitlement to the benefit is based, (ii) the unresolved issues that prevent a decision on the claim, and (iii) any additional information needed to resolve said issues.
- (d) If the reason for extending a period to decide a Disability Benefit claim is due to the claimant's failure to submit information necessary to decide the claim, the claimant shall be so notified and shall be provided with at least a 45-day period to provide the material or information. In such case, the period to decide said claim shall be tolled until the date the claimant responds to the request for additional information.
- (e) In the event a claim for benefits is wholly or partially denied:
- (1) Written (or electronic) notice of the denial shall be provided to the claimant by the date established by paragraphs (b), (c) and (d) above to decide the claim.
  - (2) The denial notice shall set forth (i) the specific reasons for the denial, (ii) specific references to the pertinent provisions of the Plan, (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation why it is necessary, (iv) an explanation of the procedures for review of the denied claim, including the applicable time limits, and (v) a statement of the claimant's right to bring a civil action under ERISA following an adverse determination upon review.
  - (3) For a Disability Benefit claim, the denial notice shall also include (i) any internal rule, guideline, protocol or other similar criterion relied on for the denial, or a statement that it was relied on and a copy will be provided free of charge upon the claimant's request and (ii) if the denial was based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgement for the denial, applying the plan terms to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon the claimant's request.
- (f) A claimant may appeal a denial of a claim to the Trustees for review as follows:
- (1) The appeal must be made in writing and received by the Plan no later than 180 days after the date the claimant received the written notice of denial.
  - (2) The claimant shall be entitled to review all relevant documents and to receive copies free of charge.

- (3) The claimant shall be entitled to submit written comments, documents, records and other information related to the claim, and have the same taken into account in the review whether or not previously submitted or considered.
- (4) For the review of a Disability Benefit Claim:
  - (A) The review shall not afford any deference to the initial benefit determination, and it shall not be made by the individual who made the initial benefit determination (if other than the Trustees) or by a subordinate of that individual.
  - (B) If the initial benefit determination was based on a medical judgment, the determination shall be made after consultation with a health care professional who has appropriate training and experience in the relevant field of medicine. Said health care professional shall not be an individual who was consulted with respect to the initial benefit determination or a subordinate of that individual.
  - (C) It shall provide for the identification of medical or vocational experts whose advice was obtained on behalf of the plan in connection with an adverse benefit determination, without regard to whether the advice was relied on in making the determination.
- (g) For so long as the Trustees hold regularly scheduled meetings at least quarterly, the Trustees' decision on review of an appeal of a claim shall be made no later than the date of the first meeting of the Trustees that follows the Plan's receipt of the request for review. However, if the request for review is received within the 30 days preceding the date of such meeting, the decision on review shall be made no later than the date of the second meeting of the Trustees that follows the Plan's receipt of the request for review. If special circumstances (such as the need to hold a hearing) require a further extension of time for processing, the decision on review shall be made no later than the third meeting of the Trustees that follows the Plan's receipt of the request for review. A written (or electronic) notice of such extension that describes the special circumstances and the date by which the Trustees expect to decide the request for review shall be provided to the claimant before the commencement of any such extension. Written (or electronic) notice of the Trustees' decision on review shall be provided to the claimant within five days of the meeting of the Trustees at which the decision is made.
- (h) If the Trustees do not hold regularly scheduled meetings at least quarterly, the Trustees' decision on review shall be made and written (or electronic) notice of the Trustees' decision provided to the claimant within a reasonable period of time following the Plan's receipt of the request for review, but not later than 60 days after receipt, or 45 days after receipt if a claim for a Disability Benefit. If special circumstances (such as the need to hold a hearing) require, said initial 60-day period and 45-day period may be extended by an additional 60 days and 45 days, respectively. A written (or electronic) notice of such extension that describes the special circumstances and the date by which the Trustees expect to decide the request for review shall be provided to the claimant before the commencement of any such extension.
- (i) If the decision on the review of an appeal of a claim is adverse:

- (1) The notice of the decision shall set forth (i) the specific reasons for the decision, (ii) specific references to the pertinent provisions of the Plan, (iii) a statement that the claimant is entitled to review all relevant documents and to receive copies free of charge, and (iv) a statement of the claimant's right to bring a civil action under ERISA.
  - (2) For a Disability Benefit claim, the notice of decision shall also include (i) any internal rule, guideline, protocol or other similar criterion relied on for the decision, or a statement that it was relied on and a copy will be provided free of charge upon the claimant's request and (ii) if the decision was based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgement for the decision, applying the plan terms to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon the claimant's request.
- (j) A duly authorized representative of a claimant may act on behalf of the claimant in filing a claim for benefits or requesting a review of any denial thereof. The Trustees may establish reasonable procedures for determining whether an individual has been duly authorized to act on behalf of a claimant.

#### **Section 8.04. Information and Proof.**

Every Participant and Beneficiary shall furnish, at the request of the Trustees, any evidence reasonably required for the administration of the Plan or for the determination of any matter that the Trustees may legitimately have before them. The Board of Trustees shall be the sole judge of the standard of evidence required in any case and shall determine all questions arising in the course of Plan administration, including but not limited to the entitlement of a Participant, Spouse or Beneficiary to a benefit payment. The Trustees may require such proof of death and such evidence of the right of any person to receive payment of vested accrued benefits of a deceased Participant, as the Trustees deem advisable. The Trustees' determination of death and the right of any person to receive payment shall be conclusive. Failure to furnish evidence on a timely basis, and in good faith, shall be sufficient reason for the denial of immediate payments to a Participant, Spouse or Beneficiary, or for the temporary suspension or discontinuance of payments to such persons. The falsity of any statement material to an application or the furnishing of fraudulent information or proof shall be sufficient reason for the denial, suspension or discontinuance of payments under this Plan and in any such case, the Trustees shall have the right to recover any determinable loss resulting from reliance thereon.

#### **Section 8.05. Recovery of Erroneous Payments.**

Any benefits paid in error, or any benefits paid in excess of the proper amount, shall be subject to recovery at the direction of the Trustees, unless the Board shall determine that the expense of recovery would not justify further recovery efforts, or the Board determines that recovery would be contrary to equity and good conscience.

## ARTICLE IX

### **AMENDMENT; TERMINATION**

#### **Section 9.01. Plan Amendment.**

- (a) The Board of Trustees shall have the right, at any time, from time to time, and without the consent of any person (except as expressly provided below), to amend, change or modify, in whole or in part, any or all of the provisions of this Plan. However, no such amendment shall authorize or permit any part of the Pension Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Participants, their Spouses or their beneficiaries, or cause or permit any portion of the Pension Fund to revert to or become the property of an Employer. No such amendment shall cause any reduction in the Accrued Benefit of any Participant without the Participant's consent; and to the extent required by Code Section 411(d)(6), no such amendment shall eliminate an optional form of benefit with respect to benefits provided by the Plan before the amendment.
- (b) Notwithstanding any provisions of paragraph (a) to the contrary, the Trustees specifically reserve the right to make any retroactive amendments as may be required to maintain the tax qualification of the Plan and to preserve the Pension Fund as a tax-exempt trust under Code Sections 401 and 501.
- (c) If any amendment directly or indirectly changes the vesting provisions of the Plan, any Participant with three (3) or more Years of Service (whether or not consecutive) may irrevocably elect to have his Vested Benefit determined under the vesting provisions in effect prior to the amendment. Such election may be made during a period beginning no later than the date the Plan amendment is adopted, and ending sixty (60) days after the latest of:
  - (1) the day the Plan amendment is adopted;
  - (2) the effective date of the Plan amendment; or
  - (3) the date of issuance of written notice of the Plan amendment to the Participant.

For Participants who do not have at least one (1) Hour of Service in any Plan Year beginning after December 31, 1988, the preceding provision shall be applied by substituting "5 Years of Service" for "3 Years of Service" where such language appears.

- (d) Amendments to this Plan shall be made by due adoption of a resolution by the Trustees approving such amendments. Notice of any amendment shall be given to the Participants, Spouses and beneficiaries, as may be required by law.

#### **Section 9.02. Plan Termination.**

- (a) The Plan may be terminated at any time by the Board of Trustees. Such termination shall be approved by resolution of the Board of Trustees, and shall be evidenced by the execution of an instrument of equal formality with the instrument constituting this Plan.

- (b) In the event of the termination or partial termination of the Plan, the rights of all affected Participants to benefits accrued to the date of termination, to the extent then funded, shall be or become nonforfeitable, subject to any applicable limitations contained in Article VII.
- (c) Upon termination or partial termination of the Plan, the Pension Fund shall be the sole source of benefits under the Plan. Except as otherwise may be required by ERISA, neither the Employers nor the Trustees assume any liability or responsibility for the payment of such benefits, or for the sufficiency of plan assets to pay all benefits. Each Employee/Participant, Spouse, Beneficiary or other person who shall claim the right to any payment under the Plan shall be entitled to look only to the Pension Fund for such payment and shall not have any right, claim or demand therefor against any Employer or any Trustee, or any employee, officer or director of any Employer.
- (d) Notice of termination shall be given to the Participants as and to the extent required by applicable law. Participants shall also receive notice that benefit accruals will cease at least fifteen (15) days prior to the date benefit accruals cease as and to the extent required by law
- (e) Upon termination of the Plan, the assets of the Pension Fund shall be allocated and distributed in the manner provided by ERISA and the Code. The Trustees may but are not required to file for a determination letter with the Internal Revenue Service. The Trustees may defer any distributions until a reasonable time following the date the determination letter is received, a determination letter is denied or the submission is withdrawn.
- (f) Any surplus assets remaining after all of the benefit liabilities and administrative costs and expenses of the Plan and the Pension Fund have been paid or otherwise adequately provided for shall be applied for the benefit of the Participants, Spouses and Beneficiaries by means of the establishment of a new trust fund, the purchase of insurance annuity contracts and/or cash payments as determined by the Trustees.

## **ARTICLE X**

### **MISCELLANEOUS PROVISIONS**

#### **Section 10.01. Participant's Rights; Acquittance.**

- (a) Nothing contained in this Plan shall be construed to give any Employee the right to be retained in the employ of an Employer or to interfere with the right of the Employer to terminate the employment of any Employee at any time. Nothing herein contained shall be construed as a guarantee of any given salary or compensation or of any hours, days, weeks or other periods of work or pay at any given job or jobs.
- (b) No Participant, nor any other claimant, shall have any right title or interest in or to, or claim against the Pension Fund or any part thereof, except the right to receive benefits in the amounts and subject to the terms, conditions, and requirements of the Plan. The Pension Fund shall be the sole source of all pensions or other benefits provided under this Plan. Under no circumstances shall any liability or responsibility therefor be

attached to any Trustee, or to any Employer, its principals, officers, directors and employees, nor to the Union or the Association, except the liability for making Employer Contributions as provided in Article VI.

- (c) Neither the establishment nor the modification of the Plan, nor the creation of any fund, trust or account, nor the payment of any benefits shall be construed as giving any Participant or any other person any legal or equitable right against the Board of Trustees or against any Trustee, unless such rights are specifically provided for in this Plan or the Trust Agreement, or unless such rights are specifically conferred by affirmative action of the Board of Trustees.

**Section 10.02. Spendthrift Clause.**

- (a) As and to the extent required by the Code and ERISA, benefits and interests in the Plan and the Pension Fund shall not be subject in any matter to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind. Any attempt to alienate, sell, transfer, assign, pledge, or otherwise encumber any such benefit, whether presently or thereafter payable, shall be void. No benefit nor the Pension Fund shall in any manner be liable for or subject to the debts or liabilities of any Participant, Spouse or Beneficiary.
- (b) Notwithstanding paragraph (a) above, all or a part of a Participant's benefits may be assigned and paid to an alternate payee to the extent required and in the manner provided for under Code Section 414(p) and ERISA Section 206(d)(3) with respect to a "qualified domestic relations order" as said term is defined in Code Section 414(p) and ERISA Section 206(d)(3).
- (c) All present value calculations for purposes of a qualified domestic relations order shall be made using the appropriate factors, including the applicable interest rate, of the Plan, and no payment shall be made under a qualified domestic relations order prior to the Participant's attainment of the "earliest retirement age" as defined in Code Section 414(p) and ERISA Section 206(d)(3).
- (d) The Trustees shall establish such procedures pursuant to Code Section 414(p) and ERISA Section 206(d)(3) as they deem necessary or desirable to determine the qualified status of domestic relations orders and to administer payments under a qualified domestic relations orders, including procedures relating to:
  - (1) a Participant's eligibility to receive benefits during the period the Trustees are determining whether a domestic relations order with respect to the Participant's benefits is a qualified domestic relations order and/or during the period after the Trustees have been notified that a qualified domestic relations order is being sought with respect to the Participant's benefits; and
  - (2) the administration and payment of benefits payable to alternate payees pursuant to qualified domestic relations orders.
- (d) Notwithstanding paragraph (a) above, all or part of a Participant's benefits may be offset against an amount that the Participant is ordered to pay to the Plan under a judgment, order, decree or settlement described in Code Section 401(a)(13)(C) issued or entered into on or after August 5, 1997.



**Section 10.03. Legal Actions.**

- (a) Except as may be specifically provided for by law, in any action or proceeding involving the Pension Fund, or any property constituting part or all thereof, or the administration thereof, the Trustees shall be the only necessary parties, and no Employer, Employees of an Employer, Participants, Spouses or Beneficiaries or any other persons having or claiming to have an interest in the Pension Fund or under the Plan shall be entitled to any notice of process.
- (b) Except as may be specifically provided for by law, any final judgment which is not appealed or appealable that may be entered in any such action or proceeding shall be binding and conclusive on the parties hereto, and on all persons having or claiming to have any interest in the Pension Fund or under the Plan.

**Section 10.04. Incorporation of Trust Agreement.**

The Trust Agreement as the same may be amended from time to time, is hereby deemed to be part of the Plan with like effect as if fully set forth herein.

**Section 10.05. Notice of Current Address.**

It shall be the responsibility of every Participant (including a former Participant entitled to a Deferred Vested Pension), Spouse and Beneficiary to keep the Trustees informed of his current address. The Trustees shall have no obligation to take any steps to locate any Participant, Spouse, Beneficiary or other claimant other than to deliver all forms, notices, payments or other materials or information to any such person's last known address on file with the Plan Office.

**Section 10.06. Separability.**

The Articles and Sections of this Plan shall be deemed separable so that the invalidity of any portion hereof shall not affect the validity of the remainder. It is understood that each Section of this Plan under the several Articles stands alone, and no combination of Sections can be used to produce a result not contemplated by the Plan.

**Section 10.07. Applicable Law.**

All questions pertaining to the validity or construction of the Plan, and all of the acts and transactions of the Trustees, shall be determined in accordance with applicable federal law and to the extent not preempted by federal law, the applicable laws of the Commonwealth of Pennsylvania.

**Section 10.08. Disputes.**

In the event that any dispute shall arise as to the individuals to whom payment shall be made, the Trustees may direct the withholding of such payment until such dispute shall have been settled.

**Section 10.09. Gender and Number.**

Wherever any words are used in the masculine gender, they shall be construed as though they were also used in the feminine and neuter genders, and vice versa, in all cases where they would so apply. Wherever any words are used in the singular form they shall be construed as though they were also used in the plural form, and vice versa, in all cases where they would so apply.

**Section 10.10. Effect of Certain Social Security Increases.**

No benefit payable to any Participant, Spouse or Beneficiary, or which will be payable to any former Participant who has separated from service with a nonforfeitable right to an Accrued Benefit derived from Employer Contributions shall be decreased because of any increase in the Social Security benefit levels payable under Title II of the Social Security Act or because of any increase in the Social Security wage base under Title II of the Social Security Act.

**ARTICLE XI**

**EFFECTIVE DATES; SIGNATURES**

**Section 11.01. Effective Dates.**

Except as otherwise expressly provided herein, the provisions of this Plan as amended and restated shall be generally effective on and after January 1, 2002; provided, however, that any provision of this document which is required to be effective for Plan Years beginning before January 1, 2002 in order to maintain the tax qualified status of the Plan shall be effective as of the date specified in the Code or other applicable law as the effective date for such provision. The terms of this amendment and restatement shall not apply to Employees or Participants who are not credited with at least one Hour of Service in Covered Employment on or after January 1, 2002, unless otherwise expressly stated herein. The terms of this amendment and restatement shall not apply to benefits paid or payable to Participants who retired or terminated service prior to January 1, 2002, unless so specified herein.

IN WITNESS WHEREOF, the Trustees have executed this Plan as of this 22<sup>nd</sup> day of February, 2002.

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William C. Ligetti, Jr.  
Employer Trustee

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Lawrence A. Collins  
Union Trustee

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Rubie A. Greenewald  
Employer Trustee

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Henry F. Foley  
Union Trustee

---

Roger D. Irwin  
Employer Trustee

---

Patrick McGurk  
Union Trustee

---

Frank Altavilla  
Employer Trustee

---

Robert P. Allen  
Union Trustee

## APPENDIX "A"

### **MATERNITY/PATERNITY LEAVES OF ABSENCE**

- (a) In the case of a Participant who terminates Covered Employment or who is absent from Covered Employment for any period (1) by reason of the pregnancy of the Participant; (2) by reason of the birth of a child of the Participant; (3) by reason of the placement of a child with the Participant in connection with the adoption of such child by such Participant; or (4) for purposes of caring for such child for a period immediately following such birth or placement, such Participant shall be credited with Hours of Service solely for purposes of determining whether a One Year Break in Service has occurred. In no event shall any Hours of Service credited under these provisions be used to establish credit for Years of Service or Pension Credits under the Plan.
- (b) The hours to be credited pursuant to this paragraph (b) shall be the Hours of Service which the Participant otherwise would normally have been scheduled to work but for such absence. The total number of Hours of Service to be credited in a single Plan Year as the result of a maternity or paternity absence described in this paragraph (b) shall not exceed 400 hours. Such Hours of Service shall be credited as Hours of Service in the Plan Year in which the absence from work begins only if a Participant would be prevented from incurring a One Year Break in Service in such year solely because periods of maternity or paternity absence are treated as Hours of Service under these provisions. In any other case, such Hours of Service shall be credited in the immediately following Plan Year.
- (c) Notwithstanding anything contained in these provisions to the contrary, the Trustees shall not be required to credit a Participant with Hours of Service for maternity or paternity reasons unless such Participant furnishes to the Trustees, within a reasonable time, such timely information (including a doctor's statement) as the Trustees may reasonably require to establish that the absence from work is for the reasons set forth in (a)(1) through (a)(4) above, and the number of days for which there was such an absence. The determination of what constitutes a reasonable time for the submission of requested information shall be made by the Trustees under such rules of uniform and nondiscriminatory application as the Trustees may from time to time adopt.

**APPENDIX "B"**

**EARLY RETIREMENT FACTORS FOR SECTION 5.05(E)**

YEARS AND MONTHS BEFORE FIRST DAY OF CALENDAR MONTH NEXT FOLLOWING PARTICIPANTS SIXTIETH BIRTHDAY						
	<u>Years</u>					
Months	0	1	2	3	4	5
0	1.000	.9900	.9800	.9700	.9600	.9500
1	.9992	.9892	.9792	.9692	.9592	
2	.9983	.9883	.9783	.9683	.9583	
3	.9975	.9875	.9775	.9675	.9575	
4	.9967	.9867	.9767	.9667	.9567	
5	.9958	.9858	.9758	.9658	.9558	
6	.9950	.9850	.9750	.9650	.9550	
7	.9942	.9842	.9742	.9642	.9542	
8	.9933	.9833	.9733	.9633	.9533	
9	.9925	.9825	.9725	.9625	.9525	
10	.9917	.9817	.9717	.9617	.9517	
11	.9908	.9808	.9708	.9608	.9508	

**APPENDIX "C"**

**IRON WORKERS PENSION PLAN OF WESTERN PENNSYLVANIA**

**ADMINISTRATIVE PROCEDURES APPLICABLE TO DISABILITY BENEFITS**

January, 1990

## IRON WORKERS PENSION PLAN OF WESTERN PENNSYLVANIA

### Administrative Procedures Applicable to Disability Benefits

This Administrative Procedures Statement outlines the Plan requirements for Disability Benefits and establishes the administrative procedures for the use of periodic medical evaluations to determine a Disability Benefit Recipient's continuing entitlement to a Disability Benefit Award. This Statement also sets forth the administrative procedures to be followed in the case of a Disability Benefit Recipient who returns to work in Covered Employment before a determination of full, total and permanent recovery from the disability which originally resulted in the award of a Disability Benefit.

#### **Background**

The Pension Plan provides for payment of the following six categories of Disability Benefits:

1. Regular Disability Benefit (Lifetime Payment)
2. Regular Disability Benefit (48-month Extended Disability Payment)
3. Occupational Disability Benefit (Lifetime Payment)
4. Occupational Disability Benefit (48-month Extended Disability Payment)
5. Special Disability Benefit (Lifetime Payment)
6. Special Disability Benefit (48-month Extended Disability Payment)

#### **Eligibility**

A Participant is entitled to be considered for a Regular Disability Benefit (Lifetime Payment) or a Regular Disability Benefit (48-month Extended Disability Payment) if he:

1. Becomes "permanently and totally disabled" prior to age 65;
2. Has at least 5 full Pension Credits; and
3. Is credited with a total of 400 or more hours of Covered Employment during the period which includes the Calendar Year in which the Participant becomes so disabled and the, immediately preceding Calendar Year. (Under certain circumstances described in Section 3.10 of the Pension Plan, a Participant will retain eligibility for a Regular Disability Benefit Award if he becomes disabled during the three Calendar Years immediately following the Calendar Year in which he last met the requirement for 400 or more hours of Covered Employment described above.)

A Participant is entitled to be considered for an Occupational Disability Benefit (Lifetime Payment) or an Occupational Disability Benefit (48-month Extended Disability Payment) if he:

1. Suffers a "permanent and total disability" as the result of an occupational accident;

2. Has at least 3 but not more than 5 Pension Credits based upon actual work in Covered Employment for which contributions are made to the Plan on the Participant's behalf; and
3. Has worked at least 200 hours in Covered Employment after June 1, 1981.

A Participant is entitled to be considered for a special Disability Benefit (Lifetime Payment) or a Special Disability Benefit (48-month Extended Disability Payment) if he:

1. Is an inactive vested Participant;
2. Has at least 15 Pension Credits;
3. Has attained age 55; and
4. Thereafter, suffers a permanent and total disability resulting from an occupational accident while working as an iron worker in what would be Covered Employment in the geographic jurisdiction of the Pension Plan but for the fact that such work was being performed for a political subdivision.

#### **Permanent and Total Disability Defined**

As used in the Pension Plan, the terms "permanent and total disability" and "total and permanent disability" (and variations thereof) are synonymous, and are defined as follows for various purposes of the Pension Plan.

1. For purposes of initial qualification for a Regular Disability Benefit (Lifetime Payment), an occupational Disability Benefit (Lifetime Payment) and a Special Disability Benefit (Lifetime Payment), "permanent and total disability" means a physical or mental condition which prevents (and which for all future time may reasonably be expected to prevent) the Participant from engaging in any gainful employment (whether or not such employment involves iron work or construction work).
2. For purposes of initial qualification for a Regular Disability Benefit (48-month Extended Disability Payment), an Occupational Disability Benefit (48-month Extended Disability Payment) and a Special Disability Benefit (48-month Extended Disability Payment), "permanent and total disability" means a physical or mental condition which prevents (and which for all future time may reasonably be expected to prevent) the Participant from engaging in employment as a construction worker.

#### **Disability Benefit Awards**

To receive a Disability Benefit toward in any of the six categories, a physically or mentally disabled Participant must;

1. Make a proper application to the Plan Office for an award upon such form(s) as the Plan Office shall provide for such purpose;



2. Present evidence satisfactory to the Trustees to establish that the Participant meets the eligibility requirements for consideration for the category of disability award for which application is being made;
3. Present medical evidence satisfactory to the Trustees which establishes that the Participant's medical condition and prognosis meets the definition of "permanent and total disability" applicable to the category of disability award for which application is being made;
4. Demonstrate that he is continually under the care of a legally qualified physician for the physical or mental condition for which "permanent and total disability" is claimed;
5. Submit to such medical examination(s) and/or complete rehabilitative evaluation(s) by physicians, and at appropriate facilities retained by the Trustees as the Trustees may require;
6. Demonstrate that he has been disabled for at least one month; and
7. Lifetime Payment Disability Claims Only: Present to the Trustees satisfactory evidence of the receipt of a Social Security disability award for the physical or mental condition for which "permanent and total disability" is claimed.

The Trustees will make the determination of the claiming Participant's "permanent and total disability" and entitlement to a Disability Benefit Award based upon the medical and other evidence presented to them or of which they otherwise may have knowledge. The Plan Office shall promptly and in writing notify the claiming Participant of the Trustees' decision to admit or deny the claim for a Disability Benefit Award. In the event of a denial of a claim for a Disability Benefit Award, the Participant will be entitled to the appeal rights described in Section 8.03 of the Pension Plan.

#### **Commencement of Disability Benefits**

Upon a finding of "permanent and total disability" as described above and the grant of a Disability Benefit Award by the Trustees, payment of appropriate disability benefits will begin upon the latest of the following dates:

1. The month next following the month in which the disability began; or
2. The first month after termination of Weekly Accident and Sickness Benefits from the Iron Workers Welfare Plan of Western Pennsylvania or other health and welfare program; or
3. In the case of a Participant who is determined to be entitled to a workmen's compensation award, the first day of the 13th month of the Participant's disability.

#### **Continuation of Disability Benefits**

Payment of Disability Benefits pursuant to a Disability Benefit Award will continue until such benefits are suspended or terminated as described below.

### **Termination of Disability Benefits**

A Disability Benefit Recipient's disability benefit payments and/or Disability Benefit Award will terminate or be terminated by the Trustees upon the occurrence of any of the following events:

1. **Lifetime Payment Disability Awards only:** Loss of entitlement to the Disability Benefit Recipient's Social Security disability award prior to attaining age 65, or a determination by the Trustees that the Disability Benefit Recipient has recovered from his "total and permanent disability" prior to attaining age 65 based on a medical determination that the Disability Benefit Recipient is capable of returning to some form of gainful employment (whether or not such employment involves iron work or construction work);
2. A determination by the Trustees based upon medical and/or other evidence of which they have knowledge that the Disability Benefit Recipient's physical or mental condition prior to age 65 no longer continues to meet the criteria for "permanent and total disability" which supported the initial Disability Benefit Award;
3. In the case of a Disability Benefit Recipient who returns to Covered Employment, a determination by the Trustees based upon a medical determination that the Disability Benefit Recipient is fully, totally and permanently recovered from his prior disability, and is fully capable of returning to employment as a construction worker;
4. In the case of a Disability Benefit Recipient who returns to Covered Employment without a determination of full, total and permanent recovery from disability as defined for purposes of the original Disability Benefit Award, a determination by the Trustees based upon medical and/or other evidence of which they have knowledge that the Benefit Recipient is not permanently and totally disabled from employment as a construction worker;
5. In the case of a Disability Benefit Recipient of a Lifetime Payment Disability Award who returns to Covered Employment without a determination of full, total and permanent recovery from disability as defined for purposes of the original Disability Benefit Award, the Disability Benefit Recipient's continuing or repeated failure or refusal to undergo a Baseline Medical Examination or Post-Baseline Medical Examination described below.
6. The Disability Benefit Recipient's continuing or repeated failure or refusal to undergo any medical examination or rehabilitative evaluation ordered by the Trustees to determine the continuing nature of the Disability Benefit Recipient's total and permanent disability;
7. The Disability Benefit Recipient's continuing or repeated failure or refusal to provide the Trustees with annual proof of continuing total and permanent disability;
8. The Disability Benefit Recipient's continuing or repeated failure to provide the Trustees with such medical forms as the Trustees may request;

9. The Disability Benefit Recipient's continuing or repeated failure or refusal to provide the Trustees with proof of continuing care by a legally qualified physician who examines the Disability Benefit Recipient at least once every six months and renders a medical evaluation and prognosis to the Trustees;
10. Commencement to, or receipt by, the Disability Benefit Recipient of any other regular, early, deferred or vested pension benefits or other disability benefits pursuant to the terms of the Pension Plan.

**Suspension of Benefits Upon  
Reemployment of a Disability Benefit Recipient**

The Trustees shall suspend disability benefit payments to a Disability Benefit Recipient who returns to work in Covered Employment but who has not been determined to be fully, totally and permanently recovered from his disability. Upon such Disability Benefit Recipient's subsequent termination of Covered Employment, his disability benefit payments will be resumed if the Trustees determine, based upon medical and/or other evidence of which they have knowledge, that the Disability Benefit Recipient is at such time permanently disabled from work in the construction industry, and as long as no other event requiring a termination of disability benefit payments or the Disability Benefit Award has occurred.

**Medical Examinations for Reemployed  
Disability Benefit Recipients**

The Plan Office will adhere to the following procedures in the case of a Disability Benefit Recipient who has been awarded lifetime disability payments and who returns to work in Covered Employment before a determination is made that such Disability Benefit Recipient has fully, totally and permanently recovered from his disability:

1. Whenever the Plan office receives information that such Disability Benefit Recipient has returned to Covered Employment for a total of 200 or more hours, the Plan Office shall promptly notify the Disability Benefit Recipient to present himself/herself within the next 30 days for a Pension Plan sponsored medical examination or rehabilitative evaluation (the Baseline Medical Examination) at the Pension Plan's expense to determine the Disability Benefit Recipient's physical or mental condition at the time he is performing Covered Employment. Such Baseline Medical Examination is intended to provide a gauge against which the Disability Benefit Recipient's future physical or mental condition may be measured should the Disability Benefit Recipient cease Covered Employment and seek a resumption of disability benefit payments in the future.
2. If such Disability Benefit Recipient who has returned to Covered Employment subsequently terminates his Covered Employment by reason of disability and seeks a resumption of disability benefit payments, the Plan Office shall require the Disability Benefit Recipient to undergo a Pension Plan sponsored medical examination or rehabilitative evaluation (Post-Baseline Medical Examination) at the Pension Plan's expense to determine the Disability Pensioner's then existing medical condition.
3. Upon the completion of the Post-Baseline Medical Examination, the physician will be requested to offer an opinion as to whether or not the Disability Benefit Recipient's

medical condition has changed from the Baseline Medical Examination. The physician will also be requested to provide an opinion as to the Disability Benefit Recipient's ability to perform the specified duties of a construction worker.

4. After completion of the Post-Baseline Medical Examination, the Board of Trustees shall review and consider the following in order to determine whether or not to resume payment of the Disability Benefit Recipient's disability benefits:
  - a. the comparison of the Disability Benefit Recipient's medical condition as set forth in the Baseline and Post-Baseline Medical Examinations;
  - b. the physician's opinion as to whether the Disability Benefit Recipient's medical condition has worsened significantly between the two examinations, and whether the Disability Benefit Recipient is capable of performing work in the construction industry;
  - c. the type of work performed and the amount of hours that the Disability Benefit Recipient had worked between his return to Covered Employment and subsequent request for resumption of disability benefit payments;
  - d. any other relevant information.
5. The Board of Trustees shall have final authority to determine whether the Disability Benefit Recipient's medical condition has changed since his return to Covered Employment so as to render the Disability Benefit Recipient permanently and totally disabled from work in the construction industry.
6. In order to assure that the Disability Benefit Recipient complies with the medical examination requests and submits to the examinations, the Plan office shall notify the Disability Benefit Recipient at the time that the Baseline Medical Examination or Post-Baseline Medical Examination is requested that failure to submit to the medical examination will result in the permanent termination of his Disability Benefit Award and eligibility for future disability benefit payments.
7. If the Disability Benefit Recipient fails to respond to the Trustees' request to submit to a Baseline Medical Examination or Post-Baseline Medical Examination, he will-be sent a second notice that his Disability Benefits Award will be terminated if he fails to submit to the examination. If after the second request for the Disability Benefit Recipient to submit to an examination the Disability Benefit Recipient does not comply with the request, his Disability Benefit Award shall be terminated, and any and all present and future rights to disability benefit payments as a result of such Disability Benefit Award shall be extinguished.

In the case of a Disability Benefit Recipient who has been awarded 48-month Extended Disability Payments and who returns to work in Covered Employment for a total of 200 or more hours before a determination is made that such Disability Benefit Recipient has fully, totally and permanently recovered from , his disability, the Trustees may direct the Administrator to follow the same procedures for Baseline and Post-Baseline Medical Examinations outlined above for lifetime Disability Benefit Recipients.

Nothing in the preceding paragraphs shall be construed as prohibiting or otherwise restricting the Trustees' authority to schedule and require initial or periodic medical examinations or rehabilitative evaluations of applicants for or awardees of Disability Benefits as authorized by the provisions of the Pension Plan and referred to elsewhere in this Administrative Procedures Statement.

**Communications to Disability  
Benefit Recipients/Awardees**

The basic forms of letters attached to this Administrative Procedures Statement addressing suspension of Disability Benefits upon a return to Covered Employment, scheduling and rescheduling of medical examinations or rehabilitative evaluations ordered by the Trustees, consequences of the failure to submit to required medical examinations or rehabilitative evaluations, and termination of suspended Disability Benefits based upon extended recent work history in the construction industry are expressly approved, and may be used by the Administrator in substantially the forms presented. Nothing in this Administrative Procedures Statement shall be interpreted as requiring the Administrator to use such form letters or prohibiting the Administrator from employing other letters and communications to effectively administer the procedures set forth in this Administrative Procedures Statement.

## APPENDIX "D"

### **SURVIVOR ANNUITY TRANSITIONAL RULES**

- (a) Any living Participant not receiving benefits on August 23, 1984, who would otherwise not receive benefits in the manner prescribed by the provisions of Sections 5.12 and 5.14 shall be given the opportunity to elect to have such provisions of Sections 5.12 and 5.14 apply to distributions of the Participant's benefits if such Participant was credited with at least one (1) Hour of Service under the Plan in a Plan Year beginning on or after January 1, 1976, and such Participant had credit for at least 10 Years of Service when he terminated Covered Employment (or Contiguous Noncovered Employment, as applicable).
- (b) Any living Participant not receiving benefits on August 23, 1984, who was credited with at least one (1) Hour of Service under the Plan on or after September 2, 1974, and who is not otherwise credited with any service in a Plan Year beginning on or after January 1, 1976 shall be given the opportunity to have his benefits paid in accordance with the provisions of Code Section 401(a)(11) as in effect on August 22, 1984.
- (c) Any Participant who has elected pursuant to paragraph (b) above and any Participant who does not elect under paragraph (a) above shall have his benefits distributed in accordance with all of the following requirements if benefits would have been payable in the form of a life annuity:
  - (1) If benefits in the form of a life annuity become payable to a married Participant who:
    - (A) begins to receive payments under the Plan on or after Normal Retirement Age; or
    - (B) dies on or after Normal Retirement Age while still working for the Employer; or
    - (C) begins to receive payments on or after the "qualified early retirement age"; or
    - (D) separates from service on or after attaining Normal Retirement Age (or the "qualified early retirement age") and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits;

then such benefits will be received under the Plan in the form of a Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least 6 months before the Participant attains the "qualified early retirement age" and shall end not more than 90 days before the commencement of benefits. Any election hereunder will be in writing and may be changed by the Participant at any time.

- (2) A Participant who is employed after attaining the "qualified early retirement age" will be given the opportunity to elect, during the election period, to have a survivor annuity payable on death. If the Participant elects the survivor annuity, payments under such annuity must not be less than the payments which would have been made to the Spouse under the Qualified Joint and Survivor Annuity if the Participant had retired on the day before his death. Any election under this provision will be in writing and may be changed by the Participant at any time. The election period begins on the later of (A) the 90th day before the Participant attains the "qualified early retirement age", or (B) the date on which participation begins, and ends on the date the Participant terminates employment.
- (3) For purposes of this paragraph (c), "qualified early retirement age" is the latest of:
  - (A) the earliest date, under the Plan, on which the Participant may elect to receive retirement benefits,
  - (B) the first day of the 120th month beginning before the Participant reaches Normal Retirement Age, or
  - (C) the date the Participant begins participation.
- (d) The amount of the monthly retirement benefit payable to a surviving Spouse under the provisions of paragraph (c) above shall equal the amount that would have been payable to such surviving Spouse had the Participant retired with a Qualified Joint Survivor Annuity benefit in effect on the day before his death, actuarially adjusted to account for the fact that the commencement date of the Spouse's benefit precedes the date that would have been the Participant's Normal Retirement Date had he survived until such date.
- (e) The Trustees shall notify those Participants who are affected by the provisions in paragraphs (a), (b) and (c) above of their rights to make the elections described in such paragraphs at the time and in the manner prescribed by law for such notices.

## **APPENDIX "E"**

### **POST-1993 PLAN TERMINATION RESTRICTIONS**

- (a) For Plan Years beginning on or after January 1, 1994, in addition to the other limitations in this Article VII of the Plan, the following limitations will apply to distributions from the Plan.
- (b) The benefit of any highly compensated employee within the meaning of Section 7.02(e), including both active and former Employees, is limited to a benefit that is nondiscriminatory under Code Section 401(a)(4).
- (c) The annual benefits payable to an active or former highly compensated employee are limited to an amount equal to the payments that would be made on behalf of each such Employee under a Single Life Annuity which is the Actuarial Equivalent of the sum of the Employee's Accrued Benefit and the Employee's other benefits under the Plan.
- (d) The restrictions of paragraph (c) will not apply if:
  - (1) after payment to the highly compensated employee of all benefits (as defined in the regulations), the value of Plan assets equals or exceeds 110% of the value of current liabilities of the Plan, as defined in Code Section 412(l)(7), or
  - (2) the Employee is not one of the 25 most highly compensated employees, or the value of the benefits payable to the Employee under the Plan is less than 1% of the value of current liabilities under the Plan before distribution, or
  - (3) the value of the benefits for the highly compensated employee does not exceed \$5,000.

For purposes of this paragraph (d), the "25 most Highly Compensated Employees" are the 25 current and former highly compensated employees whose compensation is the greatest in the current or any prior Plan Year of any Employees.